

**House Study Bill 561 - Introduced**

SENATE/HOUSE FILE \_\_\_\_\_  
BY (PROPOSED DEPARTMENT OF  
PUBLIC HEALTH BILL)

**A BILL FOR**

1 An Act relating to the Iowa health information network,  
2 providing for fees, and including effective date provisions.  
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 135.154, Code 2011, is amended by adding  
2 the following new subsections:

3 NEW SUBSECTION. 01. "*Advisory council*" means the electronic  
4 health information advisory council created in section 135.156.

5 NEW SUBSECTION. 001. "*Authorized*" means having met the  
6 requirements as a participant for access to and use of the Iowa  
7 health information network.

8 NEW SUBSECTION. 2A. "*Exchange*" means the authorized  
9 electronic sharing of health information between health care  
10 professionals, payors, consumers, public health agencies, the  
11 department, and other authorized participants utilizing the  
12 Iowa health information network and Iowa health information  
13 network services.

14 NEW SUBSECTION. 2B. "*Executive committee*" means the  
15 executive committee of the electronic health information  
16 advisory council created in section 135.156.

17 NEW SUBSECTION. 3A. "*Health information*" means any  
18 information, in any form or medium, that is created,  
19 transmitted, or received by a health care professional, payor,  
20 consumer, public health agency, the department, or other  
21 authorized participant, which relates to the past, present, or  
22 future physical or mental health or condition of an individual;  
23 the provision of health care to an individual; or the past,  
24 present, or future payment for the provision of health care to  
25 an individual.

26 NEW SUBSECTION. 4A. "*Health Insurance Portability and*  
27 *Accountability Act*" means the federal Health Insurance  
28 Portability and Accountability Act of 1996, Pub. L. No.  
29 104-191, including amendments thereto and regulations  
30 promulgated thereunder.

31 NEW SUBSECTION. 5A. "*Iowa health information network*" or  
32 "*network*" means the statewide health information technology  
33 network created in this division.

34 NEW SUBSECTION. 5B. "*Iowa Medicaid enterprise*" means the  
35 Iowa Medicaid enterprise as defined in section 249J.3.

1     NEW SUBSECTION. 5C. "*Participant*" means an authorized  
2 health care professional, payor, patient, health care  
3 organization, public health agency, or the department that  
4 has agreed to authorize, submit, access, or disclose health  
5 information through the Iowa health information network in  
6 accordance with this chapter and all applicable laws, rules,  
7 agreements, policies, and standards.

8     NEW SUBSECTION. 5D. "*Patient*" means a person who has  
9 received or is receiving health services from a health care  
10 professional.

11    NEW SUBSECTION. 5E. "*Payor*" means a person who makes  
12 payments for health services, including but not limited to an  
13 insurance company, self-insured employer, government program,  
14 individual, or other purchaser that makes such payments.

15    NEW SUBSECTION. 5F. "*Protected health information*" means  
16 individually identifiable information, including demographic  
17 information, related to the past, present, or future health  
18 or condition of a person; the provision of health care to  
19 a person; or the past, present, or future payment for such  
20 health care; which is created, transmitted, or received by a  
21 participant. "*Protected health information*" does not include  
22 education or other records that are covered under the federal  
23 Family Educational Rights and Privacy Act of 1974, as codified  
24 at 20 U.S.C. § 1232g, as amended; or any employment records  
25 maintained by a covered entity, as defined under the Health  
26 Insurance Portability and Accountability Act, in its role as  
27 an employer.

28    NEW SUBSECTION. 5G. "*Public health agency*" means an  
29 entity that is governed by or contractually responsible to a  
30 local board of health or the department to provide services  
31 focused on the health status of population groups and their  
32 environments.

33    NEW SUBSECTION. 5H. "*Purchaser*" means any individual,  
34 employer, or organization that purchases health insurance or  
35 services and includes intermediaries.

1     Sec. 2. Section 135.155, subsection 2, unnumbered paragraph  
2 1, Code 2011, is amended to read as follows:

3     To be effective, the Iowa health information technology  
4 ~~system network~~ shall comply with all of the following  
5 principles:

6     Sec. 3. Section 135.155, subsection 3, Code 2011, is amended  
7 to read as follows:

8     3. Widespread adoption of health information technology is  
9 critical to a successful Iowa health information technology  
10 ~~system network~~ and is best achieved when all of the following  
11 occur:

12     a. The market provides a variety of certified products from  
13 which to choose in order to best fit the needs of the user.

14     b. The ~~system network~~ provides incentives for health care  
15 professionals to utilize the health information technology and  
16 provides rewards for any improvement in quality and efficiency  
17 resulting from such utilization.

18     c. The ~~system network~~ provides protocols to address critical  
19 problems.

20     d. The ~~system network~~ is financed by all who benefit from  
21 the improved quality, efficiency, savings, and other benefits  
22 that result from use of health information technology.

23     Sec. 4. NEW SECTION. 135.155A Findings and intent — Iowa  
24 health information network.

25     1. The general assembly finds all of the following:

26     a. Technology used to support health care-related functions  
27 is known as health information technology. Health information  
28 technology provides a mechanism to transform the delivery of  
29 health and medical care in Iowa and across the nation.

30     b. A health information network involves the secure  
31 electronic sharing of health information across the boundaries  
32 of individual practice and institutional health settings and  
33 with consumers. Broad use of health information technology and  
34 a health information network should improve health care quality  
35 and the overall health of the population, increase efficiencies

1 in administrative health care, reduce unnecessary health care  
2 costs, and help prevent medical errors.

3 2. It is the intent of the general assembly that Iowa  
4 establish a statewide health information technology network.  
5 The Iowa health information network shall not constitute a  
6 health benefit network or a health insurance network. Nothing  
7 in this division shall be interpreted to impede or preclude the  
8 formation and operation of regional, population-specific, or  
9 local health information networks or their participation in the  
10 Iowa health information network.

11 Sec. 5. Section 135.156, subsection 1, paragraphs a and b,  
12 Code Supplement 2011, are amended to read as follows:

13 a. The department shall direct a public and private  
14 collaborative effort to promote the adoption and use of health  
15 information technology in this state in order to improve  
16 health care quality, increase patient safety, reduce health  
17 care costs, enhance public health, and empower individuals  
18 and health care professionals with comprehensive, real-time  
19 medical information to provide continuity of care and make  
20 the best health care decisions. The department shall provide  
21 coordination for the development and implementation of an  
22 interoperable electronic health records system, telehealth  
23 expansion efforts, the health information technology  
24 infrastructure, the Iowa health information network, and other  
25 health information technology initiatives in this state.  
26 The department shall be guided by the principles and goals  
27 specified in section 135.155 and the findings and intent  
28 specified for an Iowa health information network in section  
29 135.155A.

30 b. All health information technology efforts shall endeavor  
31 to represent the interests and meet the needs of consumers and  
32 the health care sector, protect the privacy of individuals  
33 and the confidentiality of individuals' information, promote  
34 physician best practices, and make information easily  
35 accessible to the appropriate parties. The ~~system~~ network

1 developed shall be consumer-driven, flexible, and expandable.

2 Sec. 6. Section 135.156, subsection 2, paragraph a, Code  
3 Supplement 2011, is amended to read as follows:

4 a. An electronic health information advisory council is  
5 established which shall consist of the representatives of  
6 entities involved in the electronic health records system task  
7 force established pursuant to section 217.41A, Code 2007, a  
8 pharmacist, a licensed practicing physician, a consumer who  
9 is a member of the state board of health, a representative  
10 of the state's Medicare quality improvement organization,  
11 the executive director of the Iowa communications network, a  
12 representative of the private telecommunications industry, a  
13 representative of the Iowa collaborative safety net provider  
14 network created in section 135.153, a nurse informaticist from  
15 the university of Iowa, and any other members the department  
16 or executive committee of the advisory council determines  
17 necessary and appoints to assist the department or executive  
18 committee at various stages of development of the ~~electronic~~  
19 Iowa health information system network. Executive branch  
20 agencies shall also be included as necessary to assist in the  
21 duties of the department and the executive committee. Public  
22 members of the advisory council shall receive reimbursement  
23 for actual expenses incurred while serving in their official  
24 capacity only if they are not eligible for reimbursement by  
25 the organization that they represent. Any legislative members  
26 shall be paid the per diem and expenses specified in section  
27 2.10.

28 Sec. 7. Section 135.156, subsection 3, paragraph a,  
29 subparagraphs (6) and (10), Code Supplement 2011, are amended  
30 to read as follows:

31 (6) Policies relating to governance of the various facets of  
32 the Iowa health information technology system network.

33 (10) Economic incentives and support to facilitate  
34 participation in an interoperable system network by health care  
35 professionals.

1     Sec. 8. Section 135.156, subsection 3, paragraph c,  
2 unnumbered paragraph 1, Code Supplement 2011, is amended to  
3 read as follows:

4     Coordinate public and private efforts to provide the  
5 network backbone infrastructure for the Iowa health information  
6 ~~technology system~~ network. In coordinating these efforts, the  
7 executive committee shall do all of the following:

8     Sec. 9. Section 135.156, subsection 3, paragraphs h and i,  
9 Code Supplement 2011, are amended to read as follows:

10    *h.* Seek and apply for any federal or private funding to  
11 assist in the implementation and support of the Iowa health  
12 information ~~technology system~~ network and make recommendations  
13 for funding mechanisms for the ongoing development and  
14 maintenance costs of the Iowa health information ~~technology~~  
15 ~~system~~ network.

16    *i.* Identify state laws and rules that present barriers  
17 to the development of the Iowa health information ~~technology~~  
18 ~~system~~ network and recommend any changes to the governor and  
19 the general assembly.

20     Sec. 10. NEW SECTION. 135.156A Iowa health information  
21 **network — business and financial sustainability plan and**  
22 **participant fees.**

23     1. The board, with the support of the department and  
24 the advice of the executive committee and advisory council,  
25 shall establish and annually review and update a business and  
26 financial sustainability plan for the Iowa health information  
27 network. The plan shall include fees to be paid to the  
28 department by participants who choose to access and use the  
29 Iowa health information network. The participant fee schedule  
30 shall be structured using fair share, value-based principles.

31     2. The department shall update and submit a financial model,  
32 including fee schedule, revenue and expense projections, and a  
33 budget, to the executive committee and the board for approval  
34 on an annual basis.

35     Sec. 11. NEW SECTION. 135.156B Iowa health information

1 **network — duties of the department.**

2 The department shall do all of the following:

3 1. Develop, implement, and enforce the following, as  
4 approved by the board:

5 a. Strategic, operational, and business and financial  
6 sustainability plans for the Iowa health information network.

7 b. Standards, requirements, policies, and procedures for  
8 access to and use, secondary use, and privacy and security  
9 of health information exchanged through the Iowa health  
10 information network, consistent with applicable federal and  
11 state standards and laws.

12 c. Rules, policies, and procedures for monitoring  
13 participant usage of the Iowa health information network and  
14 enforcing compliance with applicable standards, requirements,  
15 policies, rules, and procedures.

16 d. Policies and procedures for administering the  
17 infrastructure, technology, and associated professional  
18 services required for operation of the Iowa health information  
19 network and the provision of services through the Iowa health  
20 information network.

21 e. An annual budget and fiscal report for the business and  
22 technical operations of the Iowa health information network  
23 and an annual report for the Iowa health information network  
24 and the services provided through the Iowa health information  
25 network.

26 2. Provide human resources, budgeting, project and activity  
27 coordination, and related management functions to the Iowa  
28 health information network and the services provided through  
29 the Iowa health information network.

30 3. Enter into participation agreements with participants in  
31 the Iowa health information network.

32 4. Collect participant fees, record receipts and approvals  
33 of payments, and file required financial reports.

34 5. Apply for, acquire by gift or purchase, and hold,  
35 dispense, or dispose of funds and real or personal property



1 from any person, governmental entity, or organization in  
2 the exercise of its powers or performance of its duties in  
3 accordance with this division.

4 6. Select and contract with vendors of goods and services in  
5 compliance with all applicable state and federal procurement  
6 laws and regulations.

7 7. Work to align interstate and intrastate interoperability  
8 standards in accordance with national health information  
9 exchange standards.

10 8. Execute all instruments necessary or incidental to the  
11 performance of its duties and the execution of its powers under  
12 this division.

13 Sec. 12. NEW SECTION. 135.156C Iowa health information  
14 network fund.

15 1. The Iowa health information network fund is created as a  
16 separate fund within the state treasury under the control of  
17 the board. Revenues, donations, gifts, interest, participant  
18 fees, and other moneys received or generated relative to the  
19 operation and administration of the Iowa health information  
20 network shall be deposited in the fund.

21 2. Moneys in the fund are appropriated to and shall be  
22 expended by the department only for activities and operations  
23 suitable to the performance of the department's duties,  
24 subject to executive committee review and board approval.  
25 Disbursements may be made from the fund for purposes related  
26 to the administration, management, operations, functions,  
27 activities, or sustainability of the Iowa health information  
28 network.

29 3. Notwithstanding section 12C.7, subsection 2, earnings  
30 or interest on moneys deposited in the fund shall be credited  
31 to the fund. Moneys in the fund at the end of each fiscal year  
32 shall not revert to another fund but shall remain in the fund  
33 for expenditure in subsequent fiscal years.

34 4. The moneys in the fund shall be subject to financial and  
35 compliance audits by the auditor of state.

1     Sec. 13. NEW SECTION. 135.156D **Technical infrastructure.**

2     1. The Iowa health information network shall provide a  
3 mechanism to facilitate and support the secure electronic  
4 exchange of health information between participants.

5     2. The Iowa health information network shall not function as  
6 a central repository of all health information.

7     3. The Iowa health information network shall provide a  
8 mechanism for participants without an electronic health records  
9 system to access health information from the Iowa health  
10 information network.

11     Sec. 14. NEW SECTION. 135.156E **Legal and policy.**

12     1. Upon approval from the board, the department shall  
13 implement appropriate security standards, policies, and  
14 procedures to protect the transmission and receipt of  
15 protected health information exchanged through the Iowa health  
16 information network, which shall, at a minimum, comply with the  
17 Health Insurance Portability and Accountability Act security  
18 rule pursuant to 45 C.F.R. pt. 164, subpt. C, and shall reflect  
19 all of the following:

20     *a.* Include authorization controls, including the  
21 responsibility to authorize, maintain, and terminate a  
22 participant's use of the Iowa health information network.

23     *b.* Require authentication controls to verify the identify  
24 and role of the participant using the Iowa health information  
25 network.

26     *c.* Include role-based access controls to restrict  
27 functionality and information available through the Iowa health  
28 information network.

29     *d.* Include a secure and traceable electronic audit system  
30 to document and monitor the sender and the recipient of health  
31 information exchanged through the Iowa health information  
32 network.

33     *e.* Require standard participation agreements which  
34 define the minimum privacy and security obligations of all  
35 participants using the Iowa health information network and

1 services available through the Iowa health information network.

2 *f.* Include controls over access to and the collection,  
3 organization, and maintenance of records and data for  
4 purposes of research or population health that protect the  
5 confidentiality of consumers who are the subject of the health  
6 information.

7 2. A patient shall have the opportunity to decline exchange  
8 of the patient's health information through the Iowa health  
9 information network. A patient shall not be denied care or  
10 treatment for declining to exchange the patient's health  
11 information, in whole or in part, through the Iowa health  
12 information network. The board shall provide by rule the means  
13 and process by which patients may decline participation. The  
14 means and process utilized under the rules shall minimize the  
15 burden on patients and health care professionals.

16 3. Unless otherwise authorized by law or rule, a patient's  
17 decision to decline participation means that none of the  
18 patient's health information shall be accessible through the  
19 record locator service function of the Iowa health information  
20 network. A patient's decision to decline having health  
21 information shared through the record locator service function  
22 shall not limit a health care professional with whom the  
23 patient has or is considering a treatment relationship from  
24 sharing health information concerning the patient through  
25 the secure messaging function of the Iowa health information  
26 network.

27 4. A patient who declines participation in the Iowa health  
28 information network may later decide to have health information  
29 shared through the Iowa health information network. A patient  
30 who is participating in the Iowa health information network may  
31 later decline participation in the network.

32 5. A participant shall not release or use protected health  
33 information exchanged through the Iowa health information  
34 network for purposes unrelated to prevention, treatment,  
35 payment, or health care operations unless otherwise authorized

1 or required by law. Participants shall limit the use and  
2 disclosure of protected health information to the minimum  
3 amount required to accomplish the intended purpose of the use  
4 or request, in compliance with the Health Insurance Portability  
5 and Accountability Act and other applicable federal law. Use  
6 or distribution of the information for a marketing purpose, as  
7 defined by the Health Insurance Portability and Accountability  
8 Act, is strictly prohibited.

9 6. The department and all persons using the Iowa health  
10 information network are individually responsible for following  
11 breach notification policies as provided by the Health  
12 Insurance Portability and Accountability Act.

13 7. A participant shall not be compelled by subpoena, court  
14 order, or other process of law to access health information  
15 through the Iowa health information network in order to gather  
16 records or information not created by the participant.

17 8. All participants exchanging health information and data  
18 through the Iowa health information network shall grant to  
19 other participants of the network a nonexclusive license to  
20 retrieve and use that information in accordance with applicable  
21 state and federal laws, and the policies, standards, and rules  
22 established by the board.

23 9. The board shall establish by rule the procedures for a  
24 patient who is the subject of health information to do all of  
25 the following:

26 a. Receive notice of a violation of the confidentiality  
27 provisions required under this division.

28 b. Upon request to the department, view an audit report  
29 created under this division for the purpose of monitoring  
30 access to the patient's health care information.

31 10. A health care professional who relies reasonably and  
32 in good faith upon any health information provided through  
33 the Iowa health information network in treatment of a patient  
34 who is the subject of the health information shall be immune  
35 from criminal or civil liability arising from any damages

1 caused by such reasonable, good-faith reliance. Such immunity  
2 shall not apply to acts or omissions constituting negligence,  
3 recklessness, or intentional misconduct.

4 11. A participant that has disclosed health information  
5 through the Iowa health information network in compliance with  
6 applicable law and the standards, requirements, policies,  
7 procedures, and agreements of the network shall not be subject  
8 to criminal or civil liability for the use or disclosure of the  
9 health information by another participant.

10 12. Notwithstanding chapter 22, the following records shall  
11 be kept confidential, unless otherwise ordered by a court or  
12 consented to by the patient or by a person duly authorized to  
13 release such information:

14 a. The protected health information contained in, stored in,  
15 submitted to, transferred or exchanged by, or released from the  
16 Iowa health information network.

17 b. Any protected health information in the possession of  
18 the department due to its administration of the Iowa health  
19 information network.

20 13. Unless otherwise provided in this division, when using  
21 the Iowa health information network for the purpose of patient  
22 treatment, a health care professional is exempt from any other  
23 state law that is more restrictive than the Health Insurance  
24 Portability and Accountability Act that would otherwise prevent  
25 or hinder the exchange of patient information by the patient's  
26 health care professionals.

27 Sec. 15. NEW SECTION. 135.156F **Governance review.**

28 1. The governance structure as provided in this division  
29 consisting of the department acting on behalf of the board  
30 subject to executive committee review and board approval shall  
31 continue during the term of the state health information  
32 exchange cooperative agreement between the department and the  
33 office of the national coordinator for health information  
34 technology to address the development of standards, policies,  
35 and procedures; dissemination of interoperability standards;

1 the installation, testing, and operation of the Iowa health  
2 information network infrastructure; and the evolution of Iowa  
3 health information network services to improve patient care for  
4 the population.

5 2. During the final year of the term of the cooperative  
6 agreement, the executive committee and the department shall  
7 review the governance structure, operations of the Iowa  
8 health information network, and the business and financial  
9 sustainability plan and make recommendations to the board  
10 regarding the future governance of the Iowa health information  
11 network.

12 Sec. 16. EFFECTIVE UPON ENACTMENT. This Act, being deemed  
13 of immediate importance, takes effect upon enactment.

14 EXPLANATION

15 This bill provides for the creation of a statewide Iowa  
16 health information network (network). The bill provides  
17 definitions used in the bill. The bill provides findings and  
18 intent for the network, describing the importance of health  
19 information technology in transforming the delivery of health  
20 and medical care in the state and across the nation and in  
21 improving health care quality and the overall health of the  
22 population, increasing efficiencies in administrative health  
23 care, reducing unnecessary health care costs, and preventing  
24 medical errors. The network is to provide for the secure  
25 electronic sharing of health information. The bill provides  
26 that it is the intent of the general assembly to establish  
27 a statewide Iowa health information network, which is not  
28 to constitute a health benefit network or health insurance  
29 network; and is not to preclude the formation and operation  
30 of regional, population-specific, or local health information  
31 networks or their participation in the statewide network.

32 The bill provides that the state board of health (board),  
33 with the support of the department of public health and the  
34 advice of the existing electronic health information executive  
35 committee and advisory council, is to establish and annually

1 review and update a business and financial sustainability  
2 plan for the network. The plan shall include fees to be paid  
3 by participants who access and use the network. The fee  
4 schedule is to be structured using fair share and value-based  
5 principles. The department is directed to update and submit  
6 a financial model to the executive committee and the board  
7 annually.

8 The bill specifies the duties of the department in the  
9 day-to-day operations of the Iowa health information network.

10 The bill provides for the creation of a separate Iowa  
11 health information network fund within the state treasury  
12 under the control of the board. All revenues, donations,  
13 gifts, interest, participant fees, and other moneys received or  
14 generated relative to the network are to be deposited in the  
15 fund. Moneys in the fund are appropriated to and are only to  
16 be expended by the department on activities and operations of  
17 the Iowa health information network, subject to board approval.  
18 Moneys in the fund at the end of each fiscal year remain in the  
19 fund. The fund is subject to financial and compliance audits  
20 by the auditor of state.

21 The bill provides for the technical infrastructure of  
22 the network. The network is to provide a mechanism to  
23 facilitate and support the secure exchange of electronic health  
24 information. The network is not to function as a central  
25 repository of all health information, and is to provide a means  
26 for participants without an electronic health record system to  
27 access health information through the network.

28 The bill includes provisions relating to the legal and  
29 policy aspects of the network. The bill authorizes the  
30 department, with approval from the board, to develop security  
31 standards, policies, and procedures to protect the transmission  
32 and receipt of individually identifiable health information  
33 shared through the network. These include: authorization  
34 and authentication controls, role-based access, a secure and  
35 traceable electronic audit system, use of participant and

1 data-sharing agreements, and controls over access, collection,  
2 and maintenance of health information. These provisions  
3 specify a patient's choice of participation in the Iowa  
4 health information network, and the requirements for sharing  
5 information in accordance with all other laws, including the  
6 federal Health Insurance Portability and Accountability Act.

7 The bill provides that the governance structure as provided  
8 in the bill consisting of the department acting on behalf  
9 of the board, subject to executive committee review and  
10 board approval, is to continue during the term of the state  
11 health information exchange cooperative agreement between  
12 the department and the office of the national coordinator  
13 for health information technology to address the development  
14 of standards, policies, and procedures; dissemination of  
15 interoperability standards; the installation, testing, and  
16 operation of the network infrastructure; and the evolution of  
17 health information network services to improve patient care  
18 for the population. During the final year of the term of the  
19 cooperative agreement (March 2014), the executive committee and  
20 the department are directed to review the governance structure,  
21 operations of the network, and the business and financial  
22 sustainability plan, and make recommendations to the board  
23 regarding the future governance of the network.

24 The bill takes effect upon enactment.