

## US Legislative Cybersecurity Update

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Monday, April 23, will begin Cyber Week, during which up to six different bills that focus on various aspects of cybersecurity may be considered on the House floor. The Rules Committee has not yet determined how the bills will be handled, but it is likely that the less controversial bills from the Committee on Science, Space and Technology will be considered under suspension and the remaining bills could possibly be combined to be voted on as a comprehensive cybersecurity package. On the other hand, Science Committee staff indicate that these bills might also be incorporated into a larger package. In order to prepare for Cyber Week, the House has scheduled a series of briefings and mark ups for this week.

### ***H.R. 3523 – Cyber Intelligence Sharing and Protection Act (CISPA):***

This House Intelligence Committee bill, sponsored by Reps. Rogers (R-MI) and Ruppertsberger (D-MD), was reported out of Committee on December 1, 2011. CISPA is the target of a “week of action” by public interest groups that were very strongly anti-SOPA/PIPA, such as the ACLU, Center for Democracy and Technology, and the Electronic Frontier Foundation. These groups are concerned about civil liberties and privacy issues raised by the bill. There have also been concerns over language in the bill that would have included intellectual property piracy in the definition of cyberthreat information. However the amendments in the discussion draft released earlier this week by the Intelligence Committee do not include that language. Furthermore, two high profile companies that were anti-SOPA – Facebook and Google – are not opposing this bill. In fact, Facebook released a statement in support of CISPA on Friday April 13. Rep. Ruppertsberger’s staff has acknowledged that web activism could impact this legislation, but currently they are cautiously optimistic that the bill will move forward. The House is expected to focus on this bill during Cyber Week.

### ***H.R. 4257 – Federal Information Security Amendments Act (FISMA):***

This House Oversight Committee bill, sponsored by Chairman Issa (R-CA), is scheduled for mark up this Wednesday, April 18. The goal of this legislation is to protect government IT systems through continuous monitoring of cybersecurity threats. After this week’s mark up, the House is expected to take up Chairman Issa’s bill during Cyber Week.

### ***H.R. 3674 – Promoting and Enhancing Cybersecurity and Information***

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## ***Sharing Effectiveness Act (PRECISE):***

This bill, sponsored by Reps. Lungren (R-Ca) and Langevin (D-RI), was reported out of the Cybersecurity, Infrastructure Protection and Security Technologies Subcommittee on February 1, and the full Homeland Security Committee is scheduled to mark up the bill on Wednesday, April 18. While this bill is a priority for the Homeland Security Committee, it is not favored by House leadership and not expected see floor action during Cyber Week.

## ***H.R. 2096 – Cybersecurity Enhancement Act:***

This bill, sponsored by Rep. McCaul (R-TX), was reported out of the Committee on Science, Space, and Technology on October 31, 2011. The Cybersecurity Enhancement Act focuses on federal cybersecurity strategic research and development, as well as the advancement of cybersecurity technical standards. During Cyber Week, Congress is expected to consider this bill, likely on the suspension calendar.

## ***H.R. 3834 – Advancing America’s Networking and Information Technology Research and Development Act:***

This bill, sponsored by Rep. Hall (R-TX), was reported out of the Committee on Science, Space and Technology on March 22. Similar to the Cybersecurity Enhancement Act, Rep. Hall’s bill places priority on federal research and development programs. Because of the similarities in committee jurisdiction and focus, this bill may be considered on the suspension calendar as well.

## **Other Cybersecurity Proposals:**

In addition to the bills described above, Rep. Mary Bono Mack (R-CA), Chair of the Manufacturing and Trade Subcommittee, introduced H.R. 4263, the SECURE IT Act, which is the companion to the Senate Republican cybersecurity bill introduced by Sen. McCain (R-AZ). Chairman Bono Mack’s House Subcommittee is not planning on marking up the bill in the near future. The bill was also referred to the Judiciary, Armed Services, and Intelligence Committees, but Bono Mack is waiting for some direction from leadership before moving forward. Because it appears that the House SECURE IT Act is not moving forward, the House Committee on Energy and Commerce will, somewhat surprisingly, not play a role during Cyber Week.

Furthermore, Rep. Goodlatte (R-VA) will not be introducing a cybersecurity bill in the Judiciary Committee because of the impact on a recent 9th Circuit decision involving the Computer Fraud and Abuse Act (CFAA). The court in *United States v. Nosal* ruled that CFAA did not apply to an employee who accessed a protected company computer with the intent to steal proprietary information. Because Rep. Goodlatte had planned to include changes to the CFAA, Chairman Smith (R-TX) and Rep. Goodlatte decided that they need to better understand the implications of the court’s decision before attempting any changes to the CFAA through legislation.

## **Upcoming House Cybersecurity Briefings:**

### ***April 17***

- The ACLU, CDT, and the Constitution Project held a briefing to examine the civil liberties

implications of House cybersecurity legislation in Rayburn 2237 at noon.

- The Congressional Cybersecurity Caucus will discuss cyberthreats with industry representatives as well as former DHS Secretary Michael Chertoff in Rayburn 2325 at 3pm.

### ***April 18***

- The House Committee on Homeland Security will mark up H.R. 3674, PRECISE Act, at 10am.
- The House Oversight Committee will mark up H.R. 4257, Federal Information Security Amendments Act during the full committee business meeting.

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