

**AMENDMENT TO H.R. 1960, AS REPORTED
OFFERED BY MR. ROE OF TENNESSEE**

At the end of title VII, insert the following:

1 **SEC. 7___ . PRIZE PROGRAM FOR THE DEVELOPMENT OF A**
2 **FULLY-INTEGRATED ELECTRONIC HEALTH**
3 **RECORDS PROGRAM FOR USE BY THE DE-**
4 **PARTMENT OF DEFENSE AND THE DEPART-**
5 **MENT OF VETERANS AFFAIRS.**

6 (a) PRIZE AUTHORITY.—

7 (1) IN GENERAL.—The Secretary of Defense
8 and the Secretary of Veterans Affairs shall jointly
9 carry out a program to award a cash prize in the
10 amount of \$50,000,000 and contract to an entity
11 that develops a fully-integrated electronic health
12 records program for national use by the Department
13 of Defense and the Department of Veterans Affairs.

14 (2) ADVERTISING AND SOLICITATION OF COM-
15 PETITORS.—

16 (A) ADVERTISING.—The Secretaries shall
17 widely advertise prize competitions under this
18 section to encourage broad participation by re-
19 searchers, large and small businesses, institu-

1 tions of higher education, and any other quali-
2 fied applicants, including veterans.

3 (B) ANNOUNCEMENT THROUGH FEDERAL
4 REGISTER NOTICE.—The Secretaries shall an-
5 nounce each prize competition under this sec-
6 tion by publishing a notice in the Federal Reg-
7 ister. This notice shall include essential ele-
8 ments of the competition such as the subject of
9 the competition, the duration of the competi-
10 tion, the eligibility requirements for participa-
11 tion in the competition, the process for partici-
12 pants to register for the competition, the
13 amount of the prize, and the criteria for award-
14 ing the prize and contract.

15 (3) ANNOUNCEMENT OF PRIZES.—The Sec-
16 retary may not issue a notice required by paragraph
17 (2)(B) until all the funds needed to pay out the an-
18 nounced amount of the prize have been appro-
19 priated.

20 (b) ELIGIBILITY.—To be eligible to win a prize under
21 this section, an individual or entity—

22 (1) shall have complied with all the require-
23 ments in accordance with the Federal Register no-
24 tice required under subsection (a)(2)(B);

1 (2) in the case of a private entity, shall be in-
2 corporated in and maintain a primary place of busi-
3 ness in the United States, and in the case of an in-
4 dividual, whether participating singly or in a group,
5 shall be a citizen of, or an alien lawfully admitted
6 for permanent residence in, the United States; and

7 (3) shall not be a Federal entity, a Federal em-
8 ployee acting within the scope of his employment, or
9 an employee of a national laboratory acting within
10 the scope of his employment.

11 (c) JOINT PANEL.—

12 (1) ESTABLISHMENT.—The Secretary of De-
13 fense and the Secretary of Veterans Affairs shall es-
14 tablish a joint panel to establish the criteria for the
15 development of a fully-integrated electronic health
16 records program eligible for an award and contract
17 under this section to ensure that the program meets
18 the requirements of the Department of Defense and
19 the Department of Veterans Affairs.

20 (2) MEMBERSHIP.—

21 (A) IN GENERAL.—The members of the
22 joint panel shall be—

23 (i) one physician from each of the
24 military departments, to be appointed by

1 the Secretary of the military department
2 concerned;

3 (ii) two physicians employed by the
4 Department of Veterans Affairs, to be ap-
5 pointed by the Secretary of Veterans Af-
6 fairs; and

7 (iii) two representatives of the Vet-
8 erans Benefits Administration of the De-
9 partment of Veterans Affairs, to be ap-
10 pointed by the Secretary of Veterans Af-
11 fairs.

12 (B) DEADLINE FOR APPOINTMENT.—Mem-
13 bers of the joint panel shall be appointed by not
14 later than 14 days after the date of the enact-
15 ment of this Act. Any member who is not ap-
16 pointed by such deadline shall not be appointed
17 to the panel.

18 (3) DEADLINE FOR CRITERIA.—The joint panel
19 shall establish criteria with sufficient specificity for
20 development, taking best practices of private and
21 public electronic health records under consideration.
22 If the panel fails to agree on such criteria or if an
23 insufficient number of members are appointed to the
24 panel before the deadline under paragraph (2)(B),
25 the National Health Information Technology Coordi-

1 nator shall determine such criteria, taking best prac-
2 tices of private and public electronic health record
3 systems into consideration.

4 (d) DEADLINE FOR SUBMISSIONS.—The deadline for
5 the submission of an application to participate in the com-
6 petition under this section is the date that is one year after
7 the date on which the criteria are established under sub-
8 section (c), or if such date falls on a weekend, the next
9 weekday following such date.

10 (e) AWARD SELECTION.—The Secretary of Defense
11 and the Secretary of Veterans Affairs shall award prizes
12 under this section on the basis of the criteria published
13 in the notice required under subsection (a)(2)(B).

14 (f) CONTRACT.—Notwithstanding any other provision
15 of law, the entity that is awarded a prize under this sec-
16 tion shall be awarded a contract with the Department of
17 Defense and the Department of Veterans Affairs to pro-
18 vide the fully-integrated electronic health records program
19 for which the prize is awarded to the Departments and
20 to provide maintenance and support for such program for
21 a five-year period and under such contract shall be com-
22 pensated in an amount of \$25,000,000 for each year.

23 (g) INTELLECTUAL PROPERTY.—

24 (1) TREATMENT OF WINNING INTELLECTUAL
25 PROPERTY.—Upon the expiration of the contract re-

1 ferred to in subsection (e) the intellectual property
2 rights in the fully-integrated electronic health
3 records program for which a prize is awarded under
4 this section shall revert to the Federal Government.
5 The entity that is awarded a prize under this section
6 shall retain the intellectual property rights in any
7 upgrades to the program developed by the entity.

8 (2) OTHER INTELLECTUAL PROPERTY.—Except
9 as provided in paragraph (1), the Federal Govern-
10 ment shall not, by virtue of offering or awarding a
11 prize under this section, be entitled to any intellec-
12 tual property rights derived as a consequence of, or
13 direct relation to, the participation by a registered
14 participant in a competition authorized by this sec-
15 tion. This subsection shall not be construed to pre-
16 vent the Federal Government from negotiating a li-
17 cense for the use of intellectual property developed
18 for a prize competition under this section.

19 (h) LIABILITY.—

20 (1) WAIVER OF LIABILITY.—The Secretary of
21 Defense and the Secretary of Veterans Affairs may
22 require registered participants to waive claims
23 against the Federal Government (except claims for
24 willful misconduct) for any injury, death, damage, or
25 loss of property, revenue, or profits arising from the

1 registered participants' participation in a competi-
2 tion under this section. The Secretary shall give no-
3 tice of any waiver required under this paragraph in
4 the notice required by subsection (a)(2)(B).

5 (2) LIABILITY INSURANCE.—

6 (A) REQUIREMENTS.—Registered partici-
7 pants in a prize competition under this section
8 shall be required to obtain liability insurance or
9 demonstrate financial responsibility, in amounts
10 determined by the Secretary, for claims by—

11 (i) a third party for death, bodily in-
12 jury, or property damage or loss resulting
13 from an activity carried out in connection
14 with participation in a competition under
15 this section; and

16 (ii) the Federal Government for dam-
17 age or loss to Government property result-
18 ing from such an activity.

19 (B) FEDERAL GOVERNMENT INSURED.—
20 The Federal Government shall be named as an
21 additional insured under a registered partici-
22 pant's insurance policy required under subpara-
23 graph (A) with respect to claims described in
24 clause (i) of that subparagraph, and registered
25 participants shall be required to agree to in-

1 demnify the Federal Government against third
2 party claims for damages arising from or re-
3 lated to competition activities under this sec-
4 tion.

5 (i) NONSUBSTITUTION.—The programs created
6 under this section shall not be considered a substitute for
7 Federal research and development programs.

8 (j) AUTHORIZATION OF APPROPRIATIONS.—Of the
9 amounts authorized to be appropriated for the Interagency
10 Program Office for fiscal year 2014, \$50,000,000 may be
11 used to carry out this section, with such amounts to be
12 derived from the electronic health record account prior to
13 any other expenditure or obligation.

