



Legislative Bulletin.....January 10, 2014

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H.R. 3811 — Health Exchange Security and Transparency Act of 2014

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Order of Business: [H.R. 3811](#) is scheduled to be considered on Friday, January 10, 2014, subject to a closed rule. The text of the rule can be viewed [here](#).

Summary: This bill requires the Secretary of HHS to notify all individuals of a security breach in any system maintained by an exchange (both state and federal) which is known to have resulted in personally identifiable data being stolen or unlawfully accessed. The Secretary is given no more than two business days after the discovery to provide such notice.

Additional Background: The data provided through both the federal and state exchanges is the largest collection of personal information ever assembled. The collection of data links information from seven different agencies as well as states and contractors. This bill is in response to the numerous oversight hearings held by committees which uncovered the high security risks the exchanges posed. Even before the exchanges went live on October 1, 2013, an internal [memo](#) to Marylin Tavenner, the Administrator for CMS, warned that insufficient testing “exposed a level of uncertainty that can be deemed as a high risk.” Also worrisome, in a House Science, Space, and Technology committee hearing one [witness](#) surmised, “And if I had to guess, based on what I can see ... I would say the website is either hacked already or will be soon.” This bill ensures that individuals who do have their information unlawfully accessed will be aware.

Administration Position: According to the administration, “H.R. 3811 would impose an administratively burdensome reporting requirement that is less effective than existing industry standards and those already in place for Federal Agencies that possess such information. As such, the Administration opposes its passage.” You can read their full statement, [here](#).

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 Federal Encroachment into State or Local Authority in Potential Violation of the 10th 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 3, which states that Congress shall have the power ``to regulate commerce with foreign nations, and among the several states ...” To view the Constitutional Authority statement click, [here](#).

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