

SENATE RESOLUTION No. 54

STATE OF NEW JERSEY

219th LEGISLATURE

INTRODUCED FEBRUARY 25, 2020

Sponsored by:

Senator MICHAEL L. TESTA, JR.

District 1 (Atlantic, Cape May and Cumberland)

SYNOPSIS

Urges US President and Congress to repeal National Childhood Vaccine Injury Act of 1986.

CURRENT VERSION OF TEXT

As introduced.



SR54 TESTA

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1 **A SENATE RESOLUTION** urging the United States President and
2 Congress to repeal the federal National Childhood Vaccine
3 Injury Act of 1986.
4
5 **WHEREAS,** The federal “National Childhood Vaccine Injury Act”
6 (NCVAI) was signed into law on November 14, 1986 and created
7 the National Vaccine Injury Compensation Program (NVICP), the
8 Vaccine Adverse Event Reporting System (VAERS), the National
9 Vaccine Program Office (NVPO), and vaccine information
10 statement requirements for patients and providers; and
11 **WHEREAS,** The NCVAI was originally intended to shield vaccine
12 manufacturers from liability insurance and injury litigation costs to
13 encourage the development and production of vaccines; and
14 **WHEREAS,** The NVICP is a no-fault alternative tort system for
15 litigating vaccine injury claims that aims to ensure an adequate
16 supply of vaccines, to stabilize vaccine costs, and to establish and
17 maintain an accessible and efficient forum for individuals found to
18 be injured by certain vaccines; and
19 **WHEREAS,** Since the inception of the program, the NCIVP has
20 received more than 21,000 injury claims and only about 30 percent
21 of those claims have been compensated; and
22 **WHEREAS,** The NCIVP has paid out more than \$4.2 billion dollars in
23 public funding for petitioner awards and attorney fees; and
24 **WHEREAS,** A 2014 United States Government Accountability Office
25 (GAO) report found that most claims took multiple years to
26 adjudicate observing that claims from fiscal year 1999 to March 31,
27 2014 took on average five and half years; and
28 **WHEREAS,** The GAO report comments that the program has an
29 adversarial environment, as some petitioners are required to
30 demonstrate a covered vaccine caused an injury not listed on the
31 VICP injury tables; and
32 **WHEREAS,** Many stakeholders are calling for an increase to the
33 NVICP’s three-year statute of limitations to extend the period of
34 time for when claims can be filed; and
35 **WHEREAS,** Children, today, typically receive routine doses for 15
36 different types of vaccines and the number of vaccines developed
37 and recommended for children has increased over time; and
38 **WHEREAS,** The economic and legal immunity granted to
39 manufacturers of vaccines may have removed the economic and
40 legal incentives for the companies to manufacture safe vaccine
41 products; and
42 **WHEREAS,** The NCVAI does not meet the law’s intended goal of
43 creating a more stable supply of safe and affordable vaccines for
44 children and creating a fair system where injuries are justly settled
45 and petitioners are compensated appropriately and in a timely
46 manner; now, therefore,
47
48 **BE IT RESOLVED** *by the Senate of the State of New Jersey:*

SR54 TESTA

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1 1. The Senate of the State of New Jersey urges the United
2 States President and Congress to repeal the federal National
3 Childhood Vaccine Injury Act of 1986.

2. Copies of this resolution, as filed with the Secretary of State, shall be transmitted by the Secretary of the Senate to the United States President, the Majority and Minority Leader of the United States Senate, the Speaker and Minority Leader of the United States House of Representatives, and to every member of Congress elected from this State.

STATEMENT

15 This resolution urges the United States President and Congress to
16 repeal the federal “National Childhood Vaccine Injury Act of 1986”
17 (NCVIA). The NCVIA was enacted in order to secure the
18 continued supply, development, and production of vaccines by
19 eliminating drug manufacturer’s financial liability for vaccine
20 injury claims. The NCVIA also established an alternative tort
21 system, known as the National Vaccine Injury Compensation
22 Program (NVICP), to create an accessible and efficient forum for
23 individuals found to be injured by certain vaccines. The NCVIA
24 also created the Vaccine Adverse Event Reporting System
25 (VAERS), the National Vaccine Program Office (NVPO), and
26 vaccine information statement requirements for patients and
27 providers.

28 Since the NVICP's inception, only about 30 percent of the
29 21,000 injury claims filed to the NVICP have been awarded
30 compensation. A 2014 United States Government Accountability
31 Office (GAO) reports noted that it took an average of five and half
32 years for a claim to be adjudicated. Other issues with the current
33 process of filing a vaccine injury claim through the NVICP include:
34 filing a claim for an injury not listed on the NVICP's Vaccine
35 Injury Table and the three-year statute of limitations that make it
36 difficult to file an injury claim after that period of time.

While the NCVAI was intended to create a more stable supply of safe and affordable vaccines and a fair system for settling vaccine injury claims, the economic and legal immunity granted to vaccine drug manufacturers is counterproductive to the law's goals, as there is less incentive to manufacture safe vaccine products.