

**SENATE . . . . . No. 1165**

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**The Commonwealth of Massachusetts**

PRESENTED BY:

***Michael F. Rush***

*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 adoption of the accompanying bill:

An Act reducing health care cost trends.

PETITION OF:

NAME:

*Michael F. Rush*  
*John Hart, Jr.*

DISTRICT/ADDRESS:

*Norfolk and Suffolk*

**SENATE . . . . . No. 1165**

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By Mr. Rush, a petition (accompanied by bill, Senate, No. 1165) of Michael F. Rush and John Hart, Jr. for legislation to reduce health care cost trends. Public Health.

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**The Commonwealth of Massachusetts**

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**In the Year Two Thousand Eleven**  
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An Act reducing health care cost trends.

*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. Section 25C of Chapter 111 of the General Laws is hereby  
2 amended by striking the first paragraph and inserting in place thereof the following:

3                   Section 25C. Notwithstanding any contrary provisions of law, except as  
4 provided in section twenty-five C1/2, no person or agency of the commonwealth or any political  
5 subdivision thereof shall make substantial capital expenditures for construction of a health care  
6 facility or substantially change the service of such facility unless there is a determination by the  
7 department that there is need therefore, followed by review and approval by the Attorney  
8 General of the Commonwealth, pursuant to Section 11M of Chapter 12 . No such determination  
9 of need shall be required for any substantial capital expenditure for construction or any  
10 substantial change in service which shall be related solely to the conduct of research in the basic  
11 biomedical or applied medical research areas, and shall at no time result in any increase in the  
12 clinical bed capacity or outpatient load capacity of a health care facility, and shall at no time be  
13 included within or cause an increase in the gross patient service revenue of a facility for health

14 care services, supplies, and accommodations, as such revenue shall be defined from time to time  
15 in accordance with section thirty-one of chapter six A. Any person undertaking any such  
16 expenditure related solely to such research which shall exceed or may reasonably be regarded as  
17 likely to exceed one hundred and fifty thousand dollars or any such change in service solely  
18 related to such research, shall give written notice thereof to the department and the division of  
19 health care finance and policy at least sixty days before undertaking such expenditure or change  
20 in service. Said notice shall state that such expenditure or change shall be related solely to the  
21 conduct of research in the basic biomedical or applied medical research areas, and shall at no  
22 time be included within or result in any increase in the clinical bed capacity or outpatient load  
23 capacity of a facility, and shall at no time cause an increase in the gross patient service revenue,  
24 as defined in accordance with said section thirty-one of said chapter six A, of a facility for health  
25 care services, supplies and accommodations. Notwithstanding the preceding three sentences, a  
26 determination of need shall be required for any such expenditure or change if the notice required  
27 by this section is not filed in accordance with the requirements of this section, or if the  
28 department finds, within sixty days after receipt of said notice, that such expenditure or change  
29 will not be related solely to research in the basic biomedical or applied medical research areas, or  
30 will result in an increase in the clinical bed capacity or outpatient load capacity of a facility, or  
31 will be included within or cause an increase in the gross patient service revenues of a facility. A  
32 research exemption granted under the provisions of this section shall not be deemed to be as  
33 evidence of need in any determination of need proceeding.

34                   SECTION 2. Chapter 12 of the General Laws is hereby amended by inserting  
35 after Section 11L the following new section:

36                   Section 11M: (a) The Attorney General shall have jurisdiction to review all  
37 applications for Determination of Need filed pursuant to Section 25C of Chapter 111. Following  
38 initial approval by the Department of Public Health, all Determination of Need applications shall  
39 be sent to the Office of the Attorney General for review and approval.

40                   (b) The Attorney General shall approve a project only if the Attorney General  
41 determines that the project will not have an adverse effect on competition in the health care  
42 market and shall give due consideration to whether the project is likely to increase rates of  
43 payment to providers, whether the project is likely to result in an inappropriate increase in  
44 utilization of health care services, and whether the proposed service could be provided by a  
45 community based provider.

46                   (c) The Attorney General shall report to the Department of Public Health the  
47 results of said review no later than four months after receiving notice of approval by the  
48 Department. No project shall be approved by the Department of Public Health without approval  
49 of the Attorney General.