

# Discharge Procedure in the House

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The House “discharge rule” (Rule XV, clause 2) provides a means for Members to bring to the floor for consideration a public bill or resolution that has been referred to committee but not reported.<sup>1</sup> Discharge is generally the only procedure by which Members can secure consideration of a measure without cooperation from the committee of referral, or the majority-party leadership and the Committee on Rules. For this reason, discharge is designed to be difficult to accomplish and has infrequently been used with success. This report explains the procedures by which the House may discharge a committee of its consideration of a bill or resolution.

## Basic Discharge Procedure

Discharge may be attempted only on a measure that has been referred to committee for at least 30 legislative days.<sup>2</sup> Any Member can initiate a discharge effort by filing with the Clerk of the House a discharge motion (also called a *discharge petition*) that is prepared by the Clerk’s office and made available at the rostrum for Members to sign when the House is in session.<sup>3</sup> Only one motion may be presented for a bill or resolution. The names of signatories are updated by the Clerk on a daily basis and are available online for public inspection.<sup>4</sup> Additionally, the last edition of the *Congressional Record* for each week contains a section entitled “Discharge Petitions—Additions and Withdrawals” that identifies Members who have added or subtracted their names from a petition during that particular week.<sup>5</sup>

Members may add or remove their names until a petition has obtained 218 signatures. If a discharge petition reaches this threshold—a majority of the House’s 435 Members—the list of names is frozen and is printed in the *Congressional Record*, and the discharge motion is entered in the *House Journal* and on a “Calendar of Motions to Discharge Committees.”<sup>6</sup> Once on the calendar, two additional conditions must be met. First, the motion must appear on the calendar for at least seven legislative days. Second, a Member who signed the petition must notify the House in a floor statement of an intention to offer the discharge motion. Once this notice is provided, the motion may be called up by that Member “at a time or place, designated by the Speaker, in the legislative schedule within two legislative days.”<sup>7</sup> A discharge motion is not in order, however, during the last six days of a congressional session.

When the designated time to offer the motion arrives, the Member who gave notice may offer the motion to discharge. Typically, this Member also makes essential motions and controls debate

<sup>1</sup> The discharge rule applies only to public, not private, legislation. On private bills generally, see CRS Report R45287, *Private Bills: Procedure in the House*, by Christopher M. Davis.

<sup>2</sup> A “legislative” day encompasses a period of time that starts when the House convenes following an adjournment and ends when the chamber next adjourns. In most cases, because the House usually adjourns each day, legislative days correspond with “calendar” days (a standard 24-hour period). If the House instead recesses or remains in session from one calendar day to the next, the same legislative day would carry into the next calendar day. Additional information can be found in CRS Report R42977, *Sessions, Adjournments, and Recesses of Congress*, by Richard S. Beth and Valerie Heitshusen.

<sup>3</sup> Instructions on how to file a discharge motion can be found on HouseNet, the House’s internal website, at <https://housenet.house.gov/legislative>.

<sup>4</sup> Signatories on a discharge petition to date are available at <http://clerk.house.gov/legislative/legvotes.aspx>.

<sup>5</sup> See, for instance, *Congressional Record*, vol. 165 (June 6, 2019), H4350.

<sup>6</sup> The calendar of discharge motions is available online from the Government Publishing Office. The calendar for September 3, 2019, can be viewed at <https://www.govinfo.gov/content/pkg/CCAL-116hcal-2019-09-03/pdf/CCAL-116hcal-2019-09-03-pt6.pdf>.

<sup>7</sup> U.S. Congress, House, *Constitution, Jefferson’s Manual, and Rules of the House of Representatives*, H.Doc. 115-177, 115<sup>th</sup> Cong., 2<sup>nd</sup> sess. (Washington: GPO, 2019), §892, p. 695.

time in favor of the measure, and the chair of the pertinent committee controls time in opposition. The motion to discharge is debatable for 20 minutes, equally divided between proponents and opponents. If the motion is adopted, the committee in possession of the measure is discharged from its consideration, and any Member who signed the petition may immediately move to proceed to consider the measure. The measure is considered in its introduced form under the standing rules of the House.

A discharge process involving an unreported measure becomes moot, however, if the committee to which a discharge effort is directed reports the measure before the motion is offered. Since it no longer has possession of the measure, the committee cannot be discharged from considering it.

## Consideration After Discharge

Once a committee is discharged, the measure may be considered in Committee of the Whole or in the House. If the measure is a “money measure” (including authorization, appropriation, and revenue measures), the next motion in order is that the House resolve into Committee of the Whole to consider it.<sup>8</sup> If this motion is adopted, the measure is considered as if under an open rule: when each section is read for amendment, germane amendments to it are in order and are debated under the five-minute rule. Time for general debate on the measure is not expressly provided for at this stage, but by unanimous consent Members may agree to place a limit on the amount of debate time under the control of managers.<sup>9</sup>

If the measure is not a “money measure,” the motion in order is to proceed to the bill or resolution in the House, where it will be considered under the one-hour rule (rather than in Committee of the Whole under the five-minute rule).<sup>10</sup> If this motion is adopted, the Member who offered the motion controls the first hour of debate and would be expected to move the previous question at the conclusion of the time they control. If the previous question is ordered, debate on the bill (and on any pending amendments) is concluded and the House proceeds to a final vote.

## Discharge and Special Rules

If proponents of a discharge effort seek greater control over the terms of a measure’s consideration beyond what the standing rules provide for, they may draft a special rule governing proceedings on the targeted measure and attempt to discharge the Committee on Rules from consideration of the special rule. This approach requires supporters to draft and introduce a special rule that includes language (1) providing that the measure will be considered even if unreported; (2) setting terms for its debate and amendment, normally in Committee of the Whole; and (3) stipulating that consideration continue until final disposition. Such “discharge” rules may not include provisions that would allow nongermane amendments or make more than one measure privileged for consideration.<sup>11</sup>

<sup>8</sup> On Committee of the Whole proceedings generally, see CRS Report RL32200, *Debate, Motions, and Other Actions in the Committee of the Whole*, by Bill Heniff Jr. and Elizabeth Rybicki.

<sup>9</sup> Alternatively, prior to resolving into Committee of the Whole, a Member may request unanimous consent to extend their remarks on the measure. See *Deschler’s Precedents of the United States House of Representatives*, H.Doc. 94-661, 94<sup>th</sup> Cong., 2<sup>nd</sup> sess., vol. 5, ch. 18, §4.5, p. 27.

<sup>10</sup> House proceedings under the one-hour rule is the subject of CRS Report 98-427, *Considering Measures in the House Under the One-Hour Rule*, by James V. Saturno.

<sup>11</sup> See clause 2 of House Rule XV.

Seven legislative days after its introduction, if the rule has not been reported by the Committee on Rules, supporters may file a petition to discharge the committee from its consideration. If this effort yields 218 signatures on a discharge petition, and the House adopts the motion to discharge, it automatically proceeds to consider the rule in the usual way, under the one-hour rule. If the rule is adopted, the House immediately proceeds to execute its terms by considering the measure it makes in order. One advantage to this procedure is that it permits supporters of the underlying measure to prescribe appropriate terms to regulate its consideration on the House floor. Furthermore, if a committee reports a measure after a special rule for considering it is introduced, a discharge attempt on the rule providing for that measure's consideration remains valid. If the Committee on Rules reports the rule, the discharge petition on the rule becomes moot, but in that case, after seven legislative days any Member of the Committee on Rules may call up the rule after providing one day's notice to the House of an intention to do so.<sup>12</sup> If the Rules Committee reports the rule adversely, any Member of the House may call it up on the second or fourth Monday of a month.<sup>13</sup>

In some cases, if a discharge petition approaches or receives the required 218 signatures, the Committee on Rules might report its own rule for considering the measure, or an alternative to it, perhaps based on negotiations with supporters of the discharge effort. A discharge motion made on the floor cannot be tabled—only one motion to adjourn would be available at this stage—but the Rules Committee may propose in its own version of the rule to table the discharge motion entered on the calendar before it becomes eligible to be offered.<sup>14</sup> The committee would normally call up this rule at some point during the seven-legislative-day window. If the House adopts the rule drafted by the Rules Committee, it can consider the measure, but under the terms proposed by the Committee on Rules, not those prescribed by the rule subject to the discharge process. If supporters of the measure are dissatisfied with the terms of the Committee's rule, they may attempt to defeat it, and thereby retain the capacity to offer the discharge motion on the rule they prefer at a later date.

## Discharge of Rule for Reported Measure

If a committee reports a measure, and the Committee on Rules declines to grant a rule for considering it, Members may introduce their own rule, and then may attempt to discharge the Committee on Rules from considering that rule. In this case, the object of discharge is not the committee holding the underlying measure, but the Committee on Rules. In recent decades only a handful of measures subjected to the discharge process have reached the House floor.

<sup>12</sup> Clause 6(d) of Rule XIII.

<sup>13</sup> Clause 6(e) of Rule XIII and clause 3 of Rule XV. Previous Congresses established the second and fourth Mondays of a month as the only days on which a Member could offer a discharge motion, but clause 2 of Rule XV was modified at the outset of the 116<sup>th</sup> Congress (2019-2020) to allow the discharge motion to be made at a time designated by the Speaker after notification is given of an intention to offer the motion. See section 102(v) of H.Res. 6, the rules package for the 116<sup>th</sup> Congress, which the House adopted on January 3, 2019.

<sup>14</sup> See *Deschler's Precedents of the United States House of Representatives*, H.Doc. 94-661, 94<sup>th</sup> Cong., 2<sup>nd</sup> sess., vol. 5, ch. 18, §4.2, p. 25.

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The original version of this report was written by Richard S. Beth, formerly a Senior Specialist on Congress and the Legislative Process at CRS. The listed author is available to answer questions on the subject from congressional clients.

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