

1 AN ACT concerning health.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 1. Short title. This Act may be cited as the  
5 Illinois Health Information Exchange and Technology Act.

6 Section 5. Purpose. Health information technology improves  
7 the quality of patient care, increases the efficiency of health  
8 care practices, improves safety, and reduces healthcare  
9 errors. The State of Illinois has an interest in encouraging  
10 the adoption of a health information system to improve the  
11 safety, quality, and value of health care, to protect and keep  
12 health information secure, and to use the health information  
13 exchange system to advance and meet population health goals. To  
14 ensure that the benefits of health information technology are  
15 available to the consumers of Illinois and to encourage greater  
16 patient participation in health care decisions, the State must  
17 provide a framework for the exchange of health information and  
18 encourage the widespread adoption of electronic health systems  
19 and the use of electronic health records among health care  
20 providers and patients. The creation of a State-level health  
21 information exchange system will allow, among other benefits,  
22 the widespread utilization of electronic health records by  
23 health care providers and patients in order to ensure that

1 Illinois' health care providers can achieve the meaningful use  
2 of electronic records, as defined by federal law, and  
3 participate fully in the health information technology  
4 incentives available from the federal government under the  
5 Medicare and Medicaid programs.

6 Section 10. Creation of the Health Information Exchange  
7 Authority. There is hereby created the Illinois Health  
8 Information Exchange Authority ("Authority"), which is hereby  
9 constituted as an instrumentality and an administrative agency  
10 of the State of Illinois.

11 As part of its program to promote, develop, and sustain  
12 health information exchange at the State level, the Authority  
13 shall do the following:

14 (1) Establish the Illinois Health Information Exchange  
15 ("ILHIE"), to promote and facilitate the sharing of health  
16 information among health care providers within Illinois  
17 and in other states. ILHIE shall be an entity operated by  
18 the Authority to serve as a State-level electronic medical  
19 records exchange providing for the transfer of health  
20 information, medical records, and other health data in a  
21 secure environment for the benefit of patient care, patient  
22 safety, reduction of duplicate medical tests, reduction of  
23 administrative costs, and any other benefits deemed  
24 appropriate by the Authority.

25 (2) Foster the widespread adoption of electronic

1 health records and participation in the ILHIE.

2 Section 15. Governance of the Illinois Health Information  
3 Exchange Authority.

4 (a) The Authority shall consist of and be governed by one  
5 Executive Director and 8 directors who are hereby authorized to  
6 carry out the provisions of this Act and to exercise the powers  
7 conferred under this Act.

8 (b) The Executive Director and 8 directors shall be  
9 appointed to 3-year staggered terms by the Governor with the  
10 advice and consent of the Senate. Of the members first  
11 appointed after the effective date of this Act, 3 shall be  
12 appointed for a term of one year, 3 shall be appointed for a  
13 term of 2 years, and 3 shall be appointed for a term of 3 years.  
14 The Executive Director and directors may serve successive terms  
15 and, in the event the term of the Executive Director or a  
16 director expires, he or she shall serve in the expired term  
17 until a new Executive Director or director is appointed and  
18 qualified. Vacancies shall be filled for the unexpired term in  
19 the same manner as original appointments. The Governor may  
20 remove a director or the Executive Director for incompetency,  
21 dereliction of duty, malfeasance, misfeasance, or nonfeasance  
22 in office or any other good cause. The Executive Director shall  
23 be compensated at an annual salary of 75% of the salary of the  
24 Governor.

25 (c) The Executive Director and directors shall be chosen

1 with due regard to broad geographic representation and shall be  
2 representative of a broad spectrum of health care providers and  
3 stakeholders, including representatives from any of the  
4 following fields or groups: health care consumers, consumer  
5 advocates, physicians, nurses, hospitals, federally qualified  
6 health centers as defined in Section 1905(1)(2)(B) of the  
7 Social Security Act and any subsequent amendments thereto,  
8 health plans or third-party payors, employers, long-term care  
9 providers, pharmacists, State and local public health  
10 entities, outpatient diagnostic service providers, behavioral  
11 health providers, home health agency organizations, health  
12 professional schools in Illinois, health information  
13 technology, or health information research.

14 (d) The directors of the Illinois Department of Healthcare  
15 and Family Services, the Illinois Department of Public Health,  
16 and the Illinois Department of Insurance and the Secretary of  
17 the Illinois Department of Human Services, or their designees,  
18 and a designee of the Office of the Governor, shall serve as  
19 ex-officio members of the Authority.

20 (e) The Authority is authorized to conduct its business by  
21 a majority of the appointed members. The Authority may adopt  
22 bylaws in order to conduct meetings. The bylaws may permit the  
23 Authority to meet by telecommunication or electronic  
24 communication.

25 (f) The Authority shall appoint an Illinois Health  
26 Information Exchange Authority Advisory Committee ("Advisory

1 Committee") with representation from any of the fields or  
2 groups listed in subsection (c) of this Section. The purpose of  
3 the Advisory Committee shall be to advise and provide  
4 recommendations to the Authority regarding the ILHIE. The  
5 Advisory Committee members shall serve 2-year terms. The  
6 Authority may establish other advisory committees and  
7 subcommittees to conduct the business of the Authority.

8 (g) Directors of the Authority, members of the Advisory  
9 Committee, and any other advisory committee and subcommittee  
10 members may be reimbursed for ordinary and contingent travel  
11 and meeting expenses for their service at the rate approved for  
12 State employee travel.

13 Section 20. Powers and duties of the Illinois Health  
14 Information Exchange Authority. The Authority has the  
15 following powers, together with all powers incidental or  
16 necessary to accomplish the purposes of this Act:

17 (1) The Authority shall create and administer the ILHIE  
18 using information systems and processes that are secure,  
19 are cost effective, and meet all other relevant privacy and  
20 security requirements under State and federal law.

21 (2) The Authority shall establish and adopt standards  
22 and requirements for the use of health information and the  
23 requirements for participation in the ILHIE by persons or  
24 entities including, but not limited to, health care  
25 providers, payors, and local health information exchanges.

1           (3) The Authority shall establish minimum standards  
2           for accessing the ILHIE to ensure that the appropriate  
3           security and privacy protections apply to health  
4           information, consistent with applicable federal and State  
5           standards and laws. The Authority shall have the power to  
6           suspend, limit, or terminate the right to participate in  
7           the ILHIE for non-compliance or failure to act, with  
8           respect to applicable standards and laws, in the best  
9           interests of patients, users of the ILHIE, or the public.  
10          The Authority may seek all remedies allowed by law to  
11          address any violation of the terms of participation in the  
12          ILHIE.

13          (4) The Authority shall identify barriers to the  
14          adoption of electronic health records systems, including  
15          researching the rates and patterns of dissemination and use  
16          of electronic health record systems throughout the State.  
17          The Authority shall make the results of the research  
18          available on its website.

19          (5) The Authority shall prepare educational materials  
20          and educate the general public on the benefits of  
21          electronic health records, the ILHIE, and the safeguards  
22          available to prevent unauthorized disclosure of health  
23          information.

24          (6) The Authority may appoint or designate an  
25          institutional review board in accordance with federal and  
26          State law to review and approve requests for research in

1 order to ensure compliance with standards and patient  
2 privacy and security protections as specified in paragraph  
3 (3) of this Section.

4 (7) The Authority may enter into all contracts and  
5 agreements necessary or incidental to the performance of  
6 its powers under this Act. The Authority's expenditures of  
7 private funds are exempt from the Illinois Procurement  
8 Code, pursuant to Section 1-10 of that Act. Notwithstanding  
9 this exception, the Authority shall comply with the  
10 Business Enterprise for Minorities, Females, and Persons  
11 with Disabilities Act.

12 (8) The Authority may solicit and accept grants, loans,  
13 contributions, or appropriations from any public or  
14 private source and may expend those moneys, through  
15 contracts, grants, loans, or agreements, on activities it  
16 considers suitable to the performance of its duties under  
17 this Act.

18 (9) The Authority may determine, charge, and collect  
19 any fees, charges, costs, and expenses from any healthcare  
20 provider or entity in connection with its duties under this  
21 Act. Moneys collected under this paragraph (9) shall be  
22 deposited into the Health Information Exchange Fund.

23 (10) The Authority may, under the direction of the  
24 Executive Director, employ and discharge staff, including  
25 administrative, technical, expert, professional, and legal  
26 staff, as is necessary or convenient to carry out the

1 purposes of this Act. The Authority may establish and  
2 administer standards of classification regarding  
3 compensation, benefits, duties, performance, and tenure  
4 for that staff and may enter into contracts of employment  
5 with members of that staff for such periods and on such  
6 terms as the Authority deems desirable. All employees of  
7 the Authority are exempt from the Personnel Code as  
8 provided by Section 4 of the Personnel Code.

9 (11) The Authority shall consult and coordinate with  
10 the Department of Public Health to further the Authority's  
11 collection of health information from health care  
12 providers for public health purposes. The collection of  
13 public health information shall include identifiable  
14 information for use by the Authority or other State  
15 agencies to comply with State and federal laws. Any  
16 identifiable information so collected shall be privileged  
17 and confidential in accordance with Sections 8-2101,  
18 8-2102, 8-2103, 8-2104, and 8-2105 of the Code of Civil  
19 Procedure.

20 (12) All identified or deidentified health information  
21 in the form of health data or medical records contained in,  
22 stored in, submitted to, transferred by, or released from  
23 the Illinois Health Information Exchange, and identified  
24 or deidentified health information in the form of health  
25 data and medical records of the Illinois Health Information  
26 Exchange in the possession of the Illinois Health



1 Information Exchange Authority due to its administration  
2 of the Illinois Health Information Exchange, shall be  
3 exempt from inspection and copying under the Freedom of  
4 Information Act. The terms "identified" and "deidentified"  
5 shall be given the same meaning as in the Health Insurance  
6 Accountability and Portability Act of 1996, Public Law  
7 104-191, or any subsequent amendments thereto, and any  
8 regulations promulgated thereunder.

9 (13) To address gaps in the adoption of, workforce  
10 preparation for, and exchange of electronic health records  
11 that result in regional and socioeconomic disparities in  
12 the delivery of care, the Authority may evaluate such gaps  
13 and provide resources as available, giving priority to  
14 healthcare providers serving a significant percentage of  
15 Medicaid or uninsured patients and in medically  
16 underserved or rural areas.

17 Section 25. Health Information Exchange Fund.

18 (a) The Health Information Exchange Fund (the "Fund") is  
19 created as a separate fund outside the State treasury. Moneys  
20 in the Fund are not subject to appropriation by the General  
21 Assembly. The State Treasurer shall be ex-officio custodian of  
22 the Fund. Revenues arising from the operation and  
23 administration of the Authority and the ILHIE shall be  
24 deposited into the Fund. Fees, charges, State and federal  
25 moneys, grants, donations, gifts, interest, or other moneys

1 shall be deposited into the Fund. "Private funds" means gifts,  
2 donations, and private grants.

3 (b) The Authority is authorized to spend moneys in the Fund  
4 on activities suitable to the performance of its duties as  
5 provided in Section 20 of this Act and authorized by this Act.  
6 Disbursements may be made from the Fund for purposes related to  
7 the operations and functions of the Authority and the ILHIE.

8 (c) The Illinois General Assembly may appropriate moneys to  
9 the Authority and the ILHIE, and those moneys shall be  
10 deposited into the Fund.

11 (d) The Fund is not subject to administrative charges or  
12 charge-backs, including but not limited to those authorized  
13 under Section 8h of the State Finance Act.

14 (e) The Authority's accounts and books shall be set up and  
15 maintained in accordance with the Office of the Comptroller's  
16 requirements, and the Authority's Executive Director shall be  
17 responsible for the approval of recording of receipts, approval  
18 of payments, and proper filing of required reports. The moneys  
19 held and made available by the Authority shall be subject to  
20 financial and compliance audits by the Auditor General in  
21 compliance with the Illinois State Auditing Act.

22 Section 30. Participation in health information systems  
23 maintained by State agencies.

24 (a) By no later than January 1, 2015, each State agency  
25 that implements, acquires, or upgrades health information

1 technology systems shall use health information technology  
2 systems and products that meet minimum standards adopted by the  
3 Authority for accessing the ILHIE. State agencies that have  
4 health information which supports and develops the ILHIE shall  
5 provide access to patient-specific data to complete the patient  
6 record at the ILHIE. Notwithstanding any other provision of  
7 State law, the State agencies shall provide patient-specific  
8 data to the ILHIE.

9 (b) Participation in the ILHIE shall have no impact on the  
10 content of or use or disclosure of health information of  
11 patient participants that is held in locations other than the  
12 ILHIE. Nothing in this Act shall limit or change an entity's  
13 obligation to exchange health information in accordance with  
14 applicable federal and State laws and standards.

15 Section 35. Illinois Administrative Procedure Act. The  
16 provisions of the Illinois Administrative Procedure Act are  
17 hereby expressly adopted and shall apply to all administrative  
18 rules and procedures of the Authority, except that Section 5-35  
19 of the Illinois Administrative Procedure Act relating to  
20 procedures for rulemaking does not apply to the adoption of any  
21 rule required by federal law when the Authority is precluded by  
22 that law from exercising any discretion regarding that rule.

23 Section 40. Reliance on data. Any health care provider who  
24 relies in good faith upon any information provided through the

1 ILHIE in his, her, or its treatment of a patient shall be  
2 immune from criminal or civil liability arising from any  
3 damages caused by such good faith reliance. This immunity does  
4 not apply to acts or omissions constituting gross negligence or  
5 reckless, wanton, or intentional misconduct. Notwithstanding  
6 this provision, the Authority does not waive any immunities  
7 provided under State or federal law.

8 Section 900. The Regulatory Sunset Act is amended by adding  
9 Section 4.31 as follows:

10 (5 ILCS 80/4.31 new)

11 Sec. 4.31. Act repealed on January 1, 2021. The following  
12 Act is repealed on January 1, 2021:

13 The Illinois Health Information Exchange and Technology  
14 Act.

15 Section 905. The Freedom of Information Act is amended by  
16 changing Section 7.5 as follows:

17 (5 ILCS 140/7.5)

18 Sec. 7.5. Statutory Exemptions. To the extent provided for  
19 by the statutes referenced below, the following shall be exempt  
20 from inspection and copying:

21 (a) All information determined to be confidential under  
22 Section 4002 of the Technology Advancement and Development Act.

1           (b) Library circulation and order records identifying  
2 library users with specific materials under the Library Records  
3 Confidentiality Act.

4           (c) Applications, related documents, and medical records  
5 received by the Experimental Organ Transplantation Procedures  
6 Board and any and all documents or other records prepared by  
7 the Experimental Organ Transplantation Procedures Board or its  
8 staff relating to applications it has received.

9           (d) Information and records held by the Department of  
10 Public Health and its authorized representatives relating to  
11 known or suspected cases of sexually transmissible disease or  
12 any information the disclosure of which is restricted under the  
13 Illinois Sexually Transmissible Disease Control Act.

14           (e) Information the disclosure of which is exempted under  
15 Section 30 of the Radon Industry Licensing Act.

16           (f) Firm performance evaluations under Section 55 of the  
17 Architectural, Engineering, and Land Surveying Qualifications  
18 Based Selection Act.

19           (g) Information the disclosure of which is restricted and  
20 exempted under Section 50 of the Illinois Prepaid Tuition Act.

21           (h) Information the disclosure of which is exempted under  
22 the State Officials and Employees Ethics Act, and records of  
23 any lawfully created State or local inspector general's office  
24 that would be exempt if created or obtained by an Executive  
25 Inspector General's office under that Act.

26           (i) Information contained in a local emergency energy plan

1 submitted to a municipality in accordance with a local  
2 emergency energy plan ordinance that is adopted under Section  
3 11-21.5-5 of the Illinois Municipal Code.

4 (j) Information and data concerning the distribution of  
5 surcharge moneys collected and remitted by wireless carriers  
6 under the Wireless Emergency Telephone Safety Act.

7 (k) Law enforcement officer identification information or  
8 driver identification information compiled by a law  
9 enforcement agency or the Department of Transportation under  
10 Section 11-212 of the Illinois Vehicle Code.

11 (l) Records and information provided to a residential  
12 health care facility resident sexual assault and death review  
13 team or the Executive Council under the Abuse Prevention Review  
14 Team Act.

15 (m) Information provided to the predatory lending database  
16 created pursuant to Article 3 of the Residential Real Property  
17 Disclosure Act, except to the extent authorized under that  
18 Article.

19 (n) Defense budgets and petitions for certification of  
20 compensation and expenses for court appointed trial counsel as  
21 provided under Sections 10 and 15 of the Capital Crimes  
22 Litigation Act. This subsection (n) shall apply until the  
23 conclusion of the trial of the case, even if the prosecution  
24 chooses not to pursue the death penalty prior to trial or  
25 sentencing.

26 (o) Information that is prohibited from being disclosed

1 under Section 4 of the Illinois Health and Hazardous Substances  
2 Registry Act.

3 (p) Security portions of system safety program plans,  
4 investigation reports, surveys, schedules, lists, data, or  
5 information compiled, collected, or prepared by or for the  
6 Regional Transportation Authority under Section 2.11 of the  
7 Regional Transportation Authority Act or the St. Clair County  
8 Transit District under the Bi-State Transit Safety Act.

9 (q) Information prohibited from being disclosed by the  
10 Personnel Records Review Act.

11 (r) Information prohibited from being disclosed by the  
12 Illinois School Student Records Act.

13 (s) Information the disclosure of which is restricted under  
14 Section 5-108 of the Public Utilities Act.

15 (t) All identified or deidentified health information in  
16 the form of health data or medical records contained in, stored  
17 in, submitted to, transferred by, or released from the Illinois  
18 Health Information Exchange, and identified or deidentified  
19 health information in the form of health data and medical  
20 records of the Illinois Health Information Exchange in the  
21 possession of the Illinois Health Information Exchange  
22 Authority due to its administration of the Illinois Health  
23 Information Exchange. The terms "identified" and  
24 "deidentified" shall be given the same meaning as in the Health  
25 Insurance Accountability and Portability Act of 1996, Public  
26 Law 104-191, or any subsequent amendments thereto, and any

1 regulations promulgated thereunder.

2 (Source: P.A. 96-542, eff. 1-1-10.)

3 Section 910. The Illinois Procurement Code is amended by  
4 changing Section 1-10 as follows:

5 (30 ILCS 500/1-10)

6 Sec. 1-10. Application.

7 (a) This Code applies only to procurements for which  
8 contractors were first solicited on or after July 1, 1998. This  
9 Code shall not be construed to affect or impair any contract,  
10 or any provision of a contract, entered into based on a  
11 solicitation prior to the implementation date of this Code as  
12 described in Article 99, including but not limited to any  
13 covenant entered into with respect to any revenue bonds or  
14 similar instruments. All procurements for which contracts are  
15 solicited between the effective date of Articles 50 and 99 and  
16 July 1, 1998 shall be substantially in accordance with this  
17 Code and its intent.

18 (b) This Code shall apply regardless of the source of the  
19 funds with which the contracts are paid, including federal  
20 assistance moneys. This Code shall not apply to:

21 (1) Contracts between the State and its political  
22 subdivisions or other governments, or between State  
23 governmental bodies except as specifically provided in  
24 this Code.



1           (2) Grants, except for the filing requirements of  
2 Section 20-80.

3           (3) Purchase of care.

4           (4) Hiring of an individual as employee and not as an  
5 independent contractor, whether pursuant to an employment  
6 code or policy or by contract directly with that  
7 individual.

8           (5) Collective bargaining contracts.

9           (6) Purchase of real estate, except that notice of this  
10 type of contract with a value of more than \$25,000 must be  
11 published in the Procurement Bulletin within 7 days after  
12 the deed is recorded in the county of jurisdiction. The  
13 notice shall identify the real estate purchased, the names  
14 of all parties to the contract, the value of the contract,  
15 and the effective date of the contract.

16           (7) Contracts necessary to prepare for anticipated  
17 litigation, enforcement actions, or investigations,  
18 provided that the chief legal counsel to the Governor shall  
19 give his or her prior approval when the procuring agency is  
20 one subject to the jurisdiction of the Governor, and  
21 provided that the chief legal counsel of any other  
22 procuring entity subject to this Code shall give his or her  
23 prior approval when the procuring entity is not one subject  
24 to the jurisdiction of the Governor.

25           (8) Contracts for services to Northern Illinois  
26 University by a person, acting as an independent

1 contractor, who is qualified by education, experience, and  
2 technical ability and is selected by negotiation for the  
3 purpose of providing non-credit educational service  
4 activities or products by means of specialized programs  
5 offered by the university.

6 (9) Procurement expenditures by the Illinois  
7 Conservation Foundation when only private funds are used.

8 (10) Procurement expenditures by the Illinois Health  
9 Information Exchange Authority involving private funds  
10 from the Health Information Exchange Fund. "Private funds"  
11 means gifts, donations, and private grants.

12 (c) This Code does not apply to the electric power  
13 procurement process provided for under Section 1-75 of the  
14 Illinois Power Agency Act and Section 16-111.5 of the Public  
15 Utilities Act.

16 (d) Except for Section 20-160 and Article 50 of this Code,  
17 and as expressly required by Section 9.1 of the Illinois  
18 Lottery Law, the provisions of this Code do not apply to the  
19 procurement process provided for under Section 9.1 of the  
20 Illinois Lottery Law.

21 (Source: P.A. 95-481, eff. 8-28-07; 95-615, eff. 9-11-07;  
22 95-876, eff. 8-21-08; 96-840, eff. 12-23-09.)

23 Section 995. Severability. If any provision of this Act or  
24 application thereof to any person or circumstance is held  
25 invalid, such invalidity does not affect other provisions or

1 applications of this Act which can be given effect without the  
2 invalid application or provision, and to this end the  
3 provisions of this Act are declared to be severable.

4 Section 999. Effective date. This Act takes effect upon  
5 becoming law.