



The Daily Whip

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THURSDAY, SEPTEMBER 29, 2005

House Meets At...	Last Vote Predicted At...
10:00 a.m.: Legislative Business Five "One Minutes" Per Side	5:00 p.m.

FLOOR SCHEDULE AND BILL SUMMARY

H.Res. 470 - Rule providing for consideration of H.R. 3824 – Threatened and Endangered Species Recovery Act of 2005 (*Rep. Hastings(WA)-Rules*). The Rules Committee has recommended a restrictive rule that allows 90 minutes of general debate, makes in order two amendments (a manager's amendment and a bipartisan substitute), and provides one motion to recommit with or without instructions.

H.Res. 469 - Rule providing for consideration of H.J.Res. 68 – Making continuing Appropriations for the FY06, and for other purposes. The Rules Committee has recommended a closed rule for consideration of HJRes 68 that provides one hour of general debate and one motion to recommit. Section 2 of the Rule makes Thursday, October 6th a suspension day. Section 3 of the Rule provides that a motion to disapprove the BRAC list shall be in order only if offered by the Majority Leader or his designee.

H.J.Res. 68 – Making continuing Appropriations for the FY06, and for other purposes (*Rep. Lewis {CA} – Appropriations*). This joint resolution provides temporary funding through November 18 for those departments, agencies and programs whose FY06 appropriations bills have not yet been enacted into law --- to date, only the Interior-Environment and the Legislative Branch bills have been enacted. Under this joint resolution, spending during this period would be at the level set in the House-passed bill, Senate-passed bill, or current level, whichever is lowest.

H.R. 3824 – Threatened and Endangered Species Recovery Act of 2005 (*Rep. Pombo – Resources*) (*Subject to a Rule*). This bill reauthorizes and amends the Endangered Species Act (ESA), which seeks to protect species at risk of extinction. Major changes in this bill include:

- **Elimination of critical habitat designation.** This bill eliminates the ESA required designation of "critical habitat" for listed species and replaces it with a new obligation to identify in a species' "recovery plan" the habitat which is of special value for the species' conservation. The bill is silent on whether such plans would be legally binding.
- **Reimbursement to private property landowners.** The bill creates a program enabling the Interior Department to reimburse private landowners who cannot develop their land because its proposed use would violate Endangered Species laws.
- **Changes scientific standard.** HR 3824 allows the Interior Department to set the scientific standard for declaring a species "threatened" or "endangered" based on the best information available to the Department at the time of the decision to protect a species --- current law calls for the "best scientific and commercial data available" to be decided on a case-by-case basis in consultation with outside scientists.
- **Pesticide Waiver.** HR 3824 repeals current ESA provisions and exempts pesticides from ESA review for 5 years.

This bill was voted out of committee last week on a 26-12 vote (8 Democrats voting for it and 10 against it; and 18 Republicans voting for it and 2 against it).

The restrictive rule makes in order two amendments:

- **Pombo Manager's Amendment (20 minutes).** It makes a number of technical changes to clarify certain provisions and address issues concerning science, definition of "jeopardy", consolidation of ESA related programs, and review of protective regulations; allows actions authorized under an approved Section 10 permit to be carried out without duplicative consultation; prevents water stakeholders from being held accountable for impacts due to State actions; requires the four Power Marketing Administrations to include ESA costs in their monthly billings; directs the Secretary of Interior to survey certain federal lands to assess their value for report to Congress; and clarifies conflicting statutes to make ESA the governing statutory authority when receiving a dock building permit.
- **Bipartisan George Miller-Boehlert Substitute (60 minutes).** The substitute answers the concerns of landowners, states, and sportsmen, while improving the ability to achieve timely recovery of species.
 - **Repeals the current "Critical Habitat" requirement and ensures consultation between the Secretary and other Federal agencies with proposed actions that may jeopardize ESA**

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species. It strengthens the definition of "jeopardy" and requires the Secretary to ensure that the "recovery plan" identifies and includes areas necessary for species survival.

- **Protects landowners from the regulatory hammer** by directing the Secretary to first determine whether public lands are sufficient to protect and save the species.
- **Helps small landowners conserve** by dedicating funding for technical assistance; establishing a conservation grants program for landowners who help conserve species; and setting reporting requirements so that we know how many applications are going unanswered.
- **Ensures timely species recovery** - ensures that the recovery plans include the best possible science, and are enforceable.
- **Helps achieve better coordination with the States** by directing the Federal government to work with the States in a far broader and more cooperative manner than either current law or the underlying. Specifically, the government must work with States on listing decisions, listing changes, recovery plan drafting and implementation, and permit issuance. The Substitute also includes strong cooperative federal-state programs, without the broad waivers and lax oversight of HR 3824.

Postponed Suspension Votes (3 bills):

- 1) **H.Res. 388** - Expressing the sense of the House of Representatives regarding the July, 2005, measures of extreme repression on the part of the Cuban Government (*Rep. Lincoln Diaz-Balart - International Relations*)
- 2) **H.Con.Res. 178** - Recognizing the need to pursue research into the causes, a treatment, and an eventual cure for idiopathic pulmonary fibrosis (*Rep. Norwood - Energy and Commerce*)
- 3) **H.Con.Res. 245** - Expressing the sense of Congress that the United States Supreme Court should speedily find the use of the Pledge of Allegiance in schools to be consistent with the Constitution of the United States (*Rep. Issa - Judiciary Committee*)

Possible Consideration of the Homeland Security Appropriations Conference Report.

TOMORROW'S OUTLOOK

The GOP Leadership has announced the following schedule: on Friday, no votes are expected in the House.

Daily Quote...

"An angry and defiant [Tom] DeLay blamed the indictment, which temporarily cost him his leadership position, on partisan politics by Travis County District Attorney Ronnie Earle, a Democrat. Coming from one of the most fanatical partisans in the country, that charge is risible. DeLay also ignores the fact that the indictment came not from Earle but from a grand jury of 12 local citizens who investigated a complex political scheme. They sacrificed long hours for one of the most important duties of citizenship. Even more difficult to digest was DeLay's assertion in his taped statement Wednesday that the 2003 Legislature's gerrymandered political map was 'fair.' That politically inspired redistricting fractured Texas into a crazy patchwork of congressional districts that makes no sense whatsoever."

- The *Austin American-Statesman*, in an editorial today