HOUSE DOCKET, NO. 1809 FILED ON: 1/20/2011

HOUSE . . . . . No. 1498

The Commonwealth of Massachusetts

PRESENTED BY:

Jason M. Lewis

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:

An Act to promote prevention and wellness through a public health trust.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
Brian M. Ashe	*2nd Hampden*
James B. Eldridge	☐ *[District]* ☐
Jonathan Hecht	*29th Middlesex*
Louis L. Kafka	*8th Norfolk*
Stephen Kulik	*1st Franklin*
Carl M. Sciortino, Jr.	*34th Middlesex*
Benjamin Swan	*11th Hampden*

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By Mr. Lewis of Winchester, a petition (accompanied by bill, House, No. 1498) of Brian M. Ashe and others for legislation establishing a fund to be known as the prevention and cost control trust fund. Public Health.

The Commonwealth of Massachusetts

An Act to promote prevention and wellness through a public health trust.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

SECTION 1. Chapter 111 of the General Laws, as appearing in the 2010 Official Edition, is hereby amended by inserting after section 2F the following section:–

Section 2G. (a) There shall be established upon the books of the commonwealth a separate fund to be known as the Prevention and Cost Control Trust Fund to be expended, without further appropriation, by the department of public health. The fund shall consist of all prevention and cost control surcharge revenues collected by the commonwealth in accordance with the provisions of subsection (g) of section 38 of chapter 118G, public and private sources such as gifts, grants and donations to further community-based prevention activities and interest earned on such revenues; provided, however, that this provision shall not preclude the appropriation from the General Fund of the commonwealth of additional amounts to support the administration of the fund.

The commissioner of the department of public health, as trustee, shall administer the fund. The commissioner, in consultation with the Prevention and Cost Control Advisory Board established in subsection (c), shall make expenditures from this account consistent with the provisions of subsection (d); provided, that no more than 20 percent of the amounts held in the fund in any one year shall be used by the department for program administration, technical assistance to grantees, or program evaluation.

(b) Revenues deposited in the fund that are unexpended at the end of the fiscal year shall not revert to the General Fund and shall be available for expenditure in the following fiscal year.

(c) There shall be a Prevention and Cost Control Advisory Board constituted for the general purpose of making recommendations to the commissioner concerning the administration and allocation of the fund, establishing evaluation criteria, and performing any other functions specifically granted to it by law.

24 The board shall consist of 13 members who shall be appointed by the governor, including
25 the following members: the commissioner of the department of public health, who shall serve as
26 chair of the board; the commissioner of the division of health care finance and policy or a
27 designee; the secretary of the executive office of health and human services or a designee; a
28 representative with expertise in the field of public health economics; a representative with
29 expertise in public health research; a representative with expertise in the field of health equity; a
30 representative from a local board of health for a city with population greater than 50,000; a
31 representative of a board of health with a population under 50,000; a representative from the
32 health insurance industry; a representative from a consumer health organization; a representative
33 from a hospital association; a representative from a statewide public health organization and a
34 representative from an accountable care organization.

35 The board shall annually publish a report to be used by the commissioner in determining
36 allocation of funds. Said report shall include but not be limited to the following: (i) a list of the
37 most prevalent preventable health conditions in the commonwealth, including health disparities
38 experienced by populations based on race, ethnicity, gender, disability status, sexual orientation,
39 or socio-economic status; (ii) a list of the most costly preventable health conditions in the
40 commonwealth; (iii) a list of evidence-based or promising community-based interventions
41 related to the conditions identified in (i) and (ii). Where appropriate, the report shall reference
42 goals and best practices established by the national prevention and public health promotion
43 council and the centers for disease control and prevention, including, but not limited to the
44 national prevention strategy, the healthy people report and the community prevention guide.

45 (d) The commissioner shall annually award no less than 80 percent of the fund through a
46 competitive grant process to municipalities and community-based organizations that apply for
47 the implementation, evaluation, and dissemination of evidence-based community preventive
48 health activities, with a preference for activities that, based on findings of the board, will reduce
49 rates of the most prevalent and costly preventable health conditions, address health disparities,
50 and develop a stronger evidence-base of effective prevention programming. To be eligible to
51 receive a grant under this subsection, a recipient shall be: (i) a municipality or group of
52 municipalities working in collaboration, or (ii) a community-based organization working in
53 collaboration with one or more municipalities. Expenditures from the fund for such purposes
54 shall complement and not replace existing local, state, or federal public health-related funding.

55 (e) Funding shall be allocated approximately proportionally by population to the 5
56 healthy communities regions in the commonwealth as designated by the department of public
57 health; provided that no region shall receive less than 10 percent of the sum of annually allocated
58 funds directed to all regions.

59 (f) The department shall conduct an evaluation of funded activities on a yearly basis,
60 consistent with goals and criteria that may be established by the prevention and cost control
61 advisory board.

62 (g) The commissioner shall report annually on March 1 to the house and senate
63 committees on ways and means and the joint committee on public health: (i) the revenue credited
64 to the fund; (ii) the amount of fund expenditures that are attributable to the administrative costs
65 of the department; (iii) an itemized list of the funds expended through grants and a description of
66 the grantee activities; and (iv) the results of evaluation of the effectiveness of the activities
67 funded through grants. The report shall be made available to the public.

68 SECTION 2. Section 38 of chapter 118G of the General Laws is hereby amended by
69 inserting after subsection (f) the following subsection:–

70 (g) (1) In addition to the surcharge assessed under subsection (a), acute hospitals and
71 ambulatory surgical centers shall assess a prevention and cost control surcharge on all payments
72 subject to surcharge as defined in section 34. The prevention and cost control surcharge amount
73 shall equal the product of (i) the prevention and cost control surcharge percentage and (ii)
74 amounts paid for these services by a surcharge payor. The division shall calculate the prevention
75 and cost control surcharge percentage by dividing $75,000,000 by the projected annual aggregate
76 payments subject to the surcharge, excluding projected annual aggregate payments based on
77 payments made by managed care organizations. The division shall determine the prevention and
78 cost control surcharge percentage before the start of each fund fiscal year and may redetermine
79 the prevention and cost control surcharge percentage before April 1 of each fund fiscal year if the
80 division projects that the initial prevention and cost control surcharge established the previous
81 October will produce less than $70,000,000 or more than $80,000,000. Before each succeeding
82 October 1, the division shall redetermine the prevention and cost control surcharge percentage
83 incorporating any adjustments from earlier years. In each determination or redetermination of the
84 prevention and cost control surcharge percentage, the office shall use the best data available as
85 determined by the division and may consider the effect on projected prevention and cost control
86 surcharge payments of any modified or waived enforcement under subsection (e). The division
87 shall incorporate all adjustments, including, but not limited to, updates or corrections or final
88 settlement amounts, by prospective adjustment rather than by retrospective payments or
89 assessments.

90 (2) Prevention and cost control surcharge payments shall be deposited in the Prevention
91 and Cost Control Trust Fund, established in section 2G of chapter 111.

92 (3) All provisions of subsections (a) to (f) and section 34 shall apply to the prevention
93 and cost control surcharge, to the extent not inconsistent with the provisions of this subsection.

94 SECTION 3. Notwithstanding any general or special law to the contrary, the prevention
95 and cost control advisory board shall undertake a review of the funding mechanism by which the
96 prevention and cost control trust fund is funded. This review shall include, but not be limited to
97 an analysis of whether the amount of funding remains adequate and whether the funding
98 mechanism should be altered to account for changes in the health care payment system. Said

99 report shall be filed with the house and senate committees on ways and means and the joint
100 committee on public health, no later than March 1, 2014.