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SENATE . . . . . No. 1922

The Commonwealth of Massachusetts

In the Year Two Thousand Thirteen

An Act establishing the childhood vaccine program.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

SECTION 1. Chapter 111 of the General Laws is hereby amended by inserting after section 24M the following section:—

Section 24N. (a) As used in this section the following words shall, unless the context clearly requires otherwise, have the following meanings:

"Children", individuals less than 19 years of age.

"Estimated vaccine cost", the estimated cost over the course of a fiscal year for the purchase, storage and distribution of vaccines for all children in the commonwealth.

"Payments Subject to Surcharge", as defined in section 64 of chapter 118E.

"Routine childhood immunizations", immunizations for children until their nineteenth birthday including, but not limited to: (1) the immunizations recommended by the federal Vaccines for Children Program; and (2) any immunizations recommended by the Advisory Committee on Immunization Practices of the United States Department of Health and Human Services.

"Surcharge payors", those entities defined as surcharge payors under section 64 of chapter 118E, who made payments subject to surcharge of $1,000,000 or more during the most recent period for which data is available on July 1 of the current fiscal year.

"Total non-federal program cost", the estimated annual cost of vaccines needed for routine childhood immunizations for children covered by surcharge payors in the commonwealth less the amount of federal revenue available to the commonwealth for purchase, storage, distribution and administration of such vaccines.

21 (b) There shall be established in the commonwealth a separate trust fund to be known as
22 the Vaccine Purchase Trust Fund to support a universal purchase system for childhood vaccines
23 in the commonwealth. The fund shall be expended to cover the costs to purchase, store and
24 distribute vaccines for routine childhood immunizations and to administer the fund and the
25 immunization registry, established under section 24M of chapter 111. The fund shall consist of
26 all monies paid to the commonwealth under section 4 and any interest earnings on such monies.
27 The fund shall be maintained by the commissioner of public health or a designee. The monies
28 shall be expended under the direction of the department of public health, without prior
29 appropriation, solely to cover total non-federal program costs; provided, however, that the
30 amount to be expended for storing and distributing vaccines for routine childhood
31 immunizations, if such costs are not covered by federal contribution, and for the costs of
32 administering the immunization registry, shall not exceed 10 per cent of the total amount of the
33 fund expended for the purchase of vaccines needed for routine childhood immunizations for all
34 children in the commonwealth. Any balance in the fund at the close of a fiscal year shall be
35 available for expenditure in subsequent fiscal years and shall not be transferred to any other fund
36 or revert to the General Fund. The commissioner of public health or a designee shall report
37 annually to the house and senate committees on ways and means and the house and senate chairs
38 of the joint committee on health care financing the amount of funds collected and any
39 expenditures made from the fund.

40 (c) There shall be a vaccine purchase advisory council consisting of the commissioner of
41 public health or a designee, who shall serve as chair; the medical director of the universal
42 immunization program of the department of public health established under section 24I of
43 chapter 111; the executive director for the center for health information and analysis or a
44 designee; the executive director of the commonwealth health insurance connector authority or a
45 designee; 3 persons to be appointed by the commissioner of insurance, each of whom shall be a
46 representative of 1 of the 3 health insurance companies having the most insured lives in the
47 commonwealth; and 8 persons to be appointed by the commissioner of public health, 1 of whom
48 shall be a representative of an employer that self-insures for health coverage who shall be
49 appointed from lists of nominees submitted by statewide associations of employers, 1 of whom
50 shall be a representative of the pharmaceutical manufacturing industry with expertise in
51 researching, developing and manufacturing vaccines, 1 of whom shall be a member of the
52 Massachusetts Medical Society, 1 of whom shall be a member of the Massachusetts chapter of
53 the American Academy of Pediatrics, 1 of whom shall be a member of the Massachusetts
54 Academy of Family Physicians, and 3 of whom shall be physicians licensed to practice in the
55 commonwealth and who shall have expertise in the area of childhood vaccines. The council shall
56 recommend the types of vaccines to be purchased based on a list of routine childhood
57 immunizations and shall take into account provider preference, cost, availability and other
58 factors as determined by the council. The council shall recommend the amount of funding
59 needed each fiscal year by calculating the total non-federal program cost. The commissioner of
60 public health shall determine the final vaccines to be purchased.

61 (d) Under regulations adopted by the commissioner of public health, each surcharge
62 payor in the commonwealth shall pay to the commissioner of public health, for deposit in the
63 Vaccine Purchase Trust Fund, a routine childhood immunizations surcharge assessed by the
64 commissioner. By January 1 of each year, the commissioner of public health shall determine the
65 total amount of such surcharge for the current fiscal year by determining the final amount
66 required to be included in the Vaccine Purchase Trust Fund for the current fiscal year to cover
67 the estimated costs to purchase, store and distribute vaccines for routine childhood
68 immunizations and to administer the fund and the immunization registry, established under
69 section 24M of chapter 111. Such amount shall exclude any costs anticipated to be covered by
70 federal contribution, shall take into consideration the limitations on expenditures described in
71 Section 2, and shall take into account any anticipated surplus or deficit in the trust fund. Such
72 amount shall not be more than 4 per cent greater than the surcharge amount for the prior fiscal
73 year unless the commissioner of public health submits a detailed report to the legislature
74 explaining the need for such increase. If the reason for such increase is due to the purchase of
75 new vaccines, as recommended by the vaccine purchase advisory council, such report shall
76 include an analysis of cost savings generated by use of the state vaccine purchasing discount.

77 The commissioner shall annually provide surcharge payors notice of the assessment
78 amount for the trust fund year not later than March 1. Surcharge payors shall pay the surcharge
79 on a schedule determined by regulation, provided that such schedule shall ensure sufficient funds
80 for the trust fund to fulfill the purposes described in section 2. Each surcharge payor shall pay a
81 portion of the total amount of the surcharge proportional to their payments subject to surcharge
82 during the most recent period for which data is available, as further defined in regulation.

83 (e) The department of public health may adopt rules and regulations as necessary to
84 implement the universal purchase and distribution system under this chapter and other applicable
85 state and federal laws. The rules and regulations shall establish the system by which vaccines are
86 distributed for children in the commonwealth.

87 (f) Every surcharge payor, to the extent not preempted by federal law, shall provide
88 benefits for: (i) routine childhood immunizations for residents of the commonwealth; and (ii)
89 immunizations for residents of the commonwealth who are 19 years of age and older according
90 to the most recent schedules recommended by the Advisory Committee on Immunization
91 Practices of the United States Department of Health and Human Services. These benefits shall be
92 exempt from any copayment, coinsurance, deductible or dollar limit provisions in the health
93 insurance policy or contract.

94 SECTION 2. Notwithstanding any general or special law to the contrary, the department
95 of public health is authorized to make additional assessments for fiscal year 2014, in an
96 aggregate amount not to exceed $1,500,000, on surcharge payors, as defined in section 24N of
97 chapter 111 of the General Laws, for the costs of the immunization registry established under
98 section 24M of chapter 111 of the General Laws.

99 SECTION 3. Notwithstanding any general or special law to the contrary, the department
100 of public health is authorized to make expenditures from the start of each fiscal year from the
101 Vaccine Purchase Trust Fund established under section 24N of chapter 111 of the General Laws
102 in anticipation of assessments on surcharge payors pursuant to said section 24N.

103 SECTION 4. Notwithstanding any general or special law to the contrary, in fiscal year
104 2015, the commissioner of public health shall not increase the total amount of the routine
105 childhood immunizations surcharge under section 24N of chapter 111 of the General Laws more
106 than 7 per cent over the total of item 4580-1000 in the fiscal year 2014 general appropriations
107 act, any supplemental fiscal year 2014 funding to said item 4580-1000 and the amount assessed
108 for fiscal year 2014 for the immunization registry established under section 24M of chapter 111,
109 unless the commissioner of public health submits a detailed report to the legislature explaining
110 the need for such increase; and provided further, that in state fiscal year 2016, the commissioner
111 of public health shall not increase the total amount of the surcharge more than 7 per cent over the
112 total of the fiscal year 2015 surcharge amount unless the commissioner of public health submits
113 a detailed report to the legislature explaining the need for such increase.

114 SECTION 5. The routine childhood immunizations surcharge assessment required under
115 section 24N of chapter 111 of the General Laws shall take effect on March 1, 2014.