

insights

TYPES NOT MAPPED YET January 19, 2023 | TTR not mapped yet | Christopher T. Murray

Discharge Petition

A motion filed by a member of Congress to release a bill from committee consideration.

What is past is prologue

Legislation can follow a standard trajectory to becoming a law: the bill is introduced by a member of Congress, assigned to a committee for debate and amendment, and if it is approved by that committee and supported by the leadership of the majority party, it is placed on the House or Senate calendar to be debated, amended, and voted upon by the full chamber. If both the House and Senate pass identical versions of the legislation, the President has ten days to sign or veto the bill. Alternatively, the chambers can “ping pong” versions of legislation until they both pass the same bill and send the final version to the President.

In the House, a bill can take a different path to the floor if committee or majority party leadership opposes floor consideration. Legislation referred to a [standing committee](#) for at least thirty days can advance out of the committee with a successful discharge petition. A discharge petition requires a majority of the House (*i.e.*, 218 if fully constituted) to sign the petition to bring the measure directly to the floor for a vote. Legislation can thus theoretically advance out of the House without the support of the majority party’s leadership.

Though the Senate technically [allows](#) discharge petitions, its [use](#) in the upper chamber is exceedingly rare and limited to resolutions.

Uneasy lies the head that wears the crown

The [first](#) discharge petition in the House was in 1910, when Speaker Joseph Cannon (R-IL) faced a revolt from moderate members of his party who grew frustrated at his blocking of popular, bipartisan legislation. At the time, he was serving as both speaker and chair of the Rules Committee, thus consolidating an enormous amount of power in a single member.

In 2002, House Republicans began a discharge petition to force a floor vote on the Bipartisan Campaign Reform Act of 2002 (*i.e.*, McCain-Feingold), which the House ultimately approved. Moderate Republicans joined Democrats in forcing a floor vote via discharge petition on a major immigration bill in 2018; Speaker Paul Ryan (R-WI) instead allowed two Republican-sponsored immigration measures to proceed to the floor, thereby relieving pressure within the Republican conference. The most recent Congress saw eighteen unsuccessful discharge petitions related to abortion, COVID-19, stock trading by members, and energy permitting, among other topics.

Ambition should be made of sterner stuff

Discharge petitions tend to be successful only in the event of weak party leadership or a fractured majority. The current close partisan composition of the House in tandem with a cantankerous Republican majority could lead to an increase in the number of discharge petitions in the new 118th Congress. Democrats would only need to convince a handful of Republicans to vote with them for a discharge petition to be successful. Measures that appear most ripe for successful discharge petitions could include a suspension of or increase in the debt ceiling and bills to avert government shutdowns, though only time will tell.



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