SENATE DOCKET, NO. 1590 FILED ON: 1/21/2011

SENATE . . . . . No. 1453

The Commonwealth of Massachusetts

PRESENTED BY:

Susan C. Fargo

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 establishing the Commonwealth Lung Cancer Early Detection and Treatment Research Fund.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
Susan C. Fargo	☐ *[District]* ☐
Kathi-Anne Reinstein	*16th Suffolk*
Anne M. Gobi	*5th Worcester*
Angelo J. Puppolo, Jr.	*12th Hampden*
Robert L. Hedlund	☐ *[District]* ☐
Benjamin Swan	*11th Hampden*

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By Ms. Fargo, a petition (accompanied by bill, Senate, No. 1453) of Susan C. Fargo, Kathi-Anne Reinstein, Anne M. Gobi, Angelo J. Puppolo, Jr. and other members of the General Court for legislation to establish the Lung Cancer Early Detection and Treatment Research Fund. Revenue.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE
SENATE
, NO. *1270* OF 2009-2010.]

The Commonwealth of Massachusetts

An Act establishing the Commonwealth Lung Cancer Early Detection and Treatment Research Fund.

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 10 of the General Laws is hereby amended by inserting after section 35FF the following section:-

Section 35GG. There shall be established and set up on the books of the commonwealth a separate fund as a trust to be known as the Commonwealth Lung Cancer Early Detection and Treatment Research Trust Fund, hereinafter referred to as the "trust fund". The trust fund shall consist of revenues to be credited in accordance with the provisions of subsection (c) of section 7C of chapter 64C; any appropriation or authorization of the general court; and any other amounts to be explicitly credited to the trust fund from any source, to include any public or private, donations, grants, repayments and other receipts.

The state treasurer shall receive and deposit, in accordance with state law, all monies credited to the trust fund in financial institutions as to provide the highest interest rate consistent with the safety of the monies so deposited and to allow the immediate withdrawal of such monies without penalty. All accrued investment income shall be credited to the trust fund.

Amounts credited to the trust fund shall be made available, without appropriation, to the department of public health solely for the following purposes:

16 (1) To establish screening programs within a high risk population for the early detection
17 of lung cancer through the use of computed tomography (CT) scanning based on the
18 International Early Lung Cancer Action Program (I-ELCAP) or other methods and practices that
19 may be established by the commissioner of the department of public health, hereinafter referred
20 to as the "commissioner", provided that: (i) at least 25 per cent of all individuals screened under
21 the program shall be from racial or ethnic minority populations; and (ii) at least 50 per cent of all
22 individuals screened under the program shall have a family income that does not exceed 150 per
23 cent of federal poverty guidelines; and (iii) the cost for program screening or diagnostic services
24 shall not be assessed to an individual that has a family income that does not exceed 150 per cent
25 of the federal poverty income guidelines; and (iv) only licensed hospitals or other licensed
26 medical facilities in the commonwealth shall provide program screening or diagnostic medical
27 services to participating individuals; and (v) adequate counsel and referral to the medical
28 treatment shall be provided to participating individuals with detected lung cancers.

29 (2) To promote the development of early detection diagnostic tools and screening
30 technologies for lung cancer.

31 (3) To promote the development of chemoprevention and targeted therapies for lung
32 cancer.

33 (4) To support research into the disparities in lung cancer incidence and mortality rates.

34 (5) To support research to discover a cure for lung cancer.

35 Expenditure of trust fund monies shall be at the discretion of the commissioner who shall
36 be authorized to administer the monies only for the purposes of this section; provided that, in a
37 fiscal year no greater than 3 ½ per cent of the amounts credited to the trust fund, inclusive of any
38 costs to be recovered for such period under section 5D of chapter 29, may be expended during
39 such fiscal year for the administration of the trust fund; and provided further, any other
40 expenditures from the trust fund shall be made only to public, quasi-public, or non-public: (i)
41 hospitals, clinics, clinical laboratories and other medical facilities licensed by the department of
42 public health, and (ii) universities, colleges and medical schools authorized to confer degrees that
43 are located in the commonwealth. No expenditure or obligation for expenditure from the trust
44 fund shall be made to cause the trust fund to become deficient at any time during a fiscal year.

45 To encourage recipients to seek additional funding from other sources, any expenditure to
46 a recipient from the trust fund shall be made as a matching grant unless such requirement is
47 waived or modified by the commissioner.

48 There shall be an advisory committee that shall make recommendations to the
49 commissioner about the expenditure of trust fund monies. The committee shall be comprised of
50 the commissioner or his representative, who shall serve as the chairman and 8 voluntary and
51 uncompensated members, 1 representative from each of the following organizations: the Lung

52 Cancer Alliance, Massachusetts chapter; the Massachusetts Medical Society; the Massachusetts
53 Hospital Association; the Massachusetts League of Community Health Centers; the Oncology
54 Nursing Society; the American Cancer Society, Massachusetts chapter; the American Lung
55 Association; and the Massachusetts Public Health Association. The commissioner may fill any
56 member vacancies to the committee. A member or his representative, who is not otherwise a
57 state employee, shall not be in violation of sections 4 and 6 of chapter 268A with respect to a
58 particular matter before the committee, where such member or representative, his immediate
59 family or partner has a financial interest or other conflict as proscribed by said sections provided,
60 such member or representative, acting on behalf of the member or himself, first discloses such
61 interest or other conflict to the chairman, and provided further, the chairman approves before his
62 further participation on such matter. Any such disclosure and approval shall be recorded in the
63 minutes of the committee meeting.

64 To further increase funding to accomplish the purposes of this section, the commissioner
65 shall be authorized to apply to the federal government for any grants, reimbursements and other
66 funding available to the department of public health that is specifically related to such stated
67 purposes. Notwithstanding any other provision of this section to the contrary, all federal monies
68 received shall be deposited into the General Federal Grants Fund in accordance with section 2C
69 of chapter 29. The application for, and receipt and expenditure of, such monies shall be subject
70 to section 6B of chapter 29; except, expenditure of such monies in the fiscal year such monies
71 are received shall not require further appropriation by the general court and no costs other than
72 for fringe benefits may be charged pursuant to subsection (f) of said section. Consistent with
73 federal law and regulations, the commissioner shall be authorized to expend any available federal
74 monies for the purposes that such funding was received.

75 By the first Wednesday in November of each year, the commissioner shall prepare and
76 submit to the secretary of administration and finance and to the chairmen of the joint committee
77 of public health, a complete report for the period of the prior fiscal year of: (i) the financial
78 condition of the trust fund with a list of the receipts, income and expenditures from the trust fund
79 including the disposition of monies for each program, research study funded and the purpose and
80 amount of administrative expenditures; (ii) a summary of federal grants, reimbursements or other
81 funding related to the purposes of this section that was received, expended or application made
82 for during such period; and (iii) a summary of the outcomes and findings reported to the
83 department of public health as a result of programs and research studies funded by the trust fund
84 or from expenditure of federal monies as related to the purposes of this section.

85 The commissioner may make agreements with others, and may enact regulations to
86 establish standards, procedures and guidelines related to the expenditure of monies under this
87 section.

88 SECTION 2. Section 7C of chapter 64C of the General Laws, as appearing in the 2006
89 Official Edition, is hereby amended by striking out subsection (c) and inserting in place thereof
90 the following subsection:-

91 (c) Notwithstanding the provisions of section 28, all revenues received pursuant to this
92 section, together with any penalties, forfeitures, interests, and costs of suits and fines connected
93 therewith, less all amounts refunded or abated in connection therewith, as determined by the
94 commissioner of revenue according to his best information and belief, shall be credited as
95 follows:

96 (1) An amount equal to 10 million dollars for which an excise and other monies have
97 been collected under this section and not refunded or abated, during each fiscal year, shall first
98 be credited to the Commonwealth Lung Cancer Early Detection and Treatment Research Trust
99 Fund established pursuant to section 35FF of chapter 10. Except, in the fiscal year of the
100 establishment of the fund, the amount to be first credited under this clause shall equal 3 million
101 dollars for which an excise and other monies have been collected and not refunded or abated and,
102 in the next following fiscal year, shall equal 6 million dollars for which an excise and other
103 monies have been collected and not refunded or abated.

104 (2) The remaining funds, after first crediting the amounts required under clause (1), shall
105 be credited to the General Fund.