

HOUSE No. 5178

Sections 23 and 43 contained in the engrossed Bill making appropriations for the fiscal year 2021 for the maintenance of the departments, boards, commissions, institutions and certain activities of the commonwealth, for interest, sinking fund and serial bond requirements and for certain permanent improvements (see House, No. 5164), which had been returned by His Excellency the Governor with recommendation of amendment (for message, see Attachment B of House, No. 5190). December 14, 2020.

The Commonwealth of Massachusetts

**In the One Hundred and Ninety-First General Court
(2019-2020)**

An Act relative to certain trust funds and non-public ambulance service reimbursement.

Whereas, The deferred operation of this act would tend to defeat its purposes, which are to establish forthwith, certain trust funds and non-public ambulance service reimbursements, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

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

1 SECTION 1. Chapter 29 of the General Laws is hereby amended by striking out section
2 2IIIII, inserted by section 8 of chapter 124 of the acts of 2020, and inserting in place thereof the
3 following 3 sections:-

4 Section 2IIIII. (a) There shall be an Early Education and Care Public-Private Trust Fund.
5 The fund shall be administered by the commissioner of early education and care.

6 (b) There shall be credited to the fund: (i) revenue from appropriations or other money
7 authorized by the general court and specifically designated to be credited to the fund; (ii) interest

8 earned on such revenues; and (iii) funds from public and private sources, including, but not
9 limited to, gifts, grants and donations, to support state, philanthropic and private partnership
10 efforts supporting Massachusetts childcare providers. Amounts credited to the fund that are
11 unexpended at the end of a fiscal year shall not revert to the General Fund.

12 (c) Amounts credited to the fund may be expended, without further appropriation, by the
13 commissioner for the following purposes:

14 (i) to assist the needs of providers in the early education and care mixed delivery system;

15 (ii) for the development of an infrastructure to facilitate state, private and
16 philanthropic efforts in support of the early education and care field; and

17 (iii) for state collaboration with philanthropic organizations and businesses to establish
18 and maintain an infrastructure for providing ongoing technical assistance and programming for
19 the early education and care field including, but not limited to, the enhancement of business
20 stability and sustainability, the fostering of local cross-sector early childhood education
21 collaboration and the enhancement of program quality, including supports for early childhood
22 educators.

23 (d) Amounts received from private sources shall be approved by the commissioner of
24 early education and care and subject to review before being deposited in the fund to ensure that
25 pledged funds are not accompanied by conditions, explicit or implicit, on the implementation of
26 early education and care policy and planning. The review shall be made publicly available.

27 (e) The commissioner of early education and care may designate an administrator of the
28 fund for purposes of implementing approved activities consistent with this section.

29 (f) Annually, not later than November 1, the commissioner of early education and care
30 shall report on the fund's activities to the house and senate committees on ways and means, the
31 chairs of the joint committee on education and the house and senate clerks. The report shall
32 include, but shall not be limited to: (i) the source and amount of funds received; (ii) the amounts
33 distributed and the purpose of expenditures from the fund, including, but not limited to, funds
34 expended to assist early education and care providers; (iii) any grants provided to early education
35 and care programs, philanthropic organizations or other stakeholder organizations; and (iv)
36 anticipated revenue and expenditure projections for the next year.

37 Section 2JJJJ. (a) There shall be a federal coronavirus relief trust fund to retain certain
38 federal funds received by the commonwealth to assist the commonwealth in its public health,
39 community and economic recovery efforts related to the state of emergency concerning the novel
40 coronavirus disease outbreak declared by the governor on March 10, 2020. The secretary of
41 administration and finance shall administer the fund.

42 (b) The fund shall be credited with: (i) revenue from federal funds, appropriations or
43 other money authorized by the general court and specifically designated to be credited to the
44 fund; (ii) interest earned on such revenues; and (iii) funds from public and private sources
45 including, but not limited to, gifts, grants and donations. Amounts credited to the fund shall be
46 subject to appropriation and money remaining in the fund at the end of a fiscal year shall not
47 revert to the General Fund and shall be available for expenditure in the subsequent fiscal year.

48 (c) Amounts credited to the fund may be expended for purposes that assist the
49 commonwealth in its public health, community and economic recovery efforts to respond to the
50 novel coronavirus disease outbreak.

51 (d) Annually, not later than November 1, the secretary shall report an accounting of
52 expenditures made through the fund and amounts remaining in the fund to the clerks of the senate
53 and house of representatives and the senate and house committees on ways and means.

54 Section 2KKKKK. (a) There shall be established and set up on the books of the
55 commonwealth a separate fund known as the Nonpublic Ambulance Service Reimbursement
56 Trust Fund to be administered by the secretary of health and human services. There shall be
57 credited to the fund: (i) all revenues generated from the funds collected pursuant to subsection
58 (b) of section 67A of chapter 118E; (ii) an amount equal to any federal financial participation
59 revenues claimed and received by the commonwealth for eligible expenditures made from the
60 fund; (iii) any revenue from appropriations or other money authorized by the general court and
61 specifically designated to be credited to the fund; and (iv) interest earned on any money in the
62 fund. Amounts credited to the fund shall be expended without further appropriation. Money
63 remaining in the fund at the end of a fiscal year shall not revert to the General Fund and shall be
64 available for expenditure in subsequent fiscal years. No expenditure shall be made from said
65 fund which shall cause said fund to be in deficit at the close of a fiscal year.

66 (b) Money in the fund shall be expended for Medicaid payments to nonpublic ambulance
67 services defined in subsection (a) of section 67A of chapter 118E.

68 (c) Revenues generated from clauses (i) and (ii) of the second sentence of subsection (a)
69 shall be expended exclusively for nonpublic ambulance services defined in subsection (a) of
70 section 67A of chapter 118E and shall not be used to replace payment commitments between the
71 nonpublic ambulance services and the commonwealth. The expenditures shall be established by
72 the executive office of health and human services in a manner consistent with the requirements

73 and conditions of federal financial participation under 42 U.S.C. 1396b(w) and 42 C.F.R. 433.68,
74 including the prohibitions against hold harmless provisions as defined under 42 U.S.C.
75 1396b(w)(4) and 42 C.F.R. 433.68(f) and shall be made only under federally-approved payment
76 methods and consistent with federal funding requirements and all federal payment limits as
77 determined by the secretary of health and human services. Federal financial participation shall be
78 sought in a manner that achieves the maximum amount of federal revenue such that the
79 assessment amount equals the state share of the qualifying Medicaid ambulance service
80 payments related to this section.

81 (d) The schedule of payment amounts to be established and distributed by the executive
82 office of health and human services under this section shall be developed in a manner that: (i)
83 promotes the provider capacity, access and quality management needs of the Medicaid program
84 as those needs are determined by the secretary of health and human services; (ii) considers the
85 cost of services delivered by providers for which the providers are not fully reimbursed or
86 otherwise compensated, including, but not limited to, free care and services delivered in good
87 faith reliance on authorization; (iii) considers existing Medicaid reimbursement rates; (iv) closes
88 the gap between Medicaid rates and average commercial rates; and (v) is proportional, to the
89 extent possible, to the respective ambulance assessed amounts paid by each nonpublic
90 ambulance service relative to this section. The executive office of health and human services
91 shall consult with stakeholders, including the Massachusetts Ambulance Association,
92 Incorporated, in the development and implementation of the payments. In order to accommodate
93 timing discrepancies between the receipt of revenue and related expenditures, the comptroller
94 may certify for payment amounts not to exceed the most recent revenue estimates as certified by

95 the secretary of health and human services to be transferred, credited or deposited under this
96 section.

97 (e) Annually, not later than September 30, the executive office of health and human
98 services shall file a report with the house and senate committees on ways and means which shall
99 include: (i) a detailed accounting of all money transferred, credited or deposited into and from
100 the fund; (ii) the reasons for any unspent amount in the fund; and (iii) an analysis of the
101 respective uniform assessment paid by nonpublic ambulance services, defined in section 67A of
102 chapter 118E.

103 SECTION 2. Chapter 118E of the General Laws is hereby amended by inserting after
104 section 67 the following section:-

105 Section 67A. (a) As used in this section, the following words shall, unless the context
106 clearly requires otherwise, have the following meanings:

107 “Ambulance service”, as defined in section 1 of chapter 111C.

108 “Executive office”, the executive office of health and human services.

109 “Gross patient service revenue”, the total dollar amount of nonpublic ambulance charges
110 for services rendered in a fiscal year.

111 “Nonpublic ambulance assessed charges”, gross patient service revenue attributable to all
112 patients less bad debt, charity care and payer discounts.

113 “Nonpublic ambulance service”, ambulance services which are not provided by a city or
114 town, county, district or other governmental body and are licensed pursuant to section 6 of
115 chapter 111C.

116 “Total nonpublic ambulance service assessment amount”, an amount not less than 1-
117 quarter of 1 per cent lower than the maximum limit for a provider assessment pursuant to 42
118 C.F.R. 433.68(f), inclusive of an annual amount of \$500,000; provided, that the annual amount
119 of \$500,000 shall be for administrative costs of the executive office.

120 (b) A nonpublic ambulance service’s liability to the Nonpublic Ambulance Service
121 Reimbursement Trust Fund, established in section 2KKKKK of chapter 29, shall equal the
122 product of: (i) the ratio of its nonpublic ambulance assessed charges to all nonpublic ambulance
123 services’ nonpublic ambulance assessed charges statewide; and (ii) the total nonpublic
124 ambulance service assessment amount. Annually, before October 1, the executive office shall
125 establish each nonpublic ambulance service’s liability to said fund using the best data available
126 as determined by the executive office and shall update each nonpublic ambulance service’s
127 liability to said fund as updated information becomes available. The executive office shall
128 specify, by regulation an appropriate mechanism for interim determination and payment of a
129 nonpublic ambulance service's liability to the fund. A nonpublic ambulance service's liability to
130 the fund shall, in the case of a transfer of ownership, be assumed by the successor in interest to
131 the nonpublic ambulance service.

132 (c) There shall be imposed in each fiscal year a uniform assessment upon the nonpublic
133 ambulance assessed charges of all nonpublic ambulance services. Such uniform assessment shall
134 not be implemented unless and until the executive office receives notice of federal matching
135 funds approval from the federal Centers for Medicare and Medicaid Services.

136 (d) All nonpublic ambulance services, regardless of payment model, shall be subject to
137 the uniform assessment pursuant to subsection (c), including, but not limited to, those nonpublic

138 ambulance services in fee-for-service and managed care arrangements. The uniform assessment
139 shall be set as a percentage of the nonpublic ambulance assessed charges of each such nonpublic
140 ambulance service and, for each fiscal year, the percentage shall be equal to the ratio of: (i) the
141 total nonpublic ambulance service assessment amount for the same fiscal year; to (ii) the total
142 nonpublic ambulance assessed charges in the same fiscal year and as the amount of those charges
143 is determined by the executive office under this section. A nonpublic ambulance service's
144 liability to the fund shall, in the case of a transfer of ownership, be assumed by the successor in
145 interest to the nonpublic ambulance service.

146 (e) The executive office shall establish an appropriate mechanism for enforcing each
147 nonpublic ambulance service's liability to the fund in the event that a nonpublic ambulance
148 service does not make a scheduled payment to the fund.