

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 432

BY BUSINESS COMMITTEE

AN ACT

1 RELATING TO IMMUNIZATION ASSESSMENTS; AMENDING TITLE 41, IDAHO CODE, BY THE
2 ADDITION OF A NEW CHAPTER 60, TITLE 41, IDAHO CODE, TO STATE LEGISLATIVE
3 INTENT, TO DEFINE TERMS, TO PROVIDE FOR THE IDAHO IMMUNIZATION
4 ASSESSMENT BOARD, TO PROVIDE FOR A PLAN OF OPERATION, TO PROVIDE
5 FOR POWERS AND LIABILITY OF THE BOARD, TO PROVIDE FOR ASSESSMENTS,
6 TO PROVIDE FOR THE IDAHO IMMUNIZATION DEDICATED VACCINE FUND AND TO
7 PROVIDE RULEMAKING AUTHORITY; PROVIDING SEVERABILITY; DECLARING AN
8 EMERGENCY AND PROVIDING RETROACTIVE APPLICATION; AND PROVIDING A
9 SUNSET DATE.
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11 Be It Enacted by the Legislature of the State of Idaho:

12 SECTION 1. That Title 41, Idaho Code, be, and the same is hereby amended
13 by the addition thereto of a NEW CHAPTER, to be known and designated as
14 Chapter 60, Title 41, Idaho Code, and to read as follows:

15 CHAPTER 60
16 IMMUNIZATION ASSESSMENTS

17 41-6001. LEGISLATIVE INTENT. The intent of the legislature is to
18 provide a supplemental funding mechanism for the Idaho immunization program
19 administered by the Idaho department of health and welfare, by creating a
20 dedicated vaccine fund and an independent board, which board is empowered
21 to assess fees from all carriers. The chapter's goal is to ensure access
22 to childhood vaccinations in Idaho, by decreasing costs and enabling the
23 maintenance of a single distribution of vaccines available to health care
24 providers in Idaho who administer the vaccines to program eligible children.

25 41-6002. DEFINITIONS. As used in this chapter:

26 (1) "Board" means the Idaho immunization assessment board created by
27 section 41-6003, Idaho Code.

28 (2) "Carrier" means any entity required to be licensed or registered
29 in the state of Idaho that provides health insurance, health benefit
30 plans, or is authorized to provide health insurance, or administers health
31 insurance or health benefit coverage. For purposes of this chapter, the term
32 "carrier" includes an insurance company, a hospital or professional service
33 corporation, a fraternal benefit society, a managed care organization,
34 entities that provide excess or stop-loss insurance, and persons or
35 entities acting as an administrator or third party administrator of health
36 insurance or health benefits as defined by or required to be registered
37 with the director under title 41, Idaho Code. For the purposes of this
38 chapter, the term "carrier" does not include an entity that only issues
39 policies, certificates or subscriber contracts within the state of Idaho
40 that are limited to a specific disease, hospital confinement indemnity,

1 accident-only, credit, dental, vision, medicare supplement, long-term
2 care, disability income insurance, student health benefits only coverage
3 issued as a supplement to liability insurance, worker's compensation or
4 similar insurance, automobile medical payment insurance, or nonrenewable
5 short-term coverage issued for a period of twelve (12) months or less.

6 (3) "Director" means the director of the department of insurance of the
7 state of Idaho.

8 (4) "Fund" means the Idaho immunization dedicated vaccine fund created
9 in section 41-6007, Idaho Code.

10 (5) "Idaho immunization program" means that program administered by
11 the Idaho department of health and welfare to provide vaccinations against
12 diseases to Idaho children consistent with Idaho and federal law.

13 (6) "Plan of operation" means the plan of operation of the fund as
14 established by the board.

15 (7) "Program-eligible child" means any child, natural or adopted,
16 who is under nineteen (19) years of age, whose custodial parent or legal
17 guardian resides in Idaho and who is not eligible for the federal vaccines
18 for children program.

19 (8) "Vaccine" means any preparations of killed microorganisms, living
20 attenuated organisms or living fully virulent organisms that are approved
21 by the federal food and drug administration and recommended by the federal
22 advisory committee on immunization practices of the centers for disease
23 control and prevention.

24 (9) "Vaccines for children" program is that federally funded program
25 that provides vaccines at no cost to eligible children pursuant to section
26 1928 of the social security act.

27 41-6003. IDAHO IMMUNIZATION ASSESSMENT BOARD. (1) There is hereby
28 created in the Idaho department of insurance the Idaho immunization
29 assessment board. The board will perform an essential governmental function
30 in the exercise of powers conferred upon it by this chapter and shall be a
31 governmental entity within the meaning of chapter 9, title 6, Idaho Code.

32 (2) The board shall consist of nine (9) members and one (1) ex officio
33 member:

34 (a) Six (6) members shall be appointed by the director and serve at the
35 pleasure of the director. In selecting the members of the board, the
36 director shall appoint:

37 (i) Three (3) members representing carriers, one (1) of whom
38 shall represent administrators or third party administrators;

39 (ii) One (1) primary care physician licensed and practicing in
40 Idaho; and

41 (iii) Two (2) members representing the Idaho business community.

42 (b) One (1) member appointed by the director of the department of health
43 and welfare;

44 (c) One (1) member shall be a member of the senate, appointed by the
45 president pro tempore of the senate;

46 (d) One (1) member shall be a member of the house of representatives,
47 appointed by the speaker of the house of representatives; and

48 (e) The director or his designated representative shall serve as an ex
49 officio tenth member of the board.

1 (3) The initial board members appointed by the director pursuant
2 to subsection (2)(a) of this section shall be appointed as follows:
3 Legislative members of the board shall serve for a term of two (2) years.

4 (a) Two (2) members, as determined by the director, shall serve an
5 initial term of two (2) years;

6 (b) Two (2) members, as determined by the director, shall serve an
7 initial term of three (3) years; and

8 (c) One (1) member, as determined by the director, shall serve an
9 initial term of four (4) years.

10 Subsequent board members appointed by the director pursuant to subsection
11 (2)(a) of this section shall serve for terms of three (3) years.

12 (4) A vacancy on the board appointed by the director pursuant to
13 subsection (2)(a) of this section shall be filled by the director. A vacancy
14 in a legislative member's position on the board shall be filled in the same
15 manner as the original appointment.

16 (5) Except for employees of the state of Idaho, members of the board
17 shall not receive compensation or reimbursement for expenses for their
18 service on the board. Employees of the state of Idaho serving on the board
19 shall be reimbursed for their vouched expenses associated with their service
20 on the board in a manner consistent with policy for other state employees.

21 41-6004. PLAN OF OPERATION. (1) The board shall submit to the director
22 a plan of operation and thereafter any amendments thereto. The plan of
23 operation, and any amendments thereto, shall become effective upon written
24 approval by the director. If the board fails to submit a suitable plan
25 of operation, the director shall adopt and promulgate a temporary plan of
26 operation.

27 (2) The plan of operation shall:

28 (a) Identify methodology and procedures for determining assessments to
29 the carriers that are fair and equitable;

30 (b) Establish procedures for the director to collect assessments from
31 carriers to fund vaccine purchases by the state of Idaho; and

32 (c) Provide for any additional matters necessary for the
33 implementation and administration of the fund.

34 (3) Administrative cost associated with the creation and amending the
35 plan of operation shall be paid out of the fund.

36 41-6005. POWER AND LIABILITY OF THE BOARD. (1) The board shall have the
37 power to:

38 (a) Enter into contracts as are necessary or proper to carry out the
39 provisions and purposes of this chapter;

40 (b) Determine the method of assessment and assess carriers in
41 accordance with the provisions of section 41-6006, Idaho Code;

42 (c) Require carriers to provide to the board such statements and
43 reports the board deems necessary to fulfill its duties under this
44 chapter; and

45 (d) Establish policies and procedures as may be necessary or convenient
46 for the implementation of this chapter and the operation of the
47 assessments authorized by this chapter.

1 (2) Neither the board nor its members shall be liable for any
2 obligations of the vaccine assessments. No member or employee of the board
3 shall be liable, and no cause of action of any nature may arise against them,
4 for any act or omission related to the performance of their powers and duties
5 under this chapter, unless such act or omission constitutes willful or
6 wanton misconduct. Participation by a carrier in the assessments authorized
7 by this chapter or on the board under the provisions of this chapter shall
8 not be grounds for any legal action, criminal or civil liability, or penalty
9 against the fund or any of its carriers or board members, either jointly or
10 separately.

11 41-6006. ASSESSMENTS. (1) The department of health and welfare shall
12 report to the board on or before March 1, 2010, and on or before January
13 1 thereafter, the total number of program eligible children in the Idaho
14 immunization reminder information system registry who received vaccines,
15 the doses and the total nonvaccine-for-children funds expended for vaccines
16 purchased and administered through the Idaho immunization program for the
17 previous state fiscal year.

18 (2) Each carrier's proportion of the assessment and the dates upon
19 which the carrier must pay the assessment into the fund shall be determined
20 by the board based on annual statements and other reports deemed necessary
21 by the board. In making the assessment determination, the board shall
22 also consider such factors as the number of vaccine doses administered in
23 the pertinent time period and the number of program eligible children in
24 the pertinent time period, as well as any necessary costs and expenses to
25 administer the fund and discharge the duties of the board.

26 (3) For late or nonpayment of assessments by a carrier, the director
27 shall impose interest at the rate provided by section 28-22-104(1), Idaho
28 Code, and may impose such other penalties as provided in title 41, Idaho
29 Code.

30 (4) Except as otherwise provided in this subsection, a carrier shall
31 pay an assessment made by the board within sixty (60) days of the notice of
32 assessment being sent to the carrier. For good cause, a carrier may seek
33 from the director a deferment from all or part of an assessment imposed by the
34 board. The director may defer all or part of the assessment if the director
35 determines that the payment of the assessment would place the carrier in a
36 financially impaired condition, as provided in title 41, Idaho Code. If all
37 or part of an assessment against a carrier is deferred, the amount deferred
38 shall be assessed against the other carriers in a manner consistent with the
39 basis for assessment set forth in this section. The carrier receiving the
40 deferment shall remain liable to the fund for the amount deferred and shall
41 be prohibited from insuring any new individuals in the state of Idaho until
42 such time as it pays the assessments.

43 (5) The initial assessments as determined by the board shall be paid
44 into the fund on or before April 1, 2010.

45 (6) The moneys raised by the assessment authorized in this section
46 shall be used solely for the purposes expressly authorized by this chapter.

47 41-6007. IDAHO IMMUNIZATION DEDICATED VACCINE FUND. There is hereby
48 created in the state treasury the Idaho immunization dedicated vaccine fund.

1 Moneys in the fund shall be appropriated solely for purposes established by
2 this chapter. All funds in excess to the cost required to develop and amend
3 a plan of operation as permitted in section 41-6004, Idaho Code, shall be
4 paid to the Idaho department of health and welfare for the sole purposes of
5 purchasing vaccine for use in the Idaho immunization program. The fund and
6 any assessments imposed or collected pursuant to the operation of the fund
7 shall at all times be free from taxation of every kind.

8 41-6008. RULEMAKING AUTHORITY. Upon consultation with the board, the
9 director shall have the authority to promulgate rules necessary to implement
10 this chapter.

11 SECTION 2. SEVERABILITY. The provisions of this act are hereby declared
12 to be severable and if any provision of this act or the application of such
13 provision to any person or circumstance is declared invalid for any reason,
14 such declaration shall not affect the validity of the remaining portions of
15 this act.

16 SECTION 3. An emergency existing therefor, which emergency is hereby
17 declared to exist, this act shall be in full force and effect on and after its
18 passage and approval, and retroactively to February 1, 2010.

19 SECTION 4. The provisions of this Chapter 60, Title 41 shall be null,
20 void and of no force and effect on and after July 1, 2013.