



The Daily Whip

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THURSDAY, SEPTEMBER 14, 2006

House Meets At...	Last Vote Predicted At...
10:00 a.m.: Legislative Business Ten "One Minutes" Per Side	7:00 p.m.

*(257th Calendar Day of the Year – 73^d Voting Day of the Year – 10 Voting Days until Target Adjournment)***FLOOR SCHEDULE AND BILL SUMMARY**

[H.Res. 1002](#) – Rule providing for consideration of [H.R. 6061](#) – the Secure Fence Act (*Rep. Sessions – Rules*). The Rules Committee has recommended a closed rule that provides one hour of general debate and one motion to recommit with or without instructions. The Republican rule blocks consideration of the Democratic Substitute offered by Ranking Member Thompson (MS) which would provide the technology, personnel, and equipment needed to monitor and secure every mile of the border.

[H.R. 2965](#) – Federal Prison Industries Competition in Contracting Act of 2006 (*Rep. Hoekstra – Judiciary*) (*Complete Consideration*). This bill requires the Federal Prison Industries (FPI) to compete for its contracts with federal agencies, and phases out, over five years, the current preference given to products made by federal prison inmates in contracts with federal agencies. In addition, this bill authorizes \$75 million a year for vocational education and rehabilitation programs for federal inmates. In the 108th Congress, the House passed a similar bill ([H.R. 1829](#)) by a 350-65 vote. [H.R. 2965](#) was reported out of the Judiciary Committee by voice vote on July 21st.

The five amendments made in order by the rule, which was adopted yesterday, are debatable for ten minutes each:

- **Sensenbrenner Manager's Amendment.** To modify 13 dates in various provisions of the bill to reflect the passage of time since the bill's introduction; correct one sectional cross reference and a reference to an Executive Branch agency; and add a provision explicitly requiring FPI to establish a cost accounting system which was implicit in, and necessary to implement, the amendment by Rep. Issa which was adopted during Judiciary Committee consideration.
- **Scott (VA) Amendment.** To allow the Attorney General to direct agencies within the Department of Justice to award individual contracts to FPI on a non-competitive basis.
- **Lungren/Chabot/Scott (VA) Amendment.** To postpone the scheduled phase out of mandatory source for one year if the percentage of inmates employed by FPI falls below 17%; and require the Attorney General to study ways to increase participation in FPI if participation in FPI falls below 17%.
- **Cuellar Amendment.** To require inmates performing work for FPI to contribute a portion of their earnings to living expenses.
- **Scott (VA) Amendment.** To allow FPI to continue service contracts of the nature and to the extent it was doing so on the date of enactment of the bill.

[H.R. 6061](#) – The Secure Fence Act (*Rep. King (NY) - Homeland Security*). This bill was introduced yesterday and it was immediately marked up by the Homeland Security Committee. The bill requires the Department of Homeland Security to install, no later than 18 months after enactment, a two-layered reinforced fence along five areas of the Mexican border (about 700 miles): a 20-mile stretch at Tecate, California; the stretch between Calexico, California, and Douglas, Arizona; the stretch between Columbus, New Mexico, and El Paso, Texas; the stretch between Del Rio, Texas, and Eagle Pass, Texas; and the stretch between Laredo, Texas, and Brownsville, Texas. The bill also requires the Homeland Security Department to conduct a study on construction of a state-of-the-art barrier system along the Canadian border and another study to evaluate the authority of personnel to stop vehicles that enter the United States illegally and refuse to stop. With the exception of the section requiring a study on fleeing vehicles, the bill includes the various fence provisions contained in the Sensenbrenner/King (NY) border bills considered in the Homeland Security and Judiciary Committees last winter, as well as the Hunter amendment adopted by a 260-159 vote last December during the consideration of the Sensenbrenner Immigration Enforcement bill - [H.R.4437](#).

[H.Res. 1003](#) – Self-Executing Rule providing for adoption of [H.Res. 1000](#) – Providing for Earmarking Reform in the House of Representatives (*Rep. Dreier - Rules*). This rule self-executes the Republican earmark proposal, [H.Res. 1000](#), into the House Rules, therefore not allowing a separate vote on the earmark legislation. [H.Res. 1000](#) was drafted behind closed doors and with no opportunity for input from Democrats. [H.Res. 1000](#) does not make any real changes to the earmarking process beyond Member identification; does not contain restrictions on



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earmarks; does not apply to earmarks included in a manager's amendment; does not apply to measures that have not been reported from committee; and does not apply to targeted tariff relief.

Provisions of [H.Res. 1000](#) include:

- In order for the House to consider a bill, the Committee of jurisdiction must list all earmarks included in the bill and committee report along with the names of Members requesting the earmark (this provision applies to all committees);
- In the case of tax bills, the Joint Committee on Taxation (JCT) is specifically charged with compiling the list because of intricacies involved in scoring the impact of a tax provision;
- In the case of a conference report, the list must include any earmarks (with Member names) that were "airdropped" into the conference report or joint statement of managers;
- If an authorizing committee or the Appropriations Committee fails to include a list of earmarks, a Member can raise a point of order against consideration of the bill or conference report. The point of order is debatable for 30 minutes – 15 minutes equally divided;
- If the Ways and Means Committee fails to include a JCT list of earmarks or a JCT statement indicating that there are no earmarks, a Member can raise a point of order against consideration of the bill or conference report. The point of order is not debatable;
- If a rule providing for the consideration of a conference report waives the requirement for a list of new earmarks, then the point of order would lie against the Rule;
- If the House rejects the question of consideration, the House is not allowed to consider the legislation or the rule providing for its consideration of the legislation until a list of earmarks is included;
- An authorizing earmark is a provision that permits funds to be allocated outside of the normal formula-driven or competitive bidding process and to be targeted to a specific entity, State, or Congressional district;
- An appropriations earmark is a provision that allocates funds outside of the normal formula-driven or competitive bidding process and targets those funds to a specific entity, State, or Congressional district;
- A tax earmark, as determined by the Joint Committee on Taxation, is defined as any revenue-losing provision that provides a Federal tax deduction, credit, exclusion, or preference to only one beneficiary.

Postponed Suspension Vote:

- 1) [H.R. 6033](#) - Thomas J. Manton Post Office Building Designation Act (*Rep. Crowley - Government Reform*)

Postponed Vote on Melancon Motion to Instruct Conferees on [H.R. 2864](#) – Water Resources Development Act (*Rep. Young (AK) – Transportation & Infrastructure*). The motion instructs conferees to agree to provisions that provide protection from storm surges as great as those caused by a category-five hurricane to coastal areas of Louisiana and Mississippi. **Democrats are urged to VOTE YES.**

Possible Motion to go to Conference on [H.R. 5441](#) - Department of Homeland Security Appropriations Act for FY07. **Democratic Motion to Instruct Conferees.**

TOMORROW'S OUTLOOK

The GOP Leadership has announced the following schedule: on Friday, the House may meet at 9:00 a.m. for legislative business.

Daily Quote...

"What is being proposed goes too far and would be seen by the world as renegeing and changing our treaty [Geneva Convention] obligations."

- Republican Senator Lindsey Graham (SC), concerning the military tribunal proposal supported by the Bush Administration and many Republicans, in *CQToday* this morning