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# H.R. 2726 — Apollo 11 50<sup>th</sup> Anniversary Coin Act (Rep. Posey, R-FL)

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

## FLOOR SCHEDULE:

Expected to be considered on December 5, 2016 under a suspension of the rules, which requires 2/3 majority for passage.

### TOPLINE SUMMARY:

[H.R. 2726](#) would direct the Department of Treasury to mint and issue gold, silver, proof silver, and half-dollar clad coins in commemoration of the 50<sup>th</sup> anniversary of [Apollo 11](#), the first manned moon landing.

### COST:

The Congressional Budget Office (CBO) estimate is not yet available.

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:

Some conservatives may believe that the minting power should not be used to raise funds for specific private causes or organizations.

- **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 direct the Treasury Department to mint and issue gold, silver, proof silver, and half-dollar clad coins in commemoration of the 50<sup>th</sup> anniversary of Apollo 11. Coins could be issued for a one-year period beginning on January 1, 2019. Sales of coins would include a surcharge of \$35 for gold coins, \$10 for silver coins, \$5 for half-dollar clad coins, and \$50 for proof silver coins. Surcharges collected from the sale will be paid with one-half going to the Smithsonian Institution's National Air and Space Museum's "Destination Moon" exhibit, one-quarter to the Astronaut's Memorial Foundation, and one quarter to the Astronaut Scholarship Foundation to provide scholarships to students interested in pursuing STEM degrees.

Apollo 11 launched from Cape Kennedy in July of 1969 with astronauts [Neil Armstrong](#), [Michael Collins](#), and [Edwin "Buzz" Aldrin](#) on board, and would go on to make the first manned lunar landing in history. Though the Apollo 11 mission had additional objectives, including scientific exploration, deployment of a television camera, and deployment of a solar wind composition experiment, the mission will always be remembered for first putting man on the moon.

Neil Armstrong first stepped onto the moon's surface, followed shortly thereafter by Aldrin, spending over two hours on the moon's surface, collecting almost 50 lbs. of material to bring back to earth. Apollo 11 was the fifth manned mission of the Apollo program, and the mission was broadcast live on television throughout the world. The Apollo 11 mission, with its "one small step for [a] man, one giant leap for mankind," through

its successful manned landing, effectively served as an end to the [space race](#), achieving the national goal announced by then-President Kennedy in 1961 to land a man on the moon and bring him safely back to earth.

**COMMITTEE ACTION:**

H.R. 2726 was introduced on June 10, 2015 and was referred to the House Financial Services and House Budget Committees.

**CONSTITUTIONAL AUTHORITY:**

Congress has the power to enact this legislation pursuant to the following: Article I, Section 8 of the United States Constitution. A specific enumerating clause was not provided.

# H.R. 6427 — Creating Financial Prosperity for Businesses and Investors Act (Rep. Garrett, R-NJ)

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

## FLOOR SCHEDULE:

Expected to be considered on December 5, 2016 under a suspension of the rules, which requires 2/3 majority for passage.

### TOPLINE SUMMARY:

H.R. 6427 contains the text of six previously passed suspensions: [H.R. 3784](#), [H.R. 4854](#), [H.R. 4855](#), [H.R. 4168](#), [H.R. 2187](#), and [H.R. 5322](#).

[H.R. 3784](#) would establish an Office of the Advocate for Small Business Capital Formation within the Securities and Exchange Commission to assist small businesses and investors, provide guidance on proposed and final regulations and orders and would update small business policies. H.R. 3784 would also establish the Small Business Capital Formation Advisory Committee that will be led by the Advocate for Small Business Capital Formation to provide stakeholders and investors with the tools needed to communicate small business issues with the SEC staff and Chair;

[H.R. 4854](#) would amend the Investment Company Act of 1940 to provide an increase to the investor limitation from 100 to 250 persons for qualifying venture capital funds. Currently, the Act limits the number of investors for qualifying venture capital funds to 100 persons, in order to be exempt from SEC registration;

[H.R. 4855](#) would amend Title III of the JOBS Act to provide for a greater realization of crowdfunding, by allowing “single purpose funds” to participate in the sale and offer of crowdfunding securities. It would also provide relief from registration requirements mandated under Section 12(g) of the Securities Exchange Act of 1934;

[H.R. 4168](#) would require the Securities and Exchange Commission to respond to any findings and recommendations put forth by the Government-Business Forum on Small Business Capital Formation;

[H.R. 2187](#) would expand the definition of an accredited investor to include individuals licensed as brokers or investment advisors, or those with professional knowledge pertaining to a particular investment as verified by certain regulatory authorities; and

[H.R. 5322](#) would amend the Investment Company Act of 1940 to end an exemption for investment companies located in the U.S. territories.

### COST:

A Congressional Budget Office (CBO) estimate is not yet available.

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.

Cost estimates for the previously passed legislation are as follows:

The Congressional Budget Office (CBO) [estimates](#) that implementing H.R. 3784 would cost roughly \$2 million per year for personnel and administrative costs, and roughly \$7 million over the FY2016-2020 period;

CBO [estimates](#) that “implementing H.R. 4854 would have no significant effect on the agency’s costs or operations;”

CBO [estimates](#) that “implementing H.R. 4855 would have no significant effect on the agency’s costs or operations;”

CBO [estimates](#) H.R. 4168 would cost less than \$500 thousand over the FY2016-2020 period;

CBO [estimates](#) that implementing H.R. 2187 would cost less than \$500 thousand over the FY 2016-2020 period; and

CBO [estimates](#) that implementing H.R. 5322 would result in no significant cost for extending current regulations to include these companies

### **CONSERVATIVE CONCERNS:**

There are no substantive concerns.

- **Expand the Size and Scope of the Federal Government?** Yes: The text of H.R. 3784 would establish an office Advocate for Small Business Capital Formation and relevant staff within the SEC.
- **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:**

Title I – Small Business Capital Enhancement Formation Act (text also found in H.R. 4168)

The Small Business Investment Incentive Act of 1980 requires the SEC to conduct an annual government business review forum to review issues pertaining to small business capital formation, known as the Government-Business Forum on Small Business Capital Formation. These findings and recommendations are meant to be submitted to the SEC, relevant Congressional Committees, and other appropriate bodies. Recommendations made by the forum have been used by Congress to create and pass valuable legislation, including the bipartisan JOBS Act.

The SEC, however, is not required statutorily to respond to the recommendations and findings of the Forum. This Title would require the SEC to respond to any findings and recommendations put forth by the Forum and promptly issue a statement assessing any findings and recommendations, and any action the Commission intends to take.

Title II– SEC Small Business Advocate (text also found in H.R.3784)

Section 1 would establish the Office of the Advocate for Small Business Capital Formation. The head of the Office would be appointed by the SEC, and would be chosen amongst a pool of individuals possessing experience in advocating for small business and encouraging small business capital formation. The Advocate would report to the SEC directly, and could not be an individual currently employed by the SEC. The Advocate would be able to retain independent counsel and staff, as they deem necessary.

This section would also detail the functions of the Advocate for Small Business capital Formation. The

Advocate would be required to: (1) assist small businesses and investors in solving problems with the SEC or other self-regulatory organizations; (2) identify areas of regulation to be updated or amended to encourage small business capital formation; (3) identify issues with small businesses securing capital; (4) analyze the possible impact of proposed SEC regulations or other self-regulatory organizations on small businesses and investors; (5) conduct small business outreach via regional roundtables, with views to be shared with the SEC; (6) propose potential regulatory changes to Congress and the SEC that would benefit small business interests and their investors; (7) consult with the Investor Advocate to be sure recommendations do not conflict with investor protections; and (8) advise the Investor Advocate on matters pertaining to small businesses and small business investors.

This section would also require the SEC to provide full access to documents and information from the SEC that would be necessary to carry out the office's functions.

This section would require the Advocate to submit annual reports to Congress on the activities of the Advocate during the previous fiscal year. The report would include statistical information and analysis, information on steps taken to improve small business services and response to small business concerns of relevant organizations, a summary of serious issues faced by small businesses, and any recommendations for regulatory changes to the SEC, and any legislative actions necessary. The report would be submitted to Congress without consultation with the SEC. The SEC would be required to create procedures to respond to recommendations submitted by the Advocate within 3 months following each submission.

This section would also be responsible for planning and implementing the annual Government Forum on Small Business Capital Formation.

Section 40 would establish the Small Business Capital Formation Advisory Committee within the SEC. The purpose of the committee would be to provide advice to the SEC on rules, regulations and policies as they pertain to the mission of protecting investors, maintaining efficient markets and encouraging capital formation.

These rules would pertain to: (1) capital raised by emerging companies and publicly traded companies with less than \$250 million in public market capitalization through securities offerings; (2) trading in the securities of smaller companies and emerging companies; and (3) public reporting and corporate governance requirements of smaller public companies and emerging growth companies.

The Committee would not be permitted to provide advice with regards to anything pertaining to the SEC's enforcement program.

The Committee would be comprised of the Advocate for Small Business Capital Formation, between 10-20 members appointed by the SEC, and 3 non-voting members. These members would represent emerging companies in private and limited securities offerings, and those considering initial public offerings and the advisors and investors of those companies. The members would also represent smaller public companies, including their advisors and pre and post-IPO investors, and participants in the marketplace for the securities of emerging and smaller public companies. The non-voting members would include one member appointed by the Investor Advocate, one appointed by the North American Securities Administrators Association, and one member appointed by the Administrator of the Small Business Administration.

Each member of the Committee would serve a term of 4 years, and would not be considered as SEC employees. The Committee would be responsible for electing a chairman, vice chairman, secretary and assistant secretary, who would serve terms of 3 years, from its members. The Committee would be required to meet at least 4 times per year, at the call of the chairman, and at times, at the call of the SEC. Each member of the committee that is not a full-time government employee, would receive compensation for each day the member is performing duties of the Committee, with travel and expenses covered.

The SEC would be required to review and assess the Committee's findings and recommendations, and issue public statements assessing these findings, in addition to disclosure of any action the SEC plans to take on the recommendations.

This section would stipulate that the Federal Advisory Committee Act does not apply to the committee or its activities.

Title III – Supporting America's Innovators (text also found in H.R. 4854).

This Title would amend the Investment Company Act of 1940 to provide an increase to the investor limitation from 100 to 250 persons for qualifying venture capital funds. In order to qualify for the increase in the investor limitation, the venture capital fund would not be permitted to purchase more than \$10 million in securities of any one issuer, annually adjusted for inflation.

Title IV – Fix Crowdfunding (text also found in H.R. 4855)

Following the passage of the JOBS Act in 2012, the SEC began crafting regulations covering crowdfunding. While the agency finalized its rules in October 2015, the rules proved to be costly and overly burdensome for startups. This legislation would address several of the issues the rules created.

This Title would raise the limits on the amount of money companies are permitted to raise, and would permit companies to test investor interest before a sale through a "testing the waters" provision, without first having to undertake the costly filing and preparation requirements. It would also modify the vetting process for businesses that want to sell shares.

Under current law, businesses can raise up to \$1 million from unaccredited investors a year. This legislation would increase the limit to \$5 million. It would also change the investment cap by permitting investors that earn less than \$100,000 to invest up to 5% of their income in crowdfunded startups. Those that earn more than \$100,000 could invest up to 10% of their income. This Title would also require funding portals, or crowdfunding intermediaries, to perform background checks on officers and directors, and would make clear liability for fraud committed by issuers. These portals would have a 5-year grace period for compliance.

This Title would further permit the usage of Special Purpose Vehicles, or entities whose operations consist of acquiring and financing specific assets, to pool together funds from multiple investors, to provide portfolio diversity. Special Purpose Vehicles are typically subsidiary companies with an asset structure that makes the company secure, even if its parent company enters bankruptcy.

Title V – Fair Investment Opportunities for Professional Experts (text also found in H.R. 2187)

Under current law, there are a number of exemptions from the requirement that securities be registered with the Securities and Exchange Commission before being sold to the public. Securities offered only to accredited investors – individuals with adequate financial knowledge and the ability to sustain the risk of loss – do not require registration. Currently, these investors can participate in investment opportunities that non-accredited investors cannot.

This Title would codify the current income threshold definition of an accredited investor, and index it for inflation. It would also create two new categories of individuals eligible to operate as accredited investors, eligible through professional experience.

Under the expanded definition, a person would be considered "accredited" if they: (1) have a net worth of \$1 million, indexed for inflation; (2) have a yearly income of \$200 thousand individually, or \$300 thousand jointly, indexed for inflation; (3) hold a current recognized securities-related license, either state or federal; or (4) have provable professional experience in the offered security, as administered by Financial Industry

Regulatory Authority (FINRA).

This Title would require that not later than 180 days following enactment, the SEC establish criteria for use by FINRA to administer an exam to license as accredited investors those that do not meet the requirements. The criteria to assure that licensed investors have required competency can include an understanding of: (1) different types of securities; (2) the disclosure obligations under the securities laws of issuers versus private companies; (3) the structures of corporate governance; (4) the components of a financial statement; (5) other criteria established by the Commission in the public interest and for the protection of investors.

Title VI – U.S. Territories Investor Protection (text also found in H.R. 5322)

Presently, investment companies located in U.S. territories are exempt from the Investment Company Act's mutual fund regulations if they sell their shares only to residents of the territories in which they are located. This allows some companies to underwrite bonds, while repackaging the bonds into mutual funds to be sold only to investors in the territories. This Title ends that exemption.

This Title would also allow for a three-year safe harbor for companies currently enjoying the exemption. It would also allow the Securities and Exchange Commission to delay the effective date for at most three years following the termination of the safe harbor

**COMMITTEE ACTION:**

H.R. 6427 was introduced on December 2, 2016 and was referred to the House Committee on Financial Services.

**ADMINISTRATION POSITION:**

A Statement of Administration Policy is not yet available.

**CONSTITUTIONAL AUTHORITY:**

Congress has the power to enact this legislation pursuant to the following: Article I, Section 8, Clauses 1 ("The Congress shall have Power To lay and collect Taxes, Duties, Imposts and Excises, to pay the Debts and provide for the common Defense and general Welfare of the United States; but all Duties, Imposts and Excises shall be uniform throughout the United States"), 3 ("To regulate Commerce with foreign Nations, and among the several States, and with the Indian Tribes"), and 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, or in any Department or Officer thereof").



# S. 795 — Whistleblower Protection for Contractor Act (Sen. McCaskill, D-MO)

CONTACT: [Noelani Bonifacio](#), 202-226-0707

## FLOOR SCHEDULE:

Scheduled for consideration on December 5, under suspension of the rules, which requires 2/3 vote for passage.

### TOPLINE SUMMARY:

[S. 795](#) would permanently extend whistleblower protection for contractor and grantee employees.

### COST:

According to the Congressional Budget Office's (CBO) initial [cost estimate](#), the enactment of this bill would cost about \$5 million from 2017-2021, but would be subject to appropriation of funds. This is dependent upon the number of claims received, with each claim costing around \$3,000 to investigate. Pay-as-you-go procedures would apply, as direct spending could be affected by agencies that are not annually funded through appropriations. CBO estimates, however, this net increase in spending to be negligible. This bill would not affect revenues.

S. 795 would not increase on-budget deficits or net direct spending in any of the consecutive four 10-year periods beginning 2027, has no private-sector or intergovernmental mandates and would not affect state or local governments.

### CONSERVATIVE 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:

S. 795 would expand whistleblower protection to personal services contractors in defense grants under [10 USC 2409](#), and to subgrantees and personal services contractors in civilian grants under [41 USC 4712](#). This bill would also permanently extend the "Pilot program for enhancement" created by the FY2013 NDAA that extended whistleblower protections to employees of contractors, subcontractors and grantees. This program would otherwise expire in 2017 ([41 USC 4712](#)).

This bill would also prohibit legal fees from being reimbursed in defense against reprisal claims by extending the prohibition that currently applies to contractors to subcontractors and personal subcontractors under [10 USC 2324](#), which pertains to defense contracts, and under [41 USC 4310](#), which pertains to civilian contracts.

Finally, the head of each contracting agency would be required to make the best effort to include a clause pertaining to these amendments in any major modifications to contracts awarded before this law takes effect.

## COMMITTEE ACTION:

S. 795 was introduced in the Senate by Senator Claire McCaskill and passed by Unanimous Consent on June 23, 2016. The bill was received by the House on June 28, 2016 and referred to the House Committee on Oversight and Government Reform and the Committee on Armed Services.

**ADMINISTRATION POSITION:**

A Statement of Administration Policy is not available.

**CONSTITUTIONAL AUTHORITY:**

Bills that originate in the Senate do not require a constitutional authority statement.

# H.R. 5015 — Combat-Injured Veterans Tax Fairness Act of 2016 (Rep. Rouzer, R-NC)

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

## FLOOR SCHEDULE:

December 5, 2016 under a suspension of the rules, which requires a 2/3 majority for passage.

### TOPLINE SUMMARY:

[H.R. 5015](#) would require the Department of Defense to inform service members who had taxes improperly withheld from severance pay for combat-related injuries and would allow such service members to file amended tax returns to reclaim the improperly withheld funds.

### COST:

A Congressional Budget Office (CBO) estimate is not available for the bill.

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.

According to the Majority Leader's office, the Joint Committee on Taxation has estimated that the bill would reduce revenues by less than \$500,000 over the FY 2017 – 2026 period.

### CONSERVATIVE 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 [current law](#), severance pay received by military veterans for combat-related injuries is excluded from federal income taxes. However, the Department of Defense has [improperly withheld taxes](#) from these payments since 1991. This has required veterans to request a refund or file an amended tax return in order to recoup the money they are owed. This is an unnecessary burden and some veterans are now beyond the statute of limitations, normally three years, that would allow them to file an amended tax return.

H.R. 5015 would address this problem by requiring the Department of Defense to identify all severance payments made for which taxes were improperly withheld and provide notice to all individuals affected including the amount improperly withheld and instructions for how to recover these amounts by filing an amended tax return. The bill would provide these veterans an extended deadline for filing an amended tax return for up to one year after the Department of Defense provides this notice. The bill would further require the Department of Defense to not withhold taxes from severance payments for combat-related injuries and to report to Congress on the actions undertaken pursuant to the bill.

### COMMITTEE ACTION:

H.R. 5015 was introduced on April 20, 2016, and referred to the Committee on Armed Services, and the Committee on Ways and Means. Neither Committee took further action on the bill.

### 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  
The Congress shall have the Power to lay and collect Taxes, Duties, Imposts and Excises, to pay the Debt and provide for the common Defense and general Welfare of the United States; but all Duties, Imposts and Excises shall be uniform throughout the United States.”

# S. 3395 — Prescribed Burn Approval Act of 2016 (Sen. Thune, R-SD)

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

## FLOOR SCHEDULE:

Scheduled for consideration on December 5, 2016 under suspension of the rules, which requires 2/3 vote for passage.

### TOPLINE SUMMARY:

[S. 3395](#) would prohibit the Chief of the U.S. Forest Service from authorizing a prescribed burn on Forest Service land if the national fire danger rating system indicates an extreme fire danger level for the county or contiguous county in which the land is located..

### COST:

No Congressional Budget Office (CBO) estimate is available.

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:

- **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:

S. 3395 would prohibit the Secretary of Agriculture, acting through the Chief of the U.S. Forest Service, from authorizing a prescribed burn on Forest Service land if, for the county or contiguous county in which the land is located, the national fire danger rating system indicates an extreme fire danger level. The Chief of the U.S. Forest Service would be authorized to allow a prescribed burn despite such danger level if the Chief coordinates with the applicable state government and local fire officials. S. 3395 would require a report to Congress on the number and locations of prescribed burns during that fiscal year; and each prescribed burn during that fiscal year that was authorized by the Secretary of Agriculture. A prescribed burn is defined as a planned fire intentionally ignited. These burns are used to manage forest land by reducing overcrowding and clearing underbrush, but have sometimes grown beyond control of the agencies managing them and resulted in significant wildfires and property damage.

## COMMITTEE ACTION:

S. 3395 was introduced on September 27, 2016 and was referred to the Senate Committee on Agriculture, Nutrition, and Forestry. On November 17, 2016, the bill passed the Senate without an amendment by unanimous consent.

## ADMINISTRATION POSITION:

A Statement of Administration Policy is not available.

## CONSTITUTIONAL AUTHORITY:

Bills that originate in the Senate do not require a constitutional authority statement.

# House Amendment to S. 1635 — Department of State Authorities Act, Fiscal Year 2017, as amended (Sen. Corker, R-TN)

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

## FLOOR SCHEDULE:

Scheduled for consideration on December 5, 2016 under suspension of the rules, which requires 2/3 vote for passage.

### TOPLINE SUMMARY:

The [House Amendment to S. 1635](#) would amend certain Department of State authorities to include embassy security and personnel protection, security training, the office of inspector general, Department of State policy towards international organizations, foreign service personnel issues, the Broadcasting Board of Governors, and ransom policy to foreign terrorist organizations.

### COST:

The Congressional Budget Office (CBO) [estimates](#) that implementing the act would cost \$37 million over the 2017-2021 period, assuming appropriation of the estimated amounts. Pay-as-you-go procedures apply because enacting S. 1635 would affect direct spending and revenues; however, CBO estimates that those effects would be insignificant. CBO estimates that enacting S. 1635 would not increase net direct spending or on-budget deficits in any of the four consecutive 10-year periods beginning in 2027.

### CONSERVATIVE 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:

### Diplomatic Facility Security Issues

The House Amendment to S. 1635 would require the Department of State to submit a classified report to Congress on that contains a list of diplomatic and consular posts designated as high risk, high threat posts. Before opening or reopening a diplomatic or consular post, the Secretary of State would be required to determine if such post should be designated as a high risk, high threat post, and regularly review existing diplomatic and consular posts to determine if any such post should be designated as high risk. The Secretary of State would additionally be required to notify Congress if the Secretary determines that the national security interests of the United States require the opening or reopening of a high risk, high threat post in fewer than 30 days.

The House Amendment to S. 1635 would amend [subsection \(a\) of section 606 of the Secure Embassy Construction and Counterterrorism Act of 1999](#) by requiring the Emergency Action Plan (EAP) of each United States mission to address the threat of large explosive attacks from vehicles, complex attacks, and the safety of employees during such an explosive attack. The Secretary of State would be required to enter into a memorandum of understanding with the Secretary of Defense setting out rapid response procedures for mobilization of personnel and equipment of their respective departments to provide more effective assistance in times of emergency with respect to United States diplomatic facilities, including options for the deployment of additional military personnel or equipment to bolster security and rapid deployment of armed or surveillance assets in response to an attack.

Title I of the bill would further require the Secretary of State to award proposals for local guard contracts on the basis of best value, rather than on a lowest-bid basis. The Secretary of State would be authorized to transfer to any appropriation for embassy security, construction, and maintenance amounts appropriated for fiscal year 2018 for any other purpose related to the administration of foreign affairs on or after January 1, 2017, if the Secretary determines such transfer is necessary to provide for the security of sites and buildings in foreign countries under Department of State jurisdiction and control. Any transferred funds would not exceed 20 percent of any fiscal year 2018 appropriation for the Department of State, and no such appropriation would be increased by more than 10 percent by any such transfer.

The Secretary of State would be authorized to station key personnel for sustained periods of time at high risk, high threat posts in order to: (1) establish institutional knowledge and situational awareness that would allow for a fuller familiarization of the local political and security environment in which such posts are located; and (2) ensure that necessary security procedures are implemented. The bill would require individuals assigned permanently to or who are in long-term temporary duty status as designated by the Secretary of State at a high risk, high threat post to receive specified mandatory security training. The legislation would require the Secretary of State, in consultation with the Secretary of Defense, to conduct an annual review of the Marine Corps Security Guard Program.

The Secretary of State would further be authorized to improve or construct facilities overseas for other federal departments and agencies on an advance-of-funds or reimbursable basis if such advances or reimbursements are credited to the Embassy Security, Construction, and Maintenance account and remain available until expended.

### **Inspector General Oversight**

Title II would require the head of a bureau, post, or other office of the Department of State to submit to the Inspector General a report of any allegation of waste, fraud, or abuse in a Department program or operation; criminal or serious misconduct on the part of a Department employee at the FS-1, GS-15, or GM-15 level or higher; or serious, noncriminal misconduct on the part of any Department employee who is authorized to carry a weapon, make arrests, or conduct searches.

Title II would further mandate that any employee of the Office of the Special Inspector General for Iraq Reconstruction who completed at least 12 months of continuous employment within the Office at any time prior to October 5, 2013, and was not terminated for cause could acquire competitive status for appointment to any position in the competitive service for which the employee possesses the required qualifications.

### **United Nations Issues**

Title III would require the Secretary of State to submit to Congress: (1) a United States strategy for combating sexual exploitation and abuse in United Nations peacekeeping operations; and (2) an implementation plan for achieving the objectives set forth in the strategy. The objectives of the strategy would be: to dramatically reduce the incidence of sexual exploitation and abuse committed by civilian and military personnel assigned to United Nations peacekeeping operations; and, the adoption of a United Nations policy that bars troop- or police-contributing countries that fail to fulfill their obligation to ensure good order and discipline among their troops from providing any further troops for peace operations or restricts peacekeeper reimbursements to such countries until appropriate training, institutional reform, and oversight mechanisms to prevent such problems from recurring have been put in place.

The bill would mandate that the United States deny further United States peacekeeper training or related assistance to any troop-or police-contributing country that does not implement and maintain effective measures to enhance the discovery of sexual exploitation and abuse offenses committed by peacekeeping personnel who are nationals of such country, or adequately respond to complaints about such offenses, except for training specifically designed to reduce the incidence of sexual exploitation or abuse, or to assist in its identification or prosecution,. The bill would state that the United States should develop support

mechanisms to assist troop- or police-contributing countries to improve their capacity to investigate allegations of sexual exploitation and abuse offenses. The bill would state that it is the policy of the United States that security assistance should not be provided to any unit of the security forces of a foreign country if such unit has engaged in a gross violation of human rights or in acts of sexual exploitation or abuse, including while serving in a United Nations peacekeeping operation.

Title III would require the president to direct the United States Permanent Representative to the United Nations to use the voice, vote, and influence of the United States at the United Nations to call for the removal of any official of the United Nations or of any United Nations agency, program, commission, or fund who the secretary has determined has failed to uphold the highest standards of ethics and integrity established by the United Nations, including such standards specified in United Nations Codes of Conduct and Codes of Ethics, or whose conduct, with respect to preventing sexual exploitation and abuse by United Nations peacekeepers, has resulted in the erosion of public confidence in the United Nations. Title III would require the Secretary of State to direct the United States Permanent Representative to the United Nations to use the voice, vote, and influence of the United States at the United Nations to urge each future candidate for the position of the United Nations Secretary General to circulate to the Member States of the General Assembly a description of his or her priorities and objectives for leading the organization and ensuring that it upholds the principles outlined by the United Nations Charter, including specific recommendations to improve strategic planning and enact far-reaching management, performance, and accountability reforms.

Title III would express the sense of Congress that the United States should use its voice, vote, and influence at the United Nations to work to ensure that: (1) the United Nations Human Rights Council takes steps to remove permanent items on the United Nations Human Rights Council's agenda or program of work that target or single out a specific country or a specific territory or territories; and, (2) the United Nations Human Rights Council does not include a Member State of the United Nations subject to sanctions by the United Nations Security Council, under a United Nations Security Council-mandated investigation for human rights abuses. Title III would further require a series of reports to Congress on United States contributions to the United Nations, and peacekeeping operations evaluated by the Government Accountability Office (GAO).

### **Personnel Issues**

Title IV would require the Secretary of State to establish and implement a prevailing wage rates goal for positions in the local compensation plan at each diplomatic post that is based on the specific recruiting and retention needs of such post and local labor market conditions. The wage rates paid by the secretary would be set at not less than the 50th percentile of the prevailing wage for comparable employment in the labor market surrounding each such post. This is a reduction from the current-law requirement that wages be not less than the 60<sup>th</sup> percentile of local wages.

The bill would require that the promotion of any individual joining the Foreign Service on or after January 1, 2017, to the Senior Foreign Service would be contingent upon such individual completing at least one tour in a global affairs bureau, or a global affairs position. Currently, individuals must only serve in a regional bureau, which covers given geographic area of the world, prior to promotion. Global affairs bureaus focus on issue specific areas, such as human rights or economic affairs.

The secretary would be directed to establish a three-year pilot program for lateral entry into the Foreign Service that targets mid-career individuals from the civil service and private sector who have skills and experience extremely valuable to the Foreign Service. The secretary would be urged to provide attention and oversight to the employment, retention, and promotion of traditionally under-represented minority groups to promote a diverse representation among mid- and senior-level career professionals through certain programs and seminars. The secretary would additionally be required to establish a right and process for employees to appeal any assignment restriction or preclusion.

In order to promote the efficiency of the Foreign Service, the secretary would be authorized to suspend a member of the service when the member's security clearance is suspended; or there is reasonable cause to



believe that the member has committed a crime for which a sentence of imprisonment may be imposed. The bill would express the sense of Congress that within each regional bureau of the department, the secretary should task an existing deputy assistant secretary with the responsibility for overseeing the integration of policy priorities related to the importance of the participation of women in preventing and resolving conflicts; and the Director of the George P. Shultz National Foreign Affairs Training Center should incorporate at least one training session related to the importance of the participation of women in preventing and resolving conflicts.

### **Miscellaneous Items**

Title IV would require the [Special Envoy to Monitor and Combat Anti-Semitism](#) of the Department of State's Office to Monitor and Combat Anti-Semitism to provide a briefing to Congress on United States support to, and opportunities to coordinate with, American and European Jewish and other civil society organizations, focusing on youth, to combat anti-Semitism and other forms of religious, ethnic, or racial intolerance in Europe.

Title V would authorize the Secretary of State, with the concurrence of the Attorney General, on the basis of reciprocity, to specify privileges and immunities for a consular post, the members of a consular post, and their families which result in more favorable or less favorable treatment than is provided in the [Vienna Convention on Consular Relations](#), of April 24, 1963.

The bill would express the sense of Congress that all components of United States passports, including all passport security features, should be printed, manufactured, and assembled exclusively within the United States by United States companies and personnel, contractors, and subcontractors with appropriate security clearances.

Title VI would establish the Western Hemisphere Drug Policy Commission to conduct a comprehensive review of United States foreign policy in the Western Hemisphere to reduce the illicit drug supply and drug abuse and reduce the damage associated with illicit drug markets and trafficking, and identify policy and program options to improve existing international counter-narcotics policy. Title VI would further set the structure and powers of the commission, as well as staff levels. The commission would be required to report its recommendations to Congress not later than 18 months after its first meeting, and would terminate 60 days after the report's submission.

Title VII would authorize the Secretary of State to establish exchange programs under which officers or employees of the Department of State, the Foreign Service may be assigned, for not more than one year, to a position with any foreign government or international entity that permits an employee to be assigned to a position with the Department of State. The salary and benefits of an employee of a foreign government or international entity participating in an exchange program would be paid by such government or entity during the period in which such employee is participating in such program, and would not be reimbursed by the Department of State. Nothing in the bill would be construed to authorize the appointment as an officer or employee of the United States of an individual whose allegiance is to any country, government, or foreign or international entity other than to the United States; or an individual who has not met strict and specified requirements of sections 3331, 3332, 3333, and 7311 of [title 5, United States Code](#), or any other provision of law concerning eligibility for appointment as, and continuation of employment as, an officer or employee of the United States.

Title VII would extend the authorization of the United States Advisory Commission on Public Diplomacy until October 1, 2020.

The bill would prohibit any changes to United States broadcasting services to Cuba, unless such section is explicitly repealed and such service is dissolved by an act of Congress.

Title VII would require reports to Congress on: the Department of State's [Rewards for Justice](#) program; Department critical telecommunications equipment from suppliers closely linked to a leading cyber-threat actor (evaluated by the GAO); an implementation plan for information technology and knowledge management; which foreign governments are believed to have facilitated, directly or indirectly, the payment of ransoms to foreign terrorist organizations; a strategy to combat terrorist use of social media; and on Department information technology acquisition practices.

Title VII would urge the Secretary of State to make every effort to recruit and retain individuals that have lived, worked, or studied in predominantly Muslim countries or communities, including individuals who have studied at an Islamic institution of higher learning.

Title VII would repeal several obsolete reporting requirements and clarify that no additional funds are authorized to be appropriated to carry out the legislation.

**COMMITTEE ACTION:**

S. 1635 was introduced on June 18, 2015 and was referred to the Senate Committee on Foreign Relations. On April 28, 2016, the bill passed the Senate with amendments by unanimous consent. On May 26, 2016, the bill was ordered to be reported by the House Committee on Foreign Affairs in the nature of a substitute (amended) by unanimous consent.

**ADMINISTRATION POSITION:**

A Statement of Administration Policy is not available.

**CONSTITUTIONAL AUTHORITY:**

Bills that originate in the Senate do not require a constitutional authority statement.

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