

SENATE No. 791

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>2/24/2021</i>
<i>Elizabeth A. Malia</i>	<i>11th Suffolk</i>	<i>2/25/2021</i>
<i>Michael J. Barrett</i>	<i>Third Middlesex</i>	<i>2/25/2021</i>
<i>Hannah Kane</i>	<i>11th Worcester</i>	<i>3/15/2021</i>

SENATE No. 791

By Mr. Lewis, a petition (accompanied by bill, Senate, No. 791) of Jason M. Lewis, Harriette L. Chandler, Elizabeth A. Malia, Michael J. Barrett and others for legislation to promote public health through the prevention and wellness trust fund. Health Care Financing.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE SENATE, NO. 1293 OF 2019-2020.]

The Commonwealth of Massachusetts

**In the One Hundred and Ninety-Second General Court
(2021-2022)**

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. Section 2G of Chapter 111 of the MGL is hereby amended by striking in its
2 entirety and replacing it with the following new 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 10 per cent of the amounts held in the fund shall be used by the
15 department for the cost of program administration and not more than 10 per cent of amounts held
16 in the fund shall be used for technical assistance to grantees, program evaluation and data
17 analytics.

18 (b) The department may incur expenses and the comptroller may certify payment of
19 amounts in anticipation of expected receipts; provided, however, that no expenditure shall be
20 made from the fund which shall cause the fund to be in deficit at the close of a fiscal year.
21 Revenues deposited in the fund that are unexpended at the end of the fiscal year shall not revert
22 to the General Fund and shall be available for expenditure in the following fiscal year.

23 (c) All expenditures from the Prevention and Wellness Trust Fund shall support 1 or
24 more of the following purposes: (1) increase access to community-based preventive services and
25 strategies which complement and expand the ability of MassHealth to promote coordinated care,
26 integrate community-based services with clinical care, and develop innovative ways of
27 addressing social determinants of health; (2) reduce the largest drivers of poor health, health
28 disparities, reduced quality of life, and high health care costs through community-based
29 strategies; (3) increase access to health promoting conditions and opportunities to improve
30 quality of life and reduce health care costs for populations experiencing health outcome
31 inequities through community-based strategies including policy, systems, and environmental
32 changes or (4) develop a stronger evidence-base of effective primary prevention strategies.

33 (d) The commissioner shall award not less than 80 per cent of the Prevention and
34 Wellness Trust Fund through a competitive grant process to municipalities, community-based
35 organizations, health care providers, regional-planning agencies, and health plans that apply for
36 the implementation, evaluation and dissemination of evidence-based community preventive
37 health strategies. To be eligible to receive a grant under this subsection, a recipient shall be a
38 partnership that includes at minimum: (1) a municipality or regional planning agency; (2) a
39 community-based health or social service provider; (3) a public health or community action
40 agency with expertise in implementing community-wide health strategies (4) a health care
41 provider or a health plan; (5) where feasible, a Medicaid-certified accountable care organization
42 or a Medicaid-certified Community Partner organization. Expenditures from the fund for such
43 purposes shall supplement and not replace existing local, state, private or federal public health-
44 related funding. All entities awarded funds through this program must demonstrate the ability to
45 utilize best practices in accounting, contract with a fiscal agent who will perform accounting
46 functions on their behalf, or be provided with technical assistance by the Department to ensure
47 best practices are followed.

48 (e) A grant proposal submitted under subsection (d) shall include, but not be limited to:
49 (1) a plan that defines specific goals for the reduction in preventable health conditions and health
50 care costs over a multi-year period; (2) the evidence-based or evidence-informed programs the
51 applicant shall use to meet the goals; (3) a budget necessary to implement the plan, including a
52 detailed description of the funding or in-kind contributions the applicant or applicants will be
53 providing in support of the proposal; (4) any other private funding or private sector participation
54 the applicant anticipates in support of the proposal; (5) a description of how the proposed
55 strategies have been informed by community residents most at risk for health inequities,

56 including women, racial and ethnic minorities and low income individuals; and (6) the
57 anticipated number of individuals that would be affected by implementation of the plan. Priority
58 may be given to proposals in a geographic region of the state with a higher than average
59 prevalence of preventable health conditions, as determined by the commissioner of public health,
60 in consultation with the Prevention and Wellness Advisory Board. If no proposals were offered
61 in areas of the state with particular need, the department shall ask for a specific request for
62 proposal for that specific region. If the commissioner determines that no suitable proposals have
63 been received, such that the specific needs remain unmet, the department may work directly with
64 municipalities or community-based organizations to develop grant proposals. The department of
65 public health shall, in consultation with the Prevention and Wellness Advisory Board, develop
66 guidelines for an annual review of the progress being made by each grantee. Each grantee shall
67 participate in any evaluation or accountability process implemented or authorized by the
68 department.

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

79 (g) The department of public health shall, under the advice and guidance of the
80 Prevention and Wellness Advisory Board, report periodically on its strategy for administration
81 and allocation of the fund, including relevant evaluation criteria. The report shall set forth the
82 rationale for such strategy, which may include: (1) a list of the most prevalent preventable health
83 conditions in the commonwealth, including health disparities experienced by populations based
84 on race, ethnicity, gender, disability status, sexual orientation or socio-economic status; (2) a list
85 of the most costly preventable health conditions in the commonwealth; (3) a list of community-
86 level risk factors and precursors to the health conditions identified in (1) and (2); and (4) a list of
87 evidence-based or promising community-based strategies related to the conditions identified in
88 clauses (1) and (2). The report shall recommend specific areas of focus for allocation of funds. If
89 appropriate, the report shall reference goals and best practices established by the National
90 Prevention and Public Health Promotion Council, the Centers for Disease Control and
91 Prevention, and other relevant experts, including but not limited to MassUP, the Hi-5 Initiative,
92 the national prevention strategy, the healthy people report, the guide to community preventive
93 services, and the Robert Wood Johnson culture of health initiative.

94 (h) The department of public health shall promulgate regulations necessary to carry out
95 this section.

96 SECTION 2. Section 2H of Chapter 111 of the General Laws is hereby amended by
97 striking in its entirety and replacing it with the following new section:-

98 Section 2H. (a) There shall be a Prevention and Wellness Advisory Board to make
99 recommendations to the commissioner concerning the administration and allocation of the

100 Prevention and Wellness Trust Fund established in section 2G, establish evaluation criteria and
101 perform any other functions specifically granted to it by law.

102 (b) The board shall consist of the commissioner of public health or a designee, who shall
103 serve as chairperson; the house and senate chairs of the joint committee on public health or their
104 designees; the house and senate chairs of the joint committee on health care financing or their
105 designees; the secretary of health and human services or a designee; the executive director of the
106 center for health information and analysis or a designee; the executive director of the health
107 policy commission established in section 2 of chapter 6D of the MGL or a designee; and 16
108 persons to be appointed by the governor, 1 of whom shall be a person with expertise in the field
109 of public health economics; 1 of whom shall be a person with expertise in public health research;
110 1 of whom shall be a person with expertise in the field of health equity; 1 of whom shall be a
111 person from a local board of health for a city or town with a population greater than 50,000; 1 of
112 whom shall be a person of a board of health for a city or town with a population of fewer than
113 50,000; 1 of whom shall be representatives of health insurance carriers; 1 of whom shall be a
114 person from a consumer health advocacy organization; 1 of whom shall be a person from a
115 hospital association; 1 of whom shall be a person from a statewide public health organization; 1
116 of whom shall be a representative of the interest of businesses; 1 of whom shall be a public
117 health nurse or a school nurse; 1 of whom shall be a person from an association representing
118 community health workers; 2 of whom shall represent a statewide association of community-
119 based service providers addressing public health; and 2 of whom shall be a person with expertise
120 in the design and implementation of community-wide public health strategies. In selecting
121 appointees, the governor shall consider diverse representation on the board by race, ethnicity,
122 gender, and geographic region.

123 (c) The Prevention and Wellness Advisory Board shall evaluate the program authorized
124 in section 2G of said chapter 111 and shall issue an evaluation report at an interval to be
125 determined by the Board, but not less than every 5 years from the beginning of each grant period.
126 The report shall include an analysis of all relevant data to determine the effectiveness of the
127 program including, but not limited to, an analysis of: (i) the extent to which the program
128 impacted the prevalence, severity, or control of preventable health conditions and the extent to
129 which the program is projected to impact such factors in the future; (ii) the extent to which the
130 program reduced health care costs or the growth in health care cost trends and the extent to
131 which the program is projected to reduce such costs in the future; (iii) whether health care or
132 other costs were reduced and who benefited from the reduction; (iv) the extent that health
133 outcomes or health behaviors were positively impacted; (v) the extent that access to evidence-
134 based community strategies was increased; (vi) the extent to which the social determinants of
135 health were addressed by grantees; (vii) the extent that community wide risk factors for poor
136 health were reduced or mitigated; (viii) the extent that grantees increased their ability to
137 collaborate, share data, and align services with other providers and community-based
138 organizations for greater impact; (ix) the extent to which health inequities experienced by
139 populations based on race, ethnicity, gender, disability status, sexual orientation or socio-
140 economic status were reduced across all metrics; and (x) recommendations for whether the
141 program should be discontinued, amended or expanded and a timetable for implementation of the
142 recommendations.

143 The department of public health shall coordinate with grantees to contract with an outside
144 organization that has expertise in the analysis of public health and health care financing to assist
145 the board in conducting its evaluation. The outside organization shall be provided access to

146 actual health plan data from the all-payer claims database as administered by the center for
147 health information and analysis and data from MassHealth, to the extent permitted by law;
148 provided, however, that the data shall be confidential and shall not be a public record under
149 clause Twenty-sixth of section 7 of chapter 4 of the General Laws.

150 The board shall report the results of its evaluation and its recommendations, if any, and
151 drafts of legislation necessary to carry out the recommendations to the house and senate
152 committees on ways and means, the joint committee on public health, and the joint committee on
153 health care financing and shall post the board's report on the website of the department of public
154 health.

155 SECTION 3. Section 68 of Chapter 118E of the General Laws is hereby amended by
156 inserting after subsection (f) the following subsection:—

157 (g) (1) In addition to the surcharge assessed under subsection (a), acute hospitals and
158 ambulatory surgical centers shall assess a prevention and wellness surcharge on all payments
159 subject to surcharge as defined in section 64. The prevention and wellness surcharge amount
160 shall equal the product of (i) the prevention wellness surcharge percentage and (ii) amounts paid
161 for these services by a surcharge payor. The office shall calculate the prevention and cost control
162 surcharge percentage by dividing \$15,000,000 by the projected annual aggregate payments
163 subject to the surcharge, excluding projected annual aggregate payments based on payments
164 made by managed care organizations. The office shall determine the prevention and wellness
165 surcharge percentage before the start of each fund fiscal year and may redetermine the
166 prevention and wellness surcharge percentage before April 1 of each fund fiscal year if the
167 division projects that the initial prevention and wellness surcharge established the previous

168 October will produce less than \$10,000,000 or more than \$20,000,000. Before each succeeding
169 October 1, the office shall redetermine the prevention and wellness surcharge percentage
170 incorporating any adjustments from earlier years. In each determination or redetermination of the
171 prevention and wellness surcharge percentage, the office shall use the best data available as
172 determined by the office and may consider the effect on projected prevention and wellness
173 surcharge payments of any modified or waived enforcement under subsection (e). The office
174 shall incorporate all adjustments, including, but not limited to, updates or corrections or final
175 settlement amounts, by prospective adjustment rather than by retrospective payments or
176 assessments.

177 (2) Prevention and wellness surcharge payments shall be deposited in the Prevention and
178 Wellness Trust Fund, established in section 2G of chapter 111.

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

181 SECTION 4. Section 14 of Chapter 94G is hereby amended by striking out subsection

182 (b), inserted by section 40 of chapter 55 of the acts of 2017, and inserting in place thereof
183 the following subsection:-

184 (b) Money in the fund shall be subject to appropriation. Money in the fund shall be
185 expended for the implementation, administration and enforcement of this chapter by the
186 commission and by the department of agricultural resources for the implementation,
187 administration and enforcement of sections 116 to 123, inclusive, of chapter 128 and the
188 provision of pesticide control pursuant to chapter 132B; provided, that 10 per cent of the
189 amounts held in the fund in any 1 year shall be transferred annually to the Prevention and

190 Wellness Trust Fund established in section 2G of chapter 111, not later than June 30. Thereafter,
191 money in the fund shall be expended for: (i) public and behavioral health including but not
192 limited to, evidence-based and evidence-informed substance use prevention and treatment and
193 substance use early intervention services in a recurring grant for school districts or community
194 coalitions who operate on the strategic prevention framework or similar structure for youth
195 substance use education and prevention; (ii) public safety; (iii) municipal police training; and (iv)
196 programming for restorative justice, jail diversion, workforce development, industry specific
197 technical assistance, and mentoring services for economically-disadvantaged persons in
198 communities disproportionately impacted by high rates of arrest and incarceration for marijuana
199 offenses pursuant to chapter 94C.