



HIMSS Summary of the
The American Recovery and Reinvestment Act of 2009
H.R. 1
February 10, 2009

On Tuesday, February 10, 2009, the Senate passed the American Recovery and Reinvestment Act of 2009, H.R. 1, on a vote of 61-37. On Wednesday, January 28, 2009, the House of Representatives passed the legislation on a vote of 244 - 188. The differences between the two bills will now be reconciled through a Conference Committee. If the Conference Committee reaches a compromise, a written report would be produced by the Committee and submitted for approval to both the Senate and House. Congressional leaders would like to have the bill signed into law by February 13, 2009, prior to the Presidents' Day holiday.

The Senate bill totals approximately \$838 billion and addresses such items as unemployment benefits, job training, transportation projects, and includes over \$20 billion for health IT. Total funding included for health IT is as follows:

- \$3 billion for the Office of the National Coordinator
- \$16 billion in incentives through the Medicare and Medicaid reimbursement systems to assist providers in adopting EHRs
- \$100 million for direct loans and grants for distance learning and telemedicine activities in rural areas
- \$7 million for the "Broadband Technology Opportunities Program"
- \$85 million for health IT and telehealth services through the Indian Health Services
- \$1.870 billion for grants for construction, renovation, and equipment for health centers
- \$400 million for comparative clinical effectiveness research through clinical data registries, clinical data networks, and other forms of electronic health data
- \$140 million for the Social Security Administration for information technology acquisitions and research, which may include research and activities to facilitate the adoption of EMRs in disability claims and the transfer of fund to "Supplemental Security Income"
- \$145 million for the Veterans' Benefits Administration's development of paperless claims processing

Similar to legislation passed by the House of Representatives, the legislation would codify the Office of the National Coordinator, establish two federal advisory committees to address national health IT policy and standards, and provide funding to assist providers in adopting health IT. The legislation also includes requirements for the handling of

personal health information, such as accounting for the disclosures of personal health information and notifying individuals when there is a breach of their health information.

Unlike the House legislation, the Senate legislation would require the Secretary to recognize an entity or entities for the purpose of harmonizing or updating standards and would require the Secretary and the Director of the National Institute of Standards and Technology (NIST) to recognize a certification program or programs to carry-out certification programs. The House legislation was mainly silent on the issue of standards harmonization. In regards to certification, the House language called for NIST to develop a certification program or contract with an outside organization.

An overview of some of the key provisions in the Senate legislation is as follows:

- a. HIT Policy Committee: The HIT Policy Committee, a federal advisory committee, is established to make recommendations to the National Coordinator relating to the implementation of a nationwide health information technology infrastructure, including implementations of the strategic plan. The Committee is responsible for recommending the areas in which standards, implementation specifications, and certification criteria are needed for the electronic exchange and use of health information.
- b. HIT Standards Committee: The HIT Standards Committee, a federal advisory committee, is established to recommend to the National Coordinator standards, implementation specifications, and certification criteria for the electronic exchange and use of health information, which have been developed, harmonized, or recognized by the HIT standards Committee. The Committee shall provide for the testing of such standards and specifications by the certification program as recognized by NIST and the National Coordinator. Nothing shall prohibit the National eHealth Collaborative from modifying to allow the Secretary to recognize the National eHealth Collaborative as the HIT Standards Committee.
- c. Program to Facilitate and Expand Electronic Movement and Use of Health IT: The Secretary, acting through the National Coordinator, shall establish a program to facilitate and expand electronic movement and use of health information among organization according to nationally recognized standards. The Secretary may award a grant to a State or qualified State-designated entity. Beginning with FY11, the Secretary may not make a grant to a state unless that State agrees to make available non-federal contributions toward the costs of a grant.
- d. Loans to Providers: The National Coordinator may award competitive grants to eligible entities (State or Indian Tribe) for the establishment of programs for loans to healthcare providers. An eligible entity shall establish a certified EHR technology loan fund, "Loan Fund", and comply with other requirements contained in this section. A grant to an eligible entity this section shall be deposited in the Loan Fund established by the eligible entity. Each eligible entity must provide a strategic plan that identifies the intended uses of amounts available to the Loan Fund of such entity.

- e. Incentives through Medicare for the Meaningful Use of EHR Technology: Establishment of incentive payments through Medicare for the meaningful use of certified EHR technology by “eligible professionals and hospitals”. An eligible professional, as specified in the legislation, will receive incentive payments as specified in the legislation, for the first five years (FY11 – FY15) for demonstrating a meaningful use of EHR technology and demonstrated performance during the reporting period for each payment year. If an eligible professional does not demonstrate a meaningful use of EHR technology by 2015, their reimbursement payments under Medicare will reduce per the amount specified in the legislation.

Certified EHR technology means a qualified EHR that is certified to meeting standards pursuant to the legislation and includes patient demographic and clinical health information, such as medical history and problem lists, and has the capacity to provide clinical decision support, to electronic prescribe, to support physician order entry, to capture and query information relevant to healthcare quality, and to exchange electronic health information with and integrate such information from other sources.

- f. Incentives through Medicaid for the Meaningful Use of Certified EHR Technology: Provides incentive payments (FY11 – FY15) to Medicaid providers for the meaningful use of certified EHR technology. The State is authorized to make payments to Medicaid providers based on their classification and the number of Medicaid beneficiaries that they serve.
- g. Standards Harmonization: The National Coordinator may recognize an entity or entities for the purpose of harmonizing or updating standards and implementation specifications in order to achieve uniform and consistent implementation of the standards and implementation specification.
- h. Voluntary Certification Program of Health IT: The National Coordinator, in consultation with the Director of NIST, shall recognize a program or programs for the voluntary certification of health IT.
- i. Academic Curricula Concerning the Integration of Certified EHR Technology: The Secretary may award grants to carry out demonstration projects to develop academic curricula integrating certified EHR technology in the clinical education of health professionals. Such awards shall be made on a competitive basis and pursuant to peer review.
- j. Medical Health Informatics Education Programs: The Secretary, in consultation with the Director of the National Science Foundation (NSF), shall provide assistance to institutions of higher education to establish or expand medical health informatics education programs, including certification, undergraduate, and masters degree

programs, for both healthcare and IT students to ensure the rapid and effective utilization and development of health information technology.

- k. Accounting for Disclosures: An individual has the right to receive an accounting for disclosures of their personal health information from a covered entity during only the three years prior to the date on which the accounting is requested. The Secretary, within 18 months, shall promulgate regulations that take into account the “interests of individuals” in learning when and to whom their information is disclosed, the “usefulness” of the information to the individual, and the “cost burden” for such accounting.
- l. Breach Notification: The covered entity, in the case of a breach, shall notify each individual whose unsecured protected health information (PHI) has been, or is reasonably believed by the covered entity to have been, accessed, acquired, or disclosed as a result of the breach.

HIMSS Comments

HIMSS Government Relations will continue to provide HIMSS members with the most up-to-date information concerning the inclusion of health IT in economic stimulus legislation. For more information, contact the [HIMSS Government Relations team](#).