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How Measures Are Brought to the House Floor: A Brief Introduction

Updated December 14, 2022

Congressional Research Service
https://crsreports.congress.gov
RS20067

CRS REPORT
Prepared for Members and
Committees of Congress

Summary

This report presents a brief description of the five parliamentary methods that may be used to bring proposed legislation to the House floor for consideration. These methods allow for consideration as a privileged matter, under the limited privilege of a special calendar, under suspension of the rules, under the terms of a special rule reported by the Committee on Rules and agreed to by the House, or by unanimous consent. This report will be updated to reflect changes in the rules or practices of the House.

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Introduction

There is no single method that the House must employ in calling up or considering legislation. Article I, Section 5, of the Constitution allows each house of Congress to determine for itself the "Rules of its Proceedings," and the House has used this freedom to provide itself several different parliamentary procedures for raising measures for consideration. These procedures allow the House to tailor its consideration depending on the circumstances and content of the measure.

When a measure is reported by a House committee, it is placed on a calendar. Tax, authorization, and appropriation measures are placed on the Union Calendar (so-called because such measures are to be considered in the Committee of the Whole House on the state of the Union, known as the Committee of the Whole).[1] Other matters go on the House Calendar. These calendars are essentially lists of measures that committees have formally recommended for further consideration by the House. It would be virtually impossible for the House to consider all of the legislation on these lists, and it would be equally impractical and perhaps undesirable for the House to attempt to consider each of these measures in the order in which they appear on these lists. Therefore, the House has evolved a system for establishing priorities. This system is based on a concept called "privilege."

The rules and practices of the House provide five methods by which a measure may be raised for consideration. A measure may be brought to the floor as a privileged matter, under the limited privilege of a special calendar or day, under suspension of the rules, under the terms of a special rule, or by unanimous consent.

Privileged Measures

House Rule XIV, clause 1, specifies a daily order of business for the House to follow. In practice, that order is not strictly observed because House rules also specify several types of measures that are privileged and therefore may *interrupt* the order of business. These types of measures may be called up on the floor whenever another matter is not already pending. In a sense, these items of privileged business have a permanent "admission ticket" to the floor. Such items are considered only when the House agrees to do so by agreeing to a unanimous consent request, voting to resolve into the Committee of the Whole (in the case of general appropriation bills), or raising and voting on the question of consideration. In this way the House gives precedence to important classes of business without losing its power to decide (by majority vote) to consider any measure it chooses. Currently, privileged measures include the following:

- Bills and resolutions reported under the right of a committee to report at any time (Rule XIII, clause 5(a)). This category includes
  - General appropriations bills,
  - Continuing resolutions after September 15,
  - Concurrent resolutions on the budget,
  - Budget reconciliation bills,
  - Resolutions from the Committee on Rules concerning the rules, joint rules, or the order of business of the House (known as "special rules"),[2]

[1] For more on the Committee of the Whole, see CRS Report RL32200, *Debate, Motions, and Other Actions in the Committee of the Whole*, by Bill Heniff Jr. and Elizabeth Rybicki .

[2] Privileged reports by the Committee on Rules are further specified in Rule XIII, clause 6.

  - Resolutions from the Committee on Ethics recommending action as a result of an investigation, and
  - Measures reported from the Committee on House Administration concerning enrolled bills, contested elections, printing for the use of the House, expenditures from the contingent fund (including committee funding resolutions), or noncurrent records of the House.
- Conference reports after three days (Rule XXII, clause 7(a)).
- Motions to discharge or instruct conferees (Rule XXII, clause 7(c)).
- Questions of the privileges of the House or questions of personal privilege (Rule IX, clause 2).
- Resolutions of inquiry (Rule XIII, clause 7).
- Measures vetoed by the President (Article I, Section 7, of the U.S. Constitution).[3]

Special Calendars or Days

Other measures may be accorded a more limited form of privilege. These measures may interrupt the order of business but only in certain specified circumstances. These special procedures allow the House to set aside predictable periods of time when it may consider various categories of proposed legislation it deems important. Currently, an extremely small number of measures are brought to the House floor in this way.

Discharge Calendar[4]

Under House Rule XV, clause 2, if a committee fails to report a bill or resolution referred to it within 30 legislative days, a written petition proposing to discharge the committee from the further consideration of the measure can be filed with the Clerk by any Member. If 218 Members sign this discharge petition and certain waiting periods are met, a motion to discharge the committee can then be made on the floor. Such a discharge motion would be privileged at a time of the Speaker's choosing within two legislative days after a Member who has signed the petition notifies the House of his or her intention to offer the motion to discharge. If the motion to discharge is agreed to, the bill or resolution would be taken from committee and become available for floor action. A further motion is in order to consider the measure discharged. If the measure coming up by discharge is a special rule for considering another measure, the House automatically considers the special rule. A measure called up from the Discharge Calendar is considered in the House or in the Committee of the Whole, as appropriate. Although several discharge petitions are usually filed in each Congress, it has been several years since one has achieved the requisite number of signatures.

[3] The Constitution mandates that the House "shall proceed to reconsider" a vetoed bill. It is the usual rule that a bill returned with the objections of the President shall be read and considered at once. See Asher C. Hinds, *Precedents of the House of Representatives of the United States, including references to the Constitution, the laws, and decisions of the United States Senate*, vol. IV, §§3534-3536 (Washington: GPO, 1907). However, it has also been interpreted as complied with by laying the bill on the table, referring it to a committee, postponing consideration to a day certain, or immediately voting on reconsideration. See Clarence Cannon, *Precedents of the House of Representatives of the United States, including references to provisions of the Constitution, the laws, and decisions of the United States Senate*, vol. VII, §1105 (Washington: GPO, 1935).

[4] For more detail, see CRS Report R45920, *Discharge Procedure in the House*, by Mark J. Oleszek.

Private Calendar[5]

Private legislation concerns measures of a private, rather than a public, nature (i.e., those that apply only to specified individuals, corporations, institutions, etc.), and typically involve such things as claims against the government and immigration problems affecting individuals. Such measures are privileged for consideration on the first Tuesday of each month (Rule XV, clause 5). On other days of the month, the Speaker may direct the Clerk to call any bill that has been on the Private Calendar for at least seven days but only on the second legislative day after the Speaker has given notice of his or her intention to do so. Consideration of measures on the Private Calendar may be dispensed with in either case by two-thirds vote.

On days when the Private Calendar is privileged, the Speaker directs the clerk to call each bill on the Private Calendar. The measures are then passed by unanimous consent with little or no debate if no Member objects. If one Member objects, the measure is "passed over without prejudice" for later consideration. If two or more Members object, the measure is automatically recommitted to the committee that reported it. Each party appoints Members (currently three) as "official objectors" to act as watchdogs over private legislation. In recent practice, the House has used the Private Calendar procedure to consider a small number of bills in each Congress.

Calendar Wednesday

The Calendar Wednesday procedure has not been used by the House in recent decades, arguably because of the cumbersome operation of the procedure. Also known as the "Call of Committees," this rule allows a committee to overcome what it feels is inaction or indifference by the majority leadership, the Rules Committee, or both if the House wishes to consider a measure (Rule XV, clause 6). The rule allows each committee in turn to call up bills not otherwise privileged that have been reported but have not reached the House floor through a more conventional parliamentary route. However, the Call of Committees is undertaken only when the chair of a committee, or other Member authorized by a committee, has announced to the House a request for such a call on the preceding legislative day.

Suspension of the Rules

Suspension of the rules is used to provide expedited consideration of relatively non-controversial legislation. It is the most commonly used method for raising measures for consideration in the House. Between two-thirds and three-quarters of measures that became public laws in recent Congresses have been considered by this method.[6]

The procedure for suspension of the rules is spelled out in House Rule XV, clause 1. Under this rule, the Speaker may recognize a Member to move to suspend the rules and pass a particular measure. There is no requirement limiting suspension motions to measures reported from committees.

A suspension motion may be debated for 40 minutes (equally divided between a proponent and opponent), may not be amended from the floor (although the motion itself may include changes to the measure), and must pass by a two-thirds vote of those present and voting. The suspension

[5] For more detail, see CRS Report R45287, *Private Bills: Procedure in the House*, by Christopher M. Davis .

[6] For more detail, see CRS Report 98-314, *Suspension of the Rules in the House: Principal Features*, by Elizabeth Rybicki and CRS Report R46364, *Suspension of the Rules: House Practice in the 115th Congress (2017-2018)*, by Jane A. Hudiburg.

procedure effectively waives all rules of the House that would prevent consideration of a measure so that no points of order may be made against the measure on the floor.

The suspension procedure is not designed to grant limited privilege to a specific class of legislation or empower the House to circumvent a recalcitrant committee or leadership. The Speaker's authority with regard to suspension motions is not limited by the rules of the House. Rules and guidelines adopted by the House party caucuses, however, theoretically place some limits on the use of the procedure. The rules of the House Democratic Caucus, for example, among other limits, direct the Democratic leadership not to consent to the consideration of measures under suspension that would make or authorize appropriations in excess of $100 million in any fiscal year. In the 117th Congress, Republican Conference Rule 29 provides that the Republican leadership shall not schedule any bill for consideration under the suspension procedure that, among other things, does not include a cost estimate; has not been the subject of a notification to the minority; creates a new program unless it also eliminates or reduces a program of equal or greater size; and authorizes an increase in authorizations, appropriations, or direct spending in any given year, unless fully offset by at least an equal reduction in current spending. The same rule limits the use of the suspension procedure to consider certain kinds of commemorative or "honorific" legislation and for certain Congressional Gold Medal legislation. Rule 29 may be waived by a majority of the party's elected leadership.

Special Rules

The House Committee on Rules is authorized to report resolutions on the order of business. These resolutions, called special rules, are privileged under Rule XIII, clause 5(a), and generally provide for the House to make in order floor consideration of a measure.[7] In effect, special rules allow the House to take a measure from the House or Union Calendar (or even one not reported by a committee) and give it privilege to be considered. Most major and controversial legislation is considered under this method. Otherwise privileged measures, such as appropriations bills and budget resolutions, may, and usually do, come before the House through the adoption of a special rule as well. Special rules are considered in the House under the one-hour rule, but the measure covered by the special rule is typically considered in the Committee of the Whole (although consideration in the House can be specified if it is appropriate).

Special rules set the terms and conditions for consideration of the specified measure. Special rules typically state a period for general debate on the measure as a whole and expedite final action after the Committee of the Whole is finished with consideration. Special rules may include provisions to structure the amending process for a measure and may also waive points of order against consideration of a bill, against specified provisions, or against amendments.

[7] For more detail on special rules, see CRS Report 98-354, *How Special Rules Regulate Calling up Measures for Consideration in the House*, by Richard S. Beth and CRS Report R47314, *Offering an Amendment on the House Floor: Current Practice*, by Michael Greene and Elizabeth Rybicki. Rule XIII, clause 6(e), and Rule XV, clause 3, also provide that an adverse report by the Committee on Rules on a special rule is privileged for consideration on the second and fourth Mondays of a month and may be called up by any Member.

Unanimous Consent

For some noncontroversial matters, the Speaker will recognize a Member to ask for unanimous consent that a measure be passed. If any Member objects to the request, the measure will fail to pass. In this circumstance, no formal debate can take place, but Members may sometimes reserve the right to object to clarify the content or purposes of a measure. Unanimous consent requests can also be made to provide for consideration of a measure, although this is rare. The request may designate a procedure under which debate may take place and amendments may be offered.

Under a long-standing policy embraced by both parties, the Speaker will generally not recognize a Member to make a unanimous consent request relating to the consideration of measures unless that request has been cleared in advance by both the majority and minority. Furthermore, under the same policy, with respect to unanimous consent requests to dispose of Senate amendments to House bills on the Speaker's table, the chair will generally entertain such a request only if it is made by the chair of the committee of jurisdiction or another committee member whom the committee has authorized to make the request.[8]

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[8] U.S. Congress, House, *Constitution, Jefferson's Manual, and Rules of the House of Representatives*, H.Doc. 116-177, 116th Cong., 2nd sess. (Washington: GPO, 2021), §956.