

109<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

# H. R. 5559

To improve the exchange of health information by encouraging the creation, use, and maintenance of lifetime electronic health records in independent health record banks, by using such records to build a nationwide health information technology infrastructure, and by promoting participation in health information exchanges by consumers through tax incentives.

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## IN THE HOUSE OF REPRESENTATIVES

JUNE 8, 2006

Mr. RYAN of Wisconsin (for himself, Mr. SESSIONS, Mr. MOORE of Kansas, and Mr. HERGER) introduced the following bill; which was referred to the Committee on Energy and Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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## A BILL

To improve the exchange of health information by encouraging the creation, use, and maintenance of lifetime electronic health records in independent health record banks, by using such records to build a nationwide health information technology infrastructure, and by promoting participation in health information exchanges by consumers through tax incentives.

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

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Independent Health  
3 Record Bank Act of 2006”.

4 **SEC. 2. PURPOSE.**

5 It is the purpose of this Act to provide for the estab-  
6 lishment of a nationwide health information technology  
7 network that—

8 (1) improves health care quality, reduces med-  
9 ical errors, increases the efficiency of care, and ad-  
10 vances the delivery of appropriate, evidence-based  
11 health care services;

12 (2) promotes wellness, disease prevention, and  
13 the management of chronic illnesses by increasing  
14 the availability and transparency of information re-  
15 lated to the health care needs of an individual;

16 (3) ensures that appropriate information nec-  
17 essary to make medical decisions is available in a us-  
18 able form at the time and in the location that the  
19 medical service involved is provided;

20 (4) produces greater value for health care ex-  
21 penditures by reducing health care costs that result  
22 from inefficiency, medical errors, inappropriate care,  
23 and incomplete information;

24 (5) promotes a more effective marketplace,  
25 greater competition, greater systems analysis, in-

1        increased choice, enhanced quality, and improved out-  
2        comes in health care services;

3           (6) improves the coordination of information  
4        and the provision of such services through an effec-  
5        tive infrastructure for the secure and authorized ex-  
6        change and use of health information; and

7           (7) ensures that the confidentiality of individ-  
8        ually identifiable health information of a patient is  
9        secure and protected.

10 **SEC. 3. DEFINITIONS.**

11        In this Act:

12           (1) **ACCOUNT.**—The term “account” means an  
13        electronic health record of an individual contained in  
14        an independent health record bank.

15           (2) **ELECTRONIC HEALTH RECORD.**—The term  
16        “electronic health record” means a longitudinal col-  
17        lection of personal health information concerning a  
18        single individual, entered or accepted by health care  
19        providers, and stored electronically.

20           (3) **HEALTH CARE ENTITY.**—The term “health  
21        care entity” includes health care consumers, health  
22        care providers, and health care payers, government  
23        agencies, pharmaceutical companies, laboratories,  
24        and health care research institutes.

1           (4) HIPAA REGULATIONS.—The term “HIPAA  
2 regulations” means the regulations promulgated  
3 under section 264(c) of the Health Insurance Port-  
4 ability and Accountability Act of 1996 (42 U.S.C.  
5 1320d-2 note).

6           (5) INDIVIDUALLY IDENTIFIABLE HEALTH IN-  
7 FORMATION.—The term “individually identifiable  
8 health information” has the meaning given such  
9 term in section 1171(6) of the Social Security Act  
10 (42 U.S.C. 1320d(6)).

11           (6) NONIDENTIFIABLE HEALTH INFORMA-  
12 TION.—The term “nonidentifiable health informa-  
13 tion” means any list, description, or other grouping  
14 of consumer information (including publicly available  
15 information pertaining to them) that is derived with-  
16 out using personally identifiable information that is  
17 not publicly available.

18           (7) PARTIALLY IDENTIFIABLE HEALTH INFOR-  
19 MATION.—The term “partially identifiable health in-  
20 formation” means any list, description, or other  
21 grouping of consumer information (including pub-  
22 licly available information pertaining to them) that  
23 is derived using any personally identifiable informa-  
24 tion that is not publicly available.

1           (8) PROTECTED HEALTH INFORMATION.—The  
2           term “protected health information” shall have the  
3           meaning given such term for purposes of HIPAA  
4           regulations.

5           (9) BOARD OF GOVERNORS.—The term “Board  
6           of Governors” means the Board of Governors of the  
7           Federal Reserve System.

8   **SEC. 4. INDEPENDENT HEALTH RECORD BANKS.**

9           (a) PURPOSE.—It is the purpose of this section to  
10          provide for the establishment of independent health record  
11          banks to achieve financial savings in the health care sys-  
12          tem and improvements in the provision of health care  
13          through—

14                 (1) the creation and storage of lifetime indi-  
15                 vidual electronic health records for individuals that  
16                 may contain health plan and debit card functionality  
17                 and that serves the interests of all health care enti-  
18                 ties;

19                 (2) the utilization of a technological infrastruc-  
20                 ture with the goal of connecting health records to  
21                 build a national health information network;

22                 (3) the provision of health information data  
23                 sets, within distinct authorization boundaries, based  
24                 on usage needs, including—

1 (A) the sale of approved data for research  
2 and other consumer purposes as provided for  
3 under section 6(b);

4 (B) the provision of data for emergency  
5 health care as provided for under section 6(c);  
6 and

7 (C) the provision of data for all other  
8 health care needs determined appropriate by  
9 the Board of Governors (in accordance with the  
10 protections provided for under section 6);

11 (4) the offering of incentives to employers that  
12 face rising employee health costs, to encourage em-  
13 ployee participation in independent health record  
14 banks; and

15 (5) the creation of a source of tax-free income  
16 to support the operations of the independent health  
17 record banks, and, through revenue sharing, to pro-  
18 vide incentives to independent health record bank ac-  
19 count holders, health care providers, and fee payers  
20 to contribute health information.

21 (b) ESTABLISHMENT.—

22 (1) IN GENERAL.—Not later than one year  
23 after the date of the enactment of this Act, the  
24 Board of Governors shall prescribe standards for the  
25 establishment and certification of independent health

1 record banks to carry out the purpose described in  
2 subsection (a).

3 (2) REQUIREMENT OF NON-PROFIT ENTITY.—

4 Under the standards under paragraph (1), a non-  
5 profit entity may establish an independent health  
6 record bank as a cooperative entity that operates for  
7 the benefit and in the interests of the membership  
8 of the bank as a whole. Such bank shall be owned  
9 and controlled by its members.

10 (3) FOR-PROFIT ENTITIES.—Under the stand-

11 ards under paragraph (1), a for-profit entity may  
12 not participate in the establishment and operation of  
13 an independent health record bank, except to the ex-  
14 tent that such entity is by contract employed to as-  
15 sist in carrying out the operations of the bank.

16 (4) TREATMENT AS COVERED ENTITY FOR PUR-

17 POSES OF HIPAA REGULATIONS.—To the extent that  
18 an independent health record bank (or associated  
19 vendor) is engaged in receiving or transmitting pro-  
20 tected health information, the bank shall be consid-  
21 ered to be a HIPAA covered entity for purposes of  
22 HIPAA regulations with respect to such informa-  
23 tion.

24 (c) MEMBERSHIP.—

1           (1) IN GENERAL.—To be eligible to be a mem-  
2           ber of an independent health record bank, an indi-  
3           vidual shall obtain or have obtained a product or  
4           service from a covered entity that is to be used pri-  
5           marily for personal, family, or household purposes,  
6           or that individual’s legal representative.

7           (2) NO LIMITATION ON MEMBERSHIP.—Nothing  
8           in this subsection shall be construed to permit an  
9           independent health record bank to restrict member-  
10          ship.

11          (d) RIGHTS RELATING TO INFORMATION IN THE  
12          BANK.—

13           (1) INDIVIDUAL CONSUMERS.—

14           (A) GENERAL RIGHT.—An individual who  
15           has a health record contained in an independent  
16           health record bank shall maintain ownership  
17           over the entire health record and shall have the  
18           right to review the contents of the entire record  
19           at any time during the normal business oper-  
20           ating hours of the bank.

21           (B) ADDITIONAL INFORMATION AND LIM-  
22           TATION.—An individual described in subpara-  
23           graph (A) may add personal health information  
24           to the health record of that individual, except  
25           that such individual shall not falsify informa-

1           tion and shall not alter information that is en-  
2           tered into the health record by a health care en-  
3           tity. Such an individual shall have the right to  
4           propose an amendment to information that is  
5           entered by a health care entity pursuant to  
6           standards prescribed by the Board of Governors  
7           for purposes of correcting such information.

8           (2) OTHER HEALTH CARE ENTITIES.—A health  
9           care entity (other than the individual who maintains  
10          ownership over the health record involved) shall  
11          serve as the custodian of only information that has  
12          been added by such entity to the health record. Such  
13          entity may be permitted to have access to other  
14          specified information contained in such health record  
15          (including the entire record if appropriate) if such  
16          access is granted by the independent health record  
17          bank and the individual involved (pursuant to stand-  
18          ards prescribed by the Secretary relating to access  
19          to information).

20          (e) FINANCING OF ACTIVITIES.—

21                 (1) IN GENERAL.—An independent health  
22          record bank may generate revenue to pay for the op-  
23          erations of the bank through—

1 (A) charging health care entities, including  
2 individual account holders, account fees for use  
3 of the bank;

4 (B) the sale of nonidentifiable and par-  
5 tially identifiable health information contained  
6 in the bank for research purposes (as provided  
7 for in section 6(b)); and

8 (C) the conduct of any other activities de-  
9 termined appropriate by the Board of Gov-  
10 ernors.

11 (2) SHARING OF REVENUE.—Revenue derived  
12 under paragraph (1)(B) shall be shared with inde-  
13 pendent health record bank account holders, and  
14 may be shared with health care providers and pay-  
15 ers, in accordance with this Act.

16 (3) TREATMENT OF INCOME.—For purposes of  
17 the Internal Revenue Code of 1986, any revenue de-  
18 scribed in this subsection shall not be included in  
19 gross income of any independent health record bank,  
20 independent health record bank account holder,  
21 health care provider, or payer described in this sub-  
22 section.

23 **SEC. 5. HEALTH CARE CLEARINGHOUSE ACTIVITIES.**

24 (a) APPLICATION OF SECTION.—This section shall  
25 apply to an independent health record bank (and associ-

1 ated vendors) with respect to activities undertaken by such  
2 bank in operating as a health care clearinghouse (as such  
3 term is defined in section 1171(2) of the Social Security  
4 Act (42 U.S.C. 1329d(2)).

5 (b) ACCREDITATION.—

6 (1) IN GENERAL.—To be eligible to carry out  
7 clearinghouse activities under this section, an inde-  
8 pendent health record bank (and associated vendors  
9 performing clearinghouse functions) shall be accred-  
10 ited by a national standards development organiza-  
11 tion, utilizing the criteria described in paragraph  
12 (2), that is properly authenticated and registered  
13 with the Attorney General and the Federal Trade  
14 Commission pursuant to the provisions of the Na-  
15 tional Cooperation Research and Production Act of  
16 1993 (15 U.S.C. 4301 et seq.).

17 (2) CRITERIA.—The criteria to be used by a na-  
18 tional standards development organization in the ac-  
19 creditation of an independent health record bank  
20 under this section shall be designed to measure the  
21 competency, assets, practices, and procedures of the  
22 bank for purposes of conducting clearinghouse ac-  
23 tivities. Such criteria shall include—

24 (A) the technical capacity and electronic  
25 facilities of the bank for the receipt, trans-

1 mission, and handling of electronic health infor-  
2 mation transactions;

3 (B) the ability of the bank to process  
4 transactions to which HIPAA regulations apply;

5 (C) the backup and disaster recovery plans  
6 and capacity of the bank;

7 (D) the privacy practices, procedures, and  
8 employee training programs of the bank con-  
9 sistent with HIPAA regulations; and

10 (E) the security practices, procedures, and  
11 employee training programs of the bank con-  
12 sistent with HIPAA regulations, including com-  
13 pliance with the HIPAA regulations security  
14 rule that protected health information must  
15 only be viewable by the intended recipient.

16 (3) EXISTING CLEARINGHOUSES.—An inde-  
17 pendent health record bank operated by an entity  
18 that has been certified under part C of title XI of  
19 the Social Security Act (42 U.S.C. 1320d et seq.) as  
20 a health care clearinghouse before the date of the  
21 enactment of this Act shall be considered to be ac-  
22 credited for purposes of paragraph (1).

23 (c) INFORMATION REQUIREMENT.—An independent  
24 health record bank acting as a health care clearinghouse  
25 under this section shall ensure that reporting services are

1 provided to individual consumers in a manner that in-  
2 cludes the provision of lists of individuals or organizations  
3 that have accessed the health record account of the con-  
4 sumer or to whom health information disclosures con-  
5 cerning the consumer have been made in accordance with  
6 the requirements of HIPAA regulations.

7 **SEC. 6. AVAILABILITY AND USE OF HEALTH INFORMATION**  
8 **IN BANK.**

9 (a) GENERAL RULE.—Except as provided in this sec-  
10 tion, access to an individual’s electronic health record (or  
11 specified parts of such electronic health record) main-  
12 tained by an independent health record bank shall only  
13 be provided with the prior authorization of the individual  
14 involved, as authenticated as provided for under the stand-  
15 ards prescribed by the Board of Governors under section  
16 8.

17 (b) AVAILABILITY OF DATA FOR RESEARCH AND  
18 OTHER ACTIVITIES.—An independent health record bank  
19 may sell nonidentifiable and partially identifiable health  
20 information, with respect to an individual, only if—

- 21 (1) the bank and the individual agree to the  
22 sale;
- 23 (2) the agreement provided for under para-  
24 graph (1) includes parameters for the disclosure of  
25 information involved and a process for the authoriza-

1 tion of the further disclosure of partially identifiable  
2 health information;

3 (3) the data involved are to be used for re-  
4 search or other activities only as provided for in the  
5 agreement under paragraph (1);

6 (4) the data involved do not identify the indi-  
7 vidual who is the subject of the data;

8 (5) the revenue to be derived from the sale of  
9 the data is collected by the bank and equally divided  
10 between the bank and the individual involved, except  
11 that revenue may also be distributed to health care  
12 providers and payers as incentives to contribute ad-  
13 ditional data to the bank; and

14 (6) the transaction otherwise meets the require-  
15 ments and standards prescribed by the Board of  
16 Governors.

17 (c) AVAILABILITY OF DATA FOR EMERGENCY  
18 HEALTH CARE.—

19 (1) FINDINGS.—Congress finds that—

20 (A) given the size and nature of visits to  
21 emergency departments in the United States,  
22 readily available health information could make  
23 the difference between life and death; and

24 (B) because of the case mix and volume of  
25 patients treated in emergency departments,

1 such departments are well positioned to provide  
2 information for public health surveillance, com-  
3 munity risk assessment, research, education,  
4 training, quality improvement, and other uses.

5 (2) USE OF DATA.—An independent health  
6 record bank may permit health care providers to ac-  
7 cess, during an emergency department visit, a lim-  
8 ited, authenticated information set concerning an in-  
9 dividual for emergency response purposes without  
10 the prior consent of the individual. Such limited in-  
11 formation may include—

12 (A) patient identification information, as  
13 determined appropriate by the individual in-  
14 volved;

15 (B) provider identification that includes  
16 the use of unique provider identifiers as pro-  
17 vided for in section 1173 of the Social Security  
18 Act (42 U.S.C. 1320d-2);

19 (C) payment information;

20 (D) arrival and first assessment data;

21 (E) information related to existing chronic  
22 problems and active clinical conditions of the  
23 individual;

24 (F) information related to the individual's  
25 vitals, allergies, and medication history; and

1 (G) information concerning physical exami-  
2 nations, procedures, results, and diagnosis in-  
3 formation relating to the visit.

4 **SEC. 7. ENSURING PRIVACY AND SECURITY.**

5 (a) IN GENERAL.—Current Federal security and con-  
6 fidentiality standards and State security and confiden-  
7 tiality laws shall apply to this Act (and the amendments  
8 made by this Act) until such time as Congress acts to  
9 amend such standards.

10 (b) APPLICATION OF HIPAA REGULATIONS AND  
11 TRANSACTIONAL STANDARDS.—Nothing in this Act (or  
12 the amendments made by this Act) shall be construed to  
13 narrow the scope, substance, or applicability of part C of  
14 title XI of the Social Security Act (42 U.S.C. 1320d et  
15 seq.), or HIPAA regulations, as such provisions or regula-  
16 tions relate to individually identifiable health information  
17 maintained in an independent health record bank.

18 (c) TREATMENT OF STATE LAWS.—Nothing in this  
19 Act (or the amendments made by this Act) shall be con-  
20 strued as preempting or otherwise affecting any provision  
21 of State law (or any State regulation) relating to the pri-  
22 vacy and confidentiality of individually identifiable health  
23 information or to the security of such information, to the  
24 extent that such provision (or regulation)—

1 (1) provides at least as much protection as oth-  
2 erwise provided under this Act and under HIPAA  
3 regulations; and

4 (2) does not prohibit or restrict the exchange of  
5 health information across State borders.

6 (d) STATE DEFINED.—For purposes of this section,  
7 the term “State” has the meaning given such term when  
8 used in title XI of the Social Security Act, as provided  
9 under section 1101(a) of such Act (42 U.S.C. 1301(a)).

10 **SEC. 8. REGULATORY OVERSIGHT.**

11 (a) IN GENERAL.—In carrying out this Act, the  
12 Board of Governors, acting through the Under Secretary  
13 for Technology or other appropriate official, shall—

14 (1) develop a program to certify entities to op-  
15 erate independent health record banks;

16 (2) provide assistance to encourage the growth  
17 of independent health record banks;

18 (3) track economic progress as it pertains to  
19 independent health record bank operators and indi-  
20 viduals receiving non-taxable income with respect to  
21 accounts;

22 (4) conduct public education activities regarding  
23 the creation and use of the independent health  
24 record banks;

1           (5) establish an interagency council under sub-  
2           section (b) to develop standards for Federal security  
3           auditing for entities operating independent health  
4           record banks; and

5           (6) carry out any other activities determined  
6           appropriate by the Board of Governors.

7           (b) INTERAGENCY COUNCIL FOR SECURITY AUDIT-  
8           ING.—

9           (1) IN GENERAL.—The Board of Governors, in  
10          consultation with the Secretary of Health and  
11          Human Services and other appropriate Federal offi-  
12          cials, shall establish an interagency council to de-  
13          velop standards for Federal security auditing as it  
14          relates to data security, authentication, and author-  
15          ization recommendations, and reviews of inde-  
16          pendent health record banks.

17          (2) DUTIES.—The interagency council estab-  
18          lished under paragraph (1) shall take into consider-  
19          ation the following factors when developing rec-  
20          ommendations for security, authentication, and au-  
21          thorization of information in independent health  
22          record banks:

23                  (A) The number and type of factors used  
24                  for the exchange of protected health informa-  
25                  tion.

1           (B) The requirement that individuals, who  
2           have health records that are maintained by the  
3           bank, be notified of a security breach with re-  
4           spect to such records, and any corrective action  
5           taken on behalf of the individual.

6           (C) The requirement that information sent  
7           to, or received from, an independent health  
8           record bank that has been designated as high-  
9           risk should be authenticated through the use of  
10          methods such as the periodic changing of pass-  
11          words, the use of biometrics, the use of tokens  
12          or other technology as determined appropriate  
13          by the council.

14          (D) Recommendations for entities oper-  
15          ating independent health record banks, includ-  
16          ing requiring analysis of the potential risk of  
17          health transaction security breaches based on  
18          set criteria.

19          (E) The conduct of audits of independent  
20          health record banks to ensure that they are in  
21          compliance with the requirements and stand-  
22          ards established under this Act.

23          (3) COMPLIANCE REPORT.—The interagency  
24          council established under this subsection shall annu-  
25          ally submit to the Board of Governors a report on

1 compliance by independent health record banks with  
2 the requirements and standard under this Act. Such  
3 report shall be included in the corresponding annual  
4 report required under subsection (d).

5 (c) INTERAGENCY MEMORANDUM OF UNDER-  
6 STANDING.—The Board of Governors and the Secretary  
7 of Health and Human Services, and other Federal officials  
8 that may be impacted by this Act, shall ensure, through  
9 the execution of an interagency memorandum of under-  
10 standing among the Board, Secretary, and officials,  
11 that—

12 (1) regulations, rulings, and interpretations  
13 issued by such Board, Secretary, or officials relating  
14 to the same matter over which two or more of such  
15 entities have responsibility under this Act are ad-  
16 ministered so as to have the same effect at all times;  
17 and

18 (2) coordination of policies relating to enforcing  
19 the same requirements through the Board, Sec-  
20 retary, or officials in order to have a coordinated en-  
21 forcement strategy that avoids duplication of en-  
22 forcement efforts and assigns priorities in enforce-  
23 ment.

24 (d) ANNUAL REPORT.—Not later than one year after  
25 the date of the enactment of this Act, and annually there-

1 after, the Secretary, acting through the Under Secretary  
2 for Technology, shall submit to the Committee on Energy  
3 and Commerce and the Committee on Ways and Means  
4 of the House of Representatives and the Committee on  
5 Health, Education, Labor, and Pensions and the Com-  
6 mittee on Finance of the Senate, a report that—

7           (1) describes individual owner or institution op-  
8 erator economic progress as achieved through the  
9 use of independent health record bank and existing  
10 barriers to such use;

11           (2) describes progress in security auditing as  
12 provided for by the interagency security council  
13 under subsection (b); and

14           (3) contains information on the other duties of  
15 the Board of Governors, as described in subsection  
16 (a).

17 **SEC. 9. PENALTIES FOR WRONGFUL DISCLOSURE.**

18       The penalties provided for in subsection (a) of section  
19 1177 of the Social Security Act (42 U.S.C. 1320d–6) shall  
20 apply to the wrongful disclosure of information collected,  
21 maintained, or made available by an independent health  
22 record bank under this Act, including disclosures by any  
23 employees or associates of any such bank or other health  
24 care entity using or disclosing such information, in the

1 same manner as such penalties apply to a person in viola-  
 2 tion of subsection (a) of such section.

3 **SEC. 10. TREATMENT OF EMPLOYER-PROVIDED EMPLOYEE**  
 4 **INDEPENDENT HEALTH RECORD BANK AC-**  
 5 **COUNT FEES.**

6 (a) IN GENERAL.—Section 162 of the Internal Rev-  
 7 enue Code of 1986 (relating to trade or business expenses)  
 8 is amended by redesignating subsection (q) as subsection  
 9 (r) and by inserting after subsection (p) the following new  
 10 subsection:

11 “(q) TREATMENT OF EMPLOYER-PROVIDED EM-  
 12 PLOYEE INDEPENDENT HEALTH RECORD BANK AC-  
 13 COUNT FEES.—

14 “(1) IN GENERAL.—In the case of a taxpayer,  
 15 there shall be allowed as a deduction under this sec-  
 16 tion an amount equal to the independent health  
 17 record bank account investment provided by such  
 18 taxpayer during the taxable year.

19 “(2) INDEPENDENT HEALTH RECORD BANK AC-  
 20 COUNT INVESTMENT.—For purposes of this sub-  
 21 section, the term ‘independent health record bank  
 22 account investment’ means, with respect to each em-  
 23 ployee of the taxpayer for any taxable year, an  
 24 amount equal to the the cost paid by the taxpayer

1 during the taxable year for such employee to main-  
2 tain an independent health record bank account.

3 “(3) INDEPENDENT HEALTH RECORD BANK AC-  
4 COUNT.—For purposes of this subsection, the term  
5 ‘independent health record bank account’ has the  
6 meaning given to the term ‘account’ under section  
7 3(1) of the Independent Health Record Bank Act of  
8 2006.

9 “(4) SPECIAL RULES.—No credit or deduction  
10 (other than under this subsection) shall be allowed  
11 under this chapter with respect to any expense  
12 which is taken into account under paragraph (1) in  
13 determining the deduction under this subsection.

14 “(5) REPORTS.—

15 “(A) IN GENERAL.—Each taxpayer shall  
16 make such reports to the Chairman of the Fed-  
17 eral Reserve Board of Governors and to employ-  
18 ees of the taxpayer regarding—

19 “(i) independent health record bank  
20 account investments made with respect to  
21 such employees during any calendar year,  
22 and

23 “(ii) such other information as the  
24 Chairman may require.

1           “(B) TIME FOR MAKING REPORTS.—The  
2 reports required by this subsection—

3           “(i) shall be filed at such time and in  
4 such manner as the Chairman of the Fed-  
5 eral Reserve Board of Governors pre-  
6 scribes, and

7           “(ii) shall be furnished to employees—

8           “(I) not later than January 31 of  
9 the calendar year following the cal-  
10 endar year to which such reports re-  
11 late, and

12           “(II) in such manner as the  
13 Chairman prescribes.

14           “(6) REGULATIONS.—The Secretary may pre-  
15 scribe such regulations as may be necessary or ap-  
16 propriate to carry out this subsection.

17           “(7) APPLICATION OF SUBSECTION.—This sub-  
18 section shall apply with respect to any independent  
19 health record bank account investments made by the  
20 taxpayer for the 5-taxable year period beginning  
21 with the first taxable year during which such invest-  
22 ments are made by the taxpayer.”.

23           (b) EFFECTIVE DATE.—The amendment made by  
24 this section shall apply to taxable years beginning after  
25 the date of the enactment of this Act.

1           (c) ADDITIONAL INCENTIVE FOR CONSUMERS PAR-  
2   TICIPATING IN IHRB.—Revenue generated by an inde-  
3   pendent health record bank and received by an account  
4   holder, health care entity, or health care payer shall not  
5   be considered taxable income under the Internal Revenue  
6   Code of 1986.

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