HOUSE DOCKET, NO. 109 FILED ON: 1/10/2011

HOUSE . . . . . No. 338

The Commonwealth of Massachusetts

PRESENTED BY:

Jason M. Lewis and 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 adoption of the accompanying bill:

An Act to provide improved Medicare for all.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
Jason M. Lewis	*31st Middlesex*	
James B. Eldridge		*1/19/2011*
Kay Khan	*11th Middlesex*	*1/20/2011*
Peter V. Kocot	*1st Hampshire*	*1/19/2011*
Frank I. Smizik	*15th Norfolk*	*1/20/2011*
William N. Brownsberger		*1/24/2011*
John P. Fresolo	*16th Worcester*	*1/21/2011*
Patricia D. Jehlen		*1/24/2011*
Stephen Kulik	*1st Franklin*	*1/20/2011*
Cory Atkins	*14th Middlesex*	*1/31/2011*
Ruth B. Balser	*12th Middlesex*	*1/27/2011*
Anne M. Gobi	*5th Worcester*	*2/2/2011*
Paul W. Mark	*2nd Berkshire*	*2/1/2011*
Sarah K. Peake	*4th Barnstable*	*2/2/2011*
William Smitty Pignatelli	*4th Berkshire*	*1/27/2011*
Tom Sannicandro	*7th Middlesex*	*1/24/2011*
Carl M. Sciortino, Jr.	*34th Middlesex*	*1/26/2011*
Christine E. Canavan	*10th Plymouth*	*2/3/2011*

Jonathan Hecht	*29th Middlesex*	*2/3/2011*
John W. Scibak	*2nd Hampshire*	*2/3/2011*
Denise Andrews	*2nd Franklin*	*2/3/2011*
Byron Rushing	*9th Suffolk*	*2/3/2011*
Martha M. Walz	*8th Suffolk*	*2/3/2011*
Gailanne M. Cariddi	*1st Berkshire*	*2/3/2011*
James J. O'Day	*14th Worcester*	*2/3/2011*
Marcos A. Devers	*16th Essex*	*2/4/2011*
Christopher N. Speranzo	*3rd Berkshire*	*2/4/2011*
Ellen Story	*3rd Hampshire*	*2/4/2011*
Benjamin Swan	*11th Hampden*	*2/4/2011*
Cleon H. Turner	*1st Barnstable*	*2/4/2011*
Gloria L. Fox	*7th Suffolk*	*2/4/2011*
Alice K. Wolf	*25th Middlesex*	*2/4/2011*

HOUSE DOCKET, NO. 109 FILED ON: 1/10/2011

HOUSE . . . . . No. 338

By Representative Lewis of Winchester and Senator Eldridge, a joint petition (accompanied by bill, House, No. 338) of Jason M. Lewis, James B. Eldridge and others for legislation to establish a single-payer health insurance trust fund. Health Care Financing.

The Commonwealth of Massachusetts

In the Year Two Thousand Eleven

An Act to provide improved Medicare for all.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

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

CHAPTER ___

MASSACHUSETTS HEALTH CARE TRUST

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- o 20.C: Consolidating Public Health Care Spending and Collateral Sources of Revenue
  - 20.C.1: Consolidation of State and Municipal Health Care Spending
  - 20.C.2: Federal Sources of Revenue
  - 20.C.3: Collection of Collateral Sources of Revenue
  - 20.C.4: Retention of Funds
- o 20.D: Transitional Provisions
- Section 21: Insurance Reforms
- Section 22: Health Trust Regulatory Authority
- Section 23: Implementation of the Health Care Trust

Section 1: Preamble.

The foundation for a productive and healthy Massachusetts is a health care system that provides equal access to quality health care for all its residents. Massachusetts spends more on health care per capita than any other state or country in the world, causing undue hardship for the state, municipalities, businesses, and residents, but without achieving universal access to quality health care. The Health Care TrustMedicare for All will allow us to achieve and sustain the three main pillars of a just, efficient health care system: cost control and affordability, universal access, and high quality medical care.

(a) COST CONTROL AND AFFORDABILITY

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

(b) UNIVERSAL EQUITABLE ACCESS

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

(c) QUALITY OF CARE

The World Health Organization rates health outcomes in the United States health care system lower than those of almost all other industrialized countries, and a number of developing countries as well. Poor health outcomes result from the lack of universal access, the lack of oversight on quality due to the fragmentation and complexity of our health care system, and the frequent lack of preventive and comprehensive care benefits offered under commercial health

plans. The Trust will reduce errors through information technology, improve medical care by eliminating much of the present administrative complexity, and emphasize culturally competent outreach and care. It will provide for input from patients on the functioning of the health delivery system.

Section 2: Definitions.

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

"Board" means the board of trustees of the Massachusetts Health Care Trust.

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

"Executive Director" means the executive director of the Massachusetts Health Care Trust.

"Health care" means care provided to a specific individual by a licensed health care professional to promote physical and mental health, to treat illness and injury and to prevent illness and injury.

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

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

"Health maintenance organization" means a provider organization that meets the following criteria:

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

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

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

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

"Resident" means a person who lives in Massachusetts as evidenced by an intent to continue to live in Massachusetts and to return to Massachusetts if temporarily absent, coupled

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

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

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

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

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

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

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

"Trust Fund" means the Massachusetts Health Care Trust Fund established in section eighteennineteen of this chapter.

Section 3. Establishment of the Massachusetts Health Care Trust.

There is hereby created an independent body, politic and corporate, to be known as the Massachusetts Health Care Trust, hereinafter referred to as the Trust, to function as the single

public agency, or “single payer,”, responsible for the collection and disbursement of funds required to provide health care services for every resident of the Commonwealth. The Trust is hereby constituted a public instrumentality of the commonwealth and the exercise by the Trust of the powers conferred by this chapter shall be deemed and held the performance of an essential governmental function. The Trust is hereby placed in the executive office of the health and human services, but shall not be subject to the supervision or control of said office or of any board, bureau, department or other agency of the commonwealth except as specifically provided by this chapter.

The provisions of chapter two hundred sixty-eight A shall apply to all trustees, officers and employees of the Trust, except that the Trust may purchase from, contract with or otherwise deal with any organization in which any trustee is interested or involved: provided, however, that such interest or involvement is disclosed in advance to the trustees and recorded in the minutes of the proceedings of the Trust: and provided, further, that a trustee having such interest or involvement may not participate in any decision relating to such organization.

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

All officers and employees of the Trust having access to its cash or negotiable securities shall give bond to the Trust at its expense, in such amount and with such surety as the board of

trustees shall prescribe. The persons required to give bond may be included in one or more blanket or scheduled bonds.

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

Section 4: Powers of the Trust.

The Trust shall have the following powers:

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

(2) to adopt an official seal;

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

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

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

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

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

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

(9) to establish advisory boards;

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

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

(12) to accept, hold, use, apply, and dispose of any and all donations, grants, bequests and devises, conditional or otherwise, of money, property, services or other things of value which may be received from the United States or any agency thereof, any governmental agency, any institution, person, firm or corporation, public or private, such donations, grants, bequests and devises to be held, used, applied or disposed for any or all of the purposes specified in this chapter and in accordance with the terms and conditions of any such grant. Â Receipt of each such donation or grant shall be detailed in the annual report of the Trust; such annual report shall

include the identity of the donor, lender, the nature of the transaction and any condition attaching thereto;

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

Section 5: Purposes of the Trust.

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

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

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

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

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

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

(4) To use administrative and other savings to:

(a) expand covered health care services;

(b) contain health care cost increases; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

In addition, eight trustees, who are eligible to receive the benefits of the Massachusetts Health Care Trust but who do not fall into any of the aforementioned categories, shall be elected by the citizens of the Commonwealth, one from each of the Governor's Council districts. Candidates shall run in accordance with Fair Campaign Financing Rules. In order to provide for staggered terms, from the first eight to be elected, two shall be elected for two years, three for three years, and three for four years. Afterwards, all elected trustees shall be elected for four-year

terms. All elected trustees shall be eligible for reelection, which would enable them to serve a maximum of eight consecutive years.

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

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

The trustees shall be reimbursed for actual and necessary expenses and loss of income incurred for each full day serving in the performance of their duties to the extent that reimbursement of those expenses is not otherwise provided or payable by another public agency or agencies. For purposes of this section, “full day of attending a meeting” shall mean presence at, and participation in, not less than 75 percent of the total meeting time of the board during any particular 24-hour period.

No member of the board of trustees shall make, participate in making, or in any way attempt to use his or her official position to influence a governmental decision in which he or she

knows or has reason to know that he or she, or a family member or a business partner or colleague has a financial interest.

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

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

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

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

Section 7: Executive Director -; Purpose and Duties.

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

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

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

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

The executive director shall:

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

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

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

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

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

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

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

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

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

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

The Trust shall have a reasonable number of regional offices located throughout the state. The number and location of these offices shall be proposed to the executive director and board of trustees by the director of the regional division after consultation with the directors of the planning, administration, quality assurance and information technology divisions and

consideration of convenience and equity. The adequacy and appropriateness of the number and location of regional offices shall be reviewed by the board at least once every three years.

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

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

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

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

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

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

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

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

(5) developing operational budgets for the Trust; and

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

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

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

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

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

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

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

Section 11: Information Technology Division -; Purpose and& Duties.

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

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

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

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

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

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

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

There shall be a quality assurance division within the Trust which shall be under the supervision and control of a director. The powers and duties given the director in this chapter and in any other general or special law shall be exercised and discharged subject to the direction, control and supervision of the executive director of the Trust. The director of the quality assurance division shall be appointed by the executive director of the Trust, with the approval of

the board of trustees, and may, with like approval, be removed. The director may, at his/her discretion, establish a professional advisory committee to provide expert advice: provided, however, that such committee shall have at least 25% consumer representation.

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

(a) appropriate staffing levels;

(b) appropriate medical technology;

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

(d) evidence-based best clinical practices.

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

Section 13: Eligible Participants.

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

(1) all Massachusetts residents,

(2) all non-residents who:

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

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

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

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

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

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

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

Section 14: Eligible Health Care Providers and Facilities.

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

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

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

(3) furnishes a signed agreement that:

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

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

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

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

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

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

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

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

(1) an operating budget;

(2) a capital expenditures budget; and

(3) reimbursement levels for providers consistent with subtitle BSection 20;

The operating budget shall be used for:

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

(b) global budgets for institutional providers;

(c) capitation payments for capitated groups; and

(d) administration of the Trust.

Payments for operating expenses shall not be used to finance capital expenditures; payment of exorbitant salaries; or for activities to assist, promote, deter or discourage union organizing. Any prospective payments made in excess of actual costs for covered services shall be returned to the Trust. Prospective payment rates and schedules shall be adjusted annually to incorporate retrospective adjustments. Except as provided in section sixteen of this chapter, reimbursement for covered services by the Trust shall constitute full payment for the services rendered.

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

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

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

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

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

(b) for major equipment purchases.

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

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

Section 16: Covered Benefits.

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

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

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

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

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

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

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

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

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

(5) home health care including personal care;

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

(7) hospice care;

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

(9) emergency and other medically necessary transportation;

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

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

(12) hearing evaluation and treatment including hearing aids;

(13) prescription drugs; and

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

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

Section 17. Wraparound Coverage for Federal Health Programs.

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

Section 18: Establishment of the Health Care Trust Fund.

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

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

Section 19: Purpose of the Trust Fund.

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

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

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

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

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

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

(6) to supplement other sources of financing for training and retraining programs for workers displaced as a result of administrative streamlining gained by moving from a multi-payer to a single payer health care system, not to exceed 2% of Trust income in any fiscal year: provided, however, that eligible workers must have enrolled by June 20 of the third year following full implementation of this chapter;

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

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

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

Section 20: Funding Sources.

20.A: Overview

The Trust shall be the repository for all health care funds and related administrative funds. A fairly apportioned, dedicated health care tax on employers, workers, and citizens will replace spending on insurance premiums and out-of-pocket spending for services covered by the Trust. The Trust will enable the state to pass lower health care costs on to residents and businesses through savings from administrative simplification, bulk purchasing discounts on

pharmaceuticals and medical supplies, and through early detection and intervention by universally available primary and preventive care. Additionally, collateral sources of revenue – such as from the federal government, non-residents receiving care in the state, or from personal liability – will be recovered by the Trust. Lastly, the Trust shall enact provisions ensuring a smooth transition to a universal health care system for employers and residents.

20.B: Health Care Funding

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

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

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

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

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

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

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

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

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

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

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

The Legislature will be empowered to transfer funds from the General Fund sufficient to meet the Trust's projected expenses beyond projected income from dedicated tax revenues. This lump transfer will replace current General Fund spending on health benefits for state employees, services for patients at public in-patient facilities, and all means- or needs-tested health benefit

programs. Additionally, the Legislature will reduce local aid to municipalities commensurate with the reduced burden of health insurance premiums for municipal employees and contractors.

20.C.2: Federal Sources of Revenue

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

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

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

- insurance policies written by insurers, including the medical components of automobile, homeowners, workers' compensation, and other forms of insurance;
- health care service plans and pension plans;
- employee benefit contracts;
- government benefit programs;
- a judgment for damages for personal injury;

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

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

- a contract or plan that is subject to federal preemption;
- any governmental unit, agency, or service, to the extent that subrogation is prohibited by law.

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

Whenever an individual receives health care services under the system Trust and s/he is entitled to coverage, reimbursement, indemnity, or other compensation from a collateral source, s/he shall notify the health care provider or facility and provide information identifying the collateral source other than federal sources, the nature and extent of coverage or entitlement, and other relevant information. The health care provider or facility shall forward this information to the executive director. The individual entitled to coverage, reimbursement, indemnity, or other compensation from a collateral source shall provide additional information as requested by the executive director.

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

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

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

20.C.4: Retention of Funds

The Trust shall retain:

- all charitable donations, gifts, grants or bequests made to it from whatever source consistent with state and federal law;
- payments from third party payers for covered services rendered by eligible providers to non-eligible patients but paid for by the Trust;
- income from the investment of Trust assets, consistent with state and federal law.

20.D: Transitional Provisions

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

Any insurer, health services corporation, or health maintenance organization which provides health care services or benefits under a contract with an employer which is in effect on the effective date of this act shall pay to the Trust Fund an amount equal to the Health Trust premium which would have been paid by the employer if the contract with the insurer, health services corporation or health maintenance organizations were not in effect. For purposes of this section, the term "insurer" includes union health and welfare funds and self-insured employers.

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

Section 21: Insurance Reforms.

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

Section 22: Health Trust Regulatory Authority.

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

Section 23: Implementation of the Health Care Trust.

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