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Privileged Business on the House Floor

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Summary

Privileged business is the legislative business of the House that Members have a right to call up for consideration on the floor when the House is not engaged in considering some other matter. Privileged business consists of various kinds of bills, resolutions, and other matters. (The concept and list of privileged motions, such as the motion to adjourn, are not discussed here.).

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Privileged business relates to the order or priority of business before the House and is defined in House rules and precedents and business that has precedence over the regular order of business and so may supersede or interrupt other matters that might be called up or pending before the House. Members have a right to call up privileged business for consideration on the floor when the House is not engaged in considering some other matter. Privileged business consists of various kinds of bills, resolutions, and other matters.¹

Clause 1 of House Rule XIV defines the *daily order of business* on the House floor. However, other House rules and precedents allow certain kinds of matters to interrupt this daily order of business. A matter that can interrupt the daily order of business is said to be privileged. In practice, the House never follows the daily order of business that Rule XIV defines. Instead, virtually all the legislative business that the House transacts on the floor each day—after the opening prayer, the approval of the *Journal*, and the Pledge of Allegiance—is conducted either by unanimous consent or as a privileged interruption of the daily order of business.

Various rules of the House give privilege to specific kinds of measures and matters. Most important is clause 5(a) of Rule XIII, which grants certain committees the “leave to report at any time” on certain kinds of bills and resolutions. Those bills and resolutions are privileged. Under this rule, privileged business includes:

- *General appropriations bills*, reported by the Committee on Appropriations, and *continuing resolutions*, reported by the same committee after September 15;
- *Budget resolutions and reconciliation bills*, reported by the Committee on the Budget;
- *Amendments to the House’s rules and resolutions affecting the order of business* (“*special rules*”), reported by the Committee on Rules; and
- *Resolutions concerning the official conduct of Members and staff*, reported by the Committee on Ethics.

Other kinds of legislative business derive their privilege from other House rules or from well-established precedents, such as the following:

- *Resolutions making committee assignments*,
- *Questions of personal privilege or the privileges of the House*,
- *Resolutions of inquiry* (seeking documents or facts from the executive branch),
- *Certain motions to send bills to conference*,
- *Conference reports*,
- *Senate amendments to which the House has disagreed*, and
- *Bills that the President has vetoed and returned to Congress*.

The House can consider any one of these privileged matters at any time that the House is not acting on something else. In practice, though, the choice of the day and time for considering a privileged measure is made through discussions involving the majority party leadership and the committee chairman, usually in consultation with the committee’s ranking minority member.

Among the privileged measures listed above, only general appropriations bills, continuing resolutions, and budget reconciliation bills can be enacted into law. In addition, some laws grant

¹ For more information, see Wm. Holmes Brown, Charles W. Johnson, and John V. Sullivan, *House Practice: A Guide to the Rules, Precedents, and Procedures of the House* (Washington, DC: GPO, 2011), ch. 36, pp. 659-666.

privilege to particular kinds of joint resolutions that Congress can pass, usually by using expedited procedures within a limited time period and usually for the purpose of disapproving some action that the President or an executive branch official plans to take or has taken. This kind of measure may be privileged even if the committee to which it was referred has not reported it.

No other bills are privileged. Therefore, the chairman of a committee cannot simply rise on the floor and call up for consideration some other kind of bill that his or her committee has reported, because House rules do not empower the chairman (or any other Member) to interrupt the daily order of business for that purpose.

Instead, non-privileged bills are brought to the floor in one of three ways: by unanimous consent, under the terms of a special rule (which itself is privileged), or by one of several special procedures that are privileged orders of business on certain days as provided under House Rule XV. These procedures involve (1) motions to suspend the rules, (2) motions to discharge committees from further consideration of bills referred to them, (3) consideration of District of Columbia business, (4) the call of the Private Calendar for considering private bills, and (5) the call of the committees on Calendar Wednesday, when committees can call up non-privileged bills they have reported. In practice, the House considers almost all non-privileged bills by unanimous consent, pursuant to special rules, or under motions to suspend the rules. The alternative procedures are used infrequently.

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