

SENATE No. 00503

The Commonwealth of Massachusetts

PRESENTED BY:

Susan C. Fargo

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the passage of the accompanying bill:

An Act establishing the Massachusetts Childhood Vaccines Program.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
<i>Susan C. Fargo</i>	<i>Third Middlesex</i>
<i>Benjamin Swan</i>	<i>11th Hampden</i>

SENATE No. 00503

By Ms. Fargo, petition (accompanied by bill, Senate, No. 503) of Swan and Fargo for legislation to establish the Massachusetts childhood vaccines program and the Massachusetts immunization registry [Joint Committee on Health Care Financing].

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE
□ SENATE
□ , NO. 470 OF 2009-2010.]

The Commonwealth of Massachusetts

In the Year Two Thousand Eleven

An Act establishing the Massachusetts Childhood Vaccines 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 176R the following new chapter:

3 Chapter 176S:

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

6 “Child or Children,” individuals less than nineteen years of age.

7 “Clinician,” a health care professional licensed under chapter 112.

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

10 “Facility,” a hospital, clinic or nursing home licensed under chapter 111 or a home health
11 agency.

12 “Health care provider,” a clinician, a facility or a physician group practice.

13 “Health insurer,” an insurer licensed or otherwise authorized to transact accident or health
14 insurance under chapter 175; a nonprofit hospital service corporation organized under chapter
15 176A; a nonprofit medical service corporation organized under chapter 176B; a health
16 maintenance organization organized under chapter 176G; an organization entering into a
17 preferred provider arrangement under chapter 176I; a contributory group general or blanket
18 insurance for persons in the service of the commonwealth under chapter 32A; a contributory
19 group general or blanket insurance for persons in the service of counties, cities, towns and
20 districts, and their dependents under chapter 32B; the medical assistance program administered
21 by the division of medical assistance pursuant to chapter 118E and in accordance with Title XIX
22 of the Social Security Act or any successor statute; Medicaid managed care organizations
23 referenced in St. 1997, c. 47, § 28 for those health plans offered pursuant to chapter 118H; all
24 self-insured plans to the extent not preempted by federal law; any entity that offer Qualifying
25 Student Health Insurance Plans pursuant to 114.6 CMR 3.00; and any other medical assistance
26 program operated by a governmental unit for persons categorically eligible for such program.
27 “Health Insurer” shall not include any entity to the extent it offers a policy, certificate or contract
28 of insurance that provides coverage solely for dental care services or vision care services, or only

29 for accident, credit, hospital indemnity, disability income, supplements to liability insurance,
30 specified disease or long term care.

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

33 "Participating provider", a provider who, under a contract with a health insurer or with its
34 contractor or subcontractor, has agreed to provide health care services to insureds with an
35 expectation of receiving payment, other than coinsurance, copayments or deductibles, directly or
36 indirectly, from the carrier.

37 "Physician group practice," two or more physicians who deliver patient care, make joint use of
38 equipment and personnel and by agreement divide income earned by the physicians in the group.

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

43 "Total non-federal program cost," the estimated annual cost of vaccines needed for routine
44 childhood immunizations for children covered by health insurers in the Commonwealth less the
45 amount of federal revenue available to the commonwealth for purchase, storage, distribution and
46 administration of such vaccines.

47 "Vaccine Purchase Trust Fund," a fund to support a universal purchase system for childhood
48 vaccines in the commonwealth.

49 Section 2.

50 (a) There is established by the commonwealth a separate trust fund to be known as the Vaccine
51 Purchase Trust Fund, in this section called the "Fund," to support a universal purchase system
52 for childhood vaccines in the Commonwealth. The specific purpose of the Fund shall be to
53 cover the costs to purchase, store and distribute vaccines for routine childhood immunizations
54 and to administer the Fund and the Massachusetts Immunization Registry, as established under
55 section 24K of chapter 111. The fund shall consist of all monies paid to the commonwealth
56 under subsection (c) and any interest earnings on such monies. The Fund shall be maintained by
57 the commissioner of insurance or his or her designee. The monies shall be expended under the
58 direction of the department of public health, without prior appropriation, solely for the purposes
59 described in this section. Any balance in the Fund at the close of a fiscal year shall be available
60 for expenditure in subsequent fiscal years and shall not be transferred to any other fund or revert
61 to the General Fund. The commissioner of insurance or his or her designee shall report annually
62 to the house and senate committees on ways and means the amount of funds collected and any
63 expenditures made from the Fund.

64 (b) There is established a vaccine purchase advisory council consisting of the commissioner of
65 public health or his or her designee; the Medical Director of the Massachusetts Immunization
66 Program of the Department of Public Health; the commissioner of insurance or his or her
67 designee; the Executive Director of the Commonwealth Health Insurance Authority or his or her
68 designee; the medical directors of the three health insurance companies having the most covered
69 lives in the commonwealth; four health care provider representatives appointed by the
70 commissioner of public health, one of whom shall be a member of the Massachusetts Medical
71 Society; one of whom shall be a member of The Massachusetts Chapter of the American
72 Academy of Pediatrics; one of whom shall be a member of the Massachusetts Academy of

73 Family Physicians; and one of whom shall be a physician licensed to practice in the
74 commonwealth and who shall have expertise in the area of childhood vaccines. The
75 commissioner of public health, or his or her designee, shall be the chair of the council. The
76 council shall determine the types of vaccine(s) to be purchased based on a list of routine
77 childhood immunizations and shall take into account provider preference, cost, availability, and
78 other factors as determined by the council. The council shall also recommend the amount of
79 funding needed each fiscal year by calculating the total non-federal program cost. Such
80 calculation shall be based on health care claims data, as defined in 129 C.M.R. § 3.00, relating to
81 all children covered by health insurers in the Commonwealth. The council shall be advised by a
82 committee within the department of public health, as determined by the commissioner of public
83 health. The council shall have independent authority to make the determinations and
84 recommendations required by this subsection. The commissioner of insurance shall determine
85 the final amount required to be included in the Vaccine Purchase Trust Fund for the next fiscal
86 year to cover vaccines required for purchase and distribution pursuant to this subsection.

87 (c) Pursuant to regulations to be promulgated by the commissioner of insurance, each health
88 insurer in the commonwealth shall annually pay to the commissioner of insurance, for deposit in
89 the Vaccine Purchase Trust Fund, a child immunizations fee assessed by the commissioner of
90 insurance. The regulations shall establish dates for assessing and contributing such fee and shall
91 permit and enable expenditure of funds by the department of public health. The annual
92 contribution into the trust fund initially shall be deposited by July 1, 2012, and annually
93 thereafter. Such fee shall be a percentage of the final amount determined by the commissioner of
94 insurance pursuant to subsection (b) of this section, and shall be calculated based on the number

95 of children insured by each health insurer as a percentage of total children insured by all health
96 insurers in the Commonwealth.

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

101 Section 3.

102 (a) Every health insurer, as defined in section one, shall provide benefits for (1) routine
103 childhood immunizations for Massachusetts residents and (2) immunizations for Massachusetts
104 residents who are 19 years of age and over according to the most recent schedules recommended
105 by the Advisory Committee on Immunization Practices of the U.S. Department of Health and
106 Human Services. These benefits shall be exempt from any copayment, coinsurance, deductible,
107 or dollar limit provisions in the health insurance policy or contract.

108 (b) Health insurers shall pay to health care providers 100 per cent of the reasonable and
109 customary charges for those immunizations described in Section 3(a), including the cost of the
110 vaccines not provided by the commonwealth and any reasonable and customary costs associated
111 with the administration of the vaccines. Notwithstanding any general or special law to the
112 contrary, a health insurer shall provide such reimbursement to any health care provider who
113 administers covered immunizations in any facility, health care provider's office or any other
114 setting in the Commonwealth and shall not limit such reimbursement to providers that are
115 participating providers.