



How Legislation Is Brought to the House Floor: A Snapshot of Recent Parliamentary Practice

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Summary

The House of Representatives has several different parliamentary procedures through which it can bring legislation to the chamber floor. Which of these will be used in a given situation depends on many factors, including the type of measure being considered, its cost, the amount of political or policy controversy surrounding it, and the degree to which members want to debate it and propose amendments. This report provides a snapshot of the forms and origins of measures which, according to the Legislative Information System of the U.S. Congress (LIS), received action on the House floor in the 110th Congress (2007-2008) and the parliamentary procedures used to bring them up.

In the 110th Congress, 2,185 pieces of legislation received floor action in the House of Representatives. Of these, 1,123 were bills or joint resolutions and 1,062 were simple or concurrent resolutions, a roughly even breakdown between lawmaking and non-lawmaking legislative forms. Of these 2,185 measures, 2,022 originated in the House and 163 originated in the Senate.

During this period, 71% of all measures receiving House floor action came before the chamber under the Suspension of the Rules procedure; 15% came to the floor as business “privileged” under House rules and precedents; 8% were raised by a special rule reported by the Committee on Rules and adopted by the House; and 7% came up by the unanimous consent of members. A small fraction of measures—less than 1%—received House floor action in the 110th Congress through the call of the Private Calendar or the provisions of House Rule XXVIII, popularly known as the “Gephardt Rule.”

When only lawmaking forms of legislation (bills and joint resolutions) are counted, 80% of such measures receiving House floor action came before the chamber under the Suspension of the Rules procedure; 0% came to the floor as business “privileged” under House rules and precedents; 13% were raised by a special rule reported by the Committee on Rules and adopted by the House; and 6% came up by the unanimous consent of members. Less than 1% of bills or joint resolutions received House floor action in the 110th Congress through the call of the Private Calendar or the provisions of House Rule XXVIII, popularly known as the “Gephardt Rule.”

This report will be updated periodically to reflect legislative action taken in a full Congress.

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The House of Representatives has several different parliamentary procedures through which it can bring legislation to the chamber floor. Which will be used in a given situation depends on many factors, including the type of measure being considered, its cost, the amount of political or policy controversy surrounding it, and the degree to which members want to debate it and propose amendments.

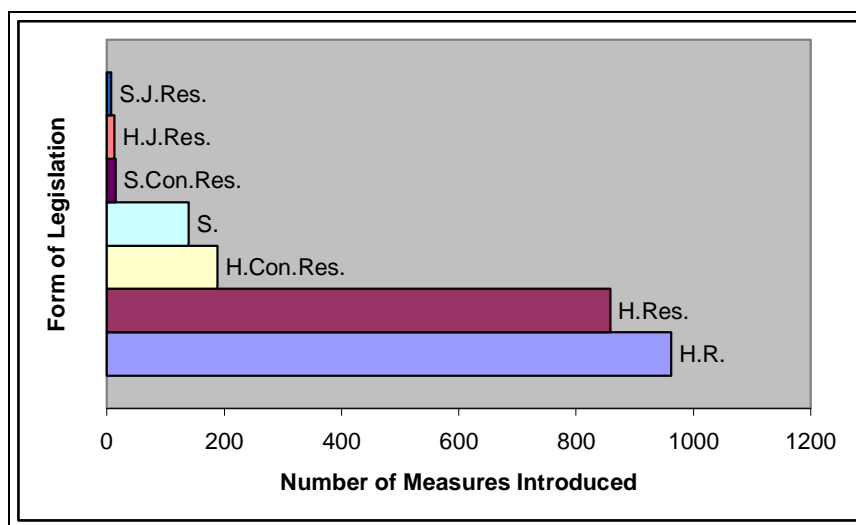
According to the Legislative Information System of the U.S. Congress (LIS), in the 110th Congress (2007-2008), 2,185 pieces of legislation received some kind of floor action in the House of Representatives. This report provides a statistical snapshot of the forms and origins of these measures, and of the parliamentary procedures used to bring them to the chamber floor during their initial consideration.

Form of Measures

Legislation is introduced in the House or Senate in one of four forms: the bill (H.R. / S.); the joint resolution (H.J.Res. / S.J.Res.); the concurrent resolution (H.Con.Res. / S.Con.Res.); and the simple resolution (H.Res. / S.Res.). Generally speaking, bills and joint resolutions can become law, but simple and concurrent resolutions cannot; they are used instead for internal organizational or procedural matters, or to express the sentiment of one or both chambers.¹

During the 110th Congress, 1,123 bills or joint resolutions and 1,062 simple or concurrent resolutions received floor action by the House of Representatives. This represents a roughly even workload breakdown in the House between lawmaking and non-lawmaking legislative forms.

Figure I. Form of Legislation Receiving House Floor Action
110th Congress (2007-2008)



Source: CRS Analysis of data from the Legislative Information System of the U.S. Congress (LIS).

¹ For more information on the forms and uses of legislation, see CRS Report 98-728, *Bills, Resolutions, Nominations, and Treaties: Characteristics, Requirements, and Uses*, by Richard S. Beth. Also see CRS Report 98-825, *“Sense of” Resolutions and Provisions*, by Christopher M. Davis.

Origin of Measures

Of the 2,185 measures receiving House floor action in the 110th Congress according to LIS, 2,022 were House measures and 163 originated in the Senate.

Floor Procedures Used in the 110th Congress

The following section documents the parliamentary mechanisms that were actually used by the House to bring legislation to the floor for consideration during the 110th Congress. In doing so, it does not make distinctions about the privileged status such business technically enjoys under House rules. Most appropriations measures, for example, are considered “privileged business” under clause 5 of House Rule XIII (as detailed in the section on “Privileged Business” below). As such, they do not need a special rule from the Rules Committee to be adopted for them to have floor access. In actual practice, however, in the 110th Congress, the House universally provided for the consideration of these measures by means of a special rule or unanimous consent agreement, which, in general, could also provide for debate to be structured, amendments to be regulated, and points of order against the bills to be waived. Thus, appropriations measures considered in the 110th Congress are counted in this analysis as being raised by special rule and unanimous consent, notwithstanding their status as “privileged business.”

Suspension of the Rules

In recent Congresses, most legislation has been brought up on the House floor by Suspension of the Rules, a parliamentary device authorized by clause 1 of House Rule XV, which waives the chamber’s standing rules to enable the House to act quickly on legislation that enjoys widespread, even if not necessarily unanimous, support. The main features of the Suspension of the Rules procedure include (1) a 40-minute limit on debate, (2) a prohibition against floor amendments and points of order, and (3) a two-thirds vote of members present and voting for passage. The suspension procedure is in order in the House on the calendar days of Monday, Tuesday, and Wednesday, during the final six days of a Congressional session, and at other times by unanimous consent or special order.²

In the 110th Congress, 1,544 measures, representing 71% of all legislation receiving House floor action, were initially brought up using the Suspension of the Rules procedure. This includes 893 bills or joint resolutions and 651 simple or concurrent resolutions. When only lawmaking forms of legislation are counted, 80% of bills and joint resolutions receiving floor action in the 110th Congress came up by Suspension of the Rules. Ninety-two percent of measures brought up by Suspension of the Rules originated in the House. The remaining 8% were measures originating in the Senate.

² For more information on Suspension of the Rules, see CRS Report 98-314, *Suspension of the Rules in the House: Principal Features*, by Elizabeth Rybicki.

Privileged Business

House rules and precedents place certain types of legislation in a special “privileged” category, which gives measures of this kind the ability to be called up for consideration when the House is not considering another matter. Bills and resolutions falling into this category that saw floor action in the 110th Congress, include the following:

- **Order of Business Resolutions:** Procedural resolutions reported by the House Committee on Rules affecting the “rules, joint rules, and the order of business of the House” are, themselves, privileged for consideration under clause 5 of House Rule XIII. Order of business resolutions are commonly known as “special rules,” and are discussed below in more detail.³
- **Committee Assignment Resolutions:** Under clause 5 of House Rule X and the precedents of the House, a resolution assigning members to standing committees is privileged if offered by direction of the party caucus or conference involved.⁴
- **Committee Funding Resolutions:** Resolutions providing funds for committee salaries and expenses, if reported by the committee on House Administration, are privileged under House Rule XIII, clause 5.⁵
- **Correcting Enrollments:** Under clause 5 of House Rule XIII, resolutions reported by the Committee on House Administration correcting errors in the enrollment of a bill are privileged.⁶
- **Providing for Adjournment:** Under Article I, section 5, clause 4, of the Constitution, neither house can adjourn for more than three days without the consent of the other. Concurrent resolutions providing for such an adjournment of one or both chambers are called up as privileged.⁷
- **Questions of the Privileges of the House:** Under clause 2 of House Rule IX, resolutions raising a question of the privileges of the House, affecting “the rights of the House collectively, its safety, dignity, and the integrity of its proceedings,” are privileged under specific parliamentary circumstances described in the rule.⁸
- **Bereavement Resolutions:** Under House precedents, resolutions expressing the condolences of the House of Representatives over the death of a Representative or of a President or former President, have been treated as privileged.
- **Measures Related to House Organization:** Certain organizational business of the House, such as resolutions traditionally adopted at the beginning of a session notifying the President that the House has assembled, as well as concurrent resolutions providing for a joint session of Congress, have been treated as privileged business.

³ U.S. Congress, House, *Constitution, Jefferson’s Manual, and Rules of the House of Representatives*, H.Doc. 109-157, 109th Cong., 2nd sess. (Washington: GPO, 2007), §853. (Hereafter cited as “*House Manual*.”)

⁴ *House Manual*, §757.

⁵ *House Manual*, §757.

⁶ *Ibid.*

⁷ *House Manual*, §84.

⁸ *House Manual*, §699.

In the 110th Congress, 325 measures, representing 15% of the measures receiving floor action, came before the House on their initial consideration by virtue of their status as “privileged business.” All of these 325 measures were non-lawmaking forms of legislation, that is, simple or concurrent resolutions. The most common type of measure brought up in the House as “privileged business” during the 110th Congress was special orders of business (special rules) reported by the Rules Committee, followed by resolutions assigning Representatives to committee. All but three of these privileged measures originated in the House. The three Senate measures of this class were concurrent resolutions providing for a congressional adjournment of more than three days.⁹

By Special Rule

A special rule is a simple resolution that regulates the House’s consideration of legislation identified in the resolution. Such resolutions, as noted above, are sometimes called “order of business resolutions” or “special orders.” Special rules enable the House to consider a specified measure and establish the terms for its consideration. For example, how long the legislation will be debated, what, if any amendments may be offered to it, and whether points of order against the measure or any amendments are waived. Under clause 1(m) of House Rule X, the Committee on Rules has jurisdiction over the “order of business” of the House, and it reports such procedural resolutions to the chamber for consideration. In modern practice, although a relatively small percentage of legislation comes before the House via special rule, most measures that might be characterized as significant, complicated, or controversial, are brought up in this way.

In the 110th Congress, 164 measures, or 8% of all legislation receiving House floor action, were initially brought before the chamber under the terms of a special rule reported by the Rules Committee and agreed to by the House. Of these, 151 (92%) were bills or joint resolutions and 13 (8%) were simple or concurrent resolutions. When only lawmaking forms of legislation are counted, 13% of bills and joint resolutions receiving floor action in the 110th Congress came up by Special Rule. Ninety-eight percent of the measures considered under a special rule during the 110th Congress originated in the House, just 2% being Senate legislation.

Unanimous Consent

In modern practice, legislation is often brought before the House of Representatives for consideration by the unanimous consent of its members. Long-standing policies announced by the Speaker regulate unanimous consent requests for this purpose. Among other things, the Speaker will recognize a member to propound a unanimous consent request to call up an unreported bill or resolution only if that request has been cleared in advance with both party floor leaders and with the bipartisan leadership of the committee of jurisdiction.¹⁰

In the 110th Congress, 145 measures, or 7% of all legislation identified by LIS as receiving House floor action, were initially considered by unanimous consent. Of these, 72 (50%) were bills or joint resolutions and 73 (50%) were simple or concurrent resolutions. When only lawmaking forms of legislation are counted, 6% of bills and joint resolutions receiving floor action in the

⁹ For more information, see CRS Report 98-315, *Privileged Business on the House Floor*, by James V. Saturno.

¹⁰ William Holmes Brown and Charles W. Johnson, *House Practice, A Guide to the Rules, Precedents and Procedures of the House* (Washington: GPO, 2003), ch. 54, §2, pp. 882-883.

110th Congress came up by Unanimous Consent. Of the measures initially considered by unanimous consent during the 110th Congress, 76% originated in the House.

Call of the Private Calendar

Clause 5 of House Rule XV establishes special parliamentary procedures to be used for the consideration of private legislation. Unlike public legislation, which applies to public matters and deals with individuals only by classes, the provisions of private bills apply to “one or several specified persons, corporations, [or] institutions.”¹¹ When reported from House committee, private bills are placed on a special Private Calendar established by House Rule XIII. The consideration of Private Calendar measures is in order on the first and (if the Speaker of the House so chooses) third Tuesday of a month. On those days, the Private Calendar is “called” and each measure on it is automatically brought before the House in order. Private bills are considered under a set of procedures known as the “House *as in* Committee of the Whole,” which is a hybrid of the procedures used in the full House and those used in the Committee of the Whole. Under these, private bills may be debated and amended under the five-minute rule, although in practice, they are almost always passed without debate or record vote.¹²

In the 110th Congress, five measures were initially brought to the floor via the call of the Private Calendar. All were House bills. When only lawmaking forms of legislation are counted, less than 1% (.004%) of bills and joint resolutions receiving floor action in the 110th Congress came up by the Call of the Private Calendar.

Gephardt Rule

House Rule XXVIII provides that, upon the final adoption of a congressional budget resolution necessitating a change in the statutory limit on the public debt, a House joint resolution altering that limit will be deemed to have passed the chamber, and be engrossed and transmitted to the Senate for consideration without separate House action. The rule is commonly referred to as the “Gephardt Rule,” after its original sponsor, Representative Richard A. Gephardt (D-MO).¹³

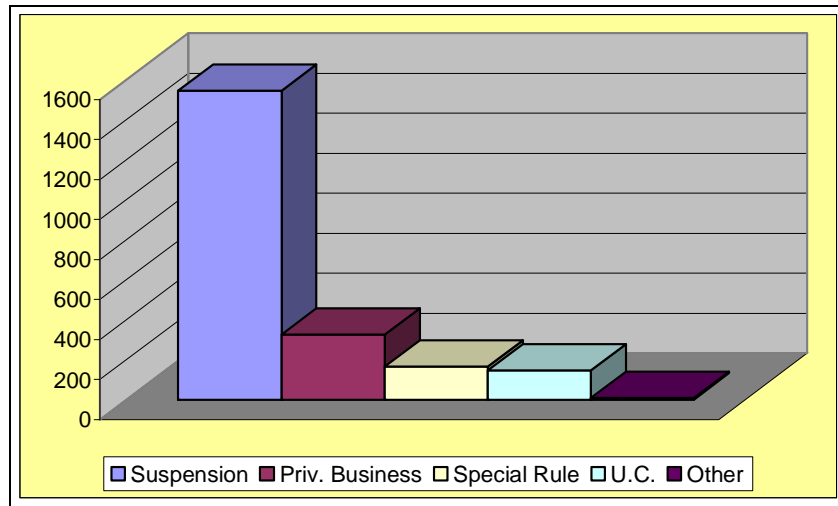
During the 110th Congress, two House joint resolutions were engrossed and deemed to have been passed by virtue of the automatic procedures established by the so-called Gephardt Rule. When only lawmaking forms of legislation are counted, less than 1% (.002%) of bills and joint resolutions receiving floor action in the 110th Congress came up under the Gephardt Rule.

¹¹ Asher C. Hinds, *Hinds' Precedents of the House of Representatives of the United States* (Washington: GPO, 1917), vol. 4, §3285.

¹² For more information, see CRS Report 98-628, *Private Bills: Procedure in the House*, by Richard S. Beth.

¹³ For more information, see CRS Report RL31913, *Developing Debt-Limit Legislation: The House's "Gephardt Rule"*, by Bill Heniff Jr.

Figure 2. Procedures Used to Bring Measures to the House Floor
110th Congress (2007-2008)



Source: Legislative Information System of the U.S. Congress (LIS).

Notes: Chart reflects initial House consideration of all legislation, regardless of legislative form. “Other” category is made up of measures raised by the call of the Private Calendar and under the “automatic” procedures of House Rule XXVIII.

Table I. Parliamentary Procedures Used to Bring Measures to the Floor of the U.S. House of Representatives

110th Congress (2007-2009)

Parliamentary Procedure / Percentage of Measures Considered	H.R.	S.	H.J.Res.	S.J.Res.	H.Res.	H.Con.Res.	S.Con.Res.	TOTAL
Suspension of the Rules / 71%	772	108	6	7	499	146	6	1544
Privileged Business (325 Total) / 15%								
Special orders (including those tabled)	0	0	0	0	223	0	0	223
Committee assignment resolution	0	0	0	0	39	0	0	39
Providing for adjournment / recess	0	0	0	0	0	14	3	17
Question of the privileges of the House	0	0	0	0	16	0	0	16
Chamber organizational related	0	0	0	0	14	1	0	15
Bereavement resolution	0	0	0	0	9	0	0	9
Committee funding resolution	0	0	0	0	2	0	0	2
Providing for a joint session	0	0	0	0	0	2	0	2
Granting deposition authority	0	0	0	0	1	0	0	1
Correcting engrossment / enrollment	0	0	0	0	0	1	0	1
By Special Rule / 8%	145	2	4	0	8	3	2	164
Unanimous consent / 7%	40	30	1	1	47	22	4	145
Call of the Private Calendar / .002%	5	0	0	0	0	0	0	5
Gephardt Rule / .001%	0	0	2	0	0	0	0	2
Total	962	140	13	8	858	189	15	2185

Source: Congressional Research Service (CRS) analysis of data from the Legislative Information System of the U.S. Congress (LIS).

Notes: Table reflects initial House consideration of measures receiving floor action between January 3, 2007, and January 3, 2009. Percentages may not add up to 100% due to rounding.

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