

111TH CONGRESS  
1ST SESSION

# S. 179

To improve quality in health care by providing incentives for adoption of modern information technology.

---

IN THE SENATE OF THE UNITED STATES

JANUARY 8, 2009

Ms. STABENOW (for herself and Ms. SNOWE) introduced the following bill;  
which was read twice and referred to the Committee on Finance

---

## A BILL

To improve quality in health care by providing incentives  
for adoption of modern information technology.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Health Information  
5 Technology Act of 2009”.

6 **SEC. 2. INFORMATICS SYSTEMS GRANT PROGRAM.**

7 (a) GRANTS.—

8 (1) IN GENERAL.—The Secretary of Health and  
9 Human Services (in this section referred to as the  
10 “Secretary”) shall establish a program to award

1 grants to eligible entities that have submitted appli-  
2 cations in accordance with subsection (b) for the  
3 purpose of assisting such entities in offsetting the  
4 costs incurred after December 31, 2008, that are re-  
5 lated to clinical health care informatics systems and  
6 services designed to improve quality in health care  
7 and patient safety.

8 (2) DURATION.—The authority of the Secretary  
9 to make grants under this section shall terminate on  
10 September 30, 2014.

11 (3) COSTS DEFINED.—For purposes of this sec-  
12 tion, the term “costs” shall include total expendi-  
13 tures incurred for—

14 (A) purchasing, leasing, and installing  
15 computer software and hardware, including  
16 handheld computer technologies, and related  
17 services;

18 (B) making improvements to existing com-  
19 puter software and hardware;

20 (C) purchasing or leasing communications  
21 capabilities necessary for clinical data access,  
22 storage, and exchange;

23 (D) services associated with acquiring, im-  
24 plementing, operating, or optimizing the use of  
25 new or existing computer software and hard-

1           ware and clinical health care informatics sys-  
2           tems;

3           (E) providing education and training to eli-  
4           gible entity staff on information systems and  
5           technology designed to improve patient safety  
6           and quality of care; and

7           (F) purchasing, leasing, subscribing, inte-  
8           grating, or servicing clinical decision support  
9           tools that—

10           (i) integrate patient-specific clinical  
11           data with well-established national treat-  
12           ment guidelines; and

13           (ii) provide ongoing, continuous qual-  
14           ity improvement functions that allow pro-  
15           viders to assess improvement rates over  
16           time and against averages for similar pro-  
17           viders.

18           (4) ELIGIBLE ENTITY DEFINED.—For purposes  
19           of this section, the term “eligible entity” means the  
20           following entities:

21           (A) HOSPITAL.—A hospital (as defined in  
22           section 1861(e) of the Social Security Act (42  
23           U.S.C. 1395x(e))).

24           (B) CRITICAL ACCESS HOSPITAL.—A crit-  
25           ical access hospital (as defined in section

1 1861(mm)(1) of such Act (42 U.S.C.  
2 1395x(mm)(1)).

3 (C) SKILLED NURSING FACILITY.—A  
4 skilled nursing facility (as defined in section  
5 1819(a) of such Act (42 U.S.C. 1395i–3(a))).

6 (D) FEDERALLY QUALIFIED HEALTH CEN-  
7 TER.—A federally qualified health center (as  
8 defined in section 1861(aa)(4) of such Act (42  
9 U.S.C. 1395x(aa)(4))).

10 (E) PHYSICIAN.—A physician (as defined  
11 in section 1861(r) of such Act (42 U.S.C.  
12 1395x(r))).

13 (F) PHYSICIAN GROUP PRACTICE.—A phy-  
14 sician group practice.

15 (G) COMMUNITY MENTAL HEALTH CEN-  
16 TER.—A community mental health center (as  
17 defined in section 1861(ff)(3)(B) of such Act  
18 (42 U.S.C. 1395x(ff)(3)(B))).

19 (b) APPLICATION.—

20 (1) IN GENERAL.—An eligible entity seeking a  
21 grant under this section shall submit an application  
22 to the Secretary at such time, in such form and  
23 manner, and containing the information described in  
24 paragraph (2).

1           (2) INFORMATION DESCRIBED.—The informa-  
2           tion described in this paragraph is the following in-  
3           formation:

4                   (A) A description of—

5                           (i) the clinical health care informatics  
6                           system and services that the eligible entity  
7                           intends to implement with the assistance  
8                           received under this section;

9                           (ii) how the system will improve qual-  
10                          ity in health care and patient safety, in-  
11                          cluding estimates of the impact on the  
12                          health of, and the health costs associated  
13                          with the treatment of, patients with heart  
14                          disease, cancer, stroke, diabetes, chronic  
15                          obstructive pulmonary disease, asthma, or  
16                          any other disease or condition specified by  
17                          the Secretary; and

18                          (iii) how the system will ensure the  
19                          privacy and security of individually identi-  
20                          fiable health information.

21                   (B) Any additional information that the  
22                   Secretary may specify.

23           (c) PRIORITY FOR CERTAIN ELIGIBLE ENTITIES.—

24           In awarding grants under this section, the Secretary shall  
25           give priority—

1 (1) first, to eligible entities—

2 (A) that are exempt from tax under section  
3 501(a) of the Internal Revenue Code of 1986;  
4 and

5 (B)(i) in which the total of individuals that  
6 are eligible for benefits under the Medicare pro-  
7 gram under title XVIII of the Social Security  
8 Act, the Medicaid program under title XIX of  
9 such Act, or under the State children’s health  
10 insurance program under title XXI of such Act  
11 make up a high percentage (as determined ap-  
12 propriate by the Secretary) of the total patient  
13 population of the entity; or

14 (ii) that provide services to a large number  
15 (as determined appropriate by the Secretary) of  
16 such individuals;

17 (2) then, to eligible entities that meet the re-  
18 quirement under clause (i) or (ii) of paragraph  
19 (1)(B); and

20 (3) then, to other eligible entities.

21 (d) RESERVE FUNDS FOR ENTITIES IN HEALTH  
22 PROFESSIONAL SHORTAGE AREAS OR RURAL AREAS.—

23 (1) IN GENERAL.—Subject to paragraph (2),  
24 the Secretary shall ensure that at least 20 percent

1 of the funds available for making grants under this  
2 section to—

3 (A) hospitals and critical access hospitals  
4 are used for making grants to such hospitals  
5 that are located exclusively in an applicable  
6 area;

7 (B) skilled nursing facilities are used for  
8 making grants to such facilities that are located  
9 exclusively in an applicable area;

10 (C) federally qualified health centers are  
11 used for making grants to such centers that are  
12 located exclusively in an applicable area;

13 (D) physicians and physician group prac-  
14 tices are used for making grants to physicians  
15 and such practices that are located exclusively  
16 in an applicable area; and

17 (E) community mental health centers are  
18 used for making grants to such centers that are  
19 located exclusively in an applicable area.

20 (2) AVAILABILITY OF RESERVE FUNDS IF LIM-  
21 ITED NUMBER OF ENTITIES APPLY FOR RESERVED  
22 GRANTS.—If the Secretary estimates that the  
23 amount of funds reserved under subparagraph (A),  
24 (B), (C), (D), or (E) of paragraph (1) for the type  
25 of entity involved exceeds the maximum amount of

1 funds permitted for such entities under subsection  
2 (e), the Secretary may reduce the amount reserved  
3 for such entities by an amount equal to such excess  
4 and use such funds for awarding grants to other eli-  
5 gible entities.

6 (3) APPLICABLE AREA DEFINED.—For pur-  
7 poses of paragraph (1), the term “applicable area”  
8 means—

9 (A) an area that is designated as a health  
10 professional shortage area under section  
11 332(a)(1)(A) of the Public Health Service Act;

12 (B) a rural area (as such term is defined  
13 for purposes of section 1886(d) of the Social  
14 Security Act (42 U.S.C. 1395ww(d))); or

15 (C) a rural census tract of a metropolitan  
16 statistical area (as determined under the most  
17 recent modification of the Goldsmith Modifica-  
18 tion, originally published in the Federal Reg-  
19 ister on February 27, 1992 (57 Fed. Reg.  
20 6725)).

21 (e) AMOUNT OF GRANT.—

22 (1) AMOUNT.—

23 (A) IN GENERAL.—Subject to subpara-  
24 graph (B) and paragraph (2), the Secretary



1 shall determine the amount of a grant awarded  
2 under this section.

3 (B) CONSIDERATION.—In determining the  
4 amount of a grant under this section, the Sec-  
5 retary shall take into account the ability to take  
6 an expense deduction for health care  
7 informatics system expenses under section  
8 179F of the Internal Revenue Code of 1986, as  
9 added by section 5.

10 (2) LIMITATION.—

11 (A) IN GENERAL.—A grant awarded under  
12 this section may not exceed the lesser of—

13 (i) an amount equal to the applicable  
14 percentage of the costs incurred by the eli-  
15 gible entity for the project for which the  
16 entity is seeking assistance under this sec-  
17 tion; or

18 (ii) in the case of a grant made to—

19 (I) a hospital or a critical access  
20 hospital, \$1,000,000;

21 (II) a skilled nursing facility,  
22 \$200,000;

23 (III) a federally qualified health  
24 center, \$150,000;

25 (IV) a physician, \$15,000;

1 (V) a physician group practice,  
2 an amount equal to \$15,000 multi-  
3 plied by the number of physicians in  
4 the practice; or

5 (VI) a community mental health  
6 center, \$75,000.

7 (B) APPLICABLE PERCENTAGE.—For pur-  
8 poses of subparagraph (A)(i), the term “appli-  
9 cable percentage” means, with respect to an eli-  
10 gible entity for the period involved, the percent-  
11 age of total revenues (excluding grants and  
12 gifts from Federal, State, local government, and  
13 private sources) for such period that consists of  
14 total revenues from the Medicare program, the  
15 Medicaid program, and the State children’s  
16 health insurance program under titles XVIII,  
17 XIX, and XXI, respectively, of the Social Secu-  
18 rity Act.

19 (f) REQUIREMENTS.—

20 (1) COMPLIANT WITH STANDARDS.—A clinical  
21 health care informatics system funded under this  
22 section and placed in service on or after the date the  
23 standards are adopted under section 4 shall be com-  
24 pliant with such standards.

1           (2) NOTIFICATION.—An eligible entity receiving  
2 a grant under this section shall notify patients if  
3 their individually identifiable health information is  
4 wrongfully disclosed.

5           (3) FURNISHING THE SECRETARY WITH INFOR-  
6 MATION.—

7           (A) IN GENERAL.—An eligible entity re-  
8 ceiving a grant under this section shall furnish  
9 the Secretary with such information as the Sec-  
10 retary may require to—

11                   (i) evaluate the project for which the  
12 grant is made; and

13                   (ii) ensure that assistance provided  
14 under the grant is expended for the pur-  
15 poses for which it is made.

16           (B) COORDINATION.—The Secretary shall  
17 ensure that the requirements for furnishing in-  
18 formation under subparagraph (A) are coordi-  
19 nated with other requirements for furnishing in-  
20 formation to the Secretary that the eligible enti-  
21 ty is subject to.

22           (g) STUDIES.—The Secretary shall conduct studies  
23 to—

24                   (1) evaluate the use of clinical health care  
25 informatics systems and services implemented with

1 assistance under this section to measure and report  
2 quality data based on accepted clinical performance  
3 measures; and

4 (2) assess the impact of such systems and serv-  
5 ices on improving patient care, reducing costs, and  
6 increasing efficiencies.

7 (h) REPORTS.—

8 (1) INTERIM REPORTS.—

9 (A) IN GENERAL.—The Secretary shall  
10 submit, at least annually, a report to the appro-  
11 priate committees of Congress on the grant pro-  
12 gram established under this section.

13 (B) CONTENTS.—A report submitted pur-  
14 suant to subparagraph (A) shall include infor-  
15 mation on—

16 (i) the number of grants made;

17 (ii) the nature of the projects for  
18 which assistance is provided under the  
19 grant program;

20 (iii) the geographic distribution of  
21 grant recipients;

22 (iv) the impact of the projects on the  
23 health of, and the health costs associated  
24 with the treatment of, patients with heart  
25 disease, cancer, stroke, diabetes, chronic

1 obstructive pulmonary disease, asthma, or  
2 any other disease or conditions specified by  
3 the Secretary;

4 (v) the results of the studies con-  
5 ducted under subsection (g); and

6 (vi) such other matters as the Sec-  
7 retary determines appropriate.

8 (2) FINAL REPORT.—Not later than 180 days  
9 after the completion of all of the projects for which  
10 assistance is provided under this section, the Sec-  
11 retary shall submit a final report to the appropriate  
12 committees of Congress on the grant program estab-  
13 lished under this section, together with such rec-  
14 ommendations for legislation and administrative ac-  
15 tion as the Secretary determines appropriate.

16 (i) FUNDING.—

17 (1) HOSPITALS.—There are appropriated from  
18 the Federal Hospital Insurance Trust Fund under  
19 section 1817 of the Social Security Act (42 U.S.C.  
20 1395i) \$250,000,000, for each of the fiscal years  
21 2010 through 2014, for the purpose of making  
22 grants under this section to eligible entities that are  
23 hospitals or critical access hospitals.

24 (2) SKILLED NURSING FACILITIES.—There are  
25 appropriated from the Federal Hospital Insurance

1 Trust Fund under section 1817 of the Social Secu-  
2 rity Act (42 U.S.C. 1395i) \$100,000,000, for each  
3 of the fiscal years 2010 through 2014, for the pur-  
4 pose of making grants under this section to eligible  
5 entities that are skilled nursing facilities.

6 (3) FEDERALLY QUALIFIED HEALTH CEN-  
7 TERS.—There are appropriated from the Federal  
8 Supplementary Medical Insurance Trust Fund under  
9 section 1841 of the Social Security Act (42 U.S.C.  
10 1395t) \$40,000,000, for each of the fiscal years  
11 2010 through 2014, for the purpose of making  
12 grants under this section to eligible entities that are  
13 Federally qualified health centers.

14 (4) PHYSICIANS.—There are appropriated from  
15 the Federal Supplementary Medical Insurance Trust  
16 Fund under section 1841 of the Social Security Act  
17 (42 U.S.C. 1395t) \$400,000,000, for each of the fis-  
18 cal years 2010 through 2014, for the purpose of  
19 making grants under this section to eligible entities  
20 that are physicians or physician group practices.

21 (5) COMMUNITY MENTAL HEALTH CENTERS.—  
22 There are appropriated from the Federal Supple-  
23 mentary Medical Insurance Trust Fund under sec-  
24 tion 1841 of the Social Security Act (42 U.S.C.  
25 1395t) \$20,000,000, for each of the fiscal years

1 2010 through 2014, for the purpose of making  
2 grants under this section to eligible entities that are  
3 community mental health centers.

4 **SEC. 3. ADJUSTMENTS TO MEDICARE PAYMENTS FOR**  
5 **HEALTH INFORMATION TECHNOLOGY EN-**  
6 **ABLED QUALITY SERVICES.**

7 (a) ADJUSTMENTS.—The Secretary of Health and  
8 Human Services (in this section referred to as the “Sec-  
9 retary”) shall establish a methodology for making adjust-  
10 ments in payment amounts under title XVIII of the Social  
11 Security Act (42 U.S.C. 1395 et seq.) made to providers  
12 of services and suppliers who—

13 (1) furnish items or services for which payment  
14 is made under such title; and

15 (2) in the course of furnishing such items and  
16 services, use health information technology and tech-  
17 nology services with patient-specific applications that  
18 the Secretary determines improves the quality and  
19 accuracy of clinical decision-making, compliance,  
20 health care delivery, and efficiency, such as elec-  
21 tronic medical records, electronic prescribing, clinical  
22 decision support tools integrating well-established  
23 national treatment guidelines with continuous qual-  
24 ity improvement functions, and computerized physi-

1 cian order entry with clinical decision-support capa-  
2 bilities.

3 (b) REQUIREMENTS.—The methodology established  
4 under subsection (a) shall—

5 (1) include the establishment of new codes,  
6 modification of existing codes, and adjustment of  
7 evaluation and management modifiers to such codes,  
8 that take into account the costs of acquiring, using,  
9 and maintaining health information technology and  
10 services with patient-specific applications;

11 (2) first address adjustments for payments for  
12 items and services related to the diagnosis or treat-  
13 ment of heart disease, cancer, stroke, diabetes,  
14 chronic obstructive pulmonary disease (COPD), and  
15 other diseases and conditions that result in high ex-  
16 penditures under the Medicare program and for  
17 which effective health information technology exists;  
18 and

19 (3) take into account estimated aggregate an-  
20 nual savings in overall payments under such title  
21 XVIII attributable to the use of health information  
22 technology and services with patient-specific applica-  
23 tions.

24 (c) DURATION.—The Secretary may reduce or elimi-  
25 nate adjustments made to payments pursuant to sub-



1 section (a) as payment methodologies under title XVIII  
2 of the Social Security Act (42 U.S.C. 1395 et seq.) are  
3 adjusted to reflect provider quality and efficiency.

4 (d) RULE OF CONSTRUCTION.—In making national  
5 coverage determinations under section 1862(a) of the So-  
6 cial Security Act (42 U.S.C. 1395y(a)) with respect to  
7 maintaining health information technology and services  
8 with patient-specific applications, in determining whether  
9 the health information technology and services are reason-  
10 able and necessary for the diagnosis or treatment of illness  
11 or injury or to improve the functioning of a malformed  
12 body member, the Secretary shall consider whether the  
13 health information technology and services improve the  
14 health of Medicare beneficiaries, including the improve-  
15 ment of clinical outcomes or cost-effectiveness of treat-  
16 ment.

17 (e) DEFINITIONS.—In this section:

18 (1) PROVIDER OF SERVICES.—The term “pro-  
19 vider of services” has the meaning given that term  
20 under section 1861(u) of the Social Security Act (42  
21 U.S.C. 1395x(u)).

22 (2) SUPPLIER.—The term “supplier” has the  
23 meaning given that term under section 1861(d) of  
24 such Act (42 U.S.C. 1395x(d)).

1 **SEC. 4. INTEROPERABILITY.**

2 (a) DEVELOPMENT AND ADOPTION OF STAND-  
3 ARDS.—

4 (1) IN GENERAL.—Not later than 2 years after  
5 the date of enactment of this Act, the Secretary of  
6 Health and Human Services (in this section referred  
7 to as the “Secretary”) shall provide for the develop-  
8 ment and adoption under programs administered by  
9 the Secretary of national data and communication  
10 health information technology standards that pro-  
11 mote the efficient exchange of data between varieties  
12 of provider health information technology systems.  
13 In carrying out the preceding sentence, the Sec-  
14 retary may adopt existing standards consistent with  
15 standards established under subsections (b)(2)(B)(i)  
16 and (e)(4) of section 1860D–4 of the Social Security  
17 Act (42 U.S.C. 1395w–104).

18 (2) REQUIREMENTS.—The standards developed  
19 and adopted under paragraph (1) shall be designed  
20 to—

21 (A) enable health information technology  
22 to be used for the collection and use of clinically  
23 specific data;

24 (B) promote the interoperability of health  
25 care information across health care settings, in-

1 including reporting to the Secretary and other  
2 Federal agencies; and

3 (C) facilitate clinical decision support  
4 through the use of health information tech-  
5 nology.

6 (b) IMPLEMENTATION OF PROCEDURES FOR THE  
7 SECRETARY TO ACCEPT DATA USING STANDARDS.—

8 (1) DATA FROM NEW HEALTH CARE REPORTING  
9 REQUIREMENTS.—Not later than January 1, 2011,  
10 the Secretary shall implement procedures to enable  
11 the Department of Health and Human Services to  
12 accept the optional submission of data derived from  
13 health care reporting requirements established after  
14 the date of enactment of this Act using data stand-  
15 ards adopted under this section.

16 (2) DATA FROM ALL REQUIREMENTS.—

17 (A) IN GENERAL.—Not later than January  
18 1, 2013, the Secretary shall implement proce-  
19 dures to enable the Department of Health and  
20 Human Services to accept the optional submis-  
21 sion of data derived from all health care report-  
22 ing requirements using data standards adopted  
23 under this section.

24 (B) LIMITATION.—

1 (i) IN GENERAL.—On and after Janu-  
 2 ary 1, 2013, if an entity or individual  
 3 elects to submit data to the Secretary  
 4 using data standards adopted under this  
 5 section, the Secretary, subject to clause  
 6 (ii), may not require such entity or indi-  
 7 vidual to also submit such data in an addi-  
 8 tional format.

9 (ii) EXCEPTION.—The Secretary may  
 10 provide for an exception, not to exceed 2  
 11 years, to the limitation under clause (i)  
 12 with respect to certain types of data if the  
 13 Secretary determines that such an excep-  
 14 tion is appropriate.

15 **SEC. 5. ELECTION TO EXPENSE HEALTH CARE**  
 16 **INFORMATICS SYSTEMS.**

17 (a) IN GENERAL.—Part VI of subchapter B of chap-  
 18 ter 1 of the Internal Revenue Code of 1986 (relating to  
 19 itemized deductions for individuals and corporations) is  
 20 amended by inserting after section 179E the following new  
 21 section:

22 **“SEC. 179F. HEALTH CARE INFORMATICS SYSTEM EXPENDI-**  
 23 **TURES.**

24 **“(a) TREATMENT OF EXPENDITURES.—**

1           “(1) IN GENERAL.—An eligible entity may elect  
2           to treat any qualified health care informatics system  
3           expenditure which is paid or incurred by the tax-  
4           payer as an expense which is not chargeable to cap-  
5           ital account. Any expenditure which is so treated  
6           shall be allowed as a deduction.

7           “(2) ELECTION.—An election under paragraph  
8           (1) shall be made under rules similar to the rules of  
9           section 179(c).

10          “(b) LIMITATIONS.—

11           “(1) DOLLAR LIMITATION.—With respect to  
12           any eligible entity, the aggregate cost which may be  
13           taken into account under subsection (a)(1) for any  
14           taxable year shall not exceed, when added to any  
15           cost taken into account under this section in any  
16           preceding taxable year, the dollar amount specified  
17           under section 2(e)(2)(A)(ii) of the Health Informa-  
18           tion Technology Act of 2009.

19           “(2) APPLICABLE RULES.—For purposes of this  
20           subsection, rules similar to the rules of paragraphs  
21           (3) and (4) of subsection (b) and paragraphs (6),  
22           (7), and (8) of subsection (d) of section 179 shall  
23           apply.

24          “(c) DEFINITIONS AND SPECIAL RULES.—For pur-  
25          poses of this section—

1           “(1) QUALIFIED HEALTH CARE INFORMATICS  
2           SYSTEM EXPENDITURES.—

3           “(A) IN GENERAL.—The term ‘qualified  
4           health care informatics system expenditure’  
5           means, with respect to any taxable year, any di-  
6           rect or indirect costs incurred and properly  
7           taken into account with respect to the purchase  
8           or installation of equipment and facilities relat-  
9           ing to any qualified health care informatics sys-  
10          tem. Such term shall include so much of the  
11          purchase price paid by the lessor of equipment  
12          and facilities subject to a lease described in  
13          subparagraph (B)(ii) as is attributable to ex-  
14          penditures incurred by the lessee which would  
15          otherwise be described in the preceding sen-  
16          tence.

17          “(B) WHEN EXPENDITURES TAKEN INTO  
18          ACCOUNT.—

19                 “(i) IN GENERAL.—Qualified health  
20                 care informatics system expenditures shall  
21                 be taken into account under this section  
22                 only with respect to equipment and facili-  
23                 ties—

24                         “(I) the original use of which  
25                         commences with the taxpayer, and

1                   “(II) which are placed in service  
2                   after December 31, 2008, and before  
3                   October 1, 2013.

4                   “(ii) SALE-LEASEBACKS.—For pur-  
5                   poses of clause (i), if property—

6                   “(I) is originally placed in service  
7                   after December 31, 2008, and before  
8                   October 1, 2013, by any person, and

9                   “(II) sold and leased back by  
10                  such person within 3 months after the  
11                  date such property was originally  
12                  placed in service,

13                  such property shall be treated as originally  
14                  placed in service not earlier than the date  
15                  on which such property is used under the  
16                  leaseback referred to in subclause (II).

17                  “(C) GRANTS, ETC. EXCLUDED.—The term  
18                  ‘qualified health care informatics system ex-  
19                  penditure’ shall not include any amount to the  
20                  extent such amount is funded by any grant,  
21                  contract, or otherwise by another person (or  
22                  any governmental entity).

23                  “(2) QUALIFIED HEALTH CARE INFORMATICS  
24                  SYSTEM.—The term ‘qualified health care  
25                  informatics system’ means a system which—

1           “(A) has been individually approved by the  
2           Secretary of Health and Human Services for  
3           purposes of this section,

4           “(B) consists of electronic health record  
5           systems and other health information tech-  
6           nologies, and

7           “(C) meets the standards adopted by the  
8           Secretary of Health and Human Services under  
9           section 4 of the Health Information Technology  
10          Act of 2009 by not later than the date which  
11          is 60 days after the date of the adoption of  
12          such standards.

13          “(3) ELIGIBLE ENTITY.—The term ‘eligible en-  
14          tity’ has the meaning given such term by section  
15          2(a)(4) of the Health Information Technology Act of  
16          2009.

17          “(4) PROPERTY USED OUTSIDE THE UNITED  
18          STATES, ETC., NOT QUALIFIED.—No expenditures  
19          shall be taken into account under subsection (a)(1)  
20          with respect to the portion of the cost of any prop-  
21          erty referred to in section 50(b) or with respect to  
22          the portion of the cost of any property specified in  
23          an election under section 179.

24          “(5) ORDINARY INCOME RECAPTURE.—For  
25          purposes of section 1245, the amount of the deduc-



1       tion allowable under subsection (a)(1) with respect  
2       to any property which is of a character subject to  
3       the allowance for depreciation shall be treated as a  
4       deduction allowed for depreciation under section  
5       167.”.

6       (b) CONFORMING AMENDMENTS.—

7             (1) Section 263(a)(1) of the Internal Revenue  
8       Code of 1986 (relating to capital expenditures) is  
9       amended by striking “or” at the end of subpara-  
10      graph (K), by striking the period at the end of sub-  
11      paragraph (L) and inserting “, or”, and by adding  
12      at the end the following new subparagraph:

13             “(M) expenditures for which a deduction is  
14             allowed under section 179F.”.

15             (2) The table of sections for part VI of sub-  
16      chapter A of chapter 1 of such Code is amended by  
17      inserting after the item relating to section 179E the  
18      following new item:

“Sec. 179F. Health care informatics system expenditures.”.

19       (c) EFFECTIVE DATE.—The amendments made by  
20      this section shall apply to property placed in service after  
21      December 31, 2008.

22      **SEC. 6. ENSURING PRIVACY AND SECURITY.**

23             Nothing in this Act (or the amendments made by this  
24      Act) shall be construed to affect the scope, substance, or  
25      applicability of—

1           (1) section 264 of the Health Insurance Port-  
2           ability and Accountability Act of 1996 (42 U.S.C.  
3           1320d-2 note);

4           (2) the provisions of part C of title XI of the  
5           Social Security Act (42 U.S.C. 1320d et seq.); and

6           (3) any regulation issued pursuant to any such  
7           section.

○