

**SENATE . . . . . No. 1971**

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The Commonwealth of Massachusetts

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**In the Year Two Thousand Fourteen**  
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An Act establishing the 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. Chapter 111 of the General Laws is hereby amended by inserting after  
2 section 24M the following section:—

3           Section 24N. (a) As used in this section the following words shall, unless the context  
4 clearly requires otherwise, have the following meanings:

5           “Children”, individuals less than 19 years of age.

6           “Estimated vaccine cost”, the estimated cost over the course of a fiscal year for the  
7 purchase, storage and distribution of vaccines for all children in the commonwealth.

8           “Payments subject to surcharge”, as defined in section 64 of chapter 118E.

9           “Routine childhood immunizations”, immunizations for children until their nineteenth  
10 birthday including (i) the immunizations recommended by the federal Vaccines for Children  
11 Program and (ii) any immunizations recommended by the Advisory Committee on Immunization  
12 Practices of the federal Centers for Disease Control and Prevention.

13           “Surcharge payors”, those entities defined as surcharge payors under section 64 of  
14 chapter 118E, who made payments subject to surcharge of \$1,000,000 or more during the most  
15 recent period for which data is available on July 1 of the current fiscal year.

16           “Total non-federal program cost”, the estimated annual cost of vaccines needed for  
17 routine childhood immunizations for children covered by surcharge payors in the commonwealth  
18 less the amount of federal revenue available to the commonwealth for purchase, storage,  
19 distribution and administration of the vaccines.

20 (b) There shall be established in the commonwealth a separate trust fund to be known as  
21 the Vaccine Purchase Trust Fund to support a universal purchase system for routine childhood  
22 immunizations in the commonwealth. The fund shall be expended to cover the costs to purchase,  
23 store and distribute vaccines for routine childhood immunizations and to administer the fund and  
24 the immunization registry, established under section 24M. The fund shall consist of all monies  
25 paid to the commonwealth under subsection (d) and any interest earnings on such monies. The  
26 fund shall be maintained by the commissioner of public health or a designee. The monies shall  
27 be expended under the direction of the department of public health, without prior appropriation,  
28 solely to cover total non-federal program costs; provided, however, that the amount to be  
29 expended for storing and distributing vaccines for routine childhood immunizations, if such costs  
30 are not covered by federal contribution, and for the costs of administering the immunization  
31 registry, shall not exceed 10 per cent of the total amount of the fund expended for the purchase  
32 of vaccines needed for routine childhood immunizations for all children in the commonwealth.  
33 Any balance in the fund at the close of a fiscal year shall be available for expenditure in  
34 subsequent fiscal years and shall not be transferred to any other fund or revert to the General  
35 Fund. The commissioner of public health or a designee shall annually report the amount of funds  
36 collected and any expenditures made from the fund to the clerks of the house of representatives  
37 and senate to be forwarded on to the house and senate committees on ways and means, the house  
38 and senate chairs of the joint committee on public health and the house and senate chairs of the  
39 joint committee on health care financing.

40 (c) There shall be a vaccine program advisory council consisting of the commissioner of  
41 public health or a designee, who shall serve as chair; the medical director of the universal  
42 immunization program of the department of public health established under section 24I; the  
43 executive director for the center for health information and analysis or a designee; the executive  
44 director of the commonwealth health insurance connector authority or a designee; 1 person to be  
45 appointed by the director of Medicaid, who shall be a representative of managed care  
46 organizations contracting with MassHealth; 3 persons to be appointed by the commissioner of  
47 insurance, each of whom shall be a representative of 1 of the 3 health insurance companies  
48 having the most insured lives in the commonwealth; and 7 persons to be appointed by the  
49 commissioner of public health, 1 of whom shall be a representative of an employer that self-  
50 insures for health coverage who shall be appointed from lists of nominees submitted by statewide  
51 associations of employers, 1 of whom shall be a member of the Massachusetts Medical Society,  
52 1 of whom shall be a member of the Massachusetts chapter of the American Academy of  
53 Pediatrics, 1 of whom shall be a member of the Massachusetts Academy of Family Physicians,  
54 and 3 of whom shall be physicians licensed to practice in the commonwealth and who shall have  
55 expertise in the area of childhood vaccines. The council shall recommend the types of vaccines  
56 to be purchased based on a list of routine childhood immunizations and shall take into account  
57 provider preference, cost, availability and other factors as determined by the council. The council  
58 shall recommend the amount of funding needed each fiscal year by calculating the total non-  
59 federal program cost. The council shall make recommendations to the commissioner on whether

60 the commissioner may authorize provider choice of more than 1 comparable brand or type for a  
61 routine childhood immunization vaccine. In its recommendations, the council shall examine the  
62 feasibility, costs and benefits of authorizing provider choice, provide a schedule of the cost of  
63 each comparable brand or type of a vaccine recommended for provider choice and demonstrate  
64 that the estimated vaccine cost of authorizing provider choice would not be substantially greater  
65 than the estimated vaccine cost of purchasing a single brand or type of a vaccine. The  
66 commissioner of public health shall determine the final vaccines to be purchased.

67 (d) Under regulations adopted by the commissioner of public health, each surcharge  
68 payor in the commonwealth shall pay to the commissioner of public health, for deposit in the  
69 Vaccine Purchase Trust Fund, a routine childhood immunizations surcharge assessed by the  
70 commissioner. By January 1 of each year, the commissioner of public health shall determine the  
71 total amount of the surcharge for the current fiscal year by determining the final amount required  
72 to be included in the Vaccine Purchase Trust Fund for the current fiscal year to cover the  
73 estimated costs to purchase, store and distribute vaccines for routine childhood immunizations  
74 and to administer the fund and the immunization registry, established under section 24M. The  
75 amount shall exclude any costs anticipated to be covered by federal contribution, shall take into  
76 consideration the limitations on expenditures described in subsection (b) and shall take into  
77 account any anticipated surplus or deficit in the trust fund. Any increase in the surcharge amount  
78 for the prior fiscal year shall not increase more than the percentage set as the health care cost  
79 growth benchmark, established under section 9 of chapter 6D, unless the commissioner of public  
80 health submits a detailed report to the clerks of the house and senate who shall forward the report  
81 to the house and senate committees on ways and means, the house and senate chairs of the joint  
82 committee on public health and the house and senate chairs of the joint committee on health care  
83 financing explaining the need for the increase. If the reason for the increase is due to the  
84 purchase of new vaccines and the authorization of provider choice for certain vaccines, as  
85 recommended by the vaccine program advisory council, the report shall include an analysis of  
86 cost savings generated by use of the state vaccine purchasing discount.

87 The commissioner shall annually provide surcharge payors notice of the assessment  
88 amount for the trust fund year not later than 15 days prior to the due date of the first scheduled  
89 surcharge payment or March 1, whichever is earlier. Surcharge payors shall pay the surcharge on  
90 a schedule determined by regulation; provided, however, that the schedule shall ensure sufficient  
91 funds for the trust fund to fulfill the purposes described in subsection (b). Each surcharge payor  
92 shall pay a portion of the total amount of the surcharge proportional to their payments subject to  
93 surcharge during the most recent period for which data is available, as further defined in  
94 regulation.

95 (e) The department of public health may adopt rules and regulations as necessary to  
96 implement the universal purchase and distribution system under this chapter and other applicable  
97 state and federal laws. The rules and regulations shall establish the system by which vaccines are  
98 distributed for children in the commonwealth.

99 (f) Every surcharge payor, to the extent not preempted by federal law, shall provide  
100 benefits for: (i) routine childhood immunizations for residents of the commonwealth and (ii)  
101 immunizations for residents of the commonwealth who are 19 years of age and older according  
102 to the most recent schedules recommended by the Advisory Committee on Immunization  
103 Practices of the federal Centers for Disease Control and Prevention. These benefits shall be  
104 exempt from any copayment, coinsurance, deductible or dollar limit provisions in the health  
105 insurance policy or contract.

106 SECTION 2. Section 2 of chapter 38 of the acts of 2013 is hereby amended by inserting  
107 after item number 4580-1000 the following item number:- 4580-1004 .... For the department of  
108 public health, which may expend an amount not to exceed \$1,500,000 from the assessments  
109 collected under item 4580-1000 that exceed the department's projected fiscal year 2014 costs for  
110 purchasing and distributing childhood vaccines for children; to support the immunization registry  
111 established under section 24M of chapter 111 of the General Laws; provided, that if the  
112 assessments collected under item 4580-1000 do not exceed projected fiscal year 2014 costs no  
113 supplemental assessment shall be made on surcharge payers; and provided further, that for the  
114 purpose of accommodating timing discrepancies between the receipt of revenues and related  
115 expenditures, the department may incur expenses and the comptroller may certify for payment  
116 amounts not to exceed the lower of this authorization or the most recent revenue estimate as  
117 reported in the state accounting system .....\$1,500,000

118 SECTION 3. Notwithstanding any general or special law to the contrary, the department  
119 of public health may make expenditures from the start of each fiscal year from the Vaccine  
120 Purchase Trust Fund established under section 24N of chapter 111 of the General Laws in  
121 anticipation of assessments on surcharge payors under said section 24N of said chapter 111.

122 SECTION 4. Not later than October 1, 2014, the department of public health shall  
123 promulgate regulations as necessary to implement the routine childhood immunizations  
124 surcharge assessment required under section 24N of chapter 111 of the General Laws.

125 SECTION 5. Section 1 shall take effect on June 30, 2014.

126 SECTION 6. Sections 2 and 3 shall take effect upon their passage.