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SENATE BILL 121

52ND LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2015

INTRODUCED BY

Bill B. O'Neill

FOR THE LEGISLATIVE HEALTH AND HUMAN SERVICES COMMITTEE

AN ACT

RELATING TO PUBLIC HEALTH; ENACTING THE VACCINE PURCHASING ACT;
ESTABLISHING A UNIVERSAL VACCINE PURCHASING PROGRAM; CREATING
THE VACCINE PURCHASING FUND; REQUIRING REPORTING OF THE NUMBER
OF INSURED CHILDREN; AUTHORIZING ASSESSMENTS TO BE LEVIED ON
HEALTH INSURERS FOR COSTS OF VACCINES FOR INSURED CHILDREN;
PROVIDING FOR PENALTIES FOR FAILURE TO REPORT NUMBER OF INSURED
CHILDREN; MAKING AN APPROPRIATION; DECLARING AN EMERGENCY.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. [NEW MATERIAL] SHORT TITLE.--This act may be
cited as the "Vaccine Purchasing Act".

SECTION 2. [NEW MATERIAL] DEFINITIONS.--As used in the
Vaccine Purchasing Act:

A. "advisory committee on immunization practices"
means the group of medical and public health experts that

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1 develops recommendations on how to use vaccines to control
2 diseases in the United States, established under Section 222 of
3 the federal Public Health Service Act;

4 B. "department" means the department of health;

5 C. "fund" means the vaccine purchasing fund;

6 D. "health insurer" means any entity subject to
7 regulation by the office of superintendent of insurance that:

8 (1) provides or is authorized to provide
9 health insurance or health benefit plans;

10 (2) administers health insurance or health
11 benefit coverage; or

12 (3) otherwise provides a plan of health
13 insurance or health benefits;

14 E. "insured child" means a child under the age of
15 nineteen who is eligible to receive benefits from a health
16 insurer;

17 F. "office of superintendent" means the office of
18 superintendent of insurance;

19 G. "policy" means any contract of health insurance
20 between a health insurer and the insured, including all
21 clauses, riders, endorsements and parts thereof; and

22 H. "vaccines for children program" means the
23 federally funded program that provides vaccines at no cost to
24 eligible children pursuant to Section 1928 of the federal
25 Social Security Act.

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1 SECTION 3. [NEW MATERIAL] UNIVERSAL VACCINE PURCHASING
2 PROGRAM.--The department shall establish and administer a
3 statewide universal vaccine purchasing program to:

- 4 A. expand access to childhood immunizations
- 5 recommended by the advisory committee on immunization
- 6 practices;
- 7 B. maintain and improve immunization rates;
- 8 C. facilitate the acquisition by health care
- 9 providers of vaccines for childhood immunizations recommended
- 10 by the advisory committee on immunization practices; and
- 11 D. leverage public and private funding and
- 12 resources for the purchase, storage and distribution of
- 13 vaccines for childhood immunizations recommended by the
- 14 advisory committee on immunization practices.

15 SECTION 4. [NEW MATERIAL] VACCINE PURCHASING FUND.--

16 A. The "vaccine purchasing fund" is created in the
17 state treasury. The fund consists of assessments paid by
18 health insurers pursuant to the Vaccine Purchasing Act and
19 appropriations and transfers made to the fund. Money in the
20 fund shall be expended only for the purposes specified in the
21 Vaccine Purchasing Act, by warrant issued by the secretary of
22 finance and administration pursuant to vouchers approved by the
23 secretary of health.

24 B. Money from the fund may be appropriated to the
25 department to be expended only as authorized in Section 5 of

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1 the Vaccine Purchasing Act.

2 C. The fund shall be audited in the same manner as
3 other state funds are audited, and all records of payments made
4 from the fund shall be open to the public.

5 D. Any balance remaining in the fund shall not
6 revert or be transferred to any other fund at the end of a
7 fiscal year, and that balance shall be taken into consideration
8 in the determination of the department's succeeding fiscal
9 year's budget.

10 E. Money in the fund shall be invested by the state
11 investment officer in accordance with the limitations in
12 Article 12, Section 7 of the constitution of New Mexico.
13 Income from investment of the fund shall be credited to the
14 fund.

15 SECTION 5. [NEW MATERIAL] AUTHORIZED USES OF THE VACCINE
16 PURCHASING FUND.--

17 A. The fund shall be used for the purchase, storage
18 and distribution of vaccines, as recommended by the advisory
19 committee on immunization practices, for insured children who
20 are not eligible for the vaccines for children program.

21 B. The fund shall not be used for:

22 (1) the purchase, storage and distribution of
23 vaccines for children who are eligible for the vaccines for
24 children program; or

25 (2) administrative expenses associated with

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1 the statewide universal vaccine purchasing program.

2 SECTION 6. [NEW MATERIAL] REPORTING--ASSESSMENTS.--

3 A. The office of superintendent shall require each
4 health insurer to annually reimburse the state for the cost of
5 vaccines for childhood immunizations for each insured child
6 according to each health insurer's policy obligations and in
7 accordance with state and federal laws.

8 B. No later than July 1, 2015 and on May 1 of each
9 year thereafter, each health insurer shall:

10 (1) report the number of children it insures
11 who will be under the age of nineteen as of the following
12 December 31 to the department and to the office of
13 superintendent; and

14 (2) exclude from such report children who are:

15 (a) enrolled in medicaid or in any
16 medical assistance program administered by the department or
17 the human services department; and

18 (b) American Indian or Alaska Natives.

19 C. No later than August 1, 2015 and June 1 of each
20 year thereafter, the department shall determine the amount to
21 be expended by the department in the current calendar year to
22 purchase, store and distribute vaccines recommended by the
23 advisory committee on immunization practices to all insured
24 children in the state and report the amount to the office of
25 superintendent.

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1 D. No later than September 1, 2015 and July 1 of
2 each year thereafter, the office of superintendent shall
3 determine the amount each health insurer must pay into the fund
4 determined by a fraction, the denominator of which is the total
5 number of insured children reported by all health insurers
6 pursuant to Subsection B of this section and the numerator of
7 which is the number of insured children reported by such health
8 insurers pursuant to Subsection B of this section multiplied by
9 the amount reported to be expended by the department pursuant
10 to Subsection C of this section.

11 E. No later than October 1, 2015 and August 1 of
12 each year thereafter, the office of superintendent shall submit
13 a statement to each health insurer that includes the proposed
14 assessment for such insurer for the current calendar year.

15 F. Each health insurer shall pay the assessment to
16 the office of superintendent not later than November 1, 2015
17 and September 1 of each year thereafter for deposit into the
18 vaccine purchasing fund.

19 G. The payment of an assessment pursuant to the
20 Vaccine Purchasing Act shall be deemed payment for clinical
21 services and activities to promote health care quality for the
22 purpose of calculating a health insurer's medical loss ratio.

23 SECTION 7. [NEW MATERIAL] APPEAL--PENALTIES.--

24 A. A health insurer aggrieved by an assessment
25 levied under Section 6 of the Vaccine Purchasing Act may appeal

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1 as provided in Section 59A-4-20 NMSA 1978.

2 B. A health insurer that fails to file the report
3 required under Subsection B of Section 6 of the Vaccine
4 Purchasing Act shall pay a late filing fee of five hundred
5 dollars (\$500) per day for each day from the date the report
6 was due.

7 C. The office of superintendent may require a
8 health insurer subject to the Vaccine Purchasing Act to produce
9 records that were used to prepare the report required under
10 Subsection B of Section 6 of the Vaccine Purchasing Act. If
11 the office of superintendent determines that there is other
12 than a good faith discrepancy between the number of insured
13 children reported and the number of insured children that
14 should have been reported, the health insurer shall pay a civil
15 penalty of five hundred dollars (\$500) for each report filed
16 for which the office of superintendent determines there is such
17 a discrepancy.

18 D. The department and the office of superintendent
19 shall cooperate to verify the accuracy of health insurer
20 reports required under Subsection B of Section 6 of the Vaccine
21 Purchasing Act.

22 E. Failure of a health insurer to make timely
23 payment of an assessment levied under Section 6 of the Vaccine
24 Purchasing Act shall subject the health insurer to a civil
25 penalty of five hundred dollars (\$500) for each day from the

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1 date the payment is due.

2 SECTION 8. [NEW MATERIAL] POWERS AND AUTHORITY.--The
3 department and the office of superintendent shall promulgate
4 and enforce such rules as may be necessary to carry out the
5 provisions of the Vaccine Purchasing Act.

6 SECTION 9. [NEW MATERIAL] APPLICABILITY.--The provisions
7 of the Vaccine Purchasing Act:

8 A. do not apply to an entity that only issues
9 policies, certificates or subscriber contracts within New
10 Mexico that are limited to a specific disease; hospital
11 confinement; indemnity; accident-only; credit; dental; vision;
12 medicare supplement; long-term care; disability income
13 insurance; student health benefits-only coverage issued as a
14 supplement to liability insurance; workers' compensation or
15 similar insurance; automobile medical payment insurance;
16 nonrenewable short-term coverage issued for a period of twelve
17 months or less; medicaid; or any medical assistance program
18 administered by the department or the human services
19 department; and

20 B. apply to policies, plans, contracts and
21 certificates delivered or issued for delivery or renewed,
22 extended or amended in this state on or after January 1, 2015.

23 SECTION 10. EMERGENCY.--It is necessary for the public
24 peace, health and safety that this act take effect immediately.