SENATE . . . . . No. 2120

The Commonwealth of Massachusetts

In the Year Two Thousand Twelve

An Act establishing the Massachusetts 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:

1 SECTION 1. The General Laws, as appearing in the 2008 Official Edition, shall be
2 amended by adding after section chapter 118H the following new chapter:

3 Chapter 118I:

4 Section 1: Definitions. The following words, as used in this section, unless a different
5 meaning is required by the context or is specifically prescribed, shall have the following
6 meanings:

7 "Child or Children", individuals less than nineteen years of age.

8 "Clinician", a health care professional licensed under chapter 112.

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

11 "Facility", a hospital, clinic or nursing home licensed under chapter 111 or a home health
12 agency.

13 "Health care provider", a clinician, a facility or a physician group practice.

14 "Health insurer", includes surcharge payors as defined in section 34 of chapter 118G of
15 the General Laws. For the purposes of this act, health insurer shall not include any entity to the
16 extent it offers a policy, certificate or contract of insurance that provides coverage solely for
17 dental care services or vision care services.

18 "Insured", an enrollee, covered person, member, policyholder, subscriber or beneficiary
19 of a health insurer.

20 “Participating provider”, a provider who, under a contract with a health insurer or with
21 its contractor or subcontractor, has agreed to provide health care services to insureds with an
22 expectation of receiving payment, other than coinsurance, copayments or deductibles, directly or
23 indirectly, from the carrier.

24 “Physician group practice”, two or more physicians who deliver patient care, make joint
25 use of equipment and personnel and by agreement divide income earned by the physicians in the
26 group.

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

31 “Total non-federal program cost”, the estimated annual cost of vaccines needed for
32 routine childhood immunizations for children covered by health insurers in the Commonwealth
33 less the amount of federal revenue available to the commonwealth for purchase, storage,
34 distribution and administration of such vaccines.

35 “Vaccine Purchase Trust Fund”, a fund to support a universal purchase system for
36 childhood vaccines in the commonwealth.

37 Section 2: (a) There shall be established by the commonwealth a separate
38 trust fund to be known as the Vaccine Purchase Trust Fund, in this section called the “Fund,” to
39 support a universal purchase system for childhood vaccines in the Commonwealth. The specific
40 purpose of the Fund shall be to cover the costs to purchase, store and distribute vaccines for
41 routine childhood immunizations and to administer the Fund and the Massachusetts
42 Immunization Registry, as established under section 24M of chapter 111. The fund shall consist
43 of all monies paid to the commonwealth under subsection (c) and any interest earnings on such
44 monies. The Fund shall be maintained by the commissioner of the division of health care
45 finance and policy or his designee. The monies shall be expended under the direction of the
46 department of public health, without prior appropriation, solely for the purposes described in this
47 section. Any balance in the Fund at the close of a fiscal year shall be available for expenditure in
48 subsequent fiscal years and shall not be transferred to any other fund or revert to the General
49 Fund. The commissioner of the division of health care finance and policy or his or her designee
50 shall report annually to the house and senate committees on ways and means the amount of funds
51 collected and any expenditures made from the Fund.

52 (b) There shall be established a vaccine purchase advisory council consisting of
53 the commissioner of public health or his designee; the medical director of the Massachusetts
54 immunization program of the department of public health; the commissioner of the division of
55 health care finance and policy or his or her designee; the executive director of the
56 commonwealth health insurance connector authority or his designee; the medical directors of the

57 three health insurance companies having the most covered lives in the commonwealth; four
58 health care provider representatives appointed by the commissioner of public health, one of
59 whom shall be a member of the Massachusetts Medical Society; one of whom shall be a
60 member of The Massachusetts Chapter of the American Academy of Pediatrics; one of whom
61 shall be a member of the Massachusetts Academy of Family Physicians; and one of whom shall
62 be a physician licensed to practice in the commonwealth and who shall have expertise in the area
63 of childhood vaccines. The commissioner of public health, or his designee, shall be the chair of
64 the council. The council shall recommend the types of vaccine(s) to be purchased based on a list
65 of routine childhood immunizations and shall take into account provider preference, cost,
66 availability, and other factors as determined by the council. The council shall recommend the
67 amount of funding needed each fiscal year by calculating the total non-federal program cost. The
68 council shall have independent authority to make recommendations required by this subsection.
69 The commissioner of the department of public health shall determine the final vaccine(s) to be
70 purchased. The commissioner of the division of health care finance and policy shall determine
71 the final amount required to be included in the Vaccine Purchase Trust Fund for the next fiscal
72 year to cover vaccines required for purchase, storage and distribution pursuant to this subsection.

73 (c) Pursuant to regulations to be promulgated by the commissioner of the
74 division of health care finance and policy, each health insurer in the commonwealth shall pay to
75 the commissioner of the division of health care finance and policy, for deposit in the Vaccine
76 Purchase Trust Fund, a child immunizations fee assessed by the commissioner of the division of
77 health care finance and policy. The regulations shall establish dates for assessing and
78 contributing such fee and shall permit and enable expenditure of funds by the department of
79 public health. The annual contribution into the trust fund initially shall be deposited by July 1,
80 2012 and annually thereafter. Such fee shall be a percentage of the final amount determined by
81 the commissioner of the division of health care finance and policy pursuant to subsection (b) of
82 this section, and shall be calculated based on the number of children not eligible for federally
83 purchased vaccines who are insured by each health insurer as a percentage of total children
84 insured by all health insurers in the commonwealth that are not eligible for federally purchased
85 vaccines.

86 (d) The department of public health may promulgate rules and regulations as
87 necessary to implement the universal purchase and distribution system, in accordance with this
88 section and other applicable state and federal laws. The rules and regulations shall establish the
89 system by which vaccines are distributed for children in the commonwealth.

90 Section 3: (a) Every health insurer, as defined in section one, to the extent not
91 preempted by federal law, shall provide benefits for (1) routine childhood immunizations for
92 Massachusetts residents and (2) immunizations for Massachusetts residents who are 19 years of
93 age and over according to the most recent schedules recommended by the Advisory Committee
94 on Immunization Practices of the U.S. Department of Health and Human Services. These

95 benefits shall be exempt from any copayment, coinsurance, deductible, or dollar limit provisions
96 in the health insurance policy or contract.

97 (b) Health insurers, to the extent not preempted by federal law, shall pay to
98 health care providers 100% of the reasonable and customary payments for those immunizations
99 described in Section 3(a), excluding those costs covered by the commonwealth or the federal
100 government,, and any reasonable and customary costs associated with the administration of the
101 vaccines. Notwithstanding any general or special law to the contrary, a health insurer shall
102 provide such reimbursement to any health care provider who administers covered immunizations
103 in any facility, heath care provider's office or any other setting in the commonwealth and shall
104 not limit such reimbursement to providers that are participating providers.