

SENATE No. 643

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 adoption of the accompanying bill:

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

PETITION OF:

NAME:	DISTRICT/ADDRESS:	
<i>Jason M. Lewis</i>	<i>Fifth Middlesex</i>	
<i>Harriette L. Chandler</i>	<i>First Worcester</i>	
<i>James T. Welch</i>	<i>Hampden</i>	<i>2/2/2017</i>
<i>Tricia Farley-Bouvier</i>	<i>3rd Berkshire</i>	<i>1/25/2017</i>
<i>Paul A. Schmid, III</i>	<i>8th Bristol</i>	<i>1/26/2017</i>
<i>Jennifer L. Flanagan</i>	<i>Worcester and Middlesex</i>	<i>1/30/2017</i>
<i>James B. Eldridge</i>	<i>Middlesex and Worcester</i>	<i>1/30/2017</i>
<i>Steven Ultrino</i>	<i>33rd Middlesex</i>	<i>2/2/2017</i>
<i>Smitty Pignatelli</i>	<i>4th Berkshire</i>	<i>1/30/2017</i>
<i>Marjorie C. Decker</i>	<i>25th Middlesex</i>	<i>1/31/2017</i>
<i>Jack Lewis</i>	<i>7th Middlesex</i>	<i>1/31/2017</i>
<i>Donald F. Humason, Jr.</i>	<i>Second Hampden and Hampshire</i>	<i>1/31/2017</i>
<i>Paul R. Heroux</i>	<i>2nd Bristol</i>	<i>2/1/2017</i>
<i>Adam G. Hinds</i>	<i>Berkshire, Hampshire, Franklin and Hampden</i>	<i>2/1/2017</i>
<i>John F. Keenan</i>	<i>Norfolk and Plymouth</i>	<i>2/1/2017</i>
<i>Julian Cyr</i>	<i>Cape and Islands</i>	<i>2/1/2017</i>
<i>Angelo J. Puppolo, Jr.</i>	<i>12th Hampden</i>	<i>2/1/2017</i>

<i>Michael O. Moore</i>	<i>Second Worcester</i>	<i>2/1/2017</i>
<i>Denise Provost</i>	<i>27th Middlesex</i>	<i>2/1/2017</i>
<i>Mary S. Keefe</i>	<i>15th Worcester</i>	<i>2/2/2017</i>
<i>Joan B. Lovely</i>	<i>Second Essex</i>	<i>2/2/2017</i>
<i>Sal N. DiDomenico</i>	<i>Middlesex and Suffolk</i>	<i>2/2/2017</i>
<i>Barbara A. L'Italien</i>	<i>Second Essex and Middlesex</i>	<i>2/2/2017</i>
<i>Mathew Muratore</i>	<i>1st Plymouth</i>	<i>2/2/2017</i>
<i>Daniel J. Ryan</i>	<i>2nd Suffolk</i>	<i>2/2/2017</i>
<i>Thomas M. McGee</i>	<i>Third Essex</i>	<i>2/2/2017</i>
<i>Thomas J. Calter</i>	<i>12th Plymouth</i>	<i>2/2/2017</i>
<i>Anne M. Gobi</i>	<i>Worcester, Hampden, Hampshire and Middlesex</i>	<i>2/2/2017</i>
<i>Byron Rushing</i>	<i>9th Suffolk</i>	<i>2/2/2017</i>
<i>Michael D. Brady</i>	<i>Second Plymouth and Bristol</i>	<i>2/2/2017</i>
<i>Patrick M. O'Connor</i>	<i>Plymouth and Norfolk</i>	<i>2/3/2017</i>
<i>Linda Dorcena Forry</i>	<i>First Suffolk</i>	<i>2/3/2017</i>
<i>Hannah Kane</i>	<i>11th Worcester</i>	<i>2/3/2017</i>
<i>John J. Lawn, Jr.</i>	<i>10th Middlesex</i>	<i>2/3/2017</i>
<i>Elizabeth A. Malia</i>	<i>11th Suffolk</i>	<i>2/3/2017</i>
<i>Christopher M. Markey</i>	<i>9th Bristol</i>	<i>2/3/2017</i>
<i>Rady Mom</i>	<i>18th Middlesex</i>	<i>2/3/2017</i>
<i>José F. Tosado</i>	<i>9th Hampden</i>	<i>2/3/2017</i>
<i>Danielle W. Gregoire</i>	<i>4th Middlesex</i>	<i>2/3/2017</i>
<i>Eric P. Lesser</i>	<i>First Hampden and Hampshire</i>	<i>2/3/2017</i>
<i>William L. Crocker, Jr.</i>	<i>2nd Barnstable</i>	<i>2/3/2017</i>
<i>Michael J. Barrett</i>	<i>Third Middlesex</i>	<i>2/6/2017</i>
<i>Mike Connolly</i>	<i>26th Middlesex</i>	<i>3/8/2017</i>
<i>Viriato M. deMacedo</i>	<i>Plymouth and Barnstable</i>	<i>3/8/2017</i>
<i>William N. Brownsberger</i>	<i>Second Suffolk and Middlesex</i>	<i>3/8/2017</i>
<i>Stephan Hay</i>	<i>3rd Worcester</i>	<i>3/10/2017</i>
<i>Sonia Chang-Diaz</i>	<i>Second Suffolk</i>	<i>3/29/2017</i>

SENATE No. 643

By Mr. Lewis, a petition (accompanied by bill, Senate, No. 643) of Jason M. Lewis, Harriette L. Chandler, James T. Welch, Tricia Farley-Bouvier and other members of the General Court for legislation to promote public health through the prevention and wellness trust fund. Health Care Financing.

The Commonwealth of Massachusetts

**In the One Hundred and Ninetieth General Court
(2017-2018)**

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

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. Chapter 111 of the General Laws, as appearing in the 2014 Official Edition,
2 is hereby amended by striking section 2G and inserting in place thereof the following section:-

3 Section 2G. (a) There shall be established and set upon the books of the commonwealth a
4 separate fund to be known as the Prevention and Wellness Trust Fund to be expended, without
5 further appropriation, by the department of public health. The fund shall consist of revenues
6 collected by the commonwealth including: (1) any revenue from appropriations or other monies
7 authorized by the general court and specifically designated to be credited to the fund; (2) any
8 fines and penalties allocated to the fund under the General Laws; (3) any funds from public and
9 private sources such as gifts, grants and donations to further community-based prevention
10 activities; (4) any interest earned on such revenues; and (5) any funds provided from other
11 sources. The commissioner of public health, as trustee, shall administer the fund. The
12 commissioner, in consultation with the Prevention and Wellness Advisory Board established

13 under section 2H, shall make expenditures from the fund consistent with subsections (d) and (e);
14 provided, that not more than 20 per cent of the amounts held in the fund in any 1 year shall be
15 used by the department for the combined cost of program administration, technical assistance to
16 grantees or program evaluation.

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

19 (c) All expenditures from the Prevention and Wellness Trust Fund shall support 1 or
20 more of the following purposes: (1) increase access to community-based preventive services and
21 interventions which complement and expand the ability of MassHealth to promote coordinated
22 care, integrate community-based services with clinical care, and develop innovative ways of
23 addressing social determinants of health; (2) reduce the impact of health conditions which are the
24 largest drivers of poor health, health disparities, reduced quality of life, and high health care
25 costs through community-based interventions; or (3) develop a stronger evidence-base of
26 effective prevention interventions.

27 (d) The commissioner shall annually award not less than 80 per cent of the Prevention
28 and Wellness Trust Fund through a competitive grant process to municipalities, community-
29 based organizations, health care providers, regional-planning agencies, and health plans that
30 apply for the implementation, evaluation and dissemination of evidence-based community
31 preventive health activities. To be eligible to receive a grant under this subsection, a recipient
32 shall be a partnership that includes at minimum: (1) a municipality or regional planning agency;
33 (2) a community-based health or social service provider; (3) a public health or community action
34 agency with expertise in implementing community-wide health interventions (4) a health care

35 provider or a health plan; (5) where feasible, a Medicaid-certified accountable care organization
36 or a Medicaid-certified Community Partner organization. Expenditures from the fund for such
37 purposes shall supplement and not replace existing local, state, private or federal public health-
38 related funding. All entities awarded funds through this program must demonstrate the ability to
39 utilize best practices in accounting, contract with a fiscal agent who will perform accounting
40 functions on their behalf, or be provided with technical assistance by the Department to ensure
41 best practices are followed.

42 (e) A grant proposal submitted under subsection (d) shall include, but not be limited to:
43 (1) a plan that defines specific goals for the reduction in preventable health conditions and health
44 care costs over a multi-year period; (2) the evidence-based or evidence-informed programs the
45 applicant shall use to meet the goals; (3) a budget necessary to implement the plan, including a
46 detailed description of the funding or in-kind contributions the applicant or applicants will be
47 providing in support of the proposal; (4) any other private funding or private sector participation
48 the applicant anticipates in support of the proposal; (5) a commitment to include women, racial
49 and ethnic minorities and low income individuals; and (6) the anticipated number of individuals
50 that would be affected by implementation of the plan. Priority may be given to proposals in a
51 geographic region of the state with a higher than average prevalence of preventable health
52 conditions, as determined by the commissioner of public health, in consultation with the
53 Prevention and Wellness Advisory Board. If no proposals were offered in areas of the state with
54 particular need, the department shall ask for a specific request for proposal for that specific
55 region. If the commissioner determines that no suitable proposals have been received, such that
56 the specific needs remain unmet, the department may work directly with municipalities or
57 community-based organizations to develop grant proposals. The department of public health

58 shall, in consultation with the Prevention and Wellness Advisory Board, develop guidelines for
59 an annual review of the progress being made by each grantee. Each grantee shall participate in
60 any evaluation or accountability process implemented or authorized by the department.

61 (f) The department of public health shall, annually on or before January 31, report on
62 expenditures from the Prevention and Wellness Trust Fund. The report shall include, but not be
63 limited to: (1) the revenue credited to the fund; (2) the amount of fund expenditures attributable
64 to the administrative costs of the department of public health; (3) an itemized list of the funds
65 expended through the competitive grant process and a description of the grantee activities; and
66 (4) the results of the evaluation of the effectiveness of the activities funded through grants. The
67 report shall be provided to the chairpersons of the house and senate committees on ways and
68 means, the joint committee on public health, and the joint committee on health care financing
69 and shall be posted on the department of public health's website.

70 (h) The department of public health shall, under the advice and guidance of the
71 Prevention and Wellness Advisory Board, annually report on its strategy for administration and
72 allocation of the fund, including relevant evaluation criteria. The report shall set forth the
73 rationale for such strategy, which may include: (1) a list of the most prevalent preventable health
74 conditions in the commonwealth, including health disparities experienced by populations based
75 on race, ethnicity, gender, disability status, sexual orientation or socio-economic status; (2) a list
76 of the most costly preventable health conditions in the commonwealth; and (3) a list of evidence-
77 based or promising community-based programs related to the conditions identified in clauses (1)
78 and (2). The report shall recommend specific areas of focus for allocation of funds. If
79 appropriate, the report shall reference goals and best practices established by the National
80 Prevention and Public Health Promotion Council and the Centers for Disease Control and

81 Prevention, including, but not limited to the Hi-5 Initiative, the national prevention strategy, the
82 healthy people report and the community prevention guide.

83 (i) The department of public health shall promulgate regulations necessary to carry out
84 this section.

85 SECTION 2. Chapter 111 of the General Laws, as so appearing, is hereby amended by
86 striking section 2H and inserting in place thereof the following section:-

87 Section 2H. (a) There shall be a Prevention and Wellness Advisory Board to make
88 recommendations to the commissioner concerning the administration and allocation of the
89 Prevention and Wellness Trust Fund established in section 2G, establish evaluation criteria and
90 perform any other functions specifically granted to it by law.

91 (b) The board shall consist of the commissioner of public health or a designee, who shall
92 serve as chairperson; the house and senate chairs of the joint committee on public health or their
93 designees; the house and senate chairs of the joint committee on health care financing or their
94 designees; the secretary of health and human services or a designee; the executive director of the
95 center for health information and analysis or a designee; the executive director of the health
96 policy commission established in section 2 of chapter 6D of the General Laws or a designee; and
97 15 persons to be appointed by the governor, 1 of whom shall be a person with expertise in the
98 field of public health economics; 1 of whom shall be a person with expertise in public health
99 research; 1 of whom shall be a person with expertise in the field of health equity; 1 of whom
100 shall be a person from a local board of health for a city or town with a population greater than
101 50,000; 1 of whom shall be a person of a board of health for a city or town with a population of
102 fewer than 50,000; 2 of whom shall be representatives of health insurance carriers; 1 of whom

103 shall be a person from a consumer health advocacy organization; 1 of whom shall be a person
104 from a hospital association; 1 of whom shall be a person from a statewide public health
105 organization; 1 of whom shall be a representative of the interest of businesses; 1 of whom shall
106 be a public health nurse or a school nurse; 1 of whom shall be a person from an association
107 representing community health workers; 1 of whom shall represent a statewide association of
108 community-based service providers addressing public health; and 1 of whom shall be a person
109 with expertise in the design and implementation of community-wide public health interventions.

110 (c) The Prevention and Wellness Advisory Board shall evaluate the program authorized
111 in section 2G of this chapter and shall issue an evaluation report at an interval to be determined
112 by the Board, but not less than every 5 years from the beginning of each grant period. The report
113 shall include an analysis of all relevant data to determine the effectiveness of the program
114 including, but not limited to, an analysis of: (i) the extent to which the program impacted the
115 prevalence, severity, or control of preventable health conditions and the extent to which the
116 program is projected to impact such factors in the future; (ii) the extent to which the program
117 reduced health care costs or the growth in health care cost trends and the extent to which the
118 program is projected to reduce such costs in the future; (iii) whether health care costs were
119 reduced and who benefited from the reduction; (iv) the extent that health outcomes or health
120 behaviors were positively impacted; (v) the extent that access to evidence-based community
121 services was increased; (vi) the extent that social determinants of health or other community
122 wide risk factors for poor health were reduced or mitigated; (vii) the extent that grantees
123 increased their ability to collaborate, share data, and align services with other providers and
124 community-based organizations for greater impact; (viii) the extent to which health disparities
125 experienced by populations based on race, ethnicity, gender, disability status, sexual orientation

126 or socio-economic status were reduced across all metrics; and (ix) recommendations for whether
127 the program should be discontinued, amended or expanded and a timetable for implementation of
128 the recommendations.

129 The department of public health shall contract with an outside organization that has
130 expertise in the analysis of public health and health care financing to assist the board in
131 conducting its evaluation. The outside organization shall be provided access to actual health plan
132 data from the all-payer claims database as administered by the center for health information and
133 analysis and data from MassHealth; provided, however, that the data shall be confidential and
134 shall not be a public record under clause twenty-sixth of section 7 of chapter 4 of the General
135 Laws.

136 The board shall report the results of its evaluation and its recommendations, if any, and
137 drafts of legislation necessary to carry out the recommendations to the house and senate
138 committees on ways and means and the joint committee on public health, and the joint
139 committee on health care financing and shall post the board's report on the website of the
140 department of public health.

141 SECTION 3. Section 68 of chapter 118E of the General Laws, as so appearing, is hereby
142 amended by inserting after subsection (f) the following subsection:–

143 (g) (1) In addition to the surcharge assessed under subsection (a), acute hospitals and
144 ambulatory surgical centers shall assess a prevention and wellness surcharge on all payments
145 subject to surcharge as defined in section 64 of this chapter. The prevention and wellness
146 surcharge amount shall equal the product of (i) the prevention wellness surcharge percentage and
147 (ii) amounts paid for these services by a surcharge payor. The office shall calculate the

148 prevention and cost control surcharge percentage by dividing \$33,000,000 by the projected
149 annual aggregate payments subject to the surcharge, excluding projected annual aggregate
150 payments based on payments made by managed care organizations. The office shall determine
151 the prevention and wellness surcharge percentage before the start of each fund fiscal year and
152 may re-determine the prevention and wellness surcharge percentage before April 1 of each fund
153 fiscal year if the division projects that the initial prevention and cost control surcharge
154 established the previous October will produce less than \$23,000,000 or more than \$43,000,000.
155 Before each succeeding October 1, the office shall re-determine the prevention and wellness
156 surcharge percentage incorporating any adjustments from earlier years. In each determination or
157 redetermination of the prevention and wellness surcharge percentage, the office shall use the best
158 data available as determined by the office and may consider the effect on projected prevention
159 and wellness surcharge payments of any modified or waived enforcement under subsection (e).
160 The office shall incorporate all adjustments, including, but not limited to, updates or corrections
161 or final settlement amounts, by prospective adjustment rather than by retrospective payments or
162 assessments.

163 (2) Prevention and wellness surcharge payments shall be deposited in the Prevention and
164 Wellness Trust Fund, established in section 2G of this chapter.

165 (3) All provisions of subsections (a) to (f) and section 64 of this chapter shall apply to the
166 prevention and wellness surcharge, to the extent not inconsistent with the provisions of this
167 subsection.

168 SECTION 4. Section 1 shall take effect on July 1, 2018.

169 SECTION 5. Except as otherwise specified, this act shall take effect on July 1, 2017.