

# MAINE STATE LEGISLATURE

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HEALTH AND HUMAN SERVICES

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STATE OF MAINE  
HOUSE OF REPRESENTATIVES  
124TH LEGISLATURE  
SECOND REGULAR SESSION

COMMITTEE AMENDMENT "A" to H.P. 984, L.D. 1408, Bill, "An Act To Establish the Universal Childhood Immunization Program"

Amend the bill by striking out everything after the enacting clause and before the summary and inserting the following:

'Sec. 1. 5 MRSA §12004-G, sub-§15-B is enacted to read:

15-B.

Human Services: Maine Vaccine Not Authorized 22 MRSA §1066  
Immunization Board

Sec. 2. 22 MRSA §1066 is enacted to read:

§1066. Universal Childhood Immunization Program

1. Program established. The Universal Childhood Immunization Program is established to provide all children from birth until 19 years of age in the State with access to a uniform set of vaccines as determined and periodically updated by the Maine Vaccine Board. The program is administered by the department for the purposes of expanding access to immunizations against all diseases as recommended by the federal Department of Health and Human Services, Centers for Disease Control and Prevention Advisory Committee on Immunization Practices, optimizing public and private resources and lowering the cost of providing immunizations to children. The program is overseen by the Maine Vaccine Board.

2. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Advisory committee" means the Advisory Committee on Immunization Practices of the United States Department of Health and Human Services, Centers for Disease Control and Prevention or its successor organization.

B. "Assessed entity" means a health insurance carrier licensed under Title 24-A or a 3rd-party administrator registered under Title 24-A.

COMMITTEE AMENDMENT

1 C. "Board" means the Maine Vaccine Board established in subsection 3.

2 D. "Child" means a person who has not attained 19 years of age and who resides in  
3 the State.

4 E. "Covered life months" means the number of months during a calendar year that a  
5 person is covered under a health insurance plan provided by a health insurance  
6 carrier.

7 F. "Fund" means the Childhood Immunization Fund established in subsection 7.

8 G. "Health insurance carrier" means:

9 (1) An insurance company licensed in accordance with Title 24-A to provide  
10 health insurance;

11 (2) A health maintenance organization licensed pursuant to Title 24-A, chapter  
12 56;

13 (3) A preferred provider arrangement administrator registered pursuant to Title  
14 24-A, chapter 32;

15 (4) A fraternal benefit society as defined in Title 24-A, section 4101;

16 (5) A nonprofit hospital or medical service organization or health plan licensed  
17 pursuant to Title 24;

18 (6) A multiple-employer welfare arrangement approved by the superintendent  
19 under Title 24-A, section 6603; or

20 (7) A self-insured employer subject to state regulation as described in Title 24-A,  
21 section 2848-A.

22 H. "New vaccine" means a vaccine recommended by the advisory committee for  
23 which an initial federal contract price is established by the United States Department  
24 of Health and Human Services, Centers for Disease Control and Prevention between  
25 October 1st and July 1st.

26 I. "Program" means the Universal Childhood Immunization Program established in  
27 subsection 1.

28 J. "Provider" means a person licensed by this State to provide health care services to  
29 individuals or a partnership or corporation made up of those persons.

30 K. "Service agent" means a person or entity qualified by good business reputation,  
31 training, education and experience to administer the fund and perform responsibilities  
32 assigned by the board. A service agent must hold all licenses, registrations and  
33 permits required to engage in activities or undertake responsibilities assigned by the  
34 board.

35 L. "Superintendent" means the Superintendent of Insurance.

36 M. "Total costs of the fund" means the costs of vaccines provided under the program  
37 to children projected to be covered by assessed entities during the succeeding  
38 program year and the annual operating expenses of the board, including costs the

1 board may incur for staff, a service agent, legal representation, administrative support  
2 services and other expenses approved by the board.

3 **3. Maine Vaccine Board.** The Maine Vaccine Board is established pursuant to this  
4 subsection to oversee the program.

5 A. The board consists of 10 members.

6 (1) The commissioner shall serve as an ex officio, nonvoting member.

7 (2) The Treasurer of State shall serve as an ex officio, nonvoting member.

8 (3) The Governor shall appoint 8 members, as follows:

9 (a) Three representatives of health insurance carriers, appointed from a list  
10 of nominees submitted by a statewide association of health insurance  
11 carriers;

12 (b) Three representatives of providers in the State, appointed from lists of  
13 nominees submitted by statewide associations of providers, including  
14 associations of primary care providers, allopathic and osteopathic physicians,  
15 nurse practitioners and persons with expertise in public health;

16 (c) A representative of employers that self-insure for health coverage,  
17 appointed from lists of nominees submitted by statewide associations of  
18 employers; and

19 (d) A representative of the pharmaceutical manufacturing industry,  
20 appointed from a list of nominees submitted by a statewide association of  
21 pharmaceutical manufacturers.

22 B. With the exception of the representative of the pharmaceutical manufacturing  
23 industry, who serves a one-year term, the term of an appointed member to the board  
24 is 3 years. All members, with the exception of the representative of the  
25 pharmaceutical manufacturing industry, may serve successive terms. A member  
26 whose term has expired may serve until the appointment of the member's successor.

27 C. The board shall elect a chair from among its members to serve a 2-year term or  
28 for the duration of that person's term. The chair may serve successive terms. Five  
29 voting members constitute a quorum. Decisions of the board require the affirmative  
30 vote of 5 members.

31 D. The board shall meet 4 times per year and when a meeting is called by the chair  
32 and shall oversee the fund and program and adopt policies and procedures to  
33 administer the program and the fund.

34 E. By January 1, 2011 and annually thereafter, the board shall determine the list of  
35 vaccines to be made available by the program during the succeeding program year  
36 beginning July 1st. In making its determination, the board shall consider:

37 (1) Vaccines recommended by the advisory committee that are available under  
38 contract with the United States Department of Health and Human Services,  
39 Centers for Disease Control and Prevention;

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(2) Recommendations of the department, based on the department's review of the advisory committee recommendations; and

(3) Clinical and cost-benefit analyses.

The board shall review new vaccines and update the list of vaccines to be made available through the program on a timely basis in accordance with the considerations described in this paragraph.

F. The board shall contract for staff, administrative support services and, if necessary, legal representation; review financial, cost and other information about the program annually or more often as determined by the chair; and pay the costs of the service agent under subsection 9, legal representation and contracted services from the fund.

4. Program requirements. The program shall make available to providers vaccines as determined by the board pursuant to subsection 3, paragraph E.

5. Assessments. By January 1, 2011 and annually thereafter, the board shall determine an assessment for each assessed entity in accordance with this subsection. The board shall provide a mechanism to protect against duplicate counting of children. The board may conduct an audit of the number of covered life months for children as reported by an assessed entity. An assessment determination made pursuant to this subsection is an adjudicatory proceeding within the meaning of Title 5, chapter 375, subchapter 4.

A. In determining the amount of the assessment, the board shall:

(1) Determine the total costs of the fund for the succeeding program year;

(2) Add a reserve of up to 10% of the total costs of the fund under subparagraph (1) for unanticipated costs associated with providing vaccines to children covered by the assessed entity;

(3) Subtract the amount of any unexpended assessments collected in the preceding year and any unexpended interest accrued to the fund during the preceding year; and

(4) Calculate the assessment on a monthly basis per child to be paid by an assessed entity by dividing the amount determined in accordance with subparagraphs (1), (2) and (3) by the number of children projected to be covered by the assessed entity during the succeeding program year divided by 12.

B. The board shall provide the assessed entity with notice of the assessment amount for the succeeding program year no later than January 1, 2011 and annually thereafter.

C. Beginning July 1, 2011, the assessment must be paid on a quarterly basis as follows:

(1) An assessed entity shall pay a quarterly assessment equal to the monthly assessment rate per child as described under paragraph A, subparagraph (4) multiplied by the number of child member months covered by the assessed entity in the preceding calendar quarter; and

# COMMITTEE AMENDMENT

1           (2) The assessment must be paid within 45 days following the close of the  
2           calendar quarter.

3           D. After the close of a program year, the board shall reconcile the total assessments  
4           paid by assessed entities, including interim assessments determined under paragraph  
5           E, with the actual costs of vaccines provided under the program to children covered  
6           by assessed entities during that program year and the annual operating expenses of  
7           the program during that program year. Any unexpended assessments must be used to  
8           reduce the assessment in the succeeding program year as required under paragraph A,  
9           subparagraph (3).

10          E. The board may determine an interim assessment for new vaccines that the board  
11          has made available through the program pursuant to subsection 3, paragraph E. The  
12          board shall calculate the interim assessment in accordance with paragraph A, and the  
13          interim assessment is payable the calendar quarter that begins no less than 30 days  
14          following the establishment of the federal contract price. The board may not impose  
15          more than one interim assessment per year, except in the case of a public health  
16          emergency declared in accordance with state or federal law.

17          F. If the combination of funding available from the United States Department of  
18          Health and Human Services, Centers for Disease Control and Prevention, Vaccines  
19          for Children Program and the immunization grant program under the federal Public  
20          Health Service Act, Section 1928 of the Social Security Act, 42 United States Code,  
21          Section 1396s is insufficient to provide coverage for vaccines for the children who  
22          qualify for vaccines under the Vaccines for Children Program, money from the fund  
23          may not be used to cover the cost of vaccines for children who would otherwise be  
24          provided vaccines under the Vaccines for Children Program.

25          G. If the assessments under this subsection are insufficient to cover the cost of  
26          vaccines to be provided to children covered by assessed entities, the State is not  
27          required to cover the cost of vaccines for those children.

28          **6. Failure to pay assessment.** If an assessment under subsection 5 is not paid on the  
29          due date established by the board, the provisions of this subsection apply.

30          A. The board shall submit a report to the superintendent listing each assessed entity  
31          that has failed to pay an assessment under subsection 5.

32          B. If an assessed entity has not paid an assessment under subsection 5 within 45 days  
33          following the close of the calendar quarter, interest accrues at 12% per annum on or  
34          after the due date. Interest paid under this paragraph must be deposited into the fund.  
35          Upon application, the board may waive such interest payments for good cause shown.

36          The superintendent may take any action authorized under Title 24-A to enforce collection  
37          of any unpaid assessment or fine and may impose any penalty authorized under Title  
38          24-A for noncompliance with this section if the assessed entity has engaged in a pattern  
39          of conduct that demonstrates a lack of good faith in complying with the requirements of  
40          this subsection.

41          **7. Fund.** The Childhood Immunization Fund is established for the sole purpose of  
42          funding the program, including any costs of vaccines provided under the program to  
43          children and any costs the board may incur for staff, a service agent, administrative

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1 support services, legal representation and contracted services. The fund is administered  
2 by the board or the service agent, which shall act as a fiduciary and manage and invest the  
3 fund in conformance with prudent investor standards and maintain complete records of all  
4 assets, investments, deposits, disbursements and other transactions of the fund. All money  
5 and securities in the fund must be held in trust by the Treasurer of State for the purpose of  
6 making payments under this section and are not money or property for the general use of  
7 the State. The Treasurer of State is the custodian of the fund and may make  
8 disbursements only upon written direction from the board or the service agent. All  
9 assessments collected pursuant to this section, all interest on the balance in the fund and  
10 all income from any other source must be deposited into the fund. The fund does not  
11 lapse. No portion of the fund may be used to subsidize other programs or budgets.

12 **8. Reporting.** By January 15th of each year the board shall report to the joint  
13 standing committee of the Legislature having jurisdiction over health and human services  
14 matters regarding the operation of the program, the progress of the program in expanding  
15 access to immunizations for children and the assets, investments and expenditures of the  
16 fund.

17 **9. Service agent.** The board, by written contract, may delegate administration of the  
18 fund to a service agent. The service agent:

19 A. May contract with attorneys acceptable to the board for legal representation for  
20 the board;

21 B. May levy assessments, institute collection procedures, including legal action if  
22 necessary, and deposit money in the fund with the Treasurer of State if those funds  
23 are not needed to meet immediate cash flow demands; and

24 C. Shall make recommendations to the board regarding policies, rules and standards  
25 necessary for the proper administration of the fund.

26 **10. Freedom from liability.** There is no liability on the part of, and a cause of action  
27 may not arise against, a member of the board for any acts or omissions in the  
28 performance of the member's duties under this section. This immunity does not extend to  
29 willful neglect or malfeasance that would otherwise be actionable.

30 **11. Rules.** The department and the board shall jointly adopt rules to implement this  
31 section. Rules adopted pursuant to this subsection are routine technical rules pursuant to  
32 Title 5, chapter 375, subchapter 2-A.

33 **Sec. 3. Staggered terms.** Notwithstanding the Maine Revised Statutes, Title 22,  
34 section 1066, subsection 3, paragraph B, with respect to the initial appointees to the  
35 Maine Vaccine Board under Title 22, section 1066, subsection 3, paragraph A,  
36 subparagraph (3), divisions (a) and (b), the Governor shall appoint one representative of  
37 health insurance carriers and 2 representatives of providers to terms of 2 years and the  
38 remaining members to 3-year terms.

39 **Sec. 4. Appropriations and allocations.** The following appropriations and  
40 allocations are made.

41 **HEALTH AND HUMAN SERVICES, DEPARTMENT OF (FORMERLY DHS)**  
42 **Universal Childhood Immunization Program N105**

1 Initiative: Provides a baseline allocation of funds for the costs of purchasing vaccines for  
 2 children and for the authorized operating expenses of the newly established Maine  
 3 Vaccine Board.

4	<b>CHILDHOOD IMMUNIZATION TRUST FUND</b>	<b>2009-10</b>	<b>2010-11</b>
5	Unallocated	\$0	\$500
6			
7	<b>CHILDHOOD IMMUNIZATION TRUST FUND</b>	<hr/>	<hr/>
8	<b>TOTAL</b>	\$0	\$500
9			

10 **SUMMARY**

11 This amendment is the majority report of the committee. The amendment replaces  
 12 the bill. It establishes the Universal Childhood Immunization Program to provide all  
 13 children 18 years of age or younger in the State with access to a uniform set of vaccines.  
 14 The program is administered by the Department of Health and Human Services for the  
 15 purposes of optimizing public and private resources and lowering the cost of providing  
 16 immunizations to children by leveraging contract prices for vaccines established through  
 17 the United States Department of Health and Human Services, Centers for Disease Control  
 18 and Prevention. The program and the Childhood Immunization Fund are overseen by the  
 19 Maine Vaccine Board. The program costs associated with vaccines for children covered  
 20 by health insurance carriers and 3rd-party administrators are funded by assessments on  
 21 those entities. Any costs associated with vaccines for children covered by the United  
 22 States Department of Health and Human Services, Centers for Disease Control and  
 23 Prevention, Vaccines for Children Program are the responsibility of the State.  
 24 Assessments are deposited into the fund, which does not lapse, to be used only for the  
 25 purposes of the Universal Childhood Immunization Program. The board is required to  
 26 report annually to the joint standing committee of the Legislature having jurisdiction over  
 27 health and human services matters.

28 **FISCAL NOTE REQUIRED**

29 **(See attached)**





# 124th MAINE LEGISLATURE

LD 1408

LR 1459(02)

## An Act To Establish the Universal Childhood Immunization Program

Fiscal Note for Bill as Amended by Committee Amendment "A"  
Committee: Health and Human Services

Fiscal Note Required: Yes

### Fiscal Note

	2009-10	2010-11	Projections 2011-12	Projections 2012-13
<b>Appropriations/Allocations</b>				
Childhood Immunization Trust Fund	\$0	\$500	\$500	\$500

#### Fiscal Detail and Notes

Provides a baseline allocation of \$500 for the costs of the newly established Universal Childhood Immunization program including purchasing vaccines for children and for the authorized operating expenses of the newly established Maine Vaccine Board. Assumes that by January 1, 2011, the Maine Vaccine Board will begin to implement the new program including establishing the process for the purchasing of vaccines; contracting for staff, a service agent and other administrative services; and establishing the assessment to be paid by health insurance carriers and third-party administrators registered under MRSA 24-A. The costs of the program and the amount of the assessment will be determined by the board and cannot be determined at this time.

The costs associated with acting as the custodian of the Childhood Immunization Trust Fund can be absorbed by the Office of the Treasurer within existing budgeted resources. The costs of the Bureau of Insurance in the Department of Professional and Financial Regulation to enforce the collection of unpaid assessments are assumed to be minor and can be absorbed utilizing existing budgeted resources. The costs of the Department of Health and Human Services for rulemaking and other support services can be absorbed utilizing existing budgeted resources.