

S.L.C.  
*John Thune*

114TH CONGRESS  
2D SESSION

**S.** \_\_\_\_\_

To amend title XVIII of the Social Security Act to provide for a 90-day EHR reporting period for the determination of whether an eligible professional or eligible hospital is a meaningful EHR user and to remove the all-or-nothing approach to meaningful use, and for other purposes.

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IN THE SENATE OF THE UNITED STATES

*Sens. Thune, Alexander, Burr, Enji, Roberts, Cassidy*

\_\_\_\_\_ introduced the following bill; which was read twice and referred to the Committee on \_\_\_\_\_

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## A BILL

To amend title XVIII of the Social Security Act to provide for a 90-day EHR reporting period for the determination of whether an eligible professional or eligible hospital is a meaningful EHR user and to remove the all-or-nothing approach to meaningful use, and for other purposes.

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 “EHR Regulatory Relief  
5 Act”.





1 (c) FOR AN ELIGIBLE HOSPITAL FOR THE 2016  
2 EHR REPORTING PERIOD AND SUBSEQUENT REPORTING  
3 PERIODS AND PAYMENT ADJUSTMENTS FOR FISCAL  
4 YEAR 2018 AND SUBSEQUENT FISCAL YEARS.—Section  
5 1886(b)(3)(B)(ix)(IV) of the Social Security Act (42  
6 U.S.C. 1395ww(b)(3)(B)(ix)(IV)) is amended by adding at  
7 the end the following new sentence: “For the EHR report-  
8 ing period with respect to fiscal year 2018 and each subse-  
9 quent fiscal year, such term shall also include a 90 day  
10 EHR reporting period (or periods) specified by the Sec-  
11 retary.”.

12 **SEC. 3. REMOVING THE ALL-OR-NOTHING APPROACH TO**  
13 **MEANINGFUL USE.**

14 (a) FOR AN ELIGIBLE PROFESSIONAL.—Section  
15 1848(o)(2) of the Social Security Act (42 U.S.C. 1395w-  
16 4(o)(2)) is amended by adding at the end the following  
17 new subparagraph:

18 “(E) FLEXIBILITY FOR MEANINGFUL USE  
19 DETERMINATIONS FOR ELIGIBLE PROFES-  
20 SIONALS.—In applying clauses (i), (ii), and (iii)  
21 of subparagraph (A), the Secretary may deter-  
22 mine that an eligible professional is a meaning-  
23 ful EHR user for the EHR reporting period for  
24 2018 or additional years as determined by the  
25 Secretary if such eligible professional meets at

1           least 70 percent (or a portion between 50 and  
2           70 percent) of the measures established by the  
3           Secretary.”.

4           (b) FOR AN ELIGIBLE HOSPITAL.—Section  
5 1886(n)(3) of the Social Security Act (42 U.S.C.  
6 1395ww(n)(3)) is amended by adding at the end the fol-  
7           lowing new paragraph:

8                   “(D) FLEXIBILITY FOR MEANINGFUL USE  
9           DETERMINATIONS FOR ELIGIBLE HOSPITALS.—  
10           In applying clauses (i), (ii), and (iii) of sub-  
11           paragraph (A), for purposes of subsection  
12           (b)(3)(B)(ix) for an EHR reporting period  
13           under such subsection with respect to fiscal  
14           years after 2018, the Secretary shall determine  
15           that an eligible hospital is a meaningful EHR  
16           user for the EHR reporting period for such fis-  
17           cal years using a methodology specified by the  
18           Secretary through rulemaking based on per-  
19           formance with respect to objectives and meas-  
20           ures established by the Secretary that is met by  
21           an eligible hospital. Such methodology shall  
22           allow an eligible hospital to be a meaningful  
23           EHR user if they achieve 70 percent (or a por-  
24           tion between 50 and 70 percent) of such meas-  
25           ures or if they achieve a composite score (as de-

1           terminated by the Secretary through rulemaking)  
2           based on such measures.”.

3           (c) CONFORMING AMENDMENTS.—The last sentence  
4 of each of sections 1848(o)(2)(A) and 1886(n)(3)(A) of  
5 the Social Security Act (42 U.S.C. 1395w-4(o)(2)(A),  
6 1395ww(n)(3)(A)) are amended by striking “by” and all  
7 that follows before the period at the end.

8 **SEC. 4. EXTENDING FLEXIBILITY IN APPLYING HARDSHIP**  
9 **EXCEPTION FOR MEANINGFUL USE.**

10           (a) FOR AN ELIGIBLE PROFESSIONAL FOR THE 2016  
11 EHR REPORTING PERIOD FOR THE 2018 PAYMENT AD-  
12 JUSTMENT.—Section 1848(a)(7)(B) of the Social Security  
13 Act (42 U.S.C. 1395w-4(a)(7)(B)) is amended—

14           (1) by striking “EXCEPTION.—The Secretary”  
15 and inserting “EXCEPTION.—

16                           “(i) IN GENERAL.—The Secretary”;

17           (2) in the first sentence of clause (i), as added  
18 by paragraph (1)—

19                           (A) by striking “2017” and inserting  
20 “each of 2017 and 2018”; and

21                           (B) by striking “March 15, 2016” and in-  
22 serting “the applicable date (as defined in  
23 clause (ii))”; and

24           (3) by adding at the end the following new  
25 clause:

. 1 “(ii) APPLICABLE DATE DEFINED.—

2 In this subparagraph, the term ‘applicable  
3 date’ means—

4 “(I) with respect to the payment  
5 adjustment under subparagraph (A)  
6 for 2017, March 15, 2016; and

7 “(II) with respect to the payment  
8 adjustment under subparagraph (A)  
9 for 2018, March 15, 2017.”.

10 (b) FOR AN ELIGIBLE HOSPITAL FOR THE 2016 AND  
11 2017 EHR REPORTING PERIODS AND PAYMENT ADJUST-  
12 MENTS FOR FISCAL YEARS 2018 AND 2019.—Section  
13 1886(b)(3)(B)(ix) of the Social Security Act (42 U.S.C.  
14 1395ww(b)(3)(B)(ix)) is amended—

15 (1) in the first sentence of subclause (II)—

16 (A) by striking “fiscal year 2017” and in-  
17 serting “each of fiscal years 2017 through  
18 2019”; and

19 (B) by striking “April 1, 2016” and insert-  
20 ing “the applicable date (as defined in sub-  
21 clause (V))”; and

22 (2) by adding at the end the following new sub-  
23 clause:

24 “(V) For purposes of this clause, the term ‘applicable  
25 date’ means—

1           “(aa) with respect to the payment reduction  
2           under subclause (I) for fiscal year 2017, April 1,  
3           2016;

4           “(bb) with respect to the payment reduction  
5           under subclause (I) for fiscal year 2018, April 1,  
6           2017; and

7           “(cc) with respect to the payment reduction  
8           under subclause (I) for fiscal year 2019, April 1,  
9           2018.”.