

FLOOR SCHEDULE FOR TUESDAY, NOVEMBER 7, 2017

HOUSE MEETS AT:	FIRST VOTE PREDICTED:	LAST VOTE PREDICTED:
10:00 a.m.: Morning Hour 12:00 p.m.: Legislative Business Fifteen "One Minutes"	1:30 – 2:30 p.m.	5:00 – 6:00 p.m.

H.Res. 607 – Rule providing for consideration of both **H.R. 3441 – Save Local Business Act (Rep. Byrne – Education and the Workforce)** and **H.R. 3043 – Hydropower Policy Modernization Act (Rep. McMorris Rodgers – Energy and Commerce) (One hour of debate)**. The Rules Committee has recommended one Rule which would provide for consideration of two bills.

For H.R. 3441, the Rules Committee has recommended a closed Rule that provides for one hour of general debate equally divided and controlled by the Chair and Ranking Member of the Committee on Education and the Workforce. The Rule allows one motion to recommit, with or without instructions, and waives all points of order against the legislation.

For H.R. 3043, the Rules Committee has recommended a structured Rule that provides for one hour of general debate equally divided and controlled by the Chair and Ranking Member of the Committee on Energy and Commerce. The Rule provides for consideration of 4 amendments, each debatable for 10 minutes, equally controlled by the proponent and opponent of the amendment. The Rule allows one motion to recommit, with or without instructions, and waives all points of order against the legislation.

The Rules Committee rejected a motion by Ms. Slaughter of New York to consider H.R. 3441 and H.R. 3043 under open Rules. **Members are urged to VOTE NO.**

Complete Consideration of H.R. 3441 – Save Local Business Act (Rep. Byrne – Education and the Workforce) (One Hour of Debate). This legislation seeks to weaken employee protections by amending the National Labor Relations Act (NLRA) and the Fair Labor Standards Act (FLSA) to redefine a "joint employer" as someone who "directly, actually, and immediately, and not in a limited and routine manner, exercises significant control over essential terms and conditions of employment." Essential terms are defined as hiring employees, discharging employees, determining individual employee rates of pay and benefits, day-to-day supervision of employees, assigning individual work schedules and tasks, and administering employee discipline. Currently, a "joint employer" is defined based on a 2015 NLRB decision in Browning Ferris Industries as a situation in which more than one employer controls or has the right to control the terms and conditions of employment either "directly or indirectly." This returned the joint employer standard to one that was in effect prior to 1984, when it was narrowed by a Reagan-era Board. Under the FLSA, courts examine whether a joint employer relationship exists by assessing the "economic realities" of the employment relationship, a standard far broader than under the NLRA.

Current joint employer standards take into account modern hiring trends and standards that have become common practice, such as the use of subcontractors, intermediaries, and temporary staffing agencies, in order to ensure employee protections regardless of how that employee is hired or managed. According to the Bureau of Labor Statistics, approximately three million Americans are employed by a temporary staffing agency on any given day, performing work on behalf of a client company that directs the employee's work but does not directly pay the employee. This legislation would severely inhibit the ability of those three million Americans to receive fair treatment by their employer.

Proponents claim that this legislation will restore the definition of "joint employer" used by the NLRB before 2015. However, as written, this legislation would roll back protections further than the Browning Ferris standard and radically narrow the FLSA's broad joint employment standard for the first time, undermining workers' ability to secure recourse for wage theft. Businesses claim that (1) the current standard, which holds employers liable for indirect control of a subcontractor's employees, creates uncertainty and could make them responsible for employees they don't directly control, even though they set those terms by contract, and (2) this legislation will help protect the independence of businesses. But this legislation actually hurts franchisees in that it would hold them responsible for decisions directed by their franchisors. It is clear that this legislation is being used to allow employers who jointly determine working conditions to evade responsibility and avoid liability, while weakening employee protections for wage theft, child labor, and equal pay violations.

This bill, like other bills being considered under this Republican Congress, does not set clear standards. As written, the Save Local Businesses Act is unclear as to how many of the several essential terms and conditions listed in the legislation a party would need to control in order to be deemed an employer. This ambiguity could lead to a scenario where no employer is deemed liable under the FLSA or the NLRA, which leaves workers without any recourse for workplace misconduct. **Members are urged to VOTE NO.**

Bill Text for H.R. 3441:

[PDF Version](#)

Background for H.R. 3441:

[House Report \(HTML Version\)](#)

[House Report \(PDF Version\)](#)

Suspensions (11 bills)

1. [H.R. 3911](#) – Risk-Based Credit Examination Act (Rep. Wagner – Financial Services)
2. [H.R. 2148](#) – Clarifying Real Estate Loans, as amended (Rep. Pittenger – Financial Services)
3. [H.R. 918](#) – Veteran Urgent Access to Mental Healthcare Act, as amended (Rep. Coffman – Veterans’ Affairs)
4. [H.R. 1133](#) – Veterans Transplant Coverage Act of 2017, as amended (Rep. Carter (TX) – Veterans’ Affairs)
5. [H.R. 1900](#) – National Veterans Memorial and Museum Act (Rep. Stivers – Veterans’ Affairs)
6. [H.R. 2123](#) – VETS Act of 2017 (Rep. Thompson (PA) – Veterans’ Affairs)
7. [H.R. 2601](#) – VICTOR Act of 2017, as amended (Rep. Dunn – Veterans’ Affairs)
8. [H.R. 3634](#) – SERVE Act of 2017 (Rep. Himes – Veterans’ Affairs)
9. [H.R. 3705](#) – Veterans Fair Debt Notice Act of 2017, as amended (Rep. Pingree – Veterans’ Affairs)
10. [H.R. 3949](#) – VALOR Act, as amended (Rep. Khanna – Veterans’ Affairs)
11. [H.R. 4173](#) – Veterans Crisis Line Study Act of 2017, as amended (Rep. Banks – Veterans’ Affairs)

TOMORROW’S OUTLOOK

The GOP Leadership has announced the following schedule for Wednesday, November 8: The House will meet at 12:00 p.m. for legislative business. The House is expected to complete consideration of [H.R. 3043](#) – Hydropower Policy Modernization Act of 2017 (Rep. McMorris Rodgers – Energy and Commerce). The House is also expected to begin consideration of [H.R. 2201](#) – Micro Offering Safe Harbor Act (Rep. Emmer – Financial Services) (Subject to a Rule).

The Daily Quote

“Nearly half of all middle-class families would pay more in taxes in 2026 than they would under current rules if the proposed House tax bill became law, and about one-third would pay more in 2018, according to a New York Times analysis, a striking finding for a bill promoted as a middle-class tax cut. President Trump and congressional Republicans have pitched the plan unveiled last week as a tax cut for most Americans. But millions of middle-class families — particularly those with children — would see an immediate tax increase, averaging about \$2,000. Among the hardest-hit under the plan would be some of the most vulnerable taxpayers: those with huge out-of-pocket medical expenses. By 2026, 45 percent of middle-class families would pay more than what they would under the existing tax system.”

- New York Times, 11/6/2017