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HOUSE CS FOR CS FOR SENATE BILL NO. 169()

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-EIGHTH LEGISLATURE - SECOND SESSION

BY

**Offered:
Referred:**

Sponsor(s): SENATORS GIESSEL, French

REPRESENTATIVE Hughes

A BILL

FOR AN ACT ENTITLED

"An Act establishing in the Department of Health and Social Services a statewide immunization program and the State Vaccine Assessment Council; creating a vaccine assessment account; requiring a vaccine assessment from assessable entities and other program participants for statewide immunization purchases; repealing the temporary child and adult immunization program; and providing for an effective date."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

*** Section 1.** AS 18.09 is amended by adding new sections to read:

Article 1A. Statewide Immunization Program.

Sec. 18.09.200. Statewide immunization program established; commissioner's duties. (a) In addition to health promotion and vaccine registration activities of the department, a statewide immunization program is established in the department for the purpose of monitoring, purchasing, and distributing included vaccines to providers approved by the department who agree to provide the included vaccines to state residents under terms consistent with the program and state and

1 federal law.

2 (b) The commissioner shall

3 (1) establish a procedure to phase in the program over a three-year
4 period that provides for participation by an assessable entity;

5 (2) maintain a list of recommended vaccines for inclusion in the
6 program;

7 (3) for each included vaccine, establish the initial vaccine assessment
8 for the first year of the program and thereafter make annual assessments based on the
9 determinations made by the council established under AS 18.09.210;

10 (4) notify assessable entities and other program participants of the
11 annual vaccine assessment for each vaccine included in the program;

12 (5) devise a method for crediting to assessable entities and other
13 program participants overpayments of vaccine assessments made for reasons related to
14 administrative error, program termination, or lower than anticipated actual usage of
15 the program by covered individuals;

16 (6) coordinate collective purchases of included vaccines;

17 (7) establish a procedure for statewide distributions of vaccines
18 purchased under the program; and

19 (8) review vaccine assessment appeals for error.

20 **Sec. 18.09.210. State Vaccine Assessment Council; members; duties.** (a)

21 The State Vaccine Assessment Council is established in the department for the
22 purpose of determining the amount of vaccine assessments made by the commissioner
23 to be paid by assessable entities and other program participants in the state under
24 procedures established by the council.

25 (b) The council consists of eight members appointed by the commissioner as
26 follows:

27 (1) the department's chief medical officer for public health or the chief
28 medical officer's designee, who shall serve as chair;

29 (2) two health care providers licensed in the state, one of whom must
30 be a pediatrician;

31 (3) three members representing health care insurers licensed in the

state under AS 21.54, one of whom must be a plan administrator; each insurer must represent a different organization in the state;

(4) a representative of a tribal or public health insurance plan;

(5) the director of the division of insurance or the director's designee.

(c) A member appointed to the council under (b)(2) - (4) of this section serves without compensation and reimbursement of expenses for a term of three years or until a successor is appointed. A member may not serve more than two consecutive terms.

(d) The council shall meet at the call of the chair and conduct business by majority vote.

(e) The department shall provide staff and other assistance to the council.

(f) The council shall

(1) establish and implement a plan of operation to

(A) determine the amount of the annual vaccine assessment, subject to review by the commissioner, for each included vaccine for each covered individual following the initial vaccine assessment amounts determined by the commissioner;

(B) use a method for determining the vaccine assessment amount that attributes to each assessable entity and other program participant the proportionate costs of included vaccines for covered individuals;

(C) establish procedures for the collection and deposit of the vaccine assessment;

(D) establish procedures for collecting and updating data from assessable entities and other program participants as necessary for the operation of the program and the determination of the annual vaccine assessment; the data collected must include the number of covered individuals by each assessable entity and other program participant and the annual vaccine program usage by each covered individual;

(E) devise a system for reducing surplus payments made by an assessable entity and other program participant by crediting past overpayments to current year vaccine assessments;

(2) submit to the commissioner and to the legislature, not later than

July 1 of each year, an annual financial report, including assessment determinations and overall costs of the program, in a form acceptable to the commissioner and the legislature;

(3) monitor compliance with the program requirements and vaccine assessments and submit a periodic noncompliance report to the commissioner and the director of insurance that lists assessable entities and other program participants that failed to

(A) remit vaccine assessments as determined by the council and approved by the commissioner; or

(B) comply with a reporting or auditing requirement under the program after notice from the council.

Sec. 18.09.220. Vaccine assessment and reporting requirements. (a) An assessable entity and other program participant shall, after being phased into the program under procedures approved by the commissioner,

(1) pay to the department the annual combined vaccine assessments as determined under the program for the included vaccines covered by the assessable entity or other program participant for each covered individual on a schedule adopted by the council;

(2) provide information requested by the council to determine the number of covered individuals, actual vaccine usage under the program, and other data necessary to calculate and monitor compliance with the vaccine assessment; and

(3) provide audited financial statements upon request of the council.

(b) A vaccine assessment must include a reasonable contribution toward support of the program and appropriate reserve funds, as determined by the council. A vaccine assessment may not include a provider fee for the administration of the vaccine.

(c) A vaccine assessment shall be construed as a medical expense of the assessable entity or other program participant.

(d) An assessable entity or other program participant may appeal a determination of a vaccine assessment made by the council to the commissioner within 10 days after receiving notification of the assessment. The commissioner shall

1 review the appeal and all materials relevant to the assessment that is the subject of the
2 appeal and shall modify the assessment if the commissioner finds substantial evidence
3 of an error.

4 (e) An assessable entity may opt out of the program during the three-year
5 phase-in period under procedures approved by the commissioner.

6 **Sec. 18.09.225. Other program participants.** (a) A health care provider or
7 group of providers may opt into the program if approved by the commissioner under
8 regulations adopted by the department.

9 (b) An assessable entity may not deny a claim for coverage by a health care
10 provider of vaccines not distributed under the program.

11 (c) A health care provider may not bill a payor for or resell a vaccine
12 distributed under the program.

13 **Sec. 18.09.230. Vaccine assessment account; creation.** (a) The vaccine
14 assessment account is created as an account in the general fund. The legislature may
15 appropriate to the account program receipts attributable to vaccine assessments under
16 AS 18.09.220, money from other sources, and interest earned on money in the
17 account. Appropriations to the account do not lapse.

18 (b) The legislature may make appropriations from the vaccine assessment
19 account for the purchase of included vaccines for the benefit of state residents in an
20 amount requested by the department and for other purposes of the program.

21 **Sec. 18.09.240. Penalties.** An assessable entity or other program participant
22 that fails to pay a required annual vaccine assessment after notification of the
23 assessment or fails to comply with a request for information necessary for
24 determination of the assessment may be assessed an additional noncompliance fee as
25 determined by the commissioner under regulations adopted by the department.

26 * **Sec. 2.** AS 18.09.990 is amended by adding new paragraphs to read:

27 (3) "assessable entity" means

28 (A) a health care insurer as defined in AS 21.54.500;

29 (B) an entity that provides the state health care plan described
30 in AS 39.30.090 and 39.30.091;

31 (C) a public or private entity that offers a publicly funded plan

in the state, to the extent participation in the program is authorized by law;

(D) a third-party administrator as defined in AS 21.97.900;

(4) "commissioner" means the commissioner of health and social services;

(5) "council" means the State Vaccine Assessment Council;

(6) "covered individual" means an adult or child who resides in the state and who is provided insurance coverage for an included vaccine by an assessable entity or who is a patient of another program participant;

(7) "included vaccine" means a vaccine recommended by the Advisory Committee on Immunization Practices of the Centers for Disease Control and Prevention, United States Department of Health and Human Services, and included on a list maintained by the commissioner for inclusion in the program;

(8) "other program participant" and "another program participant" mean a health care provider or group of providers who have opted into the program under AS 18.09.225 to both purchase vaccines for and administer vaccinations to residents of the state;

(9) "program" means the statewide immunization program;

(10) "provider" means a person licensed or certified by the state to administer vaccines or provide health care services or a partnership, corporation, or other entity made up of persons licensed or certified to administer vaccines or provide health care services;

(11) "vaccine" means a preparation of killed microorganisms, living attenuated organisms, living fully virulent organisms, or other substances that are administered to humans for the purpose of producing or artificially increasing specific immunity to life-threatening and disabling diseases.

* **Sec. 3.** AS 21.09.242 is amended by adding a new subsection to read:

(b) An assessable entity, as defined in AS 18.09.990, shall provide information and assessments to the Department of Health and Social Services and the State Vaccine Assessment Council established under AS 18.09.210 as necessary for the statewide immunization program established under AS 18.09.200.

* **Sec. 4.** AS 37.05.146(c) is amended by adding a new paragraph to read:

(87) the vaccine assessment account under AS 18.09.230.

* **Sec. 5.** AS 18.09.200, 18.09.210, 18.09.220, 18.09.225, 18.09.230, 18.09.240, 18.09.990(3), 18.09.990(4), 18.09.990(5), 18.09.990(6), 18.09.990(7), 18.09.990(8), 18.09.990(9), 18.09.990(10), 18.09.990(11); AS 21.09.242(b); and AS 37.05.146(c)(87) are repealed January 1, 2021.

* **Sec. 6.** Chapter 24, SLA 2012, is repealed.

* **Sec. 7.** The uncodified law of the State of Alaska is amended by adding a new section to read:

TRANSITION; DEPOSIT OF FUNDS REMAINING FROM CHILD AND ADULT IMMUNIZATION PROGRAM. All unobligated funds remaining in the program established under sec. 2, ch. 24, SLA 2012, shall be deposited into the account created in AS 18.09.230, added by sec. 1 of this Act.

* **Sec. 8.** This Act takes effect January 1, 2015.