



**Legislative Bulletin.....February 25, 2014**

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**H.R. 1211 - FOIA Oversight and Implementation Act of 2014, as amended—  
(Issa, R-CA)**

**Order of Business:** H.R. 1211 is scheduled to be considered on February 25, 2014, under a motion to suspend the rules and pass the bill, which requires a two-thirds majority vote for passage.

**Summary:** This bill makes several changes to the Freedom of Information Act (FOIA) to enhance the transparency of the government and improve responsiveness to FOIA requests. These changes are described below:

- Ensure there is a single website created which allows the public to submit requests and receive automated information of the status of the request. This will increase electronic accessibility and will also require the agencies to put more information in a publically accessible format.
- Gives the Office of Government Information Services increased independence. This office’s job with regard to FOIA is to review policies and procedures, complacence by agencies and indentify methods that improve compliance. In addition they must submit a report to both Congress and the President with their findings and recommendations.
- Requires agencies to provide more details in their reports including the number of times the agency invoked the law enforcement exclusion and the number of times the agency engaged in dispute resolution. These reports would be made available by April 1 of each year.

- Creates a Chief FOIA Officer Council of will name Chief FOIA Officers (who will be part of the Council) in each agency which would have agency-wide responsibility for reviewing FOIA compliance and discuss improvements.

A pilot program will be established for three years to review the benefits of FOIAonline – the public portal that allows requesters to submit and review requests for multiple agencies at a single location.

The final section requires the Inspector General of each agency to periodically review agency compliance with FOIA including timely processing of requests, assessments of fees and fee waivers, and the use of exemptions, and to make any necessary recommendations to the agency head to improve the process.

**Additional Background:** The [Freedom of Information Act](#) was enacted in 1966 and was designed to enable anyone to request, without explanation or justification, copies of existing, identifiable, and unpublished records from the executive branch. OMB issues guidelines to agencies on fees to charge for providing requested information, while DOJ oversees agency compliance with FOIA. In 2012, federal agencies (excluding the Social Security Administration) received more than 650,000 FOIA requests. In addition, DOJ reports that in fiscal year 2012, agencies employed about 4,400 full-time staff to fulfill FOIA requests and spent around \$485 million on FOIA-related activities.

You can read the committee report, [here](#).

**Committee Action:** H.R. 1211 was introduced on March 15, 2013, by Representative Issa. On March 20, 2013, the Committee considered H.R. 1211. Amendments offered by Reps. Duckworth, Turner, and Mica were agreed to by voice vote. H.R. 1211, as amended, was then adopted by voice vote and ordered reported favorably to the House.

**Administration Position:** No statement of administration position was available at this time.

**Cost to Taxpayers:** [CBO](#) estimates that implementing H.R. 1211 would add about 1 percent—around \$5 million annually—to the government wide costs of administering FOIA. Enacting H.R. 1211 could affect net direct spending for agencies not funded through the appropriations process, but CBO estimates that such effects would not be significant in any year.

**Does the Bill Expand the Size and Scope of the Federal Government?:** No.

**Does the Bill Contain Any New State-Government, Local-Government, or Private-Sector Mandates?:** H.R. 1211 contains no intergovernmental or private-sector mandates as defined in UMRA and would not affect the budgets of state, local, or tribal governments.

**Does the Bill Contain Any Earmarks/Limited Tax Benefits/Limited Tariff Benefits?:** No.

**Constitutional Authority:** [According](#) to the sponsor, “Congress has the power to enact this legislation pursuant to the following: Art. I, Sec. 8. The Congress shall have Power To lay and collect Taxes, Duties, Imposts and Excises, to pay the Debts and provide for the common

Defence and general Welfare of the United States; 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 Government of the United States or in any Department or Officer thereof.”

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## **H.R. 1232 - The Federal Information Technology Acquisition Reform Act, as amended (FITARA) - (Issa, R- CA)**

**Order of Business:** H.R. [1232](#) is scheduled to be considered on February 25, 2014, under a motion to suspend the rules and pass the bill, which requires a two-thirds majority vote for passage.

**Summary:** This bill amends the laws governing the procurement and management of information technology (IT) throughout the federal government. It will increase the authority of Chief Information Officers (CIOs) and the CIO Council, establish a collaboration center to coordinate the acquisition of IT products, and require a number of additional reports and analysis by government agencies. Below is a brief summary of each title.

### Title I – Management of Information Technology within the Federal Government

- Increases the authority of the agency Chief Information Officers over information technology by allowing for the authority to participate in the budget planning process and the authority to approve of hiring personnel.
- The Chief Information Officers Council (the Council) is designated the lead interagency forum for improving agency coordination of practices and shall develop cross-agency portfolio management practices and issue standards and practices for infrastructure and common IT applications.

### Title II – Data Center Optimization

- Requires the Federal Chief Information Officer to develop and implement an initiative, known as the Federal Data Center Optimization Initiative, to optimize the usage and efficiency of Federal data centers.
- Requires all agencies to track the costs resulting from implementation of the Federal Data Center Optimization Initiative and submit an annual report. Any savings resulting from implementation can be used to offset the costs of implementing the Initiative within the agency or to further enhance information technology capabilities.

### Title III – Elimination of Duplication and Waste in Information Technology Acquisition

- The Director of the Office of Management and Budget (OMB) will develop a plan for conducting a government wide inventory of information technology assets and assess all the publically available websites of Federal agencies to determine if there are duplicative or overlapping websites.

- Requires an executive agency may not issue a solicitation for a covered contract vehicle unless the agency performs a business case analysis for the contract vehicle and obtains an approval of the business case analysis from the Administrator for Federal Procurement Policy.

#### Title IV – Strengthening and Streamlining Information Technology Acquisition Management Practices

- Establishes a three year pilot program on interagency collaboration lead by the Director of the OMB to test alternative approaches for the management of commonly used IT by executive agencies.
- For the purposes of the pilot program, the OMB director will establish a Federal Infrastructure and Common Application Collaboration Center within the Office of Electronic Government to serve as a resource for coordinated program management practices and to develop and maintain requirements for the acquisition of IT infrastructure.
- Up to five percent of fees collected during the prior fiscal year under the multiple award schedule contracts entered into by the Administrator of General Services and credited to the Acquisition Services fund may be used to support activities of the Collaboration center.
- Develops specialized assisted acquisition centers of excellence with the Federal government to promote the best practices in acquisition, specialized expertise in IT acquisition and government wide sharing of acquisition capability.
- Requires the Director of OMB and the Director of OPM to submit a plan for improving management of IT programs and projects.
- Sets up personnel awards for excellence in the acquisition of information systems and IT. Cash bonuses, promotions and other nonmonetary awards, publicizing the accomplishments and other awards or incentives viewed as appropriate are listed as possible awards for excellence.

#### Title V – Additional Reforms

- Directs the Administer of General Services, in collaboration with the DoD, to identify and develop a strategic sourcing initiative to enhance government wide acquisition, shared use and dissemination of software.
- Requires the final negotiated price offered by an awardee of a blanket purchase agreement to be treated as public information.
- The Director of OMB will make available to the public the cost, schedule and performance data for at least 8- percent of all IT investments government wide and 60 percent of all IR investments in each federal agency.

**Additional Background:** According to the [GAO](#), Federal agencies plan to spend about \$20 billion on development and acquisition of IT investments in fiscal year 2013 and have found that IT projects frequently incur cost overruns and result in duplicate systems. Currently there are more than 240 Chief Information Officers (CIO) in 24 major agencies. The GAO also found duplicative IT investments at DOD and the Department of Energy. Specifically, they found 37 potentially duplicative investments, accounting for about \$1.2 billion in total IT spending for fiscal years 2007 through 2012

**Committee Action:** The bill was introduced by Representative Issa on March 18, 2013. It was then referred to the House Committee on Oversight and Government Reform who held a markup on March 20, 2013, and ordered the bill to be reported out by voice vote.

**Administration Position:** No statement of administration position was available at this time.

**Cost to Taxpayers:** According to the committee, this bill is expected to cost less than \$50 million over five years. The bill being voted on is an amendment and the text no longer reflects the score produced by CBO in 2013.

**Does the Bill Contain Any New State-Government, Local-Government, or Private-Sector Mandates?:** H.R. 1232 contains no intergovernmental or private-sector mandates as defined in the UMRA and would impose no costs on state, local, or tribal governments.

**Does the Bill Contain Any Federal Encroachment into State or Local Authority in Potential Violation of the 10<sup>th</sup> Amendment?:** No.

**Does the Bill Delegate Any Legislative Authority to the Executive Branch?:** No.

**Constitutional Authority:** [According](#) to the sponsor, “Congress has the power to enact this legislation pursuant to the following: Article 1 Section 8 Clause 18 of the United States Constitution: The Congress shall have Power--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.”

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## **H.R. 1423 - Taxpayers Right-to-Know Act, as amended — (Lankford, R- OK)**

**Order of Business:** H.R. [1423](#) is scheduled to be considered on February 25, 2014, under a motion to suspend the rules and pass the bill, which requires a two-thirds majority vote for passage.

**Summary:** This bill would require each agency to identify and describe every program administered by that agency and include the cost of the program, the number of clients served and beneficiaries who receive assistance. In addition, each program would also have to estimate the full number of employees who administer the program, the number of full-time equivalent who assist in administering the program and identify programs within the agency are duplicative. This information would then be put on the agency’s website. Finally, the Office of Management and Budget (OMB) would be required to publish on their website a report which identifies

duplicative programs, recommendations to consolidate programs, eliminate waste fraud, and abuse and terminate lower priority programs.

**Committee Action:** This bill was introduced by Representative Lankford on April 9, 2013. It was referred to the House Committee on Oversight and Government Reform where a markup was held on July 24, 2013. The bill was ordered to be reported out by voice vote.

**Administration Position:** No statement of administration position was available at this time.

**Cost to Taxpayers:** [CBO](#) estimates that implementing H.R. 1423 would cost around \$100 million over the 2014-2018 period, assuming appropriation of the necessary amounts. Enacting the bill could affect direct spending by agencies not funded through annual appropriations; therefore, pay-as-you-go procedures apply. CBO estimates, however, that any net increase in spending by those agencies would be negligible. Enacting H.R. 1423 would not affect revenues

**Does the Bill Delegate Any Legislative Authority to the Executive Branch?:** No.

**Does the Bill Contain Any Earmarks/Limited Tax Benefits/Limited Tariff Benefits?:** No.

**Constitutional Authority:** [According](#) to the sponsor, “Congress has the power to enact this legislation pursuant to the following: Article 1, Section 9--No Money shall be drawn from the Treasury, but in Consequence of Appropriations made by Law; and a regular Statement and Account of the Receipts and Expenditures of all public Money shall be published from time to time.”

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## H.R. 1123 — Unlocking Consumer Choice and Wireless Competition Act — (Goodlatte, R-VA)

**Order of Business:** [H.R. 1123](#) is scheduled to be considered on February 25, 2014, under a motion to suspend the rules and pass the bill, which requires a two-thirds majority vote for passage.

**Summary:** This legislation permits the unlocking of cell phones by repealing a Library of Congress rulemaking determination. The legislation also requires the Librarian of Congress, upon the recommendation of the Register of Copyrights, to determine whether to allow the unlocking of other wireless devices such as tablets, etc.

**Additional Background:** “Unlocking” a phone allows it to be used on additional wireless networks.

**Committee Action:** H.R. 1123 was introduced on March 13, 2013, and referred to the House Committee on the Judiciary. The Committee favorably reported the legislation by [voice vote](#) on July 31, 2013.

**Administration Position:** No Statement of Administration Policy is available.

**Cost to Taxpayers:** According to the Congressional Budget Office [cost estimate](#), “implementing H.R. 1123 would have no significant effect on discretionary spending over the 2014-2018 period. Enacting H.R. 1123 would not affect direct spending or revenues; therefore, pay-as-you-go procedures do not apply.”

**Does the Bill Expand the Size and Scope of the Federal Government?:** No.

**Does the Bill Contain Any New State-Government, Local-Government, or Private-Sector Mandates?:** Yes. According to the CBO cost estimate, “H.R. 1123 would impose a private-sector mandate by eliminating an existing right of action for wireless carriers (and others)—who are currently able to pursue legal action against those who, without permission, circumvent the access controls on wireless telephone handsets sold after January 26, 2013. The cost of the mandate would be the forgone net value of settlements and damages in such cases. A search of the literature suggests that few, if any, of those types of lawsuits have been brought against individual consumers. Because such claims would probably be uncommon in the future and the damage awards allowed in such cases would be relatively small, CBO estimates that the cost of this mandate would be small and fall below the annual threshold established in UMRA for private-sector mandates (\$150 million in 2013, adjusted annually for inflation). If the Librarian of Congress decides to broaden the exemption allowed under the bill to cover other types of mobile devices, such an action would expand the limit of such rights of action. The cost of that expansion would depend on what devices the Librarian would include under the exemption. CBO has no basis to estimate additional costs as they would depend on the regulatory actions taken by the Librarian.”

**Does the Bill Contain Any Federal Encroachment into State or Local Authority in Potential Violation of the 10<sup>th</sup> Amendment?:** No.

**Does the Bill Delegate Any Legislative Authority to the Executive Branch?:** No.

**Does the Bill Contain Any Earmarks/Limited Tax Benefits/Limited Tariff Benefits?:** No.

**Constitutional Authority:** According to the sponsor, “Congress has the power to enact this legislation pursuant to the following: Article 1, Section 8, Clause 8 gives Congress the authority ‘To promote the Progress of Science and useful Arts, by securing for limited Times to Authors and Inventors the exclusive Right to their respective Writings and Discoveries.’ This legislation addresses the rights granted by Congress to selected copyrighted works.” Chairman Goodlatte’s statement in the Congressional Record can be viewed [here](#).

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## **H.R. 1944 — Private Property Rights Protection Act — (Goodlatte, R-VA)**

**Order of Business:** [H.R. 1944](#) is scheduled to be considered on February 25, 2014, under a motion to suspend the rules and pass the bill, which requires a two-thirds majority vote for passage.

**Summary:** Under the bill, states that exercise eminent domain powers over for property to be used for economic development or use property seized through eminent domain within seven years for economic development would be barred from receiving Federal economic development funds. In addition, states that received federal economic development funds are prohibited from seizing property to be used for economic development within the same fiscal year that the federal funds were received. The bill also prohibits the federal government from using eminent domain for economic development purposes. This bill establishes a private right of action for anyone harmed by violation of the legislation and waives state immunity from those lawsuits. The legislation requires the Attorney General of the United States to issue a report identifying States or political subdivision that have violated the Act.

**Major Changes Since the Last Time This Legislation was Before the House:** A substantially similar bill, H.R. 1433: Private Property Rights Protection Act of 2012, was passed by the House by voice vote on February 28, 2012. A House Report on H.R. 1433 can be viewed [here](#). The RSC Legislative Bulletin for H.R. 1433 can be viewed [here](#).

**Additional Background:** Eminent domain is the process by which the government gains ownership of private property for public use without the owner’s consent. Traditionally, this power has been used governments to build public use projects such as highways, railroads, and parks. A more recent development in eminent domain practice has been for governments to seize private property for “public benefit” such as economic development. A recent United States Supreme Court decision, *Kelo v. City of New London*, confirmed the constitutionality of this practice. For more information about the impact of the *Kelo* decision see a recent Washington Post editorial [here](#).

**Committee Action:** H.R. 1944 was introduced on May 9, 2013, and subsequently referred to the House Committee on the Judiciary. On June 12, 2013, the Committee favorably reported the bill by [voice vote](#).

**Administration Position:** No Statement of Administration Policy is available.

**Cost to Taxpayers:** According to the Congressional Budget Office [cost estimate](#), “implementing this legislation would have no significant net effect on those expenditures to state and local governments over the next five years. We estimate that additional reporting by the Attorney

General would cost less than \$500,000 over the next five years, assuming appropriation of the necessary amounts.”

**Does the Bill Expand the Size and Scope of the Federal Government?:** No.

**Does the Bill Contain Any New State-Government, Local-Government, or Private-Sector Mandates?:** No.

**Does the Bill Contain Any Federal Encroachment into State or Local Authority in Potential Violation of the 10<sup>th</sup> Amendment?:** No.

**Does the Bill Delegate Any Legislative Authority to the Executive Branch?:** No.

**Does the Bill Contain Any Earmarks/Limited Tax Benefits/Limited Tariff Benefits?:**

**Constitutional Authority:** According to the sponsor, “Congress has the power to enact this legislation pursuant to the following: Article I, Section 8 Clause 1.” Congressman Sensenbrenner’s statement on the Congressional Record can be viewed [here](#).

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## **H.R. 2530 — Taxpayer Transparency and Efficient Audit Act — (Roskam, R-IL)**

**Order of Business:** [H.R. 2530](#) is scheduled to be considered on February 25, 2014, under a motion to suspend the rules and pass the bill, which requires a two-thirds majority vote for passage.

**Summary:** This legislation requires the Internal Revenue Service (IRS) to provide a substantive response to any written taxpayer correspondence within 30 days of receipt. In addition, the bill requires the IRS to disclose to a taxpayer the details of any information shared with other government (State, local or Federal) agencies, including the information disclosed, to whom it was disclosed, and when the information was disclosed. This information must be provided to the taxpayer within 30 days that the information was shared. The legislation also sets a one-year deadline for completion of audits.

**Committee Action:** H.R. 2530 was introduced on June 27, 2013, and referred to the House Committee on Ways and Means. No further committee action was taken.

**Administration Position:** No Statement of Administration Policy is available.

**Cost to Taxpayers:** No Congressional Budget Office cost estimate is available.

**Does the Bill Expand the Size and Scope of the Federal Government?:** No.

**Does the Bill Contain Any New State-Government, Local-Government, or Private-Sector Mandates?:** No

**Does the Bill Contain Any Federal Encroachment into State or Local Authority in Potential Violation of the 10<sup>th</sup> Amendment?:** No.

**Does the Bill Delegate Any Legislative Authority to the Executive Branch?:** No.

**Does the Bill Contain Any Earmarks/Limited Tax Benefits/Limited Tariff Benefits?:** No.

**Constitutional Authority:** According to Mr. Roskam, “Congress has the power to enact this legislation pursuant to the following: Congress has the power to enact this legislation pursuant to Article I, Section 8, Clause 18, which states `The Congress shall have Power To make all Laws which shall be necessary and proper for carrying into Execution the foregoing Powers, and all other Powers vested by the Constitution in the Government of the United States, or in any Department or Officer thereof.’” Congressman Roskam’s statement in the Congressional Record can be viewed [here](#).

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## **H.R. 3531 — Protecting Taxpayers from Intrusive IRS Requests Act — (Roskam, R-IL)**

**Order of Business:** [H.R. 2531](#) is scheduled to be considered on February 25, 2014, under a motion to suspend the rules and pass the bill, which requires a two-thirds majority vote for passage.

**Summary:** The legislation prohibits the Internal Revenue Service (IRS) from asking a taxpayer any questions regarding their social, political, or religious beliefs. The bill also expresses the Sense of Congress that if the IRS determines that it is necessary to ask a class of taxpayers about their social, political, or religious beliefs the Commissioner of the IRS must submit a report to Congress that describes in the question to be asked verbatim, details about the class of persons that would be asked the question, and the circumstances under which the question would be asked.

**Committee Action:** H.R. 2531 was introduced on June 27, 2013, and referred to the House Committee on Ways and Means. No further committee action was taken.

**Administration Position:** No Statement of Administration Policy is available.

**Cost to Taxpayers:** No Congressional Budget Office cost estimate is available.

**Does the Bill Expand the Size and Scope of the Federal Government?:** No.

**Does the Bill Contain Any New State-Government, Local-Government, or Private-Sector Mandates?:** No.

**Does the Bill Contain Any Federal Encroachment into State or Local Authority in Potential Violation of the 10<sup>th</sup> Amendment?:** No.

**Does the Bill Delegate Any Legislative Authority to the Executive Branch?:** No.

**Does the Bill Contain Any Earmarks/Limited Tax Benefits/Limited Tariff Benefits?:** No.

**Constitutional Authority:** According to the sponsor, "Congress has the power to enact this legislation pursuant to the following: Congress has the power to enact this legislation pursuant to Article I, Section 8, Clause 18, which states ``The Congress shall have Power To make all Laws which shall be necessary and proper for carrying into Execution the foregoing Powers, and all other Powers vested by the Constitution in the Government of the United States, or in any Department or Officer thereof." Congressman Roskam's statement in the Congressional Record can be viewed [here](#).

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## **H.R. 3308 - Taxpayer Transparency Act of 2014 — (Long, R-MO)**

**Order of Business:** H.R. [3308](#) is scheduled to be considered on February 26, 2014, under a motion to suspend the rules and pass the bill, which requires a two-thirds majority vote for passage.

**Summary:** This bill requires Federal agencies to include language in mass mailings for certain educational and advertising materials that was produced and disseminated at taxpayer expense. For printed communication the taxpayer disclosure language must be clearly readable and contained in a printed box set apart from other contents of the communication. For radio, television and email communication the audio must be conveyed in a clearly spoken manner as well as (for television) appear in writing at the end of the communication in a clearly readable manner.

A mass mailing is any mailing or distribution of 499 or more newsletters, pamphlets, or other printed matter with substantially identical content, whether such matter is deposited singly or in bulk, or at the same time or different times.

**Additional Background:** According to [CRS](#), the federal government's expenditures on advertising are difficult to ascertain. There are at least two reasons for this: (1) there is no government-wide definition of what constitutes advertising and (2) there is no central authority to which agencies are required to report advertising-related expenditures. In addition, there are few government-wide restrictions on government advertising. Furthermore, no single agency is charged with tracking and overseeing the advertising expenditures of federal agencies.

**Committee Action:** This bill was introduced by Representative Long on October 22, 2013. It was referred to the House Committee on Oversight and Government Reform.

**Administration Position:** No statement of administration position was available at this time.

**Cost to Taxpayers:** No CBO score was available at this time.

**Does the Bill Expand the Size and Scope of the Federal Government?:** No.

**Does the Bill Contain Any New State-Government, Local-Government, or Private-Sector Mandates?:** No.

**Does the Bill Contain Any Federal Encroachment into State or Local Authority in Potential Violation of the 10<sup>th</sup> Amendment?:** No.

**Constitutional Authority:** [According](#) to the sponsor, "the following: Article I, Section 8--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. Article I, Section 9--No Money shall be drawn from the Treasury, but in Consequence of Appropriations made by Law; and a regular Statement and Account of the Receipts and Expenditures of all public Money shall be published from time to time."

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## **H.R. 3370 — Homeowner Flood Insurance Affordability Act (Grimm, R-NY)**

**Order of Business:** [H.R. 3370](#) is scheduled to be considered on Wednesday, February 26, 2014, under a motion to suspend the rules and pass the bill, which requires a two-thirds majority vote for passage.

**Summary:** This legislation amends certain provisions of the Biggert-Waters Act of 2012 ([P.L. 112-141](#)) (BW-12) that was signed into law on July 6, 2012. BW-12 is the latest law to address

the National Flood Insurance Program (NFIP). H.R. 3379 contains many changes and reforms to existing law, several of which are highlighted below. This legislation:

- Repeals certain rate increases implemented by BW-12, preventing many premiums which were assessed based on a risk rate not aligned to the property's true actuarial risk from going into place, and refunds policy holders for the premiums collected under the higher rates.
- Maintains BW-12 rate increases for businesses, second homes, and severe repetitive loss properties.
- Restores the grandfathered rates for flood insurance on primary homes and requires a minimum annual premium increase of at least five percent with a maximum of 15 percent for primary homes.
- Requires that the Administrator implement a flood mapping approach that will result in more technically credible flood hazard data for all areas where Flood Insurance Rate maps are prepared. Amends BW-12 to require mapping of non-structural flood mitigation features and to require working with localities to identify such features. This is in response to the Federal Emergency Management Agency (FEMA), which administers the NFIP, not taking into consideration existing levees and flood prevention structures when calculating premium increases.
- Requires a surcharge of \$25 to be assessed to all policies on primary residences, and a surcharge of \$250 to be assessed to all policies on non-residential or non-primary properties, which serves as the legislation's pay-for. This surcharge terminates when the premiums charged are equal to the estimated risk premium rate. All of the surcharges will be deposited in the NFIP Reserve Fund which was created under BW-12 to “be available for meeting the expected future obligations of the flood insurance program, including- (A) the payment of future claims; (B) claims adjusted expenses; and (C) the repayment of amounts outstanding under any note or other obligation.”
- Requires the Administrator of the Federal Emergency Management Agency (the “Administrator”) to prepare an affordability framework for the National Flood Insurance Program (NFIP) that will consider: “(1) Accurate communication to consumers of the flood risk associated with their properties. (2) Targeted assistance to flood insurance policy holders based on their financial ability to continue to participate in the NFIP. (3) Individual or community actions to mitigate the risk of flood or lower the cost of flood insurance. (4) The impact of increases in risk premium rates on participation in the NFIP. (5) The impact flood insurance rate map updates have on the affordability of flood insurance. The Administrator is required to submit an affordability study to appropriate House and Senate Committees by 18 months after enactment of the Act.
- Allows NFIP to offer optional high-deductible policies for residential properties. The maximum deductible for these policies would be \$10,000.
- Requires that the flood mitigations activities of an owner or lessee be taken into account when estimating the risk and premium rates, encouraging the owner or lessee to take steps to lessen the likelihood for property damage or loss.
- Raises the trigger for the loss premium rates for home improvements from 30 percent to 50 percent.
- Requires the Administrator to deliver a report to the appropriate House and Senate Committees about the feasibility of community-based flood insurance options no later

than 18 months after enactment of the Act. This report must be reviewed by the Comptroller General no later than 6 months after it is submitted and the Comptroller General must make recommendations to the appropriate House and Senate Committees about community-based flood insurance policies.

- Requires the Administrator, within one year after enactment of the Act, to issue guidelines for property owners that provide alternative methods of mitigation, other than building elevation, to reduce flood risk where elevation is not a practical possibility.
- Reinforces a state's ability to regulate the private insurance market.

**Additional Background:** FEMA administers the NFIP by developing flood hazard maps, which are then used to set flood insurance rates which the federal government mandates property owners with federally backed mortgages living in an at-risk area to purchase. The Biggert-Waters Act of 2012 ([P.L. 112-141](#)), signed into law on July 6, 2012, sought to address the financial sustainability of the NFIP through reforms which would increase premiums paid by property owners. According to the legislation's supporters, many property owners' premiums were increased at an unaffordable rate, and this legislation seeks to slow the premium increases while addressing the NFIP's insolvency.

H.R. 3370 differs from the BW-12 delay bill, [S. 1926](#), which passed the Senate on January 30, 2014. A couple of the major differences are highlighted below:

- The Senate bill simply delays implementation of BW-12 for four years without addressing many of the underlying policy concerns such as the amount of debt that NFIP currently maintains. The Senate bill, which has no offset, would result in NFIP being an additional \$2.1 billion in debt over the 2014-2024 period.
- The preliminary cost estimate for H.R. 3370 states that it “would not increase or decrease the deficit in either the 2014-2019 period or the 2014-2024 period.” The surcharges serve as an offset to the repeal of immediate premium increases from BW-12.
- The House version requires a minimum increase in annual premiums of at 5 percent which, according to the bill's supporters moves premiums closer to actuarially sound rates. The Senate bills simply delays rate increases for four years.

**Committee Action:** H.R. 3370 was introduced on October 29, 2013, and referred to the House Committee on Financial Services and the House Committee on Rules. There was no further committee action.

**Outside Groups In Support:** Key Vote: National Association of Home Builders. Other groups in support:

- [Coalition for Sustainable Flood Insurance](#)
- [American Bankers Association](#)
- [American Bankers Insurance Association](#)
- [National Association of Realtors](#)
- [National Association of Counties](#)

**Outside Groups In Opposition:**

- Heritage Action\*

- R Street\*
- National Taxpayers Union\*
- Freedom Works\*

**\*Group opposition information gathered from the RSC Monday Staff Meeting. At press time, no letters of opposition were available.**

**Conservative Concerns:** Some conservatives have expressed concerns that the bill continues to subsidize premiums for NFIP policy holders when the program is [already \\$24 billion in debt](#). Some conservatives also argue that the federal government should not have a role in administering flood insurance. In addition, some conservatives have expressed concern that the “pay for” in the legislation (the surcharge on all policies) is a tax. The surcharge is paid into the NFIP Reserve Fund which was established by BW-12 to “(1) be an account separate from any other accounts or funds available to the Administrator; and (2) be available for meeting the expected future obligations of the flood insurance program, including—(A) the payment of claims; (B) claims adjustment expenses; and (C) the repayment of amounts outstanding under any note or other obligation issued by the Administrator under section 1309(a).”

**Administration Position:** No Statement of Administration Policy is available.

**Cost to Taxpayers:** No final Congressional Budget Office cost estimate is available but according to the sponsors of the bill a preliminary cost estimate stated that “enactment would not increase or decrease the deficit in either the 2014-2019 period or the 2014-2024 period.”

**Does the Bill Expand the Size and Scope of the Federal Government:** No.

**Does the Bill Contain Any New State-Government, Local-Government, or Private-Sector Mandates?:** A Congressional Budget Office report regarding intergovernmental or private-sector mandates is unavailable.

**Does the Bill Contain Any Federal Encroachment into State or Local Authority in Potential Violation of the 10<sup>th</sup> Amendment?:** No.

**Does the Bill Delegate Any Legislative Authority to the Executive Branch?:** No.

**Does the Bill Contain Any Earmarks/Limited Tax Benefits/Limited Tariff Benefits?:** No.

**Constitutional Authority:** According to the sponsor, “Congress has the power to enact this legislation pursuant to the following: Article I, section 8, clause 1; and Article I, section 8, clause 3.” Congressman Grimm’s statement in the Congressional Record can be viewed [here](#).

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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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