



**When Control of Congress “Flips”:
What to Expect from a New Majority Party**

Updated November 17, 2022

Author: Catherine Rowland, Legislative Affairs Director
(catherine@progressivecaucuscenter.org)

A party must retain a majority of seats in the U.S. House of Representatives or Senate to control that chamber’s proceedings and administration. Should a party lose its majority in an election, control of the chamber in question switches to the other party at the start of the next Congress. This is often referred to as the House or Senate “flipping.” In addition to controlling the chamber’s legislative agenda, a new majority gains numerous powers that it can use to change the way the chamber operates and the work it does for the American people.

This explainer describes some of the changes that might be expected when control of the House or Senate flips. This is *not* an exhaustive list; it is meant to provide a basic understanding of some of the most impactful changes a new majority might make. This explainer uses terminology that is commonplace on Capitol Hill, but may be unfamiliar to some readers. For definitions of frequently used terms, see the Congressional Progressive Caucus Center’s explainer, [Understanding Capitol Hill Jargon](#).

Crafting the Legislative Agenda	Page 1
Approving Presidential Nominations and Policy	Page 2
Controlling Committees’ Agenda and Activities	Page 3
Deciding How the Chambers Operate	Page 5
Choosing Key Leadership Positions in the Chambers	Page 6
Inviting Speakers to Address Congress	Page 7
Certifying Presidential Election Results	Page 8

Crafting the Legislative Agenda

The majority party decides which bills will get a vote on the Floor. Typically, majority party leaders will not put a bill before their chamber for a vote if most members of their party are not supportive of the measure or if it has insufficient support to pass. Thus, when the House or Senate flips and the new majority party gains control over which legislation is considered on the Floor, legislation favored solely by the *minority* party is unlikely to advance.

The majority party also sets the schedule for its chamber, deciding before each calendar year which weeks their chamber will be “in session” and which weeks will

be designated "district work periods" also known as "recess." "In session" is when members vote in Washington, and "recess" weeks allow members to be in their home states or districts and meet with their constituents.

The House and Senate calendars can have implications for how well Congress functions. For example, when Republicans took control of the House in 1995, then-House Speaker Newt Gingrich structured the House calendar to encourage members to spend more time in their districts and out of Washington. [Numerous scholars](#) blame heightened partisan rancor in Congress on this change, as it made it harder for members of Congress to socialize and develop genuine relationships that might result in legislative partnerships. Should a new majority in either chamber rework its calendar, it could mitigate—or exacerbate—this phenomenon.

Additionally, challenges posed by Congress's schedule can make it more difficult for some individuals, like parents, to serve as members at all. Some members, like [Congresswoman Katie Porter \(D-CA\)](#), have proposed changes to allow parents in Congress to manage their responsibilities more easily. But, again, a new majority could make changes to the legislative calendar that make it easier or more difficult for members to perform their official duties and care for their families.

Approving Presidential Nominations and Policy

When the House or Senate flips and control of either chamber shifts to the party *not* in the White House, the new majority gains considerable opportunities to obstruct the president's agenda.

For example, the Senate considers presidential nominees for positions in the executive and judicial branches, including on the Supreme Court. The House does not consider nominations. Unlike legislation, which is subject to the filibuster and almost always requires 60 votes to pass, the Senate can end debate on all nominees with a simple majority vote. This means that the majority party can approve nominees without any support from members of the minority. Conversely, a majority can also *block* a president's nominees, as then-Senate Majority Leader Mitch McConnell did in 2016 by refusing to consider President Barack Obama's nomination of Merrick Garland to the Supreme Court following Justice Antonin Scalia's death.¹

Congress can also block an administration's policies through the Congressional Review Act (CRA), which enables Congress to undo rules issued by federal agencies. During the 115th Congress (2017-2018), for example, the Republican-controlled Congress overturned [16 Obama Administration rules](#). These included regulations protecting access to the Title X Family Planning Program, penalizing employers who failed to report workplace injuries, and more. For a full list of regulations that have been struck down via the CRA, see the Congressional Research Service's [The Congressional Review Act \(CRA\): Frequently Asked Questions](#).

¹ Nominees who are not confirmed by the Senate before it concludes its legislative session—that is, at the end of the year during which they were nominated—must be re-nominated by the President. However, this process is not contingent upon a change in Senate control and will proceed regardless of which party controls the chamber.

Under the CRA, Congress has a limited period of time—generally, 60 days—after a rule is issued to pass resolutions of disapproval that, once signed by the president, prevent that rule from taking effect or nullify it retroactively. Such resolutions are exempt from the filibuster, meaning they can move forward with a simple majority vote in the Senate. The CRA also prevents agencies from issuing new rules that have the same outcome as the one overturned by the CRA. Specifically, the law stipulates that a new rule may not be advanced in [“substantially the same form”](#) as the last one unless Congress explicitly allows for such a rule via legislation.

Of course, a president belonging to the party *not* in control of Congress may veto a resolution of disapproval to uphold their administration’s rule. In this case, Congress can override the president’s veto if a veto-proof majority—specifically, two-thirds—of members in each chamber votes to do so. If, then, the party that is *not* in the White House holds veto-proof majorities in both chambers of Congress, that party could pose a tremendous roadblock for the president’s rulemaking agenda. However, Congress has never overridden a presidential veto of a Congressional Review Act resolution of disapproval.

Controlling Committees’ Agenda and Activities

A new majority controls Congress’s committees’ work, revamps the way they are structured and their names, and may even prevent some committees from continuing their work.

House

In the House, the majority party has the power to determine committee “ratios”—that is, the ratio of majority party members to minority party members on each committee. The only exception to this rule is the House Committee on Ethics, on which there is an equal number of majority and minority members. According to the [Congressional Research Service](#):

Historically, the number of majority seats on some committees has exceeded, in varying degrees, the strength of the majority party in the House chamber, regardless of which party has been in power. This generally has ensured that the majority party has a sufficient number of members distributed across committees to control voting in many committees.

Senate

In the Senate, an [“organizing resolution”](#) must be adopted at the beginning of each Congress. This resolution determines matters like committee assignments and ratios. According to the [Congressional Research Service](#), “it has been the practice of the Senate to apportion committee seats to the majority and minority parties in a manner that corresponds closely to the party strength in the full chamber.” Thus, Senate committee ratios have historically favored the party in the majority, like in the House—but, unlike the House, those ratios tend to mirror that of majority-to-minority members in the chamber. In the 117th Congress, the Senate is split evenly between

Democrats and Republicans. As such, Majority Leader Chuck Schumer and Minority Leader Mitch McConnell came to a “power-sharing agreement” at the beginning of the 117th Congress that, among other issues, [settled committee ratios at 50-50](#). Accordingly, Senate committees have the same number of majority and minority members.

Ratios

By controlling the ratio of seats each party is allotted on committees, the majority improves the likelihood that legislation it favors will have sufficient votes to pass at the committee level. Committees’ ratios also have implications for committees’ ability to subpoena documents and testimony during investigations. For most House committees, a committee may authorize a subpoena² via a majority vote, but most committee chairs can also authorize subpoenas unilaterally without the ranking minority member’s explicit approval (though many committees have a minority consultation or notification requirement).³ In the Senate, however, most committees require either a majority vote or an agreement between the chair and ranking member to issue a subpoena. This means that absent a cooperative ranking member or a majority of seats on their committee, a Senate committee chair could be thwarted from subpoenaing documents or testimony by a minority united in opposition to doing so.

Legislative Agenda

In addition to a committee’s makeup, members of the majority party also control the work a committee does, such as choosing the legislation the committee considers, determining the committee’s oversight plan, and deciding the committee’s hearing topics. The majority may even choose to rename a committee or subcommittee in order to underscore its focus on a particular topic or to frame the body’s work through a certain lens. For example, the House Committee on Education and Labor has, in recent decades, alternatively been named [“the Committee on Education and the Workforce”](#) under Republican majorities.

Because the majority party chooses the topics for committee hearings, it has considerable power to direct public and media attention to specific policy issues. Moreover, the majority oversees invitations for witnesses to testify before committees, so it can ensure particular perspectives on issues are amplified. The majority party does so by inviting more hearing witnesses that share the majority’s

² A number of congressional committees have the power to issue subpoenas. According to [Citizens for Responsibility and Ethics in Washington](#) (CREW), a subpoena is “a written summons issued by a government agency to compel witness testimony or production of evidence...either house of Congress can issue a congressional subpoena pursuant to a congressional investigation.” CREW notes that “willful noncompliance” with a congressional subpoena constitutes a federal crime, although Congress cannot prosecute this crime. For a person to be prosecuted for noncompliance with a congressional subpoena, Congress must pass a resolution finding them in contempt of Congress and refer their case to the Justice Department, which *can* prosecute them.

³ For more information on House and Senate committees’ processes for authorizing and issuing subpoenas, see the Congressional Research Service report, [“A Survey of House and Senate Committee Rules on Subpoenas.”](#)

viewpoint on an issue—to the extent such a viewpoint exists—than witnesses that share the minority party’s viewpoint. For example, when Republicans controlled the House during the 115th Congress, the Energy and Commerce Committee’s Health Subcommittee held a [hearing examining three Republican bills](#) that would restrict access to Medicaid. Two witnesses testified in support of the GOP’s policies, while Democrats were allowed just one witness who opposed them.

Select Committees

Finally, a change in the House majority could affect the operation of select committees, which are established by a resolution for a particular purpose—such as to conduct an investigation—and are not renewed in perpetuity.⁴ Depending on the parameters set out in the resolution authorizing the select committee, some are disbanded automatically upon issuing their final report, such as the [Select Committee on the Events Surrounding the 2012 Terrorist Attack in Benghazi](#). Others might be established for a designated period—such as for the duration of the current Congress—and would require renewal at the start of the next Congress to continue their work. In 2007, for example, the House Democratic majority established the [Select Committee on Energy Independence and Global Warming](#). It was renewed in the following Congress [but was disbanded when Republicans regained the House](#) majority in 2011.

A new majority might choose not to renew one or more of the House’s existing select committees. For example, there are currently four select committees in the House, all of which were created under a Democratic majority: the Select Committee on the Climate Crisis; the Select Committee on Economic Disparity and Fairness in Growth; the Select Committee on the Modernization of Congress; and the Select Committee to Investigate the January 6th Attack on the United States Capitol.

Deciding How the Chambers Operate

The majority in the House and Senate can modify the chambers’ rules pertaining to day-to-day operations. For example, in 2018, [the Senate agreed](#) on a bipartisan basis to let senators bring infant children onto the Senate floor during votes. However, operational changes are not always approved with bipartisan support. On May 15, 2020, the House passed [H. Res. 965](#), which allowed House members to vote remotely by proxy and for committees to conduct their business virtually on account of the COVID-19 pandemic. [No Republicans](#) voted for the resolution and explicitly said that they would eliminate proxy voting. This will force members who test positive for COVID-19 to miss potentially significant votes or vote in person and risk exposing their colleagues to the virus. It might also discourage testing altogether.

The majority can also change the rules that govern legislative debate. For example, at the beginning of the 117th Congress, the House Democratic majority successfully put forward a rule change that modified a procedural motion known as the “motion

⁴ While the Senate may also establish “select” or “special” committees, those that exist now are select in name only and are *de facto* permanent standing committees.

to recommit” (MTR). This motion allowed the minority party to force “gotcha” votes on poison pill amendments. During the 116th Congress, those votes targeted immigrants, reproductive rights, and historically disadvantaged communities.⁵ Under the new rules for the 117th Congress, the MTR is a nondebatabile motion to send a bill back to committee. House Democrats also reformed the House “pay as you go” (PAYGO) rule, which prohibits legislation from being considered if it raises direct spending or cuts taxes without “paying for” those costs elsewhere, such as by cutting spending on another program. The rules for the 117th Congress exempt legislation that provides economic and health relief during the pandemic and measures to combat climate change from the House PAYGO rule. These rule changes and others could be reversed under a new majority—although, given that the MTR is a tool that benefits the party in the minority, it is possible a new majority could maintain that particular change.

For an overview of significant rules changes that occurred at the start of the 117th Congress, see [Top 10 Rules Changes in the 117th Congress](#), a joint explainer by the Congressional Progressive Caucus Center, Demand Progress, and Public Citizen.

Choosing Key Leadership Positions in the Chambers

The party in the majority determines who fills key positions in both the House and Senate and, in two cases, who sits in the presidential line of succession. When control over either chamber flips, a number of key leadership positions—like the Speaker of the House and President Pro Tempore of the Senate—change as well, in turn vesting in new people the authority to appoint other key figures.

House

In the House, the Speaker is elected by a majority vote at the start of each Congress (in January) before new members are even sworn into office. Each party puts forward a nominee for Speaker, but the members-elect are not required to vote for their party’s nominee. Given the now-entrenched two-party system, all Speakers of the House in the modern era have been from the party that holds the majority of House seats. Other leadership positions, such as the party leader and whip, are selected by the respective parties in closed-door party meetings.

Perhaps the Speaker’s most important function is to control what happens on the House floor. The [Congressional Research Service](#) explains, “the Speaker is able to assert control over what motions may be made and therefore what measures will be considered and the general flow of House floor proceedings.” A Speaker can use this power to advance their party’s legislative agenda.

The Speaker also affects the House’s operations through their power to select key personnel, including the House’s Parliamentarian, Legislative Counsel, and Historian, among other positions. The Speaker also appoints the director of the Congressional

⁵ For more information on the use of the MTR during the 116th Congress, see the Congressional Progressive Caucus Center’s report, [“Motions to Recommit in the 116th Congress.”](#)

Budget Office, in conjunction with the Senate's President Pro Tempore. Other critical House figures, such as the Clerk and Sergeant at Arms, are elected by the House—thus, conferring control over who serves in these positions, in practice, to the majority party. Finally, the Speaker is second in the line of presidential succession, behind the Vice President. This is the case regardless of whether the same party controls the House and White House.

Senate

In the Senate, party leaders and whips are elected by the senators within that party. One exception, however, is the President Pro Tempore, which presides over the Senate in the absence of its president, the Vice President of the United States. According to the [Senate Historical Office](#), “although the Constitution does not specify who can serve as President Pro Tempore, the Senate has always elected one of its members to serve in this position. Since the mid-20th century, tradition has dictated that the senior member of the majority party serve as President Pro Tempore.” On November 16, 2022, Senate Majority Leader Schumer announced his plans to [nominate Senator Patty Murray \(D-WA\)](#) for President Pro Tempore. Senator Murray will be the second most senior Democratic senator in the 118th Congress, behind Senator Dianne Feinstein (D-CA). She would be the first woman to serve as President Pro Tempore.

Similar to the Speaker of the House, the President Pro Tempore appoints a number of important figures in the chamber, such as the Senate's legislative counsel. Also similar to the House Speaker, the President Pro Tempore sits in the presidential line of succession, behind the Speaker of the House.

Inviting Speakers to Address Congress

By virtue of controlling the House and Senate's proceedings, the majority party in Congress—namely, the House Speaker—has the power to determine which speakers may address the body.

The president's State of the Union is perhaps the best-known example of an address to Congress. Typically, the Speaker invites the president to address a joint session of Congress early in each calendar year. However, the Speaker is not *required* to do this and might deviate from tradition in accordance with current events or the state of the Speaker's relationship with the White House. In January 2019, for example, amidst the longest government shutdown in history, [House Speaker Nancy Pelosi rescinded her invitation](#) for President Donald Trump to deliver the State of the Union. [Speaker Pelosi wrote](#) to President Trump, “the House of Representatives will not consider a concurrent resolution authorizing the President's State of the Union address in the House Chamber until government has opened.” The government shutdown ended [on January 25, 2019](#), and the State of the Union took place [on February 5, 2019](#).

Foreign leaders are also occasionally invited to address Congress. According to the [Congressional Research Service](#):

The decision to invite a foreign leader to address Congress has historically been made by the congressional leadership, often in consultation and conjunction with the executive branch. No formal procedure on when or how to issue invitations is codified in law or in House or Senate rules.

While the majority party may adhere to tradition and consult with the executive branch when inviting foreign leaders, they may take a more adversarial approach. In 2015, [House Speaker John Boehner invited Israeli Prime Minister Benjamin Netanyahu](#) to address Congress without consulting with President Barack Obama's White House or State Department. The affront was considered particularly egregious given Prime Minister Netanyahu's vocal opposition to the nuclear agreement the Obama Administration was negotiating with Iran. The example demonstrates how the majority party's convening power might be used to thwart the White House's agenda or embarrass the president.

Certifying Presidential Election Results

The party controlling the House and Senate could also impact the certification of a presidential election. Presidential election results from each state must be tallied during a joint session of the House and Senate on January 6 following each presidential election, unless the date is changed by law (for example, to avoid a Sunday session). Lawmakers may raise objections to individual states' results during this joint session. In the event an objection is backed by at least one senator and one representative, each chamber must meet to debate the objection and vote on whether it has merit. Unless both chambers decide by a simple majority vote to throw out the votes being objected to, the objection is not sustained and the votes from the state in question are counted.

Theoretically, one party could hold majorities in both chambers and, consequently, have sufficient votes to sustain an objection and throw out a state or states' electoral results. If a presidential candidate fails to obtain a majority of votes—that is, 270—in the Electoral College, a “contingent election” is held in the House of Representatives to elect the new president. During a contingent election, each state casts one vote, and the candidate who receives the majority of states' votes—26 out of 50—wins.

In theory, a party in control of the House and Senate could vote to deny a presidential candidate 270 electoral votes by throwing out a sufficient number to bring the candidate below that threshold. If that party also holds the majority of House seats in 26 or more states and coalesces around another candidate, that party could successfully make their chosen candidate president in a contingent election. There have been two contingent elections in American history: one to elect the president in 1825, and the other to elect the vice president in 1837. For a deeper discussion of this issue, see the Congressional Research Service's [Contingent Election of the President and Vice President by Congress: Perspectives and Contemporary Analysis](#).

Conclusion

With a new majority comes numerous changes to Congress's day-to-day proceedings, the issues the chambers will pursue, and the people deciding which bills advance and which do not. As a result, stakeholders must understand the levers the majority party controls if they hope to advance their agenda successfully. The analysis above breaks down some of the most critical levers Congress watchers should be aware of as they navigate a new majority.