SENATE DOCKET, NO. 1207 FILED ON: 1/20/2011

SENATE . . . . . No. 501

The Commonwealth of Massachusetts

PRESENTED BY:

James B. Eldridge

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 Medicare for all in Massachusetts.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
James B. Eldridge	☐ *[District]* ☐
Jason M. Lewis	*31st Middlesex*
Kay Khan	*11th Middlesex*
Kenneth J. Donnelly	☐ *[District]* ☐
Timothy J. Toomey, Jr.	*26th Middlesex*
Alice K. Wolf	*25th Middlesex*
Patricia D. Jehlen	☐ *[District]* ☐
Benjamin B. Downing	*Berkshire, Hampshire, and Franklin*
Cory Atkins	*14th Middlesex*
Thomas M. McGee	*Third Essex and Middlesex*
Cynthia S. Creem	☐ *[District]*

	☐
Denise Andrews	*2nd Franklin*
William N. Brownsberger	☐ *[District]* ☐
Sonia Chang-Diaz	☐ *[District]* ☐
Sal N. DiDomenico	*Middlesex, Suffolk, and Essex*
Susan C. Fargo	☐ *[District]* ☐
Timothy R. Madden	*Barnstable, Dukes and Nantucket*
Denise Provost	*27th Middlesex*
Stanley C. Rosenberg	*Hampshire and Franklin*
Ellen Story	*3rd Hampshire*
Martha M. Walz	*8th Suffolk*
Daniel A. Wolf	☐ *[District]* ☐

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SENATE . . . . . No. 501

By Mr. Eldridge, a petition (accompanied by bill, Senate, No. 501) of James B. Eldridge, Jason M. Lewis, Kay Khan, Kenneth J. Donnelly and other members of the General Court for legislation to establish Medicare for all in Massachusetts. Health Care Financing.

The Commonwealth of Massachusetts

An Act establishing Medicare for all in Massachusetts.

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. The Massachusetts General Laws are hereby amended by adding the following new chapter:–

CHAPTER X.

MASSACHUSETTS HEALTH CARE TRUST

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39 Section 1: Preamble.

40 The foundation for a productive and healthy Massachusetts is a health care
41 system that provides equal access to quality health care for all its residents. Massachusetts
42 spends more on health care per capita than any other state or country in the world, causing undue
43 hardship for the state, municipalities, businesses, and residents, but without achieving universal

44 access to quality health care. Medicare for All will allow us to achieve and sustain the three main
45 pillars of a just, efficient health care system: cost control and affordability, universal access, and
46 high quality medical care.

47 (a) COST CONTROL AND AFFORDABILITY

48 Controlling costs is the most important component of establishing a
49 sustainable health care system for the Commonwealth. The Health Care Trust will control costs
50 by establishing a global budget, by achieving significant savings on administrative overhead
51 through consolidating the financing of our health care system, by bulk purchasing of
52 pharmaceuticals and medical supplies, and by more efficient use of our health care facilities.
53 The present fragment health care system also leads to a lack of prevention. By integrating
54 services and removing barriers to access, the Health Care Trust will lead to early detection and
55 intervention, often avoiding more serious illnesses and more costly treatment.

56 (b) UNIVERSAL EQUITABLE ACCESS

57 Hundreds of thousands of Massachusetts residents still lack health insurance
58 coverage of any sort. Even more residents are covered by plans requiring high deductibles and
59 co-payments that make medical care unaffordable even for the insured. The Health Care Trust
60 will provide health care access to all residents without regard to financial status, ethnicity,
61 gender, previous health problems, or geographic location. Coverage will be continuous and
62 affordable for individuals and families, since there will be no financial barriers to access such as
63 co-pays or deductibles.

64 (c) QUALITY OF CARE

65 The World Health Organization rates health outcomes in the United States
66 health care system lower than those of almost all other industrialized countries, and a number of
67 developing countries as well. Poor health outcomes result from the lack of universal access, the
68 lack of oversight on quality due to the fragmentation and complexity of our health care system,
69 and the frequent lack of preventive and comprehensive care benefits offered under commercial
70 health plans. The Trust will reduce errors through information technology, improve medical care
71 by eliminating much of the present administrative complexity, and emphasize culturally
72 competent outreach and care. It will provide for input from patients on the functioning of the
73 health delivery system.

74 Section 2: Definitions.

75 The following words and phrases shall have the following meanings, except
76 where the context clearly requires otherwise:–

77 “Board” means the board of trustees of the Massachusetts Health Care Trust.

78 “Employer” means every person, partnership, association, corporation, trustee,
79 receiver, the legal representatives of a deceased employer and every other person, including any
80 person or corporation operating a railroad and any public service corporation, the state, county,
81 municipal corporation, township, school or road, school board, board of education, curators,
82 managers or control commission, board or any other political subdivision, corporation, or quasi-
83 corporation, or city or town under special charter, or under the commission for of government,
84 using the service of another for pay in the commonwealth.

85 “Executive Director” means the executive director of the Massachusetts Health
86 Care Trust.

87 “Health care” means care provided to a specific individual by a licensed health
88 care professional to promote physical and mental health, to treat illness and injury and to prevent
89 illness and injury.

90 “Health care facility” means any facility or institution, whether public or
91 private, proprietary or nonprofit, that is organized, maintained, and operated for health
92 maintenance or for the prevention, diagnosis, care and treatment of human illness, physical or
93 mental, for one or more persons.

94 “Health care provider” means any professional person, medical group,
95 independent practice association, organization, health care facility, or other person or institution
96 licensed or authorized by law to provide professional health care services to an individual in the
97 commonwealth.

98 “Health maintenance organization” means a provider organization that meets
99 the following criteria:

100 (1) Is fully integrated operationally and clinically to provide a broad range of
101 health care services;

102 (2) Is compensated using capitation or overall operating budget; and

103 (3) Provides health care services primarily through direct care providers who
104 are either employees or partners of the organization, or through arrangements with direct care
105 providers or one or more groups of physicians, organized on a group practice or individual
106 practice basis.

107 “Professional advisory committee” means a committee of advisors appointed
108 by the director of the Administrative, Planning, Information, Technology, or any Regional
109 division of the Massachusetts Health Care Trust.

110 “Resident” means a person who lives in Massachusetts as evidenced by an
111 intent to continue to live in Massachusetts and to return to Massachusetts if temporarily absent,

112 coupled with an act or acts consistent with that intent. The Trust shall adopt standards and
113 procedures for determining whether a person is a resident. Such rules shall include:

114 (1) a provision requiring that the person seeking resident status has the burden
115 of proof in such determination;

116 (2) a provision requiring reasonable durational domicile requirements not to
117 exceed 2 years for long term care and 90 days for all other covered services;

118 (3) a provision that a residence established for the purpose of seeking health
119 care shall not by itself establish that a person is a resident of the commonwealth; and

120 (4) a provision that, for the purposes of this chapter, the terms "domicile" and
121 "dwelling place" are not limited to any particular structure or interest in real property and
122 specifically includes homeless individuals with the intent to live and return to Massachusetts if
123 temporarily absent coupled with an act or acts consistent with that intent.

124 "Secretary" means the secretary of the executive office of health and human
125 services.

126 "Trust" means the Massachusetts Health Care Trust established in section five
127 of this chapter.

128 "Trust Fund" means the Massachusetts Health Care Trust Fund established in
129 section eighteen of this chapter.

130 Section 3. Establishment of the Massachusetts Health Care Trust.

131 There is hereby created an independent body, politic and corporate, to be
132 known as the Massachusetts Health Care Trust, hereinafter referred to as the Trust, to function as
133 the single public agency, or "single payer," responsible for the collection and disbursement of
134 funds required to provide health care services for every resident of the Commonwealth. The
135 Trust is hereby constituted a public instrumentality of the commonwealth and the exercise by the
136 Trust of the powers conferred by this chapter shall be deemed and held the performance of an
137 essential governmental function. The Trust is hereby placed in the executive office of health and
138 human services, but shall not be subject to the supervision or control of said office or of any
139 board, bureau, department or other agency of the commonwealth except as specifically provided
140 by this chapter.

141 The provisions of chapter two hundred sixty-eight A shall apply to all trustees,
142 officers and employees of the Trust, except that the Trust may purchase from, contract with or
143 otherwise deal with any organization in which any trustee is interested or involved: provided,
144 however, that such interest or involvement is disclosed in advance to the trustees and recorded in

145 the minutes of the proceedings of the Trust: and provided, further, that a trustee having such
146 interest or involvement may not participate in any decision relating to such organization.

147 Neither the Trust nor any of its officers, trustees, employees, consultants or
148 advisors shall be subject to the provisions of section three B of chapter seven, sections nine A,
149 forty-five, forty-six and fifty-two of chapter thirty, chapter thirty B or chapter thirty-one:
150 provided, however, that in purchasing goods and services, the corporation shall at all times
151 follow generally accepted good business practices.

152 All officers and employees of the Trust having access to its cash or negotiable
153 securities shall give bond to the Trust at its expense, in such amount and with such surety as the
154 board of trustees shall prescribe. The persons required to give bond may be included in one or
155 more blanket or scheduled bonds.

156 Trustees, officers and advisors who are not regular, compensated employees of
157 the Trust shall not be liable to the commonwealth, to the Trust or to any other person as a result
158 of their activities, whether ministerial or discretionary, as such trustees, officers or advisors
159 except for willful dishonesty or intentional violations of law. The board of the Trust may
160 purchase liability insurance for trustees, officers, advisors and employees and may indemnify
161 said persons against the claims of others.

162 Section 4: Powers of the Trust.

163 The Trust shall have the following powers:

164 (1) to make, amend and repeal by-laws, rules and regulations for the
165 management of its affairs;

166 (2) to adopt an official seal;

167 (3) to sue and be sued in its own name;

168 (4) to make contracts and execute all instruments necessary or convenient for
169 the carrying on of the purposes of this chapter;

170 (5) to acquire, own, hold, dispose of and encumber personal, real or
171 intellectual property of any nature or any interest therein;

172 (6) to enter into agreements or transactions with any federal, state or municipal
173 agency or other public institution or with any private individual, partnership, firm, corporation,
174 association or other entity;

175 (7) to appear on its own behalf before boards, commissions, departments or
176 other agencies of federal, state or municipal government;

177 (8) to appoint officers and to engage and employ employees, including legal
178 counsel, consultants, agents and advisors and prescribe their duties and fix their compensations;

179 (9) to establish advisory boards;

180 (10) to procure insurance against any losses in connection with its property in
181 such amounts, and from such insurers, as may be necessary or desirable;

182 (11) to invest any funds held in reserves or sinking funds, or any funds not
183 required for immediate disbursement, in such investments as may be lawful for fiduciaries in the
184 commonwealth pursuant to sections thirty-eight and thirty-eight A of chapter twenty nine

185 (12) to accept, hold, use, apply, and dispose of any and all donations, grants,
186 bequests and devises, conditional or otherwise, of money, property, services or other things of
187 value which may be received from the United States or any agency thereof, any governmental
188 agency, any institution, person, firm or corporation, public or private, such donations, grants,
189 bequests and devises to be held, used, applied or disposed for any or all of the purposes specified
190 in this chapter and in accordance with the terms and conditions of any such grant. Â Receipt of
191 each such donation or grant shall be detailed in the annual report of the Trust; such annual report
192 shall include the identity of the donor, lender, the nature of the transaction and any condition
193 attaching thereto;

194 (13) to do any and all other things necessary and convenient to carry out the
195 purposes of this chapter.

196 Section 5: Purposes of the Trust.

197 The purposes of the Massachusetts Health Care Trust shall include the
198 following:

199 (1) To guarantee every Massachusetts resident access to high quality health
200 care by:

201 (a) providing reimbursement for all medically appropriate health care services
202 offered by the eligible provider or facility of each resident's choice;

203 (b) funding capital investments for adequate health care facilities and resources
204 statewide

205 (2) To save money by replacing the current mixture of public and private
206 health care plans with a uniform and comprehensive health care plan available to every
207 Massachusetts resident;

208 (3) To replace the redundant private and public bureaucracies required to
209 support the current system with a single administrative and payment mechanism for covered
210 health care services;

211 (4) To use administrative and other savings to:

212 (a) expand covered health care services;

213 (b) contain health care cost increases; and

214 (c) create provider incentives to innovate and compete by improving health
215 care service quality and delivery to patients;

216 (5) To fund, approve and coordinate capital improvements in excess of a
217 threshold to be determined annually by the executive director to qualified health care facilities to:

218 (a) avoid unnecessary duplication of health care facilities and resources; and

219 (b) encourage expansion or location of health care providers and health care
220 facilities in underserved communities;

221 (6) To assure the continued excellence of professional training and research at
222 Massachusetts health care facilities;

223 (7) To achieve measurable improvement in health care outcomes;

224 (8) To prevent disease and disability and maintain or improve health and
225 functionality;

226 (9) To ensure that all Massachusetts residents receive care appropriate to their
227 special needs as well as care that is culturally and linguistically competent;

228 (10) To increase satisfaction with the health care system among health care
229 providers, consumers, and the employers and employees of the commonwealth;

230 (11) To implement policies which strengthen and improve culturally and
231 linguistically sensitive care;

232 (12) To develop an integrated population-based health care database to support
233 health care planning; and

234 (13) To fund training and re-training programs for professional and non-
235 professional workers in the health care sector displaced as a direct result of implementation of
236 this chapter.

237 Section 6: Board of Trustees - Composition, Powers, and Duties.

238 The Trust shall be governed by a board of trustees with twenty-three members.
239 The board shall include the secretary of health and human services, the secretary of
240 administration and finance, and the commissioner of public health.

241 The Governor shall appoint: three trustees nominated by organizations of
242 health care professionals who deliver direct patient care; one nominated by a statewide
243 organization of health care facilities; one nominated by an organization representing non-health
244 care employers; and a health care economist.

245 The Attorney General shall appoint: one trustee nominated by a statewide
246 labor organization; two trustees nominated by statewide organizations who have a record of
247 advocating for universal single payer health care in Massachusetts; one nominated by an
248 organization representing Massachusetts senior citizens; one nominated by a statewide
249 organization defending the rights of children; and one nominated by an organization providing
250 legal services to low-income clients.

251 In addition, eight trustees, who are eligible to receive the benefits of the
252 Massachusetts Health Care Trust but who do not fall into any of the aforementioned categories,
253 shall be elected by the citizens of the Commonwealth, one from each of the Governor's Council
254 districts. Candidates shall run in accordance with Fair Campaign Financing Rules. In order to
255 provide for staggered terms, from the first eight to be elected, two shall be elected for two years,
256 three for three years, and three for four years. Afterwards, all elected trustees shall be elected for
257 four-year terms. All elected trustees shall be eligible for reelection, which would enable them to
258 serve a maximum of eight consecutive years.

259 Each appointed trustee shall serve a term of five years: provided, however, that
260 initially four appointed trustees shall serve three year terms, four appointed trustees shall serve
261 four year terms, and four appointed trustees shall serve five year terms. The initial appointed
262 trustees shall be assigned to a three, four, or five year term by lot. Any person appointed to fill a
263 vacancy on the board shall serve for the unexpired term of the predecessor trustee. Any
264 appointed trustee shall be eligible for reappointment. Any appointed trustee may be removed
265 from his appointment by the governor for just cause.

266 The board shall elect a chair from among its members every two years. Ten
267 trustees shall constitute a quorum and the affirmative vote of a majority of the trustees present
268 and eligible to vote at a meeting shall be necessary for any action to be taken by the board. The
269 board of trustees shall meet at least ten times each year and will have final authority over the
270 activities of the Trust.

271 The trustees shall be reimbursed for actual and necessary expenses and loss of
272 income incurred for each full day serving in the performance of their duties to the extent that
273 reimbursement of those expenses is not otherwise provided or payable by another public agency
274 or agencies. For purposes of this section, "full day of attending a meeting" shall mean presence

275 at, and participation in, not less than 75 percent of the total meeting time of the board during any
276 particular 24-hour period.

277 No member of the board of trustees shall make, participate in making, or in
278 any way attempt to use his or her official position to influence a governmental decision in which
279 he or she knows or has reason to know that he or she, or a family member or a business partner
280 or colleague has a financial interest.

281 In general, the board is responsible for ensuring universal access to high
282 quality, affordable health care for every resident of the Commonwealth. The Board shall
283 specifically address all of the following:

284 (1) Establish policy on medical issues, population-based public health issues,
285 research priorities, scope of services, expanding access to care, and evaluation of the
286 performance of the system;

287 (2) Evaluate proposals from the executive director and others for innovative
288 approaches to health promotion, disease and injury prevention, health education and research,
289 and health care delivery.

290 (3) Establish standards and criteria by which requests by health facilities for
291 capital improvements shall be evaluated.

292 Section 7: Executive Director - Purpose and Duties.

293 The board of trustees shall hire an executive director who shall be the
294 executive and administrative head of the Trust and shall be responsible for administering and
295 enforcing the provisions of law relative to the Trust.

296 The executive director may, as s/he deems necessary or suitable for the
297 effective administration and proper performance of the duties of the Trust and subject to the
298 approval of the board of trustees, do the following:

299 (1) adopt, amend, alter, repeal and enforce, all such reasonable rules,
300 regulations and orders as may be necessary;

301 (2) appoint and remove employees and consultants: provided, however, that,
302 subject to the availability of funds in the Trust, at least one employee shall be hired to serve as
303 director of each of the divisions created in sections eight through twelve, inclusive, of this
304 chapter.

305 The executive director shall:

306 (1) establish an enrollment system that will ensure that all eligible
307 Massachusetts residents are formally enrolled;

308 (2) use the purchasing power of the state to negotiate price discounts for
309 prescription drugs and all needed durable and nondurable medical equipment and supplies;

310 (3) negotiate or establish terms and conditions for the provision of high quality
311 health care services and rates of reimbursement for such services on behalf of the residents of the
312 commonwealth;

313 (4) develop prospective and retrospective payment systems for covered
314 services to provide prompt and fair payment to eligible providers and facilities;

315 (5) oversee preparation of annual operating and capital budgets for the
316 statewide delivery of health care services;

317 (6) oversee preparation of annual benefits reviews to determine the adequacy
318 of covered services; and

319 (7) prepare an annual report to be submitted to the governor, the president of
320 the senate and speaker of the house of representatives and to be easily accessible to every
321 Massachusetts resident.

322 The executive director of the trust may utilize and shall coordinate with the
323 offices, staff and resources of any agencies of the executive branch including, but not limited to,
324 the executive office of health and human services and all line agencies under its jurisdiction, the
325 division of health care finance and policy, the department of revenue, the insurance division, the
326 group insurance commission, the department of employment and training, the industrial
327 accidents board, the health and educational finance authority, and all other executive agencies.

328 Section 8: Regional Division - Director, Offices, Purposes, and Duties.

329 There shall be a regional division within the Trust which shall be under the
330 supervision and control of a director. The powers and duties given the director in this chapter and
331 in any other general or special law shall be exercised and discharged subject to the control and
332 supervision of the executive director of the Trust. The director of the regional division shall be
333 appointed by the executive director of the Trust, with the approval of the board of trustees, and
334 may, with like approval, be removed. The director may, at his/her discretion, establish a
335 professional advisory committee to provide expert advice: provided, however, that such
336 committee shall have at least 25% consumer representation.

337 The Trust shall have a reasonable number of regional offices located
338 throughout the state. The number and location of these offices shall be proposed to the executive
339 director and board of trustees by the director of the regional division after consultation with the
340 directors of the planning, administration, quality assurance and information technology divisions
341 and consideration of convenience and equity. The adequacy and appropriateness of the number
342 and location of regional offices shall be reviewed by the board at least once every three years.

343 Each regional office shall be professionally staffed to perform local outreach
344 and informational functions and to respond to questions, complaints, and suggestions from health
345 care consumers and providers. Each regional office shall hold hearings annually to determine
346 unmet health care needs and for other relevant reasons. Regional office staff shall immediately
347 refer evidence of unmet needs or of poor quality care to the director of the regional division who
348 will plan and implement remedies in consultation with the directors of the administrative,
349 planning, quality assurance, and information technology divisions.

350 Section 9: Administrative Division; Director; Purpose and Duties.

351 There shall be an administrative division within the Trust which shall be under
352 the supervision and control of a director. The powers and duties given the director in this chapter
353 and in any other general or special law shall be exercised and discharged subject to the direction,
354 control and supervision of the executive director of the Trust. The director of the administrative
355 division shall be appointed by the executive director of the Trust, with the approval of the board
356 of trustees, and may, with like approval, be removed. The director may, at his/her discretion,
357 establish a professional advisory committee to provide expert advice: provided, however, that
358 such committee shall have at least 25% consumer representation.

359 The administrative division shall have day-to-day responsibility for:

360 (1) making prompt payments to providers and facilities for covered services;

361 (2) collecting reimbursement from private and public third party payers and
362 individuals for services not covered by this chapter or covered services rendered to non-eligible
363 patients;

364 (3) developing information management systems needed for provider payment,
365 rebate collection and utilization review;

366 (4) investing trust fund assets consistent with state law and section nineteen of
367 this chapter;

368 (5) developing operational budgets for the Trust; and

369 (6) assisting the planning division to develop capital budgets for the Trust.

370 Section 10: Planning Division - Director, Purpose, and Duties.

371 There shall be a planning division within the Trust which shall be under the
372 supervision and control of a director. The powers and duties given the director in this chapter and
373 in any other general or special law shall be exercised and discharged subject to the direction,
374 control and supervision of the executive director of the Trust. The director of the planning
375 division shall be appointed by the executive director of the Trust, with the approval of the board
376 of trustees, and may, with like approval, be removed. The director may, at his/her discretion,

377 establish a professional advisory committee to provide expert advice: provided, however, that
378 such committee shall have at least 25% consumer representation.

379 The planning division shall have responsibility for coordinating health care
380 resources and capital expenditures to ensure all eligible participants reasonable access to covered
381 services. The responsibilities shall include but are not limited to:

382 (1) An annual review of the adequacy of health care resources throughout the
383 commonwealth and recommendations for changes. Specific areas to be evaluated include but are
384 not limited to the resources needed for underserved populations and geographic areas, for
385 culturally and linguistically competent care, and for emergency and trauma care. The director
386 will develop short term and long term plans to meet health care needs.

387 (2) An annual review of capital health care needs. Included in this evaluation,
388 but not limited to it are recommendations for a budget for all health care facilities, evaluating all
389 capital expenses in excess of a threshold amount to be determined annually by the executive
390 director , and collaborating with local and statewide government and health care institutions to
391 coordinate capital health planning and investment. The director will develop short term and long
392 term plans to meet capital expenditure needs.

393 In making its review, the planning division shall consult with the regional
394 offices of the Trust and shall hold hearings throughout the state on proposed recommendations.
395 The division shall submit to the board of trustees its final review and recommendations by
396 October 1 of each year. Subject to board approval, the Trust shall adopt the recommendations.

397 Section 11: Information Technology Division - Purpose and Duties.

398 There shall be an information technology division within the Trust which shall
399 be under the supervision and control of a director. The powers and duties given the director in
400 this chapter and in any other general or special law shall be exercised and discharged subject to
401 the direction, control and supervision of the executive director of the Trust. The director of the
402 information technology division shall be appointed by the executive director of the Trust, with
403 the approval of the board of trustees, and may, with like approval, be removed. The director may,
404 at his/her discretion, establish a professional advisory committee to provide expert advice:
405 provided, however, that such committee shall have at least 25% consumer representation.

406 The responsibilities of the information technology division shall include but
407 are not limited to:

408 (1) maintaining a confidential electronic medical records system and
409 prescription system in accordance with laws and regulations to maintain accurate patient records
410 and to simplify the billing process, thereby reducing medical errors and bureaucracy;

411 (2) developing a tracking system to monitor quality of care, establish a patient
412 data base and promote preventive care guidelines and medical alerts to avoid errors.

413 Notwithstanding that all billing shall be performed electronically, patients shall
414 have the option of keeping any portion of their medical records separate from their electronic
415 medical record. The information technology director shall work closely with the directors of the
416 regional, administrative, planning and quality assurance divisions. The information technology
417 division shall make an annual report to the board of trustees by October 1 of each year. Subject
418 to board approval, the Trust shall adopt the recommendations.

419 Section 12: Quality Assurance Division - Director, Purpose, and Duties.

420 There shall be a quality assurance division within the Trust which shall be
421 under the supervision and control of a director. The powers and duties given the director in this
422 chapter and in any other general or special law shall be exercised and discharged subject to the
423 direction, control and supervision of the executive director of the Trust. The director of the
424 quality assurance division shall be appointed by the executive director of the Trust, with the
425 approval of the board of trustees, and may, with like approval, be removed. The director may, at
426 his/her discretion, establish a professional advisory committee to provide expert advice:
427 provided, however, that such committee shall have at least 25% consumer representation.

428 The quality assurance division shall support the establishment of a universal,
429 best quality of standard of care with respect to:

430 (a) appropriate staffing levels;

431 (b) appropriate medical technology;

432 (c) design and scope of work in the health workplace; and

433 (d) evidence-based best clinical practices.

434 The director shall conduct a comprehensive annual review of the quality of
435 health care services and outcomes throughout the commonwealth and submit such
436 recommendations to the board of trustees as may be required to maintain and improve the quality
437 of health care service delivery and the overall health of Massachusetts residents. In making its
438 reviews, the quality assurance division shall consult with the regional, administrative, and
439 planning divisions and hold hearings throughout the state on quality of care issues. The division
440 shall submit to the board of trustees its final review and recommendations on how to ensure the
441 highest quality health care service delivery by October 1 of each year. Subject to board approval,
442 the Trust shall adopt the recommendations.

443 Section 13: Eligible Participants.

444 Those persons who shall be recognized as eligible participants in the
445 Massachusetts Health Care Trust shall include:

446 (1) all Massachusetts residents,

447 (2) all non-residents who:

448 (a) work 20 hours or more per week in Massachusetts;

449 (b) pay all applicable Massachusetts personal income and payroll taxes;

450 (c) pay any additional premiums established by the Trust to cover non-
451 residents; and

452 (d) have complied with requirements (a) through (c) inclusive for at least 90
453 days

454 (3) All non-resident patients requiring emergency treatment for illness or
455 injury: provided, however, that the trust shall recoup expenses for such patients wherever
456 possible.

457 Payment for emergency care of Massachusetts residents obtained out of state
458 shall be at prevailing local rates. Payment for non-emergency care of Massachusetts residents
459 obtained out of state shall be according to rates and conditions established by the executive
460 director. The executive director may require that a resident be transported back to Massachusetts
461 when prolonged treatment of an emergency condition is necessary.

462 Visitors to Massachusetts shall be billed for all services received under the
463 system. The executive director of the Trust may establish intergovernmental arrangements with
464 other states and countries to provide reciprocal coverage for temporary visitors.

465 Section 14: Eligible Health Care Providers and Facilities.

466 Eligible health care providers and facilities shall include an agency, facility,
467 corporation, individual, or other entity directly rendering any covered benefit to an eligible
468 patient: provided, however, that the provider or facility:

469 (1) is licensed to operate or practice in the commonwealth;

470 (2) does not provide health care services covered by, but not paid for, by the
471 trust;

472 (3) furnishes a signed agreement that:

473 (a) all health care services will be provided without discrimination on the basis
474 of factors including, but not limited to age, sex, race, national origin, sexual orientation, income
475 status or preexisting condition;

476 (b) the provider or facility will comply with all state and federal laws regarding
477 the confidentiality of patient records and information; (c) no balance billing or out-of-pocket
478 charges will be made for covered services unless otherwise provided in this chapter; and

479 (d) the provider or facility will furnish such information as may be reasonably
480 required by the Trust for making payment, verifying reimbursement and rebate information,
481 utilization review analyses, statistical and fiscal studies of operations and compliance with state
482 and federal law;

483 (4) meets state and federal quality guidelines including guidance for safe
484 staffing, quality of care, and efficient use of funds for direct patient care;

485 (5) is a non-profit health maintenance organization that actually delivers care
486 in its facilities and employs clinicians on a salaried basis; and

487 (6) meets whatever additional requirements that may be established by the
488 Trust.

489 Section 15: Budgeting and Payments to Eligible Health Care Providers and
490 Facilities.

491 To carry out this Act there are established on an annual basis:

492 (1) an operating budget;

493 (2) a capital expenditures budget; and

494 (3) reimbursement levels for providers consistent with Section 20;

495 The operating budget shall be used for:

496 (a) payment for services rendered by physicians and other clinicians;

497 (b) global budgets for institutional providers;

498 (c) capitation payments for capitated groups; and

499 (d) administration of the Trust.

500 Payments for operating expenses shall not be used to finance capital
501 expenditures; payment of exorbitant salaries; or for activities to assist, promote, deter or
502 discourage union organizing. Any prospective payments made in excess of actual costs for

503 covered services shall be returned to the Trust. Prospective payment rates and schedules shall be
504 adjusted annually to incorporate retrospective adjustments. Except as provided in section sixteen
505 of this chapter, reimbursement for covered services by the Trust shall constitute full payment for
506 the services rendered.

507 The Trust shall provide for retrospective adjustment of payments to eligible
508 health care facilities and providers to:

509 (a) assure that payments to such providers and facilities reflect the difference
510 between actual and projected utilization and expenditures for covered services; and

511 (b) protect health care providers and facilities who serve a disproportionate
512 share of eligible participants whose expected utilization of covered health care services and
513 expected health care expenditures for such services are greater than the average utilization and
514 expenditure rates for eligible participants statewide.

515 The capital expenditures budget shall be used for funds needed for--

516 (a) the construction or renovation of health facilities; and

517 (b) for major equipment purchases.

518 Payment provided under this section can be used only to pay for the operating
519 costs of eligible health care providers or facilities, including reasonable expenditures, as
520 determined through budget negotiations with the Trust, for the maintenance, replacement and
521 purchase of equipment.

522 The Trust shall provide funding for payment of debt service on outstanding
523 bonds as of the effective date of this Act and shall be the sole source of future funding, whether
524 directly or indirectly, through the payment of debt service, for capital expenditures by health care
525 providers and facilities covered by the Trust in excess of a threshold amount to be determined
526 annually by the executive director.

527 Section 16: Covered Benefits.

528 The Trust shall pay for all professional services provided by eligible providers
529 and facilities to eligible participants needed to:

530 (1) provide high quality, appropriate and medically necessary health care
531 services;

532 (2) encourage reductions in health risks and increase use of preventive and
533 primary care services; and

534 (3) integrate physical health, mental and behavioral health and substance abuse
535 services.

536 Covered benefits shall include all high quality health care determined to be
537 medically necessary or appropriate by the Trust, including, but not limited to, the following:

538 (1) prevention, diagnosis and treatment of illness and injury, including
539 laboratory, diagnostic imaging, inpatient, ambulatory and emergency medical care, blood and
540 blood products, dialysis, mental health services, dental care, acupuncture, physical therapy,
541 chiropractic and podiatric services;

542 (2) promotion and maintenance of individual health through appropriate
543 screening, counseling and health education;

544 (3) the rehabilitation of sick and disabled persons, including physical,
545 psychological, and other specialized therapies;

546 (4) prenatal, perinatal and maternity care, family planning, fertility and
547 reproductive health care;

548 (5) home health care including personal care;

549 (6) long term care in institutional and community-based settings;

550 (7) hospice care;

551 (8) language interpretation and such other medical or remedial services as the
552 Trust shall determine;

553 (9) emergency and other medically necessary transportation;

554 (10) the full scale of dental services, other than cosmetic dentistry;

555 (11) basic vision care and correction, other than laser vision correction for
556 cosmetic purposes;

557 (12) hearing evaluation and treatment including hearing aids;

558 (13) prescription drugs; and

559 (14) durable and non-durable medical equipment, supplies and appliances.

560 No deductibles, co-payments, co-insurance, or other cost sharing shall be
561 imposed with respect to covered benefits. Patients shall have free choice of participating
562 physicians and other clinicians, hospitals, inpatient care facilities and other providers and
563 facilities.

564 Section 17. Wraparound Coverage for Federal Health Programs.

565 Prior to obtaining waivers to receive federal matching funds through the
566 Health Care Trust, the Trust will seek to ensure that participants eligible for federal program
567 coverage receive access to care and coverage equal to that of all other Massachusetts
568 participants. It shall do so by (a) paying for all services enumerated under Section 16 not covered
569 by the relevant federal plans; (b) paying for all such services during any federally mandated gaps
570 in participants' coverage; and (c) paying for any deductibles, co-payments, co-insurance, or other
571 cost sharing incurred by such participants.

572 Section 18: Establishment of the Health Care Trust Fund.

573 In order to support the Trust effectively, there is hereby established the health
574 care trust fund, hereinafter the Trust Fund, which shall be administered and expended by the
575 executive director of the Trust subject to the approval of the board. The Fund shall consist of all
576 revenue sources defined in Section 20, and all property and securities acquired by and through
577 the use of monies deposited to the Trust Fund and all interest thereon less payments therefrom to
578 meet liabilities incurred by the Trust in the exercise of its powers and the performance of its
579 duties.

580 All claims for health care services rendered shall be made to the Trust Fund
581 and all payments made for health care services shall be disbursed from the Trust Fund.

582 Section 19: Purpose of the Trust Fund.

583 Amounts credited to the Trust Fund shall be used for the following purposes:

584 (1) to pay eligible health care providers and health care facilities for covered
585 services rendered to eligible individuals;

586 (2) to fund capital expenditures for eligible health care providers and health
587 care facilities for approved capital investments in excess of a threshold amount to be determined
588 annually by the executive director;

589 (3) to pay for preventive care, education, outreach, and public health risk
590 reduction initiatives, not to exceed 5% of Trust income in any fiscal year;

591 (4) to supplement other sources of financing for education and training of the
592 health care workforce, not to exceed 2% of Trust income in any fiscal year;

593 (5) to supplement other sources of financing for medical research and
594 innovation, not to exceed 1% of Trust income in any fiscal year;

595 (6) to supplement other sources of financing for training and retraining
596 programs for workers displaced as a result of administrative streamlining gained by moving from

597 a multi-payer to a single payer health care system, not to exceed 2% of Trust income in any
598 fiscal year: provided, however, that eligible workers must have enrolled by June 20 of the third
599 year following full implementation of this chapter;

600 (7) to fund a reserve account to finance anticipated long-term cost increases
601 due to demographic changes, inflation or other foreseeable trends that would increase Trust Fund
602 liabilities, and for budgetary shortfall, epidemics, and other extraordinary events, not to exceed
603 1% of Trust income in any fiscal year: provided, however, that the Trust reserve account shall at
604 no time constitute more than 5% of total Trust assets;

605 (8) to pay the administrative costs of the Trust which, within two years of full
606 implementation of this chapter shall not exceed 5% of Trust income in any fiscal year.

607 Unexpended Trust assets shall not be deemed to be "surplus" funds as defined
608 by chapter twenty-nine of the general laws.

609 Section 20: Funding Sources.

610 20.A: Overview

611 The Trust shall be the repository for all health care funds and related
612 administrative funds. A fairly apportioned, dedicated health care tax on employers, workers, and
613 citizens will replace spending on insurance premiums and out-of-pocket spending for services
614 covered by the Trust. The Trust will enable the state to pass lower health care costs on to
615 residents and businesses through savings from administrative simplification, bulk purchasing
616 discounts on pharmaceuticals and medical supplies, and through early detection and intervention
617 by universally available primary and preventive care. Additionally, collateral sources of revenue
618 – such as from the federal government, non-residents receiving care in the state, or from personal
619 liability – will be recovered by the Trust. Lastly, the Trust shall enact provisions ensuring a
620 smooth transition to a universal health care system for employers and residents.

621 20.B: Health Care Funding

622 The following dedicated health care taxes will replace spending on insurance
623 premiums and out-of-pocket spending for services covered by the Trust. Prior to each state fiscal
624 year of operation, the Trust will prepare for the Legislature a projected budget for the coming
625 fiscal year, with recommendations for rising or declining revenue needs.

626 • An employer payroll tax of 7.5 percent will be assessed, exempting the
627 first $30,000 of payroll per establishment, replacing previous spending by employers on health
628 premiums. An additional employer payroll tax of 0.44% will be assessed on establishments with
629 100 or more employees;

630 • An employee payroll tax of 2.5 percent will be assessed, replacing
631 previous spending by employees on health premiums and out-of-pocket expenses;

632 • A payroll tax on the self-employed of 10 percent will be assessed,
633 exempting the first $30,000 of payroll per self-employed resident.

634 • A tax on unearned income of 12.5 percent will be assessed to fairly
635 distribute the costs of health care across various sources of income.

636 An employer, private or public, may agree to pay all or part of an employee's
637 payroll tax obligation. Such payment shall not be considered income for Massachusetts income
638 tax purposes.

639 Default, underpayment, or late payment of any tax or other obligation imposed
640 by the Trust shall result in the remedies and penalties provided by law, except as provided in this
641 section.

642 Eligibility for benefits shall not be impaired by any default, underpayment, or
643 late payment of any tax or other obligation imposed by the Trust.

644 20.C: Consolidating Public Health Care Spending and Collateral Sources of
645 Revenue

646 It is the intent of this act to establish a single public payer for all health care in
647 the commonwealth. Towards this end, public spending on health insurance will be consolidated
648 into the Trust to the greatest extent possible. Until such time as the role of all other payers for
649 health care has been terminated, health care costs shall be collected from collateral sources
650 whenever medical services provided to an individual are, or may be, covered services under a
651 policy of insurance, health care service plan, or other collateral source available to that
652 individual, or for which the individual has a right of action for compensation to the extent
653 permitted by law.

654 20.C.1: Consolidation of State and Municipal Health Care Spending

655 The Legislature will be empowered to transfer funds from the General Fund
656 sufficient to meet the Trust's projected expenses beyond projected income from dedicated tax
657 revenues. This lump transfer will replace current General Fund spending on health benefits for
658 state employees, services for patients at public in-patient facilities, and all means- or needs-tested
659 health benefit programs. Additionally, the Legislature will reduce local aid to municipalities
660 commensurate with the reduced burden of health insurance premiums for municipal employees
661 and contractors.

662 20.C.2: Federal Sources of Revenue

663 The Trust shall receive all monies paid to the commonwealth by the federal
664 government for health care services covered by the Trust. The Trust shall seek to maximize all
665 sources of federal financial support for health care services in Massachusetts. Accordingly, the
666 executive director shall seek all necessary waivers, exemptions, agreements, or legislation, if
667 needed, so that all current federal payments for health care shall, consistent with the federal law,
668 be paid directly to the Trust Fund. In obtaining the waivers, exemptions, agreements, or
669 legislation, the executive director shall seek from the federal government a contribution for
670 health care services in Massachusetts that shall not decrease in relation to the contribution to
671 other states as a result of the waivers, exemptions, agreements, or legislation.

672 20.C.3: Collection of Collateral Sources of Revenue

673 As used in this section, collateral source includes all of the following:

674 • insurance policies written by insurers, including the medical components
675 of automobile, homeowners, workers' compensation, and other forms of insurance;

676 • health care service plans and pension plans;

677 • employee benefit contracts;

678 • government benefit programs;

679 • a judgment for damages for personal injury;

680 • any third party who is or may be liable to an individual for health care
681 services or costs;

682 As used in this section, collateral sources do not include either of the
683 following:

684 • a contract or plan that is subject to federal preemption;

685 • any governmental unit, agency, or service, to the extent that subrogation is
686 prohibited by law.

687 An entity described as a collateral source is not excluded from the obligations
688 imposed by this section by virtue of a contract or relationship with a governmental unit, agency,
689 or service.

690 Whenever an individual receives health care services under the Trust and s/he
691 is entitled to coverage, reimbursement, indemnity, or other compensation from a collateral
692 source, s/he shall notify the health care provider or facility and provide information identifying
693 the collateral source other than federal sources, the nature and extent of coverage or entitlement,
694 and other relevant information. The health care provider or facility shall forward this information

695 to the executive director. The individual entitled to coverage, reimbursement, indemnity, or other
696 compensation from a collateral source shall provide additional information as requested by the
697 executive director.

698 The Trust shall seek reimbursement from the collateral source for services
699 provided to the individual, and may institute appropriate action, including suit, to recover the
700 costs to the Trust. Upon demand, the collateral source shall pay to the Trust Fund the sums it
701 would have paid or expended on behalf of the individuals for the health care services provided
702 by the Trust.

703 If a collateral source is exempt from subrogation or the obligation to reimburse
704 the Trust as provided in this section, the executive director may require that an individual who is
705 entitled to medical services from the collateral source first seek those services from that source
706 before seeking those services from the Trust.

707 To the extent permitted by federal law, contractual retiree health benefits
708 provided by employers shall be subject to the same subrogation as other contracts, allowing the
709 Trust to recover the cost of services provided to individuals covered by the retiree benefits,
710 unless and until arrangements are made to transfer the revenues of the benefits directly to the
711 Trust.

712 20.C.4: Retention of Funds

713 The Trust shall retain:

714 • all charitable donations, gifts, grants or bequests made to it from whatever
715 source consistent with state and federal law;

716 • payments from third party payers for covered services rendered by eligible
717 providers to non-eligible patients but paid for by the Trust;

718 • income from the investment of Trust assets, consistent with state and
719 federal law.

720 20.D: Transitional Provisions

721 Any employer which has a contract with an insurer, health services corporation
722 or health maintenance organization to provide health care services or benefits for its employees,
723 which is in effect on the effective date of this section, shall be entitled to an income tax credit
724 against premiums otherwise due in an amount equal to the Trust fund premium due pursuant to
725 this section.

726 Any insurer, health services corporation, or health maintenance organization
727 which provides health care services or benefits under a contract with an employer which is in
728 effect on the effective date of this act shall pay to the Trust Fund an amount equal to the Health

729 Trust premium which would have been paid by the employer if the contract with the insurer,
730 health services corporation or health maintenance organizations were not in effect. For purposes
731 of this section, the term “insurer” includes union health and welfare funds and self-insured
732 employers.

733 Six months prior to the establishment of a single payer system, all laws and
734 regulations requiring health insurance carriers to maintain cash reserves for purposes of
735 commercial stability (such as under Chapter 176G, Section 25 of the General Laws) shall be
736 repealed. In their place, the Executive Director of the Trust shall assess an annual health care
737 stabilization fee upon the same carriers, amounting to the same sum previously required to be
738 held in reserves, which shall be credited to the Health Care Trust Fund.

739 Section 21: Insurance Reforms.

740 Insurers regulated by the division of insurance are prohibited from charging
741 premiums to eligible participants for coverage of services already covered by the Trust. The
742 commissioner of insurance shall adopt, amend, alter, repeal and enforce all such reasonable rules
743 and regulations and orders as may be necessary to implement this section.

744 Section 22: Health Trust Regulatory Authority.

745 The Trust shall adopt and promulgate regulations to implement the provisions
746 of this chapter. The initial regulations may be adopted as emergency regulations but those
747 emergency regulations shall be in effect only from the effective date of this chapter until the
748 conclusion of the transition period.

749 Section 23: Implementation of the Health Care Trust.

750 Not later than thirty days after enactment of this legislation, the governor shall
751 make the initial appointments to the board of the Massachusetts Health Care Trust. The first
752 meeting of the trustees shall take place within 60 days of the election of trustees to the board.