

SENATE No. 1165

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

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.

The Commonwealth of Massachusetts

In the Year Two Thousand Eleven

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

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

SECTION 2. Chapter 12 of the General Laws is hereby amended by inserting 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.