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# Concur in the Senate Amendment to H.R. 623 — DHS Social Media Improvement Act of 2015 (Rep. Brooks, R-IN)

CONTACT: [Nicholas Rodman](#), 202-226-8576

## FLOOR SCHEDULE:

Scheduled for consideration on October 27, 2015 suspension of the rules, which requires 2/3 vote for passage.

## TOPLINE SUMMARY:

[The Senate Amendment to H.R. 623](#) would authorize the Department of Homeland Security (DHS) to establish a social media working group in order to enhance the dissemination of information through social media technologies between DHS and appropriate stakeholders.

## COST:

The Congressional Budget Office (CBO) [estimates](#) that the new Department of Homeland Security responsibilities and the annual report required by H.R. 623 would cost less than \$500,000 annually, assuming the availability of appropriated funds. Enacting the legislation would not affect direct spending or revenues; therefore, pay-as-you-go procedures do not apply.

## CONSERVATIVE CONCERNS:

There are no substantive concerns regarding this bill.

- **Expand the Size and Scope of the Federal Government?** No.
- **Encroach into State or Local Authority?** No.
- **Delegate Any Legislative Authority to the Executive Branch?** No.
- **Contain Earmarks/Limited Tax Benefits/Limited Tariff Benefits?** No.

## DETAILED SUMMARY AND ANALYSIS:

The bill would establish a social media working group within DHS to improve the use of social media technologies in support of emergency preparedness, response, and recovery. The group would be required to provide guidance and best practices to the emergency preparedness and response community on the use of social media technologies before, during, and after a natural disaster or an act of terrorism or other man-made disaster.

The social media working group would be required to submit to Congress during each year in which the group meets, a report that includes: (1) a review and analysis of current and emerging social media technologies being used to support preparedness and response activities related to natural disasters, acts of terrorism, and other man-made disasters; (2) a review of best practices and lessons learned on the use of social media technologies during emergency responses; (3) recommendations to improve the Department's use of social media technologies for emergency management purposes; (4) recommendations to improve public awareness of the type of information disseminated through social media technologies; (5) a review of available training for federal, state, local, tribal, and territorial officials on the use of social media technologies in response to a disaster; and (6) a review of coordination efforts with the private sector to discuss and resolve legal, technical, privacy, and security concerns. The group would terminate 5 years after the bill's enactment, unless renewed by the chairperson for a successive 5-year period.

The clause exempting the group from the [Federal Advisory Committee Act](#) (FACA) was removed in the Senate amendment. The Senate report (S. Rept. 114-145) accompanying H.R. 623 can be found [here](#). The RSC's legislative bulletin for the House-passed H.R. 623 can be found [here](#).

**COMMITTEE ACTION:**

H.R. 623 was introduced on January 30, 2015 and was referred to the House Committee on Homeland Security. On February 2, 2015, the bill passed the House under a suspension of the rules by the yeas and nays: [328 – 51, with many RSC Members opposing passage](#). The bill was then referred to the Senate Committee on Homeland Security and Governmental Affairs and reported with an amendment in the nature of a substitute. The bill passed the Senate with an amendment by unanimous consent on October 7, 2015.

**ADMINISTRATION POSITION:**

No Statement of Administration Policy is available at this time.

**CONSTITUTIONAL AUTHORITY:**

According to the sponsor “Congress has the power to enact this legislation pursuant to the following: Article I, Section 8, Clause 18, To make all Laws which shall be necessary and proper for carrying into Execution the foregoing Powers, and all other Powers vested by this Constitution in the Government of the United States.” No clause citing a specific enumerated power of Congress was included.

# H.R. 3819: Surface Transportation Extension Act of 2015 (Rep. Shuster, R-PA)

CONTACT: [Matt Dickerson](#), 202-226-9718

## FLOOR SCHEDULE:

October 27, 2015 under a suspension of the rules, which requires a 2/3 majority for passage.

### TOPLINE SUMMARY:

[H.R. 3819](#) would extend the authorization for federal highway and transit programs through November 20th, and would extend the deadline for implementation of Positive Train Control technology for passenger and freight rail.

### COST:

A Congressional Budget Office (CBO) cost estimate is not available at this time.

Rule 28(a)(1) of the Rules of the Republican Conference prohibit measures from being scheduled for consideration under suspension of the rules without an accompanying cost estimate. Rule 28(b) provides that the cost estimate requirement may be waived by a majority of the Elected Leadership.

### CONSERVATIVE CONCERNS:

**Continues Overspending and Bailouts:** Since 2008, Congress has transferred [\\$73 billion](#) from the Treasury's General Fund to the Highway Trust Fund. Some conservatives may be concerned that this legislation would continue to spend at the current, unsustainable level.

**Violates Principles Called for in House Republican Budgets:** Some conservatives may be concerned that the [Fiscal Year 2016 House Republican Budget](#) recommends aligning "spending from the Trust Fund with incoming revenues," and that every House Republican Budget since 2011 has included this proposal.

On July 13, 2015, [RSC Chairman Flores and other RSC members wrote](#) to House Transportation and Infrastructure Committee Chairman Bill Shuster with policy recommendations for the upcoming highway bill that would help commuters get the best value for their gas taxes, ensure funding for the core highway programs, give flexibility to states that want it, end highway bailouts, and unify the Republican Conference.

The recommendations include common-sense principles that could be reasonably be included in a House-passed highway reauthorization:

- No tax increases.
- Align spending with revenues.
- Establish a pilot program to allow states control of their transportation dollars.
- Streamline environmental permitting and approvals.
- Reform labor regulations for transportation programs.
- Reform discretionary programs.
- Keep the highway bill focused on the highway program.
- Stop diverting Highway Trust Fund dollars away from roads and bridges.

▪ **Expand the Size and Scope of the Federal Government?** No, the bill continues currently authorized programs.

- **Encroach into State or Local Authority?** Yes. As stated in the [RSC Budget](#), “Congress should devolve the federal government’s control over most highway and transit programs to the state and local governments.” Federal transportation spending should be limited to core federal duties, including the interstate highway system and transportation infrastructure on federal land.
- **Delegate Any Legislative Authority to the Executive Branch?** No.
- **Contain Earmarks/Limited Tax Benefits/Limited Tariff Benefits?** No.

### **DETAILED SUMMARY AND ANALYSIS:**

**Surface Transportation Extension:** The bill would extend the federal-aid highway, highway safety, motor carrier safety, transit, and other programs funded by the Highway Trust Fund through November 20, 2015.

The transportation programs were most recently reauthorized through October 29, 2015, by [H.R. 3236, the Surface Transportation and Veterans Health Care Choice Improvement Act of 2015](#), which passed the House on July 29, 2015, by a [385 – 34](#) vote.

The Department of Transportation (DOT) has established a [Highway Trust Fund Ticker](#) to show the funding status of the Highway and Transit accounts within the Trust Fund. To continue funding highway and transit programs at current levels past November 20, another general fund bailout would likely be required. In the event of a shortfall, the DOT would delay reimbursements to states.

**PTC Extension:** The bill would also extend the deadline for the implementation of [positive train control](#) (PTC) technology for passenger and freight rail through 2018.

PTC is a safety system that automatically stops trains if a collision is imminent. The Rail Safety Improvement Act of 2008 required the implementation of PTC technology for passenger railroads and freight rail that carries hazardous materials by December 31, 2015. According to a study conducted by [GAO](#), most railroads expect they will be unable to meet this deadline due to the complexities of developing, installing, and testing PTC technology. The Association of American Railroads says that the railroads have spent over [\\$5 billion](#) to comply with the PTC unfunded mandate. Without an extension to the PTC mandate, many of the affected railroads would be [forced to suspend operation](#).

### **COMMITTEE ACTION:**

H.R. 3819 was introduced on October 23, 2015 and referred to the House Transportation and Infrastructure, Energy and Commerce, Ways and Means, Natural Resources, and Science, Space, and Technology committees. The committees took no further action on the bill.

The House Transportation and infrastructure Committee has [held a number of hearings](#) this year on the surface transportation programs as well as on the PTC issue.

### **ADMINISTRATION POSITION:**

No Statement of Administration Policy is available at this time.

### **CONSTITUTIONAL AUTHORITY:**

“Congress has the power to enact this legislation pursuant to the following: Article I, Section 8 of the United States Constitution, specifically Clause 1 (related to laying and collecting Taxes, and providing for the common defense and general Welfare of the United States), Clause 3 (related to regulation of Commerce with foreign Nations, and among the several States, and with Indian Tribes), and Clause 7 (related to establishment of Post Offices and Post Roads).”

# H.R. 455 — Northern Border Security Review Act, as amended (Rep. Katko, R-NY)

CONTACT: [Nicholas Rodman](#), 202-226-8576

## FLOOR SCHEDULE:

Scheduled for consideration on October 27, 2015 suspension of the rules, which requires 2/3 vote for passage.

## TOPLINE SUMMARY:

[H.R. 455](#) would require the Secretary of Homeland Security to conduct an assessment of threats on the Northern border of the United States and submit it to Congress.

## COST:

The Congressional Budget Office (CBO) [estimates](#) that implementing H.R. 455 would cost about \$1 million in 2016, assuming appropriation of the necessary amounts. Because enacting the legislation would not affect direct spending or revenues, pay-as-you-go procedures do not apply.

## CONSERVATIVE CONCERNS:

There are no substantive concerns regarding this bill.

- **Expand the Size and Scope of the Federal Government?** No.
- **Encroach into State or Local Authority?** No.
- **Delegate Any Legislative Authority to the Executive Branch?** No.
- **Contain Earmarks/Limited Tax Benefits/Limited Tariff Benefits?** No.

## DETAILED SUMMARY AND ANALYSIS:

The bill would require the Secretary of Homeland Security to conduct a Northern Border threat analysis to include: (1) current and potential terrorism and criminal threats posed by individuals and organized groups seeking to enter the United States through the Northern Border; (2) improvements needed at and between ports of entry along the border to prevent terrorists from entering the United States, and to reduce criminal activity; (3) gaps in law, policy, cooperation between state, local, and tribal law enforcement that hinder effective and efficient border security; and (4) an analysis of whether additional U.S. Customs and Border Protection preclearance and pre-inspection operations at ports of entry along the Northern Border could help prevent terrorists from entering the United States. The bill would encourage the Secretary of Homeland Security to submit the threat analysis in unclassified form to the extent possible. The Secretary would be authorized to submit a portion of the threat analysis in classified form if appropriate.

## COMMITTEE ACTION:

The bill was introduced on January 21, 2015 and was referred to the House Committee on Homeland Security. The bill was then ordered to be reported, as amended, by voice vote on June 25, 2015.

## ADMINISTRATION POSITION:

No Statement of Administration Policy is available at this time.

## CONSTITUTIONAL AUTHORITY:

Congress has the power to enact this legislation pursuant to the following: Article I, section 8, clause 1; and Article 1, section 8, clause 18 of the Constitution of the United States.

# H.R. 1317 — To amend the Commodity Exchange Act and the Securities Exchange Act of 1934 to specify how clearing requirements apply to certain affiliate transactions, and for other purposes (Rep. Moore, D-WI)

CONTACT: [Jennifer Weinhart](#), 202-226-0706

## FLOOR SCHEDULE:

Scheduled for consideration on October 27, 2015 under a suspension of the rules, which requires 2/3 vote for passage.

## TOPLINE SUMMARY:

[H.R. 1317](#) would exempt certain end-user swap and securities-based swap transactions from clearing requirements under the [Commodity Exchange Act](#) and the [Securities Exchange Act of 1934](#) when those transactions are between parties preparing consolidated financial statements and a parent company or with an affiliate.

## COST:

The Congressional Budget Office (CBO) [estimates](#) that implementing H.R. 1317 would have a net discretionary cost of roughly \$1 million.

## CONSERVATIVE CONCERNS:

There are no substantive concerns.

- **Expand the Size and Scope of the Federal Government?** No.
- **Encroach into State or Local Authority?** No.
- **Delegate Any Legislative Authority to the Executive Branch?** No.
- **Contain Earmarks/Limited Tax Benefits/Limited Tariff Benefits?** No.

## DETAILED SUMMARY AND ANALYSIS:

Though during consideration of the Dodd-Frank Act, Congress attempted to exempt end-users from costly clearing requirements such as rules for posting margin and reporting contracts for pricing, the result was incomplete. Commercial end-users are non-financial firms that use financial derivatives, such as forward contracts and swaps, to mitigate risk in their underlying lines of business. Some end-users are affiliates of parent companies, who offset the risk among their affiliates using centralized treasury units (CTUs). These CTUs reduce risk for corporate groups by reducing the number of external facing transactions and by centralizing risk management in one affiliate. These CTUs are exempt from clearing mandates under Dodd-Frank when managing swaps between their underlying affiliates, but there is currently no exemption provided to CTUs acting as a “principal” for end-user affiliates. CTUs act as principals when they enter into a derivative contract in the open market in order to manage risk at the non-financial affiliate rather than the affiliate entering into the market directly and then transferring management of the instrument to the CTU. Most end-user CTUs act as a principal, and therefore do not qualify for this exemption, though the financial risk involved is equivalent

H.R. 1317 would remedy this by narrowly expanding the end-user clearing requirement exemption to cover CTU principal transactions for non-financial affiliates. This legislation would not extend exemption from clearing requirements for trades entered into by CTUs for the purposes of hedging the risk of financial affiliates. Similar restrictions regarding financial affiliates would apply for affiliate transaction exemptions. An appropriate credit measure or mechanism must be used if the hedge is addressed by entering into a swap with either a swap dealer or major participant or a security-based swap with a security-based dealer or major security-based participant.

**COMMITTEE ACTION:**

H.R. 1317 was introduced on March 4, 2015 and was referred to the House Committees on Financial Services and on Agriculture. It was reported by Financial Services on July 29, 2015 and by Agriculture on September 30, 2015.

**ADMINISTRATION POSITION:**

A Statement of Administration Policy is not available

**CONSTITUTIONAL AUTHORITY:**

Congress has the power to enact this legislation pursuant to the following: Article 1, Section 8. A specific clause citing an enumerated power of Congress was not provided.

# H.R. 3032 — Securities and Exchange Commission Reporting Modernization Act of 2015 (Rep. Sinema, D-AZ)

CONTACT: [Jennifer Weinhart](#), 202-226-0706

## FLOOR SCHEDULE:

Scheduled for consideration on October 27, 2015 under a suspension of the rules, which requires 2/3 vote for passage.

## TOPLINE SUMMARY:

[H.R. 3032](#) would amend the Securities Exchange Act of 1934 to repeal the requirement that the Securities and Exchange Commission include a tabulation of the instances in which the agency used its authority to access the a customer's financial records at a given financial institution without the customer's knowledge pursuant to a subpoena.

## COST:

The Congressional Budget Office (CBO) [estimates](#) that implementing H.R. 3032 would have a negligible effect on discretionary spending.

## CONSERVATIVE CONCERNS:

There are no substantive concerns.

- **Expand the Size and Scope of the Federal Government?** No.
- **Encroach into State or Local Authority?** No.
- **Delegate Any Legislative Authority to the Executive Branch?** No.
- **Contain Earmarks/Limited Tax Benefits/Limited Tariff Benefits?** No.

## DETAILED SUMMARY AND ANALYSIS:

Under the Securities Exchange Act of 1934, the SEC can obtain access to a customer's financial information without their notice through an ex parte showing to a U.S. District Court that the information is sought pursuant to a subpoena ([15 U.S.C. 78u\(h\)\(2\)](#)). H.R. 3032 would repeal the requirement that the SEC include a tabulation of each instance in which it uses this authority in its annual report to Congress.

## COMMITTEE ACTION:

H.R. 3032 was introduced on July 10, 2015 and was referred to the House Committee on Financial Services. It was reported by the yeas and nays, 58-0, on July 29, 2015.

## ADMINISTRATION POSITION:

A Statement of Administration Policy is not available

## CONSTITUTIONAL AUTHORITY:

Congress has the power to enact this legislation pursuant to the following: Article 1, Section 8, clause 1 and Article 1, Section 8, clause 18.

# S. 2036 — Equity in Government Compensation Act of 2015 (Sen. Vitter, R-LA)

CONTACT: [Jennifer Weinhart](#), 202-226-0706

## FLOOR SCHEDULE:

Scheduled for consideration on October 27, 2015 under a suspension of the rules, which requires 2/3 vote for passage.

## TOPLINE SUMMARY:

[S. 2036](#) would suspend the 2015 compensation packages for the CEOs of Fannie Mae and Freddie Mac (government sponsored enterprises), if the entities remain in conservatorship or receivership under the [Federal Housing Enterprises Financial Safety and Soundness Act of 1992](#), and caps compensation for those CEOs at the level that was in effect on January 1, 2015.

## COST:

A Congressional Budget Office (CBO) estimate is not currently available. A CBO score for an identical House bill, [H.R. 2243](#), sponsored by Rep. Royce (R-CA), can be found [here](#).

## CONSERVATIVE CONCERNS:

There are no substantive concerns.

- **Expand the Size and Scope of the Federal Government?** No.
- **Encroach into State or Local Authority?** No.
- **Delegate Any Legislative Authority to the Executive Branch?** No.
- **Contain Earmarks/Limited Tax Benefits/Limited Tariff Benefits?** No.

## DETAILED SUMMARY AND ANALYSIS:

[Reports](#) have surfaced that the Federal Housing Finance Agency stipulated that Freddie Mac could not “propose compensation for the CEO that is higher than the 25<sup>th</sup> percentile of the market, using the agreed-upon comparator group for the FHFA evaluation of Freddie Mac’s executive officers,” which would put compensation packages at over \$7 million annually.

S. 2036 legislation would cap the compensation packages for the CEOs of Fannie Mae and Freddie Mac at the levels observed on January 1, 2015 (\$600,000) so long as the firms remain under conservatorships or receiverships under the Federal Housing Enterprises Financial Safety and Soundness Act of 1992.

This suspension would not affect the prohibition of the [STOCK Act](#), preventing bonuses to CEOs of any government sponsored enterprises during periods of conservatorship. It will only apply to such a CEO if the government sponsored entity is in conservatorship or receivership as a critically undercapitalized regulated entity pursuant to the Federal Housing Enterprises Financial Safety and Soundness Act of 1992.

This bill would stipulate that any CEO affected by this compensation suspension shall not be considered a federal employee.

## COMMITTEE ACTION:

S. 2036 was introduced on September 15, 2015, and was agreed to in the Senate by unanimous consent.

**ADMINISTRATION POSITION:**

A Statement of Administration Policy is not available

**CONSTITUTIONAL AUTHORITY:**

Constitutional Authority statements are not required for Senate legislation.

# H.R. 2643 — State Licensing Efficiency Act (Rep. Williams, R-TX)

CONTACT: [Jennifer Weinhart](#), 202-226-0706

## FLOOR SCHEDULE:

Scheduled for consideration on October 27, 2015 under a suspension of the rules, which requires 2/3 majority for passage.

## TOPLINE SUMMARY:

[H.R. 2643](#) would amend the [S.A.F.E. Mortgage Licensing Act of 2008](#) to ensure state regulators, that are responsible for regulating financial service providers other than Mortgage Loan Originators, can use the Nationwide Multistate Licensing System and Registry in order to process criminal background checks through the Federal Bureau of Investigation.

## COST:

The Congressional Budget Office (CBO) [estimates](#) that enacting H.R. 2643 would not have a significant effect on discretionary spending. Because the bill could affect direct spending, pay-as-you-go procedures would apply; however, CBO estimates that any such effects would be negligible.

## CONSERVATIVE CONCERNS:

There are no substantive concerns.

- **Expand the Size and Scope of the Federal Government?** No.
- **Encroach into State or Local Authority?** No.
- **Delegate Any Legislative Authority to the Executive Branch?** No.
- **Contain Earmarks/Limited Tax Benefits/Limited Tariff Benefits?** No.

## DETAILED SUMMARY AND ANALYSIS:

This legislation would expand the ability of states to use the [National Multistate Licensing System](#) (NMLS) to expedite background checks in the mortgage industry. The NMLS is a national repository of information concerning mortgage companies that was designed to prevent individuals who committed mortgage fraud in one state to be licensed in another. Though the NMLS has been used to oversee the mortgage industry since 2008, the FBI will not allow state regulators to access the database without a specific statute authorizing use of the system.

## COMMITTEE ACTION:

H.R. 2643 was introduced on June 3, 2015 and was referred to the House Committee on Financial Services. It was reported by the yeas and nays, 57-0 on July 29, 2015

## ADMINISTRATION POSITION:

No Statement of Administration Policy is available.

## CONSTITUTIONAL AUTHORITY:

According to the Sponsor, Congress has the power to enact this legislation pursuant to the following: Article I, Section 8, Clause 3 (“To regulate Commerce with foreign Nations, and among the several States, and with the Indian Tribes”).

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**NOTE:** *RSC Legislative Bulletins are for informational purposes only and should not be taken as statements of support or opposition from the Republican Study Committee.*

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