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# 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. 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 rarely been used successfully. 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>1</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 maintained by the Clerk’s office and made available at the rostrum for Members to sign when the House is in session.<sup>2</sup> Only one motion may be presented for a bill or resolution. The names of signatories on a discharge petition are updated by the Clerk on a daily basis and are available online for public inspection.<sup>3</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>4</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, printed in the *Congressional Record*, and the discharge motion is entered in the *House Journal* and in the “Calendar of Motions to Discharge Committees” section of the *House Calendar*. Once on the *Calendar*, an additional seven legislative days must elapse before a Member who signed the petition may notify the House in a floor statement of an intention to offer the discharge motion on the floor. The motion may then be called up by that Member “at a time or place, designated by the Speaker, in the legislative schedule within two legislative days after the day on which a Member whose signature appears thereon announces to the House an intention to offer the motion.”<sup>5</sup> A discharge motion is not in order, however, during the last six days of a congressional session.

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

<sup>1</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 it is in session, legislative days correspond with “calendar” days (a standard 24-hour period) on which the House meets. If the House instead recesses or remains in session from one calendar day to the next, the same legislative day would extend into the next calendar day. See CRS Report R42977, *Sessions, Adjournments, and Recesses of Congress*, by Richard S. Beth and Valerie Heitshusen.

<sup>2</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>3</sup> Signatories on a discharge petition to date are available at <https://clerk.house.gov/DischargePetition>.

<sup>4</sup> See, for instance, *Congressional Record*, vol. 165 (June 6, 2019), H4350.

<sup>5</sup> U.S. Congress, House, *Constitution, Jefferson’s Manual, and Rules of the House of Representatives*, H.Doc. 116-177, 116<sup>th</sup> Cong., 2<sup>nd</sup> sess. (Washington: GPO, 2021), §892, p. 708.

immediately move to proceed to consider the measure. The measure is then considered in its introduced form under the standing rules of the House, which include, for instance, “germaneness” limitations on amendments under clause 7 of Rule XVI.<sup>6</sup>

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 under the five-minute rule, or in the House under the one-hour rule, depending on the nature of the measure itself. 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>7</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.

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>8</sup> If this motion is adopted, the Member who offered it controls the first hour of debate and would be expected to move the previous question at the conclusion of the first hour. If the previous question is ordered, debate on the bill (and on any pending amendments) is ended 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>9</sup>

Seven legislative days after its introduction, if the rule has not been reported by the Committee on Rules, supporters may file a motion to discharge the Rules Committee from its possession of the rule. 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

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<sup>6</sup> See the “Germaneness Rule” section of CRS Report 98-995, *The Amending Process in the House of Representatives*, by Christopher M. Davis, pp. 9-12.

<sup>7</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>8</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>9</sup> Clause 2 of House Rule XV.

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>10</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>11</sup>

The use of the discharge procedure can challenge the agenda-setting responsibilities of the Speaker and the majority leadership. Consequently, if a discharge petition approaches or receives the required 218 signatures, the Committee on Rules might respond by reporting its own rule for considering the measure, or an alternative to it, perhaps based on negotiations with supporters of the discharge effort. The Rules Committee would normally call up its own rule at some point during the seven-legislative-day period a discharge motion must remain on the *Calendar*. If the House adopts this alternative rule drafted by the Rules Committee, it can consider the measure the rule makes in order, but under the terms proposed by the Committee on Rules, not those prescribed by the rule subject to the discharge process.<sup>12</sup> If supporters of the measure are dissatisfied with the terms of the rule written by the Rules Committee, 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 draft and 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. Twice since the 104<sup>th</sup> Congress (1995-1996) has a discharge petition obtained 218 signatures, most recently in 2015 on a special rule for a bill to reauthorize the Export-Import

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<sup>10</sup> Clause 6(d) of Rule XIII.

<sup>11</sup> Clause 6(e) of Rule XIII and clause 3 of Rule XV. In previous years the second and fourth Mondays of a month were 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 (§102(v) of H.Res. 6, 116<sup>th</sup> Congress).

<sup>12</sup> For instance, during the 115<sup>th</sup> Congress (2017-2018), a special rule (H.Res. 774) to enable consideration of immigration legislation (H.R. 4760) was the object of a discharge petition that attracted 216 signatures, two short of the 218 needed. In response, the Rules Committee reported its own special rule (H.Res. 954) for H.R. 4760, which the House adopted, and the immigration bill subsequently came to the floor via H.Res. 954 and was defeated.

Bank of the United States.<sup>13</sup> Prior to that, in 2002, a rule for campaign finance legislation reached the 218 threshold.<sup>14</sup>

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## **Acknowledgments**

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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<sup>13</sup> See H.Res. 450 (114<sup>th</sup> Congress), a special rule for H.R. 597, the “Export-Import Bank Reform and Reauthorization Act of 2015.” The House agreed to discharge the Rules Committee of its consideration of H.Res. 450 on October 26, 2015, and the following day the rule was adopted and the reauthorization bill passed the House on a 313-118 vote. Although H.R. 597 itself did not become law, its language was included as Division E of H.R. 22 (114<sup>th</sup> Congress) and enacted as P.L. 114-94 on December 4, 2015.

<sup>14</sup> See H.Res. 203 (107<sup>th</sup> Congress), a special rule for H.R. 2356, the “Bipartisan Campaign Reform Act of 2002.” The House agreed to consider the bill under an alternative (but substantively similar) rule reported by the Rules Committee, H.Res. 344 (107<sup>th</sup> Congress), and the measure was enacted as P.L. 107-155 on March 27, 2002.