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Special Order Speeches: Current House Practices

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Summary

Special order speeches (commonly called "special orders") usually take place at the end of the day after the House has completed all legislative business. During the special order period, individual Representatives deliver speeches on topics of their choice for up to 60 minutes. Special orders provide one of the few opportunities for non-legislative debate in the House. They also give Members a chance to speak outside the time restrictions that govern legislative debate in the House and the Committee of the Whole.

The rules of the House do not provide for special order speeches. Instead, special orders have evolved as a *unanimous consent practice* of the House. Recognition for special orders is the prerogative of the Speaker. During the special order period, Members must abide by the rules of the House, the chamber's precedents, and the "Speaker's announced policies," in that order. The term "Speaker's announced policies" refers to the Speaker's policies on certain aspects of House procedure.

In practice, the Speaker's current policies on special orders (announced on January 7, 2003) govern recognition for special order speeches as well as the reservation and television broadcast of these speeches. Under these announced policies, there are generally three "stages" to each day's special order period:

- first, five-minute special orders by *individual Members*;
- next, special orders longer than five minutes (normally 60 minutes in length) by *the party's leadership or a designee*; and
- last, special orders longer than five minutes (length varies from 6 to 60 minutes) by *individual Members*.

Members usually reserve special orders in advance through their party's leadership. Instead of delivering a special order speech on the House floor, Members may choose to insert their speech in either the House pages of the *Congressional Record* or the section known as the "*Extensions of Remarks*."

Reform proposals were advanced in recent Congresses to address both concerns about breaches in decorum during special order speeches and the costs of conducting these speeches.

This report will be updated if rules and procedures change.

Contents

Introduction	1
Governing Authorities	1
Recognition for Special Orders	2
Reservation of Special Orders	4
Television Broadcast of Special Orders	5
Inserted Special Orders	5
Differences Between Inserted and Delivered Special Orders	6
Various Uses of Special Orders	6
Earlier Announced Policies of the Speaker	7
Breaches in Decorum	7
Costs	8

Special Order Speeches: Current House Practices

Introduction

Special order speeches (commonly called "special orders") usually take place at the end of the day after the House of Representatives has completed all legislative business. During the special order period, individual Representatives can deliver speeches on topics of their choice for up to 60 minutes. Special order speeches give Members a chance to speak outside the time restrictions that govern legislative debate in the House and the Committee of the Whole. These speeches also provide one of the few opportunities for non-legislative debate in the House,¹ where debate is almost always confined to pending legislative business.²

This report examines current House practices for reserving special order speeches and securing recognition for these speeches. Differences between *inserted* and *delivered* special orders, various uses of special orders, and current reform proposals are also discussed.

Governing Authorities

The rules of the House do not provide for special order speeches. Instead, special orders have evolved as a *unanimous consent practice* of the House. While any Member can object to the practice of holding daily special order speeches, this happens infrequently.

During the special order period, Members must abide by the rules of the House, the chamber's precedents, and the "Speaker's announced policies," in that order. Relevant House rules include those governing debate, decorum, and the Speaker's power of recognition. For example, a Representative cannot deliver a special order longer than 60 minutes because this would violate House Rule XVII, clause 2, which limits individual Members to "one hour in debate on any question." When a Member's 60-minute special order expires, he cannot even ask unanimous consent

¹ One-minute speeches (usually every day) and morning hour debates (on Mondays and Tuesdays only) also provide opportunities for non-legislative debate, but only for one minute and five minutes, respectively.

² Under House Rule XVII, clause 1(b)(1), a Member "shall be confined to the question under debate" (almost always the legislative business before the House).

to address the House for an additional minute.³ He can speak again, however, if time is yielded under another Representative's special order. Individual Representatives with reserved special order speeches will commonly yield time to colleagues during the speech.

House precedents discuss how the chamber has interpreted and applied its rules. These precedents are published in several parliamentary reference publications.⁴ Under House precedents, for example, individual Members cannot deliver more than one special order each legislative day.⁵

The term "Speaker's announced policies" refers to the Speaker's policies on certain aspects of House procedure (*e.g.*, decorum in debate, conduct of electronic votes, recognition for special orders). These policies are usually announced on the opening day of a new Congress. In practice, the Speaker's current policies on special orders (announced on January 7, 2003) govern recognition for special order speeches and the reservation and television broadcast of these speeches.⁶

Recognition for Special Orders

Recognition for special orders is the prerogative of the Speaker. While special orders routinely begin once legislative business is completed, the Speaker is not required to recognize Members for special orders as soon as legislative business ends. Under his power of recognition (House Rule XVII, clause 2), the Speaker can first recognize other Members for "unanimous-consent requests and permissible motions."⁷ The Speaker may also interrupt or reschedule the special order period to proceed to legislative or other business. Moreover, the Speaker can recognize Representatives for special orders earlier in the day (*e.g.*, when the House plans to consider major legislation through the evening hours).

A majority party Representative appointed as "Speaker pro tempore" usually presides in the chair during special- orders. In recognizing Members, the chair observes the following announced policies of the Speaker:

- Representatives are first recognized for five-minute special order speeches, and then for longer speeches that do not exceed 60 minutes.

³ U.S. Congress, House, House Practice: A Guide to the Rules, Precedents and Procedures of the House, 108th Cong., 1st sess. (Washington: GPO, 2003), "Consideration and Debate" chapter, sec. 48, p. 427.

⁴ For more information, see U.S. Library of Congress, Congressional Research Service, Parliamentary Reference Sources: House of Representatives, by Thomas Carr, CRS report RL30787 (Washington: updated periodically).

⁵ House Practice, "Consideration and Debate" chapter, sec. 50, p. 427.

⁶ The full text of these announced policies of the Speaker appear in Congressional Record, daily edition, January 7, 2003, H22.

⁷ U.S. Congress, House, Procedure in the U.S. House of Representatives, 97th Cong. (Washington: GPO, 1982), chapter 21, sec. 9.6-9.7, pp. 312-313.

- Recognition alternates between the majority and minority for both the *initial* special order and *subsequent* special orders in each time category (*i.e.*, five-minute special orders; longer special orders). In recognizing individual Members, the chair follows the order specified in the list of special order requests submitted by each party's leadership (see "Reservation of Special Orders" section).
- No special orders are allowed after midnight *on any day*.
- *On Tuesdays*, after all legislative business is completed, the chair can recognize Members for five-minute special orders and unlimited longer special orders until midnight.
- *On every day but Tuesday*, after the five-minute special orders, the chair can recognize Members for no more than four hours of longer special orders.⁸ The four hours are divided equally between the majority and minority. Each party can reserve the first hour of longer special orders for its leadership or a designee (a so-called "leadership special order"—see below for more information). When less than four hours remains until midnight, each party's two-hour period is prorated.⁹

Each party's leadership usually chooses a designee to deliver a leadership special order during the party's first hour of longer special orders.¹⁰ This designee will sometimes lead a thematic special order and yield time to other party Members. For example, on May 7, 1997, the minority leader's designee delivered a 60-minute special order on H.R. 3 (juvenile crime control legislation), with participation from other Democratic Members.¹¹ The majority leader's designee then led a 60-minute special order on the 1997 balanced budget agreement, during which he yielded time to other Republican Members.¹²

To summarize, under the Speaker's current announced policies, there are generally three "stages" to each day's special order period:

⁸ This four-hour limitation can only be extended if the chair grants permission after consultation with the leadership of both parties and notification to the House.

⁹ For example, if the House completes legislative business at 11:00 p.m., Members are first recognized for five-minute special orders, and then the time remaining until midnight is divided between the two parties for longer special orders.

¹⁰ On occasion, a party's leadership may designate two party Representatives to lead back-to-back special orders that collectively total one hour. For example, on July 14, 1996, Representative Frank Pallone and Delegate Eleanor Holmes Norton were recognized for separate 30-minute special orders as the minority leader's designees. See Congressional Record, daily edition, vol. 142, July 14, 1996, p. H5036 and p. H5039.

¹¹ Congressional Record, daily edition, vol. 143, May 7, 1997, pp. H2338-2343.

¹² *Ibid*, pp. H2343-2348.

- first, five-minute special orders by *individual Members*;
- next, special orders longer than five minutes (normally 60 minutes in length) by *the party's leadership or designee*; and
- last, special orders longer than five minutes (length varies from six to 60 minutes) by *individual Members*.

Reservation of Special Orders

Members reserve five-minute and longer special orders through their party leadership: *Democratic* Members reserve time through the Office of the Minority Leader, and *Republican* Members reserve time through the Republican cloakroom or the party leadership desk on the House floor. Under the Speaker's announced policies, Members cannot reserve special orders more than one week in advance. Moreover, the date of the reservation does not affect the order in which the chair recognizes Members for special orders.¹³

The Speaker's announced policies require that the majority and minority leadership give the chair a list each day showing how the party's two hours of longer special orders will be allocated among party Members. The chair follows this list in recognizing Members for longer special orders.

For five-minute special orders, the majority and minority leadership compile a list of five-minute special order reservations each day. This list is given to a party Member who asks unanimous consent that each Member on the list be allowed to address the House for five minutes on a specific date. Permission is routinely granted by the House. A notice of granted five-minute special orders appears in the House section of the daily *Congressional Record* (under the heading "Special Orders Granted") and on the inside page of the daily "House Calendar" (formally called *Calendars of the United States House of Representatives and History of Legislation*).

Individual Members may also ask unanimous consent to give a special order speech at the last minute, to use another Representative's reserved special order time, or to deliver a reserved special order out of the established sequence for that day. These unanimous consent requests are made infrequently and permission is usually granted.

¹³ This current practice, firmly established by the Speaker's announced policies of January 5, 1995 and extended by the announced policies of January 7, 2003, departs from earlier House practice. Previously, Members were recognized for special order speeches in the order that they reserved their speech (*i.e.*, when three Members each reserved a 30-minute special order for a particular day, the Member who reserved the speech at the earliest date was recognized first). For other differences between current and earlier House practices, see the "Earlier Announced Policies of the Speaker" section.

Television Broadcast of Special Orders

House Rule V places the broadcasting of House proceedings under the Speaker's exclusive direction. The Speaker's announced policies prohibit House-controlled television cameras from panning the chamber during special orders.¹⁴ Instead, a caption (also known as a "crawl") appears at the bottom of the television screen indicating that legislative business has been completed and the House is proceeding with special orders.

Inserted Special Orders

Instead of delivering a special order speech on the House floor, Members may insert their speech in either the House pages of the *Congressional Record* or the section known as the "Extensions of Remarks."¹⁵

Special orders inserted in the *House section* are published in a distinctive typeface alongside the special orders delivered that day on the House floor. Members must decide in advance to insert special orders in the *House section*. They make this decision when reserving the special order through their party's leadership. A Representative who wants to participate in another Member's reserved special order can also decide in advance to insert his remarks in the House section. This decision is coordinated with the Member holding the special order reservation. The Representative's inserted remarks appear in a distinctive typeface during the other Member's reserved special order.

Members who are not present when recognized for their special order speech routinely have the option of inserting this speech in the *Extensions of Remarks section*. Permission of the House is required to insert any material in this section. When the House grants unanimous consent to special order requests, it typically gives Representatives permission to "revise and extend" their remarks and to "include extraneous material." This permission is usually reported in the House pages of the *Congressional Record* under the heading "Special Orders Granted" (see above). Special order speeches inserted in the *Extensions of Remarks section* appear alongside other inserted material (*e.g.*, legislative statements not delivered on the floor, newspaper articles, letters from constituents) and are not identified as special orders. All materials in the *Extensions of Remarks section* appear in a distinctive typeface.

¹⁴ From 1984 to 1994, House-controlled television cameras panned the entire chamber during special orders.

¹⁵ There are three sections in the daily *Congressional Record*: 1) the proceedings of the House; 2) the proceedings of the Senate; and 3) the "Extensions of Remarks," a section where Members of the House can insert "a speech that was not actually delivered on the floor" or "extraneous materials related to the subject under discussion," with the House's permission. House Practice, "Congressional Record" chapter, sec. 5, pp. 367-373.

Differences Between Inserted and Delivered Special Orders

The practical difference between *inserting* and *delivering* a special order speech is twofold. First, inserted special orders are available only to readers of the hard copy and on-line versions of the *Congressional Record*. By contrast, special orders delivered on the House floor reach a larger audience through C-SPAN's televised coverage of House floor proceedings. Second, inserted special order speeches incur less cost than those delivered on the House floor. While both inserted and delivered special orders involve *Congressional Record* printing costs, only delivered speeches entail the expenses of keeping the House in formal session (*e.g.*, electricity, salaries of House officers and staff).

Various Uses of Special Orders

Members often use special orders to address subjects unrelated to legislation before the House. They deliver speeches on broad policy issues, a bill they have introduced, and local, national, or international events. They also present eulogies and tributes.

Special orders are also used to debate specific legislation and policy issues outside the time restrictions that govern legislative debate in the House and the Committee of the Whole. As mentioned earlier, each party's leadership sometimes reserves a 60-minute special order to present party views on a particular bill or policy issue. In addition, Members of both parties may coordinate their special orders to debate legislation. For example, in the 104th Congress, the two parties reserved consecutive, 60-minute special orders to conduct a "real give-and-take kind of debate" of H.J.Res. 159 (a proposed constitutional amendment to require two-thirds majorities for bills increasing taxes).¹⁶ Majority and minority Members participated in each party's 60-minute special order. In a departure from regular practice, these special orders took place in the middle of the day before the House considered the joint resolution.

The special order period also provides a forum where Members can practice and hone their debate skills. Veteran Representatives have advised new Members, in particular, to reserve special orders for this purpose:

... before you participate in general debate on a bill...get some practice. Get a special order and have a few of your friends participate with you. Get the feel of being in the well of the House, how the lectern can move up and down, how the microphones work. Practice in the somewhat stilted language of yielding to other colleagues and so forth, so that when you do get into the real legislative fight it isn't all new; you have a little bit of the feel of debating in the House.¹⁷

¹⁶ See Congressional Record, daily edition, vol. 142, April 15, 1996, pp. H3240-H3256.

¹⁷ Donald G. Tacheron and Morris K. Udall, *The Job of the Congressman*, 2nd ed., (Indianapolis: Bobbs-Merrill Company, 1970), pp. 208-209.

During special orders, freshmen majority Members also have an opportunity to gain experience presiding as "Speaker pro tempore."

Earlier Announced Policies of the Speaker

The Speaker's current announced policies on special orders build upon earlier policies, mainly those implemented on February 23, 1994.¹⁸ These 1994 policies significantly changed special order procedures by imposing new restrictions (*e.g.*, four-hour limitation on longer special orders, no special order reservations more than one week in advance). Before early 1994, special orders could be reserved months in advance and it was not unusual to have more than 10 hours of special orders reserved for a single day. Special order speeches also could be delivered after midnight and all-night special orders took place on occasion.

The Speaker's announced policies before 1994 required that Members be recognized for five-minute special order speeches first and then for longer speeches, and that recognition alternate between majority and minority Members.¹⁹ When studying special order speeches before February 23, 1994, it is useful to remember these speeches were reserved and delivered under the Speaker's earlier, less restrictive policies.

Breaches in Decorum

The House Rules Committee's Subcommittee on Rules and Organization of the House held hearings on April 17, 1997, and May 1, 1997, to discuss issues raised in *Civility in the House of Representatives* (hereafter referred to as *Civility*), a report prepared for the March 1997 bipartisan retreat of House Members.²⁰ *Civility* examined the public's perception of rising incivility in the House and recommended actions to reduce this perception and actual breaches in decorum.

The report pointed out that incivility was more likely to take place during special orders and one-minute speeches than during other periods of House floor proceedings. According to *Civility*, unparliamentary language "that would be taken down in regular debate was more likely to be tolerated or "cautioned" during special orders.²¹ The report attributed this situation to the low number of Members present during special orders—it was unlikely a Member would make a timely demand that

¹⁸ These policies were announced on February 11, 1994, and implemented on February 23, 1994, for a 90-day trial period. Their application was later extended for the duration of the 103rd Congress. See Congressional Record, daily edition, vol. 140, Feb. 11, 1994, p. H542, and June 10, 1994, p. H4333.

¹⁹ See Congressional Record, vol. 130, Aug. 8, 1984, p. 22963.

²⁰ Kathleen Hall Jamieson, *Civility in the House of Representatives*, (Philadelphia: Annenberg Public Policy Center, 1997), 105 p. An updated version, covering the 105th Congress, was prepared in March 1999 for the 1999 Hershey retreat. Kathleen Hall Jamieson, *Civility in the House of Representatives*, (Philadelphia: Annenberg Public Policy Center, 1999), 18 p.

²¹ *Ibid*, p. 61.

unparliamentary words be taken down and, even if this demand was made, "it would be all but impossible to locate the Members needed to vote" on an appeal of the chair's ruling.²² On this last point, the report recommended that the House change its rules to require that appealed rulings of the chair after regular business be voted on the next legislative day.²³ This rules change, the report argued, would encourage the chair to intervene more frequently against unparliamentary language in special orders.²⁴

The 1999 report provided data on the 105th Congress generally, and the December 1998 impeachment debate specifically. No recommendations were included. The House Rules Committee held hearings on the 1999 report in April 1999.

Costs

As discussed earlier, daily special orders entail *Congressional Record* printing expenses for delivered and inserted special orders and the costs of keeping the House in formal session for delivered special orders (*e.g.*, electricity, salaries of House staff and officers).

On February 9, 1999, Representative Lynn Rivers (D-Mich.) introduced H.Res. 47, a resolution to amend House rules to require that "the expenses of special-order speeches be paid from the Members' Representational Allowances of Members making such speeches." Each Representative has a "Members' Representational Allowance" (MRA) for expenses related to official and representational duties (*e.g.*, employment of staff, travel, franked mail, supplies). H.Res. 47 was referred to the House Committee on Rules upon introduction but did not receive committee action in the 106th Congress. Representative Rivers introduced identical resolutions (H.Res. 97) in the 105th Congress and (H.Res. 263) in the 104th Congress, but no action was taken on either measure.

²² *Ibid.*, p. 85. Also, for a discussion of the "taking down of words" procedure, see House Practice, "Consideration and Debate" chapter, sec. 28-32, pp. 403-408.

²³ *Civility*, p. 99.

²⁴ *Ibid.*