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The Discharge Rule in the House: Recent Use in Historical Context

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Summary

The discharge rule of the House of Representatives affords a way for Members to bring to the floor a measure not reported from committee. It may also be used to bring to the floor a special rule for consideration of a measure, either reported or unreported, if the Committee on Rules declines to do so. Before a motion to discharge may be made, 218 Members must sign a petition for that purpose.

Since the present form of discharge rule was adopted in 1931, 563 discharge petitions have been filed, of which 47 obtained the required signatures. The House voted for discharge 26 times, and passed 19 of the measures involved, but only two became law (and two others changed House Rules). Discharge attempts, however, may also lead indirectly to legislative success. The House considered 10 of the measures on which petitions were completed, under other procedures, and eight of these became law. It also took up, under other procedures, 32 measures on which petitions were still pending. Of these, all but three passed the House, and 17 received final approval. Overall, either the petition was completed, or the measure received floor action by some means, in about 16% of discharge attempts.

During the past 35 years (1967-2002), discharge petitions on 12 measures obtained the required signatures. The House voted for discharge six times, and considered the other six measures under other procedures. Six of the 12 measures were rejected, all of them proposed constitutional amendments, which require a two-thirds majority for passage. The House adopted one amendment to the discharge rule itself, one proposed constitutional amendment (which failed in the Senate), and four measures that became law. During this period, it also used other procedures (such as a special rule reported by the Committee on Rules) to consider 10 additional measures on which discharge was attempted, of which six became law.

Increasingly often in recent years, the Committee on Rules has responded to discharge efforts by reporting its own special rules for considering the measures involved. It often does so even when the petition is not completed, especially for petitions filed on special rules, rather than on the measures themselves. Since 1967, measures on which this form of petition was filed have had over twice as much chance of reaching the floor, especially under alternative procedures, as when the petition was filed on the measure itself. Perhaps as a result, this form of discharge has become more popular, amounting to almost 70% of petitions filed during the past decade (1993-2002).

Only since the 103rd Congress has the number of Members signing each discharge petition been public information. During that period, four petitions were signed by more Members than the number belonging to the minority party. Thirty-six were signed by fewer than this number of Members, but more than 90. Thirteen were signed by 30-60 Members, eight by 7-30, and nine by three or fewer.

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Introduction

Function of the Discharge Rule

The "discharge rule" of the House of Representatives (Rule XV, clause 2),[1] provides a means by which a majority of Members may bring to the floor for consideration a measure that has not been reported from committee. To initiate action under this rule, a Member files a discharge petition either (1) on the measure or (2) on a special rule providing that the measure be extracted from committee and considered. If a majority of the membership then signs the petition, it enables the House to entertain, on specified days, a motion that the pertinent committee be discharged from considering the measure (or the special rule). If the House adopts this motion, it then may entertain a motion to consider the measure (or it takes up the special rule for considering the measure). Finally, if the House adopts the motion to consider (or the special rule), the measure comes to the floor for consideration.[2]

The House first adopted the discharge rule in essentially this form in 1931. From then through 2002, discharge petitions were filed on 563 measures. Most of these never led to any floor action. During these years, the House adopted only 26 discharge motions.[3] However, an additional 42 of the measures involved (or alternatives on the same subject) reached the floor through other procedures available under House Rules, such as pursuant to a special rule reported from the Committee on Rules. Often, these alternative floor proceedings may have occurred because the leadership or the pertinent committees were acting in response to the discharge attempts.

Key Features of the Rule

Although the House has had a discharge rule since 1910, it did not adopt the essential features of the present rule until 1931, and many features of earlier

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[1] U.S. Congress, House of Representatives, *Constitution, Jefferson's Manual, and Rules of the House of Representatives, One Hundred Seventh Congress,* compiled by Charles W. Johnson, Parliamentarian, 106th Cong., 2nd sess., H.Doc. 106-320 (Washington: GPO, 2001), sec. 892. Hereafter cited as *House Manual*.

[2] The mechanics of the rule are described in more detail in CRS Report 97-552, *The Discharge Rule in the House: Principal Features and Uses*, by Richard S. Beth.

[3] Including unanimous consent requests with equivalent effects.

discharge procedures were not comparable with those of today. For this reason, the data presented here address only the period since 1931.[4]

Elements introduced into the rule in 1931 include the establishment of three different forms in which discharge may be attempted and the present requirements for offering a discharge motion on the floor. The 1931 revisions also established mechanisms to (1) ensure the ability of the House to consider a measure once a petition receives the required 218 signatures, and (2) prevent dilatory use of the rule.

Although the discharge rule has remained unchanged in its basic structure since 1931, the House has altered its specific features on four occasions. In 1935, it increased the number of signatures required on the petition from 145 (one-third of the House) to 218 (one-half of the House). No further changes occurred until the 1990s, when the House:

- eliminated a provision that had the effect of preventing debate on, or amendment of, a special rule reaching the floor through discharge (1991);
- provided that the names of Members signing discharge petitions be publicly available (1993); and
- made the procedure inapplicable to any special rule that would have the effect of permitting non-germane amendments, or that would provide for the consideration of more than one measure (1997).

Data Presented

The data presented herein on use of the discharge procedure are of three kinds:

(1) overall figures on use of the discharge procedure in each Congress, 1931-2002 (72nd-107th Congresses);

(2) the number of signatures received by each discharge petition, 1993-2002 (103rd-107th Congresses); and

(3) a summary of any action beyond the committee stage that occurred on measures on which discharge petitions were filed, 1967-2002 (90th-107th Congresses).

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[4] For data on the use of earlier forms of the discharge rule, see Tables 2 and 3 in CRS Report 90-84, *The Discharge Rule in the House of Representatives: Procedure, History, and Statistics*, by Richard S. Beth (out of print; available only from author at 7-8667). Reprinted in U.S. Congress, House Committee on Rules, Subcommittee on Rules of the House, *Discharge Petition Disclosure: H.Res. 134*, hearing, 103rd Cong., 1st sess., Sept. 14, 1993 (Washington: GPO, 1993), pp. 239-240. See also Richard S. Beth, *Control of the House Floor Agenda: Implications from the Use of the Discharge Rule, 1931-1994*, paper presented at the annual meeting of the American Political Science Association, Sept. 1, 1994, pp. 6-8.

The overall figures cover the entire period since the House adopted its current discharge rule. These data include the number of discharge petitions filed, broken down according to which of the three methods available under the rule was used. The overall figures also indicate the success of these discharge efforts: how many of the petitions obtained the full 218 signatures required, how many of the measures received floor consideration, and how many of them passed.[5] These data on success cover action both under the discharge procedure itself and under other procedures. This coverage permits comprehensive assessment of the likelihood that a measure on which Members attempt discharge will receive favorable legislative action.

Data on the number of Members signing each discharge petition cover the period only from the 103rd Congress forward (1993-2002). For earlier years, before the rule was changed to require disclosing the names of Members signing, these data are not available.

The summaries of action on individual measures begin with 1967, so that they cover roughly the period during which the Committee on Rules has consistently operated as an organ of the leadership in managing the floor agenda.[6] As with the overall data by Congress, these summaries include every measure on which a discharge petition was filed, if any action beyond the committee stage of the process occurred, either pursuant to the discharge rule or under other procedures. This broad coverage offers concrete information on the variety of courses of action that have occurred on measures subjected to discharge efforts.

Use of the Discharge Procedure

Frequency of Discharge Attempts

Table 1 shows the frequency with which House Members have initiated discharge attempts, and how the frequency has fluctuated. After the present form of the rule was established in 1931, its use remained relatively common throughout the New Deal and World War II periods. Prior to 1950 (i.e., from the 72nd through 82nd Congresses), more than 20 petitions were typically filed in each Congress, and sometimes more than 30. Thereafter, however, numbers declined swiftly, no more than seven petitions being filed in any Congress from the 84th through 90th (1955-1968). This period of fewer discharge petitions began toward the end of the epoch in which the Committee on Rules did not always act as an arm of the leadership, but continued into the early part of the subsequent era, in which the committee has operated as a leadership organ.

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[5] Corresponding measures may have been taken up by subsequent Congresses without use of the discharge procedure. This report takes no account of subsequent action of this kind.

[6] Comparable information for the 72nd through 100th Congresses (1931-1988) appears in Table 11 of Beth, *Discharge Rule: Procedure* (archived CRS Report 90-84), pp. 93-108. Reprinted in Subcommittee on Rules of the House, *Discharge Petition Disclosure*, pp. 274-289.

Since about 1970, the number of discharge petitions has stabilized at intermediate levels. In 11 of the 17 Congresses included in this period (91st-107th Congresses), 10 to 15 petitions were filed. This level was exceeded only in the 97th and 103rd Congresses (1981-1982 and 1993-1994), and was not attained only in the 100th through 102nd (1987-1992) and 105th (1997-1998) Congresses. This period of stability has continued through the heavy Democratic majorities of the 1970s, the increasingly assertive Republican minorities that began in the 1980s, and the Republican majorities that began in the mid-1990s.

The high use in the 97th Congress appears associated with attempts by the minority to develop new means of agenda access. The steep declines in the 100th through 102nd Congresses may reflect a developing sense that discharge offered no promising avenue of agenda access. Because a successful discharge effort requires support from a majority of the House, Members may have found the procedure ill-adapted to measures favored chiefly in the minority party. The high levels of the 103rd Congress suggest that the rule change making petition signatures public rekindled hopes of using the procedure as a floor access tool. The subsequent return to (and temporary decline below) more usual levels may reflect not only the continued scarcity of successful results, but also the 1995 change in party control of the House (104th Congress).

Use of the Three Forms of Discharge

One of the most significant innovations of the 1931 rule was the establishment of three alternate forms for initiating discharge action. Since 1931, it has been possible to file a discharge petition either:

- directly on an unreported measure;
- on a special rule providing that an unreported measure be extracted from committee and considered; or
- on a special rule for considering a measure already reported from committee, but never called up for floor consideration, or still on the calendar.

The first two methods of discharge both provide means for securing consideration of a measure on which the committee of referral seems unlikely to act. The second method has two advantages. First, it permits proponents to draft a special rule that sets terms they consider appropriate for considering and amending the measure. Second, if a discharge petition is filed directly on a measure in committee, the committee can render the petition moot by reporting the measure. If the petition is filed on a special rule for considering the measure, however, then even if the committee reports the measure, it remains in order to discharge the Committee on Rules from the special rule.[7]

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[7] The Committee on Rules could render a petition to discharge a special rule ineffective by reporting the rule, but in that case any member of the Committee on Rules may call up the (continued...)

The rule was drafted with the idea that the second method would become its normal use.[8] As **Table 1** shows, however, in most Congresses since 1931, most Members attempting to use the discharge procedure to bring an unreported measure to the floor appear to have been either unaware of this method of discharge, or unattracted by its potential advantages. In earlier times, the number of discharge petitions on *special rules* for unreported measures did not even approach those *directly* on unreported measures, except in 1937-1940 (75th-76th Congresses) and 1959-1968 (86th-90th Congresses). Discharge of special rules for unreported measures re-emerged as a common form, however, in the 98th Congress (1985-1986), and has continued to be so. From the 104th Congress (1994-1995) onward, in fact, this form of discharge attempt has usually been the most common one.

The third method of discharge, by contrast, offers the possibility of bringing to the floor a measure that the committee has reported, but which the leadership and Committee on Rules do not schedule for floor action. Discharge attempts of this kind, on special rules for the consideration of reported measures, were most common during the period of "conservative coalition" control of the Committee on Rules (roughly 1937-1960). During this period, the Committee on Rules recurrently declined to respond to committee and leadership requests to report special rules for considering measures reported by committees. Supporters of such measures sometimes sought to overcome this obstacle by attempting to discharge the Committee on Rules from a special rule for considering the reported measure.

The data in **Table 1** suggest that, because this situation made Members focus on the possibility of discharge on special rules for *reported* measures, it may have led them to overlook that the discharge procedure could also be used on special rules for *unreported* measures. This form of discharge attempt has become uncommon in recent years, but it was used in the 107th Congress after the House rejected a proposed special rule for considering a campaign finance reform bill, and the leadership declined to make another attempt to call it up.

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[7] (...continued)
special rule after seven legislative days and with one day's notice. House Rule XIII, clause 6(d), in *House Manual*, sec. 861.

[8] Beth, *Control of the Floor Agenda*, pp. 13-14, 20-23.

Table 1. Discharge Petitions Filed, 1931-2002

Congress and (Years)	Discharge Petitions Filed			
	On Unreported Measures (Other than Special Rules)	On Special Rules for Considering		Total
		Unreported Measures	Reported Measures	
72nd (1931-1933)	9	-	3[a]	12
73rd (1933-1934)	28	-	3	31
74th (1935-1936)	25[b]	4	4	33[b]
75th (1937-1938)	20	20	3	43
76th (1939-1940)	21[c]	14	2	37[c]
77th (1941-1942)	11	4	-	15
78th (1943-1944)	14	7	-	21
79th (1945-1946)	28	6	1	35
80th (1947-1948)	15	3	2	20
81st (1949-1950)	24	3	7	34
82nd (1951-1952)	14	-	-	14
83rd (1953-1954)	6	-	4	10
84th (1955-1956)	3	2	1	6
85th (1957-1958)	2	1	4	7
86th (1959-1960)	1	3	3	7
87th (1961-1962)	2	4	-	6
88th (1963-1964)	2	2	1	5
89th (1965-1966)	4	2	-	6
90th (1967-1968)	2	2	-	4
91st (1969-1970)	9	1	2	12
92nd (1971-1972)	13	1	1	15
93rd (1973-1974)	9	1	-	10
94th (1975-1976)	13	-	2	15
95th (1977-1978)	11	-	-	11
96th (1979-1980)	13	1	-	14
97th (1981-1982)	23	1	-	24
98th (1983-1984)	6	4	3	13

Congress and (Years)	Discharge Petitions Filed			
	On Unreported Measures (Other than Special Rules)	On Special Rules for Considering		Total
		Unreported Measures	Reported Measures	
99th (1985-1986)	6	3	1	10
100th (1987-1988)	3	2[d]	-	5[d]
101st (1989-1990)	5	3	-	8
102nd (1991-1992)	5	3	-	8
103rd (1993-1994)	14	12	-	26
104th (1995-1996)	2	13	-	15
105th (1997-1998)	4[e]	3	1	8
106th (1999-2000)	-	11	-	11
107th (2001-2002)	-	11	1	12
Total (1931-2002)	367	147	49	563

Source: *House Final Calendars* for the Congresses indicated. Beth, *Discharge Rule: Procedure*, pp. 77-82. Beth, *Control of the House Floor Agenda*, pp. 62-63. Table 8.

Notes:
a. Includes one measure reported adversely.
b. Includes one petition whose type is unknown.
c. Includes one petition filed and later withdrawn.
d. One petition was filed on a rule for considering two measures. It is counted as one petition and not two.
e. Includes one petition to waive a rule to permit introduction and consideration of a bill.

Number of Signers

Before the House amended the discharge rule in the 103rd Congress (1993-1994), the names of Members signing a discharge petition were treated as confidential unless the full required number of Members signed, in which case the names were printed in the *Congressional Record*.[9] Pursuant to the 1993 amendment, the names of those signing discharge petitions each week are now also printed in the last issue of the *Record* for that week. In addition, the names of signers of discharge petitions are available through the Office of the Clerk.[10] The listings in the *Record* identify discharge petitions only by the numbers of the measures against which they

[9] On this change in rules, see Subcommittee on Rules of the House, *Discharge Petition Disclosure*.

[10] They may be examined by request at the Legislative Resource Center, Office of the Clerk, B106 Cannon House Office Building. For recent Congresses, they are also posted on the Clerk's Web site at [http://clerkweb.house.gov/mbrcmtee/legis/pastleg.htm].

are filed; their subjects are set forth in the index entry for "Discharge" in the *House Calendar*.[11]

These listings make it possible, from the 103rd Congress forward, to ascertain the number of Members signing each discharge petition filed. Table 2 lists all the discharge petitions filed in each Congress from the 103rd through 107th (1993-2002). For each Congress, petitions are listed in order of the numbers of Members who signed. This table offers a sense of the range of support that discharge petitions may attract.

Table 2 identifies each petition by (1) its number, (2) the special rule, if any, that it proposes to bring to the floor, and (3) the number and subject of the underlying measure that it proposes ultimately to bring to the floor. The notations of bill subjects enable identification of what issues have been addressed by recent discharge attempts. Also shown is the date on which each petition was filed, for the number of signatures obtained may be affected by how late in the Congress the discharge process was initiated. If any Members withdrew their signatures from a discharge petition, the number of withdrawals is noted in a footnote. The figures in the table do not include these Members as signers.

Examination of **Table 2** shows that the levels of support discharge petitions obtain fall into groupings fairly clearly separated in size. Although no assurance can be given that future Congresses may display similar groupings, the consistency with which these have continued to appear may suggest the presence of a general pattern.

A first grouping includes only four petitions (all but one in the 103rd Congress) that gained more signatures than the strength of the minority party. Three of these attained the full 218 signatures; the fourth fell short of this level after an active counter-campaign by the leadership.[12] Petitions that reach this level of support evidently must draw at least some support from the majority party, and therefore presumably will appear on legislation supported either by a bipartisan coalition or by the rank and file of the majority party in opposition to its own leadership.

A second grouping of 36 petitions was signed by fewer Members than the strength of the minority party, but more than half this number (usually, by more than 100). In some Congresses, petitions with this level of support have been the predominant form; in the 106th and 107th Congresses (1999-2002), especially, almost all petitions have fallen into this grouping. House records do not identify the party of signers, but this level of support may often indicate a discharge effort favored

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[11] *Calendars of the United States House of Representatives and History of Legislation* is published by the Clerk of the House and distributed to congressional offices each day the House is in session. Its index appears in the first issue published during each week. The contents of this document are cumulative throughout the Congress, so that the final edition for each Congress is a useful compilation of information about its actions.

[12] George Hager, "Appeal of 'A to Z' Puts Leaders in a Precarious Position," *Congressional Quarterly Weekly Report*, vol. 52, June 25, 1994, pp. 1681-1684. George Hager, "Gephardt Pledges Votes on Cuts As 'A to Z' Holds at 204 Signers," *Congressional Quarterly Weekly Report*, vol. 52, July 2, 1994, p. 1773.

principally by the minority, sometimes by an essentially united party and at least by a majority thereof.

During the five Congresses covered, only two petitions received between 60 and 95 signatures. Thirteen, by contrast, received between 30 and 60 signatures. Whether or not the signers drew principally from a single party in the House, petitions in this third grouping cannot be associated with a party in the same sense as can those in the previous one, inasmuch as their level of support could not constitute a majority of either party. This level of support nevertheless represents a potentially significant segment of the House, so that it may often be appropriate to view these petitions as representing factional discharge efforts.

A fourth grouping includes the nine petitions that obtained three signatures or fewer. These appear to be understandable essentially as individualistic discharge efforts. The remaining eight petitions obtained between seven and 30 signatures, arrayed more loosely between the third and fourth groups. Some of these might also be considered factional discharge efforts.

Table 2. Discharge Petitions, 1993-2002, by Congress and by Number of Signers

Petition Number	Date Filed	Measure Subjected to Discharge			Final Number of Signers
		Special Rule (If Any)	Underlying Measure		
			Number	Subject	
103rd Congress					
2	5/27/93	- - -	H.Res. 134	Public discharge signatures	218
14	2/24/94	H.Res. 331	H.J.Res. 103	Balanced budget constitutional amendment	218
16	5/4/94	H.Res. 407	H.R. 3266	Spending reductions ("A to Z bill")	204
25	8/3/94	H.Res. 489	H.R. 410	Unfunded mandates	173
13	2/9/94	- - -	H.Res. 281	Sense of House on child pornography	167
21	5/26/94	H.Res. 405	S. 1458	Aircraft manufacturer liability	160
23	6/29/94	- - -	H.R. 3875	Property rights against environmental regulation	149
17	5/4/94	H.Res. 386	H.R. 3500	Welfare reform	147
18	5/11/94	H.Res 402	H.R. 300	Social security earnings test	133
11	1/26/94	- - -	H.Res. 247	Point of order against retroactive taxes	128
1	5/11/93	- - -	H.R. 493	Line item rescission	127
12	2/9/94	- - -	H.R. 3261	Internal Revenue Service (IRS) staff liability for litigation awards	116
3	7/1/93	- - -	H.J.Res. 38	Term limits constitutional amendment	109
10	11/21/93	H.Res. 295	H.R. 2672	Crime	107
19	5/17/94	H.Res. 415	H.R. 830	Judicial review of Regulatory Flexibility Act compliance	102
4	9/23/93	- - -	H.J.Res. 9	Balanced budget constitutional amendment	97

Petition Number	Date Filed	Measure Subjected to Discharge			Final Number of Signers
		Special Rule (If Any)	Underlying Measure		
			Number	Subject	
15	3/24/94	H.Res. 382	H.R. 65	Military disability and retirement	54
5	9/28/93	- - -	H.Res. 156	Repeal rule for automatic debt limit adjustment	53
22	6/22/94	H.Res. 409	H.R. 3835	Advisory referenda on term limits, balanced budget amendment, line item veto	52
26	8/5/94	H.Res. 472	H.R. 3801	Congressional reform	49
9	10/19/93	- - -	H.Res. 227	Somalia withdrawal	47
6	10/7/93	- - -	H.R. 1025	Handgun regulation ("Brady bill")	10
20	5/25/94	- - -	H.J.Res. 131	Pearl Harbor remembrance day	7
24	7/12/94	H.Res. 459	H.R. 3266	Spending reductions ("A to Z bill")	2
7	10/14/93	- - -	H.J.Res. 146	Term limits constitutional amendment	1
8	10/14/93	- - -	H.Res. 125	House reform	1
104th Congress					
8	1/24/96	H.Res. 292	H.R. 2409	Debt limit	173
6	11/17/95	H.Res. 242	H.R. 2261	Lobbying; gift ban	88
2	3/22/95	H.Res. 111	H.R. 807	International Monetary Fund (IMF) assistance to Mexico	55
15	7/17/96	H.Res. 466	H.R. 2275	Endangered species amendments	51
12	3/21/96	H.Res. 373	H.R. 2566	Campaign finance	46
13	6/25/96	H.Res. 443	H.R. 1627	Pesticides and food safety	41
1	3/15/95	- - -	H.R. 125	Repeal assault weapon ban	26
9	1/30/96	H.Res. 333	H.R. 2530	Budget balancing	25
4	5/3/95	H.Res. 127	H.Res. 40	Gift ban	23
7	11/9/95	H.Res. 246	H.R. 302	Debt limit	17

Petition Number	Date Filed	Measure Subjected to Discharge			Final Number of Signers
		Special Rule (If Any)	Underlying Measure		
			Number	Subject	
14	6/27/96	H.Res. 425	H.R. 2915	Welfare reform	16
11	3/7/96	H.Res. 364	H.R. 125	Repeal assault weapon ban	3
5	11/7/95	H.Res. 240	H.R. 1710	Terrorism	2
10	3/7/96	H.Res. 210	H.R. 464	Repeal assault weapon ban	1
3	4/5/95	- - -	H.R. 920	Repeal Violent Crime Control and Law Enforcement Act of 1994	1
105th Congress					
3	10/24/97	H.Res. 259	H.R. 1366	Campaign finance	191 [C]
7	7/20/98	H.Res. 486	H.R. 3605	Patients' rights	189 [A]
4	6/11/98	- - -	H.R. 306	Genetic discrimination	64
6	6/25/98	H.Res. 473	H.R. 3580	Supplemental appropriations	45
1	9/11/97	- - -	H.Res. 141	Presidents' Day holiday	40
2	10/9/97	- - -	H.R. 1984	Air quality standards moratorium	31
5	6/23/98	H.Res. 467	H.R. 3526	Campaign finance	8
8	9/17/98	- - -	H.R. 836	Filipino military service	1
106th Congress					
1	4/14/99	H.Res. 122	H.R. 417	Campaign finance	202
10	6/21/00	H.Res. 508	H.R. 3688	Campaign finance	196
9	5/11/00	H.Res. 478	H.R. 773	Older Americans Act reauthorization	191
5	8/4/99	H.Res. 240	H.R. 1660	Public school modernization	189
3	6/23/99	H.Res. 197	H.R. 358	"Patients' Bill of Rights"	184
11	6/21/00	H.Res. 520	H.R. 2457	Genetic discrimination	178
6	10/5/99	H.Res. 301	H.R. 325	Minimum wage	165
7	2/16/00	H.Res. 371	H.R. 664	Medicare prescription drug benefit	148

Petition Number	Date Filed	Measure Subjected to Discharge			Final Number of Signers
		Special Rule (If Any)	Underlying Measure		
			Number	Subject	
8	2/16/00	H.Res. 372	H.R. 1495	Medicare prescription drug benefit	143
4	7/15/99	H.Res. 192	H.R. 1037	Large ammunition clip imports	103
2	4/20/99	H.Res. 126	H.R. 417	Campaign finance	3 [A]
107th Congress					
3	7/30/01	H.Res. 203	H.R. 2356	Campaign finance	218
1	6/13/01	H.Res. 146	H.R. 1076	School renovation	201
6	3/13/02	H.Res.352	H.R. 3341	Economic stimulus	201
8	7/17/02	H.Res. 456	H.R. 3884	Corporate tax flight	187
12	9/24/02	H.Res. 519	H.R. 1343	Prosecution of hate crimes	178
2	6/27/01	H.Res. 165	H.R. 1468	Markets for electric power	163 [A]
9	7/23/02	H.Res. 479	H.R. 3818	Corporate financial regulation	161
7	6/19/02	H.Res. 425	H.R. 3497	Social security individual accounts	157 [B]
10	7/23/02	H.Res. 480	H.R. 4098	Corporate fraud	153
11	9/19/02	H.Res. 517	H.R. 1862	Prescription drug affordability	150 [A]
5	12/19/01	H.Res. 304	H.R. 808	Steel industry aid	124
4	11/13/01	H.Res. 271	H.R. 218	Concealed weapons for police	46 [B]

Source: Records of discharge petitions in the Legislative Resources Center, Office of the Clerk of the House, B106 Cannon House Office Building; also available at [http://clerkweb.house.gov/mbrcmtee/legis/pastleg.htm]. Additional information was drawn from the *House Final Calendar* and the Legislative Information System of the U.S. Congress, at [http://www.congress.gov/], for the Congresses in question.

Notes:
a. One additional Member signed and later withdrew the signature.
b. Two additional Members signed and later withdrew their signatures.
c. Sixteen additional Members signed and later withdrew their signatures.

Success of Discharge Attempts

The success of a discharge effort can be assessed in various ways. The simplest measure is whether the petition attains the 218 signatures requisite to permit supporters to offer the discharge motion (known as "entering the motion on the discharge calendar"). In a more basic sense, however, the ultimate goal of a discharge petition is presumably not the offering of a discharge motion in itself, but securing floor consideration for the measure in question. In a more extended sense, the objective is presumably to see the measure not only considered, but also passed by the House, and ultimately enacted into law.

The data in **Tables 3** through **5** permit assessing the success of discharge efforts in all three senses. In particular, the objective of securing floor consideration can be accomplished either (1) if the discharge motion, once offered, is agreed to by the House; or (2) if the prospect of discharge impels the House to take up the measure under some other procedures. **Table 3** shows the extent to which discharge efforts have been successful at bringing about action through the discharge process itself; **Table 4** addresses the success of discharge efforts at bringing about action through other procedures. **Table 5** aggregates both classes of data.

Action Under Discharge Procedure

Bringing the measure to the floor. As **Table 3** shows, only rarely since 1947 has more than one petition in the same Congress received the full 218 signatures needed for entry on the discharge calendar. On average throughout the entire period, fewer than 10% of petitions have been entered. The petition entered on the campaign finance reform bill in the 107th Congress (2001-2002) was the first since the Republicans obtained the majority in the House in the 104th Congress (1994-1995).

Between 1939 and 1972, however, when a discharge petition was entered, the motion was almost always offered on the floor and almost always approved. If supporters of a measure could secure 218 signatures, they could be confident that the discharge procedure would enable them to secure floor consideration for their measure. Before and after that period, on the other hand, entry of a petition did not guarantee that a discharge motion would ever actually be offered on the floor, much less adopted.

Instead, the committees of referral, the leadership, and the Committee on Rules commonly used a variety of devices to preempt further proceedings under the discharge rule. From the 1980s onward, these have often involved bringing up the measure, or an alternative proposal, under terms of an alternative special rule reported from the Committee on Rules. When this course of action occurs, proponents of the discharge effort succeed in bringing about consideration of legislation on the subject, but not necessarily of their preferred measure, and not on their own terms. Events of this kind are considered further in the next section.

Table 3. Proceedings Under the House Discharge Rule, 1931-2002

Congress and (Years)	Discharge Petitions Filed	Discharge Motion		Committee Discharged	Underlying Measure [c]	
		Entered [a]	Called up [b]		Passed House	Received Final Approval [d]
72nd (1931-1933)	12	5	5	1	1	-
73rd (1933-1934)	31	6	1	1	1	-
74th (1935-1936)	33	3	2	2 [e]	-	-
75th (1937-1938)	43	4	4	3 [f]	2	1
76th (1939-1940)	37 [g]	2	2	2	2	-
77th (1941-1942)	15	1	1	1	1	-
78th (1943-1944)	21	3	3	3	3	1 [h]
79th (1945-1946)	35	3	1	1	1	-
80th (1947-1948)	20	1	1	1	1	-
81st (1949-1950)	34	3 [i]	1	1	1	-
82nd (1951-1952)	14	-	-	-	-	-
83rd (1953-1954)	10	1	1	1	1	-
84th (1955-1956)	6	-	-	-	-	-
85th (1957-1958)	7	1	1	1	1	-
86th (1959-1960)	7	1	1	1	1	1
87th (1961-1962)	6	-	-	-	-	-
88th (1963-1964)	5	-	-	-	-	-
89th (1965-1966)	6	1	1	1	1	-
90th (1967-1968)	4	-	-	-	-	-
91st (1969-1970)	12	1	1	1	1	-
92nd (1971-1972)	15	1	1	1	-	-
93rd (1973-1974)	10	-	-	-	-	-
94th (1975-1976)	15	-	-	-	-	-
95th (1977-1978)	11	-	-	-	-	-
96th (1979-1980)	14	2	1	1	-	-
97th (1981-1982)	24	1	-	-	-	-
98th (1983-1984)	13	1	-	-	-	-
99th (1985-1986)	10	1	-	-	-	-

Congress and (Years)	Discharge Petitions Filed	Discharge Motion		Committee Discharged	Underlying Measure [c]	
		Entered [a]	Called up [b]		Passed House	Received Final Approval [d]
100th (1987-1988)	5 [j]	-	-	-	-	-
101st (1989-1990)	8	1	-	-	-	-
102nd (1991-1992)	8	1 [k]	1 [k]	1 [k]	-	-
103rd (1993-1994)	26	2 [k]	2 [k]	2 [k]	1	1 [h]
104th (1995-1996)	15	-	-	-	-	-
105th (1997-1998)	8	-	-	-	-	-
106th (1999-2000)	11	-	-	-	-	-
107th (2001-2002)	12	1	-	-	-	-
Totals (1931-2002)	563	47	31	26	19	4

Sources: *House Final Calendars* for the Congresses indicated. Beth, *Discharge Rule: Procedure*, pp. 74-75. Table 1.

Notes:

a. A discharge petition is "entered" on the discharge calendar when it receives the signatures of 218 Members (one-half of the House). During the 72nd and 73rd Congresses, 135 signatures were required (one-third of the House). In the 86th Congress, when the membership of the House temporarily reached 437 with the admission of Alaska and Hawaii, 219 signatures were required.

b. A discharge motion may be offered on the floor on any second or fourth Monday falling at least seven legislative days after the discharge petition is entered (as described in the previous note). Usually, each day on which the House convenes is a legislative day.

c. A discharge petition may be filed to bring to the floor either a substantive measure in committee or a "special rule" from the Committee on Rules providing for House consideration of such a measure that is either in committee or was previously reported. The last two columns of this table reflect action on the underlying substantive measure, not on the special rule, if any, on which discharge was directly sought.

d. Includes measures that reached the following status: (1) became law, for bills and joint resolutions; (2) submitted to the states for ratification, for joint resolutions proposing constitutional amendments; (3) agreed to by the House, for House resolutions; and (4) finally agreed to by both chambers, for concurrent resolutions.

e. One of the measures from which a committee was discharged was not subsequently considered by the House.

f. The Committee on Rules was discharged from a special rule for consideration of one measure, and the measure was then taken up but recommitted. The Committee on Rules was subsequently discharged from a second special rule for considering the measure. This measure is counted twice in this column and the columns farther to the left, but only once in those farther to the right.

g. Includes one petition filed and later withdrawn.

h. Resolution changing House rules.

i. Includes one petition entered with respect to a special rule on a measure and another entered on the same measure directly.

j. Includes one petition filed on a special rule for considering two measures.

k. Includes one measure in the 102nd Congress, and two measures in the 103rd, from which the committee was discharged, and which were brought to the floor, after the discharge petition was entered, by unanimous consent.

Passage. Even when a measure does come to the floor pursuant to the discharge procedure, the House has not always chosen to pass it. This finding might be thought surprising, for a measure can reach the floor through discharge only if a majority of Members (1) sign the petition, (2) vote for the discharge motion, and also (3) vote for the special rule or consideration of the measure. A measure that can pass these tests would seem to have a manifest capacity to command majority support in the House. Especially between 1969 and 1994 (91st-104th Congresses), however, many of the measures reaching the floor through discharge were proposed constitutional amendments. Such proposals may possess the majority support required for discharge, yet lack the two-thirds support required for their adoption. Recent examples, noted below in Table 8, begin with the Equal Rights Amendment in the 91st Congress, and continue through the Balanced Budget Amendment on several occasions in the 97th through 103rd Congresses.

Enactment. Finally, only two measures have become law after being considered pursuant to discharge: a federal pay act in the 86th Congress, and the Wages and Hours Act in the 75th (the first minimum wage law). Measures facing sufficient opposition to block their consideration in the House under regular procedures often suffer strong opposition at other stages of the legislative process as well. The House also adopted two changes in rules after consideration pursuant to discharge. These actions occurred in the 78th and 103rd Congresses, the latter action being the amendment that made discharge petition signatures public.

Action Under Other Procedures After a Petition Has Been Entered

In practice, when a discharge petition obtains its 218 signatures and is entered on the discharge calendar, the result almost guarantees that supporters will have an opportunity to bring the measure to the floor. Sometimes, however, the action that occurs at this point is not pursuant to the discharge rule itself, but under other procedures. Action of this kind presumably represents an attempt by the committee of jurisdiction, the leadership, or the Committee on Rules to recover control of the floor by taking action to preempt the opportunity that the discharge rule affords. The left-hand portion of **Table 4** shows how frequently measures received floor action under other procedures after a discharge petition received 218 signatures and was entered on the discharge calendar.

From 1951 through 1978, such action never occurred; previously and thereafter, it occurred seldom. The most recent example, on campaign finance reform in the 107th Congress, was the first in over a decade. Yet every measure that has reached

the floor under other procedures after a discharge petition was entered has been passed by the House and gone on to final approval, except proposed constitutional amendments (the Balanced Budget Amendment in the 97th and 101st Congresses). This record of success is substantially more favorable than that for measures considered pursuant to the discharge procedure itself.

Before 1951, when alternative floor action occurred after a petition was entered, it was typically because the committee of referral reported the measure and had it called up under usual procedures. Since 1979, by contrast, the committee usually did not report the measure; instead, the alternative action usually involved House floor consideration of an alternative special rule or alternative measure on the same subject. Alternative actions of this sort are included in **Table 4** when identifiable.

On some recent occasions, however, supporters of discharge have not permitted these attempted alternative actions to forestall further proceedings by discharge. For example, the last two times a petition was entered on a Balanced Budget Amendment (102nd and 103rd Congresses; see **Table 8**), supporters arranged for the committee to be discharged, and for the measure to be considered, by unanimous consent.

Action Under Other Procedures While a Petition Was Pending

The right-hand side of **Table 4** shows that alternative action has occurred more frequently on measures for which discharge petitions had not achieved the requisite 218 signatures. Approximately half the measures considered under such circumstances proceeded to final approval, a proportion intermediate between that for measures considered pursuant to discharge and for measures considered under alternative procedures after a petition was entered. Again, action on alternative measures on the same subject, or pursuant to alternative special rules, is included in **Table 4** where it could be identified.

Action on measures with petitions pending was especially common before the mid-1960s, then disappeared entirely until the 1980s. The alternative action in these cases may represent attempts by the committee of referral, or the leadership, to preempt a discharge effort that either perceives as likely to succeed. For petitions that attract few signers, however, the force of discharge as a threat is presumably minimal, so that the alternative action may have occurred simply in the normal course of committee and leadership activity. Some of these discharge efforts may have occurred in part because supporters of the measures underestimated the likelihood of success through normal procedures. For Congresses prior to the 103rd, of course, there is usually no way of knowing definitely whether a petition obtained few or many signatures.

Table 4. Measures on Which Discharge Petitions Were Filed, But That Received Action Under Other Procedures, 1931-2002

Congress and (Years)	Action on Measure After Petition Entered [a]			Action on Measure With Petition Pending [a]		
	Considered	Passed House	Received Final Approval [b]	Considered	Passed House	Received Final Approval [b]
72nd (1931-1933)	-	-	-	1	1	-
73rd (1933-1934)	1	1	1	-	-	-
74th (1935-1936)	-	-	-	3	3	2
75th (1937-1938)	-	-	-	2	1	1
76th (1939-1940)	-	-	-	2	2	1
77th (1941-1942)	-	-	-	-	-	-
78th (1943-1944)	-	-	-	-	-	-
79th (1945-1946)	2	2	2	-	-	-
80th (1947-1948)	-	-	-	1	1	1
81st (1949-1950)	1	1	1	4	3	-
82nd (1951-1952)	-	-	-	1	1	1
83rd (1953-1954)	-	-	-	1	1	1
84th (1955-1956)	-	-	-	1	1	-
85th (1957-1958)	-	-	-	4 [c]	4 [c]	2 [c]
86th (1959-1960)	-	-	-	1	1	1
87th (1961-1962)	-	-	-	-	-	-
88th (1963-1964)	-	-	-	1	1	1
89th (1965-1966)	-	-	-	-	-	-
90th (1967-1968)	-	-	-	-	-	-
91st (1969-1970)	-	-	-	-	-	-
92nd (1971-1972)	-	-	-	-	-	-
93rd (1973-1974)	-	-	-	-	-	-
94th (1975-1976)	-	-	-	-	-	-
95th (1977-1978)	-	-	-	-	-	-
96th (1979-1980)	1	1	1	-	-	-
97th (1981-1982)	1	-	-	-	-	-
98th (1983-1984)	1	1	1	3	3	2
99th (1985-1986)	1	1	1	-	-	-
100th (1987-1988)	-	-	-	-	-	-

Congress and (Years)	Action on Measure After Petition Entered [a]			Action on Measure With Petition Pending [a]		
	Considered	Passed House	Received Final Approval [b]	Considered	Passed House	Received Final Approval [b]
101st (1989-1990)	1	-	-	1	-	-
102nd (1991-1992)	-	-	-	-	-	-
103rd (1993-1994)	-	-	-	3	3	3
104th (1995-1996)	-	-	-	2	2	1
105th (1997-1998)	-	-	-	-	-	-
106th (1999-2000)	-	-	-	1	1	-
107th (2001-2002)	1	1	1	-	-	-
Total (1931-2002)	10	8	8	32	29	17

Source: *House Final Calendars* for the Congresses indicated. Beth, *Discharge Rule: Procedure*, pp. 86-89. Table 1.

a. Includes action on alternative measures, where identifiable. A discharge petition is "entered" on the discharge calendar when it receives the signatures of 218 Members.

b. Includes measures that reached the following status: (1) became law, for bills and joint resolutions; (2) submitted to the states for ratification, for joint resolutions proposing constitutional amendments; (3) agreed to by the House, for House resolutions; and (4) finally agreed to by both chambers, for concurrent resolutions.

c. Petitions were filed on special rules for both initial consideration of, and disposition of Senate amendments to, one measure. On each occasion the Committee on Rules reported, and the House adopted, an alternative special rule. This measure is accordingly counted twice in the "considered" and "passed House" columns, but only once under "received final approval."

Summary: Action Under All Procedures

Table 5 brings together action under other procedures that may have been related to the presence of a discharge effort, as discussed in the previous two sections, with action under the discharge rule itself, as discussed in the section before that. The first three data columns in **Table 5** repeat the last three columns of **Table 3**, on action under the discharge rule itself, except for omitting one early case in which the House voted for discharge but never considered the measure in question. The second three data columns represent the sum of the entries in the two parts of **Table 4**, on action under other procedures on measures subjected to discharge attempts. The last three columns represent the sum of the entries in the previous two parts of the table, thereby covering all action on measures on which discharge attempts took place.

These summary columns show that overall, between 1931 and 2002, 67 of the 563 measures against which discharge petitions were filed were considered in the

House either by discharge or under other procedures. (As mentioned earlier, an additional few were reported, though not considered.) Some of these measures may have received action for reasons unrelated to the filing of the discharge petition. Supporters of most, however, presumably believed discharge action necessary because the measures were otherwise unlikely to reach the floor, and also believed that attempting discharge would enhance the measures' prospects. The frequency with which measures on which discharge petitions were filed reached the floor by some means, as compared with the frequency for all measures, offers some support for this proposition.

Table 5. Action on Measures on Which Discharge Petitions Were Filed, 1931-2002

Congress (and years)	Action Under Discharge Procedure [a]			Action Under Other Procedures [a]			Total [a]		
	Considered	Passed House	Received Final Approval [b]	Considered	Passed House	Received Final Approval [b]	Considered	Passed House	Received Final Approval [b]
72nd (1931-1933)	1	1	-	1	1	-	2	2	-
73rd (1933-1934)	1	1	-	1	1	1	2	2	1
74th (1935-1936)	1 [c]	-	-	3	3	2	4	3	2
75th (1937-1938)	3 [d]	2	1	2	1	1	5 [d]	3	2
76th (1939-1940)	2	2	-	2	2	1	4	4	1
77th (1941-1942)	1	1	-	-	-	-	1	1	-
78th (1943-1944)	3	3	1 [e]	-	-	-	3	3	1 [e]
79th (1945-1946)	1	1	-	2	2	2	3	3	2
80th (1947-1948)	1	1	-	1	1	1	2	2	1
81st (1949-1950)	1	1	-	5	4	1	6	5	1
82nd (1951-1952)	-	-	-	1	1	1	1	1	1
83rd (1953-1954)	1	1	-	1	1	1	2	2	1

Congress (and years)	Action Under Discharge Procedure [a]			Action Under Other Procedures [a]			Total [a]		
	Considered	Passed House	Received Final Approval[b]	Considered	Passed House	Received Final Approval [b]	Considered	Passed House	Received Final Approval [b]
84th (1955-1956)	-	-	-	1	1	-	1	1	-
85th (1957-1958)	1	1	-	4	4	2 [f]	5	5	2 [F]
86th (1959-1960)	1	1	1	1	1	1	2	2	2
87th (1961-1962)	-	-	-	-	-	-	-	-	-
88th (1963-1964)	-	-	-	1	1	1	1	1	1
89th (1965-1966)	1	1	-	-	-	-	1	1	-
90th (1967-1968)	-	-	-	-	-	-	-	-	-
91st (1969-1970)	1	1	-	-	-	-	1	1	-
92nd (1971-1972)	1	-	-	-	-	-	1	-	-
93rd (1973-1974)	-	-	-	-	-	-	-	-	-
94th (1975-1976)	-	-	-	-	-	-	-	-	-
95th (1977-1978)	-	-	-	-	-	-	-	-	-
96th (1979-1980)	1	-	-	1	1	1	2	1	1
97th (1981-1982)	-	-	-	1	-	-	1	-	-

Congress (and years)	Action Under Discharge Procedure [a]			Action Under Other Procedures [a]			Total [a]		
	Considered	Passed House	Received Final Approval [b]	Considered	Passed House	Received Final Approval [b]	Considered	Passed House	Received Final Approval [b]
98th (1983-1984)	-	-	-	4	4	3	4	4	3
99th (1985-1986)	-	-	-	1	1	1	1	1	1
100th (1987-1988)	-	-	-	-	-	-	-	-	-
101st (1989-1990)	-	-	-	2	-	-	2	-	-
102nd (1991-1992)	1 [g]	-	-	-	-	-	1 [g]	-	-
103rd (1993-1994)	2 [g]	1	1 [e]	3	3	3	5 [g]	4	4 [e]
104th (1995-1996)	-	-	-	2	2	1	2	2	1
105th (1997-1998)	-	-	-	-	-	-	-	-	-
106th (1999-2000)	-	-	-	1	1	-	1	1	-
107th (2001-2002)	-	-	-	1	1	1	1	1	1
Totals (1931-2002)	25	19	4	42	37	25	67	56	29

Source: Tables 3 and 4.

Notes:

a. Includes action on alternative measures, where identifiable.

b. Includes measures that reached the following status: (1) became law, for bills and joint resolutions; (2) submitted to the states for ratification, for joint resolutions proposing constitutional amendments; (3) agreed to by the House, for House resolutions; and (4) finally agreed to by both chambers, for concurrent resolutions.

c. On one additional measure, not counted in this table, the committee was discharged, but the House never proceeded to consider the measure.

d. The Committee on Rules was discharged from a special rule for the consideration of one measure, and the measure was then considered but recommitted. The Committee on Rules was subsequently discharged from a second special rule for considering the measure. This measure is counted twice under "considered," but only once under "passed House" and "received final approval."

e. One resolution changing House rules.

f. For one measure, petitions were filed on special rules both for initial consideration and for disposition of Senate amendments. On each occasion the Committee on Rules reported, and the House adopted, an alternative special rule. This measure is accordingly counted twice in the "considered" and "passed House" columns, but only once under "received final approval."

g. Includes one measure in the 102nd Congress, and two measures in the 103rd, that were taken from committee and brought to the floor by unanimous consent after the discharge petitions were entered.

Recent Discharge Efforts and Floor Action

Table 8 provides specific information on individual measures on which discharge was attempted and action beyond the committee stage occurred. The data in **Table 8** do not cover the entire period since 1931, but only from 1967 through 2002 (90th-107th Congresses), roughly the time since the Committee on Rules has operated consistently as an organ of the leadership, and during which use of the discharge procedure has generally remained stable at moderate levels.

This period includes 221 discharge efforts, 24 of which were followed by House floor consideration of the measure involved (or an alternative on the same subject). In relation to two of these measures, however, two petitions each were filed, so that these 24 petitions relate to a total of only 22 measures. An additional 11 measures on which discharge was sought were reported, but not taken up for consideration. **Table 8** lists all 33 of these measures, thereby including all cases, during the period covered, for which either (1) use of the discharge rule could have helped to promote further action, or (2) the leadership or Committee on Rules, rather than the committee of jurisdiction, might have formed the chief obstacle to consideration.

Forms of Discharge and Conditions of Floor Action

Although House action on these 33 measures took a wide variety of forms, some patterns are discernible. First, each of the three methods of discharge provided by the rule was represented in similar numbers. Relative to how often each method was attempted, however, the frequency with which further action occurred varied markedly:

- Nine measures were reported after petitions were filed on the measures themselves. Eight of these received floor consideration (6% of the 138 unreported measures on which petitions were filed).

- Thirteen measures were reported after petitions were filed on special rules for their consideration. Nine of these received floor consideration (13% of the 72 unreported measures for which petitions on special rules were filed).[13]

- Eleven measures had already been reported before petitions were filed on special rules for their consideration. Only four of these received floor consideration, but these made up 36% of the 11 reported measures for which petitions on special rules were filed.[14]

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[13] Throughout the discussion, one case in which petitions were filed both on the unreported measure itself and on a special rule for its consideration is included in this category.

[14] Two of these four measures had also received some floor action before the petition was filed.

The 33 measures also were distributed roughly equally among the various courses of events through which they might or might not reach the floor:

- Petitions on 12 of the measures were entered on the discharge calendar. Just six of these measures, however, reached the floor through the discharge procedure itself; the other six were called up through other procedures.

- Ten other measures reached the floor, by procedures other than discharge, even though the petitions remained pending.

- In the remaining 11 cases, the discharge petitions remained pending, and the measures were reported, but never actually considered.

As **Table 6** shows, however, the different courses of subsequent action were not evenly distributed among the three forms of discharge attempt. Overall, measures on which discharge was sought reached the floor more often under other procedures than under the discharge rule itself. This pattern, however, did not appear among petitions that were filed directly on measures, but only among those filed on special rules for considering measures, and especially on rules for measures already reported. Among measures that were subjected to discharge attempts and reached the floor, the proportions that did so under procedures other than discharge itself were

- 50% when the petitions were filed directly on unreported measures,
- 80% when they were filed on special rules for unreported measures, and
- 100% when they were was filed on special rules for reported measures.

Among the same measures, the proportions that reached the floor even though the discharge petitions remained pending were

- 25% when the petitions were filed directly on unreported measures;
- 50% when they were filed on special rules for unreported measures, and
- 75% when they were filed on special rules for reported measures.

These figures indicate that measures became increasingly likely to reach the floor under alternative procedures, rather than pursuant to the discharge rule itself, the more directly the form of the discharge effort represented a challenge to the normal control of the floor agenda by the leadership and the Committee on Rules. In other words, the relationships shown in **Table 6** suggest that the Committee on Rules has tended to respond vigorously to potential direct infringements of its special role in regulating the floor agenda, but has not always found it necessary to forestall

potential infringements only of the general gatekeeping role common to all committees.[15]

Table 6. Methods of Discharge and Conditions of Floor Action, 1967-2002

Conditions of floor action [a]	Petition filed on: [b]			Total
	Unreported measure	Special rule for unreported measure	Special rule for reported measure	
Discharge	4	2	0	6
Other procedure, after entry of petition	2	3	1 [c]	6
Other procedure, with petition still pending	2	5[d]	3 [c]	10
Reported only; no floor action	1	3[e]	7	11
Total	9	13	11	33

Source: Table 8.

Notes:
a. See "Discharge Attempt: Action" and "Floor Action" in Table 8.
b. See "Discharge Attempt: Form" in Table 8.
c. On one measure in each of these cells, some floor action had also occurred before any petition was filed.
d. In one case, a second petition, on the unreported measure itself, was also filed.
e. In one case, only the special rule, not the underlying measure, was reported.

Finally, the 11 measures that were only reported, and not considered on the floor, are also unequally distributed among the forms of discharge. Seven of the 11 had been reported before the petitions were filed, and so presumably represent situations in which the Committee on Rules found no preemptive action necessary to maintain its usual control of the floor agenda. The remaining four, however, were reported after the discharge petitions were filed, and in these cases the reports may have been intended to counter the discharge attempt. One of these petitions was filed directly on the measure, so that reporting the measure rendered the discharge attempt moot. Two others were filed on special rules for considering measures, so that reporting the measures did not preclude subsequent discharge and adoption of the rules, but such events did not occur. The fourth was also filed on a special rule, and the Committee on Rules then reported the rule, but no member of the Committee

[15] On this point, I am indebted to discussions with my colleague Elizabeth Rybicki.

invoked the rule permitting him or her to call up a reported special rule not considered within seven legislative days.[16]

Conditions of Floor Action and Legislative Success

Table 7 shows how many of the 22 measures on which discharge was sought, and that ultimately reached the floor under various procedures, received favorable action from the House. Presumably, a measure on which a discharge petition obtains the full 218 signatures required is supported by a majority of the House. Of the 12 measures on which a petition was entered, nevertheless, the House passed only six. All six of the rejected measures were constitutional amendments, which require a two-thirds vote for passage.

Of these 12 measures, only six were considered under the discharge procedure itself, mostly during the earlier years of the period covered. Five of the six were constitutional amendments, and four of the five were defeated. The only other measure the House adopted pursuant to the discharge procedure itself was an amendment of its rules – changing the discharge rule itself to make signatures public.

Table 7. House Disposition of Measures on Which Discharge Was Sought, by Conditions of Floor Action, 1967-2002

Conditions of Floor Action	Total	Constitutional Amendments		Other Measures	
		Adopted	Rejected	Passed	Rejected
Discharge	6	1	4	1 [a]	0
Other procedure, after entry of petition	6	0	2	4	0
Other procedure, without entry of petition	10	0	1	9	0
Total	22	1	7	14	0

Source: Table 8.

a. Amendment to House Rules, adopted.

Correspondingly, of the 16 measures considered under other procedures, whether or not the petitions were entered, three (all of them constitutional amendments) were defeated. The House passed the other 13, none of which was a constitutional amendment. Ten of these 13 became law, including all four that reached the floor after the petitions were entered. In summary, **Table 7** shows that during the period covered, when a discharge effort has succeeded in bringing to the

[16] House Rule XIII, clause 6(d). *House Manual*, sec. 861.

floor a measure that required the support only of an ordinary voting majority, the likelihood that the House would pass the measure has been excellent.

Information Displayed on Measures Receiving Action

Each entry in Table 8 identifies the measure on which discharge was attempted by number and notes its subject (proposed constitutional amendments include the notation "AMENDMENT"). The table also notes the committee(s) to which the measure was referred, or from which it was reported. It next shows which of the forms of discharge petition was filed, how many signatures it obtained, and whether it resulted in a discharge motion being offered on the floor. The following two columns note key events in floor action on the measure, under the discharge rule itself or under other procedures, respectively. These events include actions taken on related special rules and alternative measures. The last column notes the final status of the measure. Throughout, the table provides the numbers of any related measures and the dates of key actions. The following paragraphs detail the significance and use of each of these items.

Form of Discharge Action. **Table 8** indicates whether a discharge petition was filed (1) directly on an unreported measure, (2) on a special rule for considering an unreported measure, or (3) on a special rule for considering a reported measure. It also gives the date the petition was filed, and, where applicable, the resolution number of the special rule.[17]

Number of Signatures. **Table 8** notes which petitions obtained the full 218 signatures required before a motion to discharge may be offered on the House floor. Also, from the 103rd Congress forward, it notes the number of signatures obtained by each other petition. Before the House amended the rule in that Congress to make signatures to pending discharge petitions publicly available, they were treated as confidential except when the full 218 were obtained.

Action on Discharge Motion. Once the 218 signatures are obtained, a motion to discharge is entered on a special discharge calendar. Beginning seven legislative days thereafter, the motion may be offered on the second or fourth Monday of each month, except during the last six days of a session. **Table 8** notes whether and when this motion was offered. On several occasions during the period examined, after a discharge motion was entered, the House instead accepted a unanimous consent request that the committee be discharged and the measure be considered at a specific time. **Table 8** treats the acceptance of such a request as equivalent to the adoption of a discharge motion. When a petition does not obtain 218 signatures, of course, no discharge motion can be offered on the floor, and no discharge vote can occur.

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[17] The implications of all three methods of discharge are more fully explained in Beth, *Discharge Rule: Features* (CRS Report 97-552*)*.

Floor Action. **Table 8** reports action pursuant to the discharge rule itself in one column, and that pursuant to other procedures in a separate column. In either case, the pertinent column notes whether the measure was (1) reported from committee after the petition was filed, (2) taken up on the floor, and (3) passed or rejected. If the measure was considered under the terms of a special rule, the table also records floor action on the rule. For measures not considered in Committee of the Whole, the table identifies the procedure under which consideration took place.

Sometimes, although floor action does not take place on the measure that is the subject of the discharge procedure, it does occur on some other measure on the same subject. This action may occur because the committee of referral reports the other measure; the leadership schedules it for floor consideration; or the Committee on Rules reports a special rule for considering it. If discharge is sought on a special rule, another possibility is that the Committee on Rules may report a different special rule, providing for consideration of the same measure or an alternative measure. Actions of these kinds may represent attempts to forestall or preempt consideration of the measure on which the petition was filed, or at least to forestall its consideration under the terms of the original special rule. Table 8 identifies cases in which such actions occurred, noting the numbers of the alternative measures and special rules.

Occasionally, a discharge petition is filed on a special rule for considering a measure after it has already received some floor consideration. (The campaign finance legislation of the 107th Congress is an example, as already mentioned.) In the column on alternative floor action, Table 8 notes any floor consideration that occurred on a measure before a discharge petition was filed, but distinguishes this action with an asterisk (*). Similarly, when a measure was reported from committee after a petition was filed, although the measure then received no actual floor consideration, Table 8 also notes this event in the column for alternative floor action, but in *italics*.

Final Status. A discharge attempt may succeed in bringing the measure in question (or an alternative) to the floor under either the discharge procedure itself or some other procedure, yet the measure considered may still fail to achieve enactment. The House may consider the measure and reject it, or the measure may fail at a later stage of the legislative process. **Table 8** notes whether each measure listed became law or (for concurrent or simple resolutions, and for joint resolutions proposing constitutional amendments) otherwise attained final congressional approval. For measures that did not reach final approval, the table notes the last point in the legislative process the measure reached. This information indicates whether a measure failed or succeeded through the discharge effort itself, or because of conditions occurring at other some point in the process.

Timing of Action. **Table 8** does not supply a date for every legislative action it lists. It does, however, identify dates on which

- measures were referred or, where pertinent, reported;
- discharge petitions were filed;
- the required number of signatures was obtained; and
- key floor actions took place.

The rule requires a petition to be filed at least 30 legislative days after the date of referral. The interval between referral and filing may suggest how urgent the measure's supporters felt the matter to be, or how much confidence they had in the committee of referral. Similarly, the interval from filing to obtaining 218 signatures, as well as the number of signatures obtained, may indicate the breadth and intensity of support for a measure.

Finally, the interval between the filing or entering of the discharge petition and floor action on the measure may suggest whether the committee of jurisdiction, the House leadership, or the Committee on Rules was attempting to supersede or forestall action pursuant to the discharge procedure. This information accordingly helps to suggest the effectiveness of the discharge procedure in eliciting responsive action by these organs. Such an effect might be inferred, for example, if, after a discharge petition is entered but before the discharge motion can be offered on the floor, the committee reports the measure or the Committee on Rules reports a special rule.

Table 8. Measures on Which Discharge Petitions Were Filed and Which Became Available for Floor Action, 1967-2002

Measure and Subject	Committee Action	Discharge Attempt		Floor Action [a]		Final Status
		Form	Action	Under Discharge Procedure [b]	Under Other Procedures	
90th Congress (1967-1968)						
none						
91st Congress (1969-1970)						
H.J.Res. 264 Equal rights AMENDMENT	Referred to Judiciary, 1/16/69	Filed 6/11/70 on unreported measure	218 signers obtained 7/20/70; committee discharged	Measure considered under one-hour rule, 8/10/70 Measure passed		Senate did not conclude consider-ation
H.R. 17555 Fair employment	Reported by Education and Labor, 8/21/70	Filed 12/9/70 on H.Res. 1273 for reported measure	signers not completed			House did not act
H.R. 18214 Consumer Protection Agency	Reported by Government Operations, 7/30/70	Filed 12/18/70 on H.Res. 1294 for reported measure	signers not completed			House did not act
92nd Congress (1971-1972)						
H.J.Res. 191, School prayer AMENDMENT	Referred to Judiciary, 1/22/71	Filed 4/1/71 on unreported measure	218 signers obtained 9/21/71; committee discharged	Measure considered under one-hour rule, 11/8/71 Measure rejected		House did not act further

Measure and Subject	Committee Action	Discharge Attempt		Floor Action [a]		Final Status
		Form	Action	Under Discharge Procedure [b]	Under Other Procedures	
H.J.Res. 620, School busing AMENDMENT	Referred to Judiciary, 5/6/71	Filed 10/4/71 on H.Res. 610 for unreported measure	signers not completed		*Rule reported, 8/1/72*	House did not act
H.J.Res. 253, District of Columbia representation AMENDMENT	Reported by Judiciary, 2/29/72	Filed 5/1/72 on H.Res. 950 for reported measure	signers not completed			House did not act
93rd Congress (1973-1974)						
none						
94th Congress (1975-1976)						
H.R. 7590 Audit of Federal Reserve agencies	Reported by Banking, Currency, and Housing, 7/10/75	Filed 10/7/95 on H.Res. 746 for reported measure	signers not completed			House did not act
H.R. 9725 Strip mining	Reported by Interior and Insular Affairs, 3/12/76	Filed 4/7/76 on H.Res. 1107 for reported measure	signers not completed			House did not act
95th Congress (1977-1978)						
none						

Measure and Subject	Committee Action	Discharge Attempt		Floor Action [a]		Final Status
		Form	Action	Under Discharge Procedure [b]	Under Other Procedures	
96th Congress (1979-1980)						
H.J.Res. 74 School busing AMENDMENT	Referred to Judiciary, 1/15/79	Filed 3/21/79 on unreported measure	218 signers obtained 6/27/79; committee discharged	Measure considered under one-hour rule, 7/24/79 Measure rejected		House did not act further
H.R. 3567 Soft drink distributor antitrust exemption	Referred to Judiciary, 4/10/79	Filed 5/8/80 on unreported measure	218 signers obtained 5/29/80		Measure reported, 6/20/80 Measure considered by suspension of rules Measure passed S. 598 passed in lieu	P.L. 96-308
H.R. 3263 Regulatory reform	Referred to Judiciary, 3/27/79	Filed 7/2/80 on unreported measure	signers not completed		*Measure reported, 9/25/80*	House did not act
97th Congress (1981-1982)						
H.J.Res. 350 Balanced budget AMENDMENT	Referred to Judiciary, 10/29/81	Filed 7/12/82 on H.Res. 450 for unreported measure	218 signers obtained 9/29/82		Alternate rule reported (H.Res. 604) Alternate rule adopted, 10/1/84 Measure considered Measure rejected	House did not act further
98th Congress (1983-1984)						
H.R. 500 Interest and dividend withholding	Referred to Ways and Means, 1/6/83	Filed 3/17/83 on unreported measure	218 signers obtained 5/4/83		Measure reported, 5/13/83 Alternate measure (H.R. 2973) reported, 5/13/83 Alternate measure considered by suspension of rules Alternate measure passed	P.L. 98-67

Measure and Subject	Committee Action	Discharge Attempt		Floor Action [a]		Final Status
		Form	Action	Under Discharge Procedure [b]	Under Other Procedures	
H.R. 1510 Immigration	Reported by Judiciary, 5/13/83; Agriculture, 6/27/83; Energy and Commerce, Education and Labor, 6/28/83; Ways and Means discharged by terms of referral, 6/27/83	Filed 10/28/83 on H.Res. 338 for reported measure	signers not completed		Alternate rule reported, 6/8/84 (H.Res. 519) Alternate rule adopted Measure considered Measure passed S. 529 passed in lieu	in Conference
H.R. 3 Bankruptcy courts	Reported by Judiciary, 2/24/83; Appropriations discharged by terms of referral, 3/18/83	Filed 11/2/83 on H.Res. 346 for reported measure	signers not completed		Alternate rule reported, 3/20/84 (H.Res. 465) for consideration of alternate measure (H.R. 5174) Alternate rule adopted, 3/21/84 Alternate measure considered Alternate measure passed	P.L. 98-353
H.R. 5345 School religious group meetings	Reported by Education and Labor, 4/26/84	Filed 6/21/84 on H.Res. 510 for reported measure	signers not completed		* Measure considered by suspension of rules, 5/15/84 * Measure rejected Rule reported (H.Res. 554) for Senate amendment to H.R. 1310, including similar provisions Rule considered by suspension of rules, 7/24/84 Rule adopted Measure considered by suspension of rules Measure passed	P.L. 98-377

Measure and Subject	Committee Action	Discharge Attempt		Floor Action [a]		Final Status
		Form	Action	Under Discharge Procedure [b]	Under Other Procedures	
99th Congress (1985-1986)						
H.R. 945 Gun control	Referred to Judiciary, 2/6/85	Filed 10/22/85 on H.Res. 290 for unreported measure	218 signers obtained 3/13/86		Alternate rule reported, 3/19/86 (H.Res. 403) for alternate measure (H.R. 4332) Alternate rule adopted, 4/9/86 Alternate measure considered Alternate measure adopted S. 49 adopted in lieu	P.L. 99-308
H.R. 20 Savings and loan regulation	Reported by Banking, Finance, and Urban Affairs, 6/18/85	Filed 7/22/86 on H.Res. 480 for reported measure	signers not completed			House did not act
100th Congress (1987-1988)						
none						
101st Congress (1989-1990)						
H.J.Res. 350 Flag burning AMENDMENT	Referred to Judiciary, 6/29/89	Filed 3/28/90 on H.Res. 350 for unreported measure	signers not completed		Alternate rule reported (H.Res. 417) Alternate rule adopted, 6/21/90 Measure considered by suspension of rules Measure rejected Alternate measure considered by suspension of rules (H.R. 5091) Alternate measure rejected	House did not act further
H.J.Res. 268 Balanced budget AMENDMENT	Referred to Judiciary, 5/11/89	Filed 5/24/90 on H.Res. 391 for unreported measure	218 signers obtained 6/19/90		Alternate rule reported (H.Res. 434) Alternate rule adopted, 7/17/90 Measure considered under one-hour rule Measure rejected	House did not act further

Measure and Subject	Committee Action	Discharge Attempt		Floor Action [a]		Final Status
		Form	Action	Under Discharge Procedure [b]	Under Other Procedures	
102nd Congress (1991-1992)						
H.J.Res. 290 Balanced budget AMENDMENT	Referred to Judiciary, 6/26/91	Filed 5/20/92 on H.Res. 450 for unreported measure	218 signers obtained 5/20/92; committee discharged by unanimous consent	Rule adopted, 6/10/92 Measure considered Measure rejected		House did not act further
103rd Congress (1993-1994)						
H.Res. 134 Publish discharge motion signatures	Referred to Rules, 3/18/93	Filed 5/27/93 on unreported measure	218 signers obtained 9/8/93; committee discharged by unanimous consent	Measure considered under one-hour rule, 9/28/93 Measure agreed to		House adopted
H.R. 1025 Handgun purchases ("Brady bill")	Referred to Judiciary, 2/22/93	Filed 10/7/93 on unreported measure	10 signers		Rule reported, 11/9/93 (H.Res. 302) Measure reported, 11/10/93 Rule adopted, 11/10/93 Measure considered Measure passed	P.L. 103-159
H.J.Res. 103 Balanced budget AMENDMENT	Referred to Judiciary, 2/4/93	Filed 2/24/94 on H.Res. 331 for unreported measure	218 signers obtained 2/24/94; committee discharged by unanimous consent	Rule adopted, 3/16/94 Measure considered Measure rejected		House did not act further

Measure and Subject	Committee Action	Discharge Attempt		Floor Action [a]		Final Status
		Form	Action	Under Discharge Procedure [b]	Under Other Procedures	
H.J.Res. 131 Pearl Harbor remembrance day	Referred to Post Office, 3/3/93	Filed 5/25/94 on unreported measure	7 signers		Measure reported, 7/12/94 Measure considered by unanimous consent Measure passed	P.L. 103-308
S. 1458 Aircraft manufacturer liability	Reported by Public Works, 5/24/94 (referred to Public Works, Judiciary, 3/18/94)	Filed 5/26/94 on H.Res. 405 for unreported measure	160 signers		Measure reported, 6/24/94 (Judiciary) Measure considered by suspension of rules Measure passed	P.L. 103-298
104th Congress (1995-1996)						
H.R. 125 Semi-automatic assault weapons	Referred to Judiciary, 1/4/95	(1) Filed 3/15/95 on unreported measure	26 signers		Alternate rule reported (H.Res. 388) Alternate rule adopted, 3/22/96 Measure considered under one-hour rule	
		(2) Filed 2/23/96 on H.Res. 364 for unreported measure	3 signers		Measure passed	Senate did not act
H.R. 1710 Terrorism	Referred to Judiciary, 5/25/95	Filed 11/7/95 on H.Res. 240 for unreported measure	2 signers		*Measure reported, 12/5/95*	House did not act
H.R. 1627 Pesticides and food safety	Referred to Agriculture, Commerce, 5/12/95	Filed 5/25/96 on H.Res. 443 for unreported measure	41 signers		Measure reported, 6/11/96 (Agriculture), 7/23/96 (Commerce) Measure considered by suspension of rules, 7/23/96 Measure passed	P.L. 104-170

Measure and Subject	Committee Action	Discharge Attempt		Floor Action [a]		Final Status
		Form	Action	Under Discharge Procedure [b]	Under Other Procedures	
H.R. 2275 Endangered Species Act amendments	Referred to Resources, Agriculture, 9/7/95	Filed 7/17/96 on H.Res. 466 for unreported measure	51 signers		*Measure reported, 9/9/96 (Resources)* *Agriculture discharged by terms of referral, 9/9/96*	House did not act
105th Congress (1997-1998)						
H.R. 3580 Supplemental appropriations	Reported by Appropriations, 3/27/96	Filed 6/25/98 on H.Res. 473 for reported measure	45 signers			House did not act
106th Congress (1999-2000)						
H.R. 417 Campaign finance	Referred to House Administration, Education and Workforce, Government Reform, Judiciary, Ways and Means, Rules, 1/19/99	(1) Filed 4/14/99 on H.Res. 122 for unreported measure (2) Filed 4/20/99 on H.Res. 126 for unreported measure	202 signers 3 signers (one additional signature withdrawn)		Measure reported adversely, 8/5/99 (House Administration) Other committees discharged by terms of referral, 8/5/99 Alternate rule reported (H.Res. 283) Alternate rule adopted, 9/14/99 Measure considered Measure passed	Senate did not act

Measure and Subject	Committee Action	Discharge Attempt		Floor Action [a]		Final Status
		Form	Action	Under Discharge Procedure [b]	Under Other Procedures	
107th Congress (2001-2002)						
H.R. 2356 Campaign finance	Reported adversely by House Administration, 7/10/01; Energy and Commerce, Judiciary discharged by terms of referral, 7/10/01	Filed 7/30/01on H.Res. 203 for reported measure	218 signers obtained 1/24/02		* Rule reported (H.Res. 188) * Rule rejected, 7/12/01 Alternate rule reported (H.Res. 304) Alternate rule adopted, 2/12/02 Measure considered Measure passed	P.L. 107-155

Source: U.S. Congress, House of Representatives, *Calendars of the United States House of Representatives and History of Legislation,* Final edition [95th-106th Congresses] (Washington: GPO [various years]). Congressional Legislative Information System database on legislative status, available at [http://www.congress.gov/]. Records of discharge petitions and signatures thereto in the Legislative Resource Center of the House of Representatives (also available for recent Congresses at [http://clerkweb.house.gov/mbrcmtee/legis/pastleg.htm]). The author expresses appreciation to the Office of the Clerk for assistance with access to these records, and to Hettie J. Beth for assistance in compiling the data reported.

Notes: *Italics* indicate the reporting of a measure, after a petition was filed, when no further floor action took place. Asterisks (*) indicate floor action that occurred before any petition was filed.

a. Floor action on the measure took place in Committee of the Whole unless otherwise indicated.

b. Including action pursuant to unanimous consent requests with equivalent effect after petition obtained full number of signatures.