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

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-EIGHTH LEGISLATURE - SECOND SESSION

BY THE HOUSE HEALTH AND SOCIAL SERVICES COMMITTEE

Offered: 4/9/14

Referred: Finance

Sponsor(s): SENATORS GIESSEL, French

REPRESENTATIVES Hughes, Costello, Gara, Stoltze, Josephson, Guttenberg, Kawasaki, LeDoux, Olson, Seaton, Holmes, Saddler, Pruitt

**A BILL**

**FOR AN ACT ENTITLED**

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

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

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

8 **Article 1A. Statewide Immunization Program.**

9 **Sec. 18.09.200. Statewide immunization program established;**  
10 **commissioner's duties.** (a) In addition to health promotion and vaccine registration  
11 activities of the department, a statewide immunization program is established in the  
12 department for the purpose of monitoring, purchasing, and distributing included  
13 vaccines to providers approved by the department who agree to provide the included  
14 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

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

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

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

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

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

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

11 (f) The council shall

12 (1) establish and implement a plan of operation to

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

29 (d) An assessable entity or other program participant may appeal a  
 30 determination of a vaccine assessment made by the council to the commissioner  
 31 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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 (87) the vaccine assessment account under AS 18.09.230.

2 \* **Sec. 5.** AS 18.09.200, 18.09.210, 18.09.220, 18.09.225, 18.09.230, 18.09.240,  
3 18.09.990(3), 18.09.990(4), 18.09.990(5), 18.09.990(6), 18.09.990(7), 18.09.990(8),  
4 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  
5 repealed January 1, 2021.

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

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

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

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