HOUSE DOCKET, NO. 3133 FILED ON: 1/16/2025

HOUSE . . . . . No. 4068

The Commonwealth of Massachusetts

PRESENTED BY:

Adam J. Scanlon

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 relative to protecting health insurance coverage.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
Adam J. Scanlon	*14th Bristol*	*1/16/2025*
Vanna Howard	*17th Middlesex*	*7/23/2025*

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HOUSE . . . . . No. 4068

By Representative Scanlon of North Attleborough, a petition (accompanied by bill, House, No. 4068) of Adam J. Scanlon for legislation to address health insurance coverage by implementing a fair share employer contribution. Labor and Workforce Development.

The Commonwealth of Massachusetts

In the One Hundred and Ninety-Fourth General Court
(2025-2026)

An Act relative to protecting health insurance coverage.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to address health insurance coverage in the commonwealth, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

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

SECTION 1. Chapter 149 of the General Laws is hereby amended by inserting, after section 188, the following section:-

Section 188A. (a) As used in this section, the following words shall, unless the context clearly requires otherwise, have the following meanings:

"Authority", the commonwealth health insurance connector authority established pursuant to chapter 176Q.

"Contributing employer", an employer that offers a group health plan, as defined in 26 U.S.C. 5000(b)(1), to which the employer makes a fair and reasonable premium contribution , as defined in regulation by the authority.

10 “Department”, the department of unemployment assistance.

11 “Director”, the director of the department of unemployment assistance.

12 “Employee”, an individual employed by an employer subject to this chapter for at least 1
13 month; provided that, for the purpose of this section self-employed individuals shall not be
14 considered employees.

15 “Employer”, any employing unit, as defined in section 1 of chapter 151A, or any
16 employer, as defined in section 1 of chapter 152.

17 “Fair share employer contribution”, an employer’s per-employee contribution established
18 under paragraph (1) of subsection (b) paid at a time and in manner prescribed by the director.

19 (b)(1) To more equitably distribute the costs of health care provided to uninsured
20 residents of the commonwealth, each employer that: (i) employs 50 or more full-time equivalent
21 employees in the commonwealth and (ii) is not a contributing employer may be required to pay a
22 per-employee contribution at a time and in a manner prescribed by the director.

23 (2) The fair share employer contribution shall be pro-rated by a fraction that shall not
24 exceed 1, the numerator of which is the number of hours worked in the quarter by all of the
25 employer's employees and the denominator of which is the product of the number of employees
26 employed by an employer during that quarter multiplied by 500 hours.

27 (c) The executive director of the authority shall, in consultation with the director,
28 annually determine the fair share employer contribution rate based on the best available data and
29 under the following provisions:

30 (1) The per-user share of private sector liability shall be calculated annually by
31 dividing the sum of hospital liability and third-party payor liability for uncompensated care, as
32 defined by law, by the total number of individuals in the most recently completed fiscal year
33 whose care was reimbursed in whole or in part by the health safety net office.

34 (2) The total number of employees in the most recent fiscal year on whose behalf
35 health care services were reimbursed in whole or in part by the health safety net office, shall be
36 calculated. In calculating this number, the authority shall use all resources available to enable it
37 to determine the employment status of individuals for whom reimbursements were made,
38 including quarterly wage reports maintained by the department of revenue.

39 (3) The total number of employees as calculated in paragraph (2) shall be adjusted
40 by multiplying that number by the per centage of employers in the commonwealth that are not
41 contributing employers, as determined by the authority.

42 (4) The total cost of liability associated with employees of non-contributing
43 employers shall be determined by multiplying the number of employees, as calculated in
44 paragraph (3) by the per-user share of private sector liability as calculated in paragraph (1).

45 (5) The fair share employer contribution shall be calculated by dividing the total
46 cost of liability as calculated in paragraph (4) by the total number of employees of employers
47 that are not contributing employers, as determined by the authority.

48 (6) The fair share employer contribution, as determined in paragraph (5) shall be
49 adjusted annually to reflect medical inflation, using an appropriate index as determined by the
50 authority.

51 (7) The total dollar amount of health care services provided by physicians to non-
52 elderly, uninsured residents of the commonwealth for which no reimbursement is made from the
53 Health Safety Net Trust Fund, established in section 66 of chapter 118E, shall be calculated
54 using a survey of physicians or other data source that the authority determines is most accurate.

55 (8) The per-employee cost of uncompensated physician care shall be calculated
56 by dividing the dollar amount of such services, as calculated in paragraph (7) by the total number
57 of employees of contributing employers in the commonwealth, as estimated by the authority
58 using the most accurate data source available, as determined by the authority.

59 (9) The annual fair share employer contribution shall be calculated by adding the
60 fair share employer contribution as calculated in paragraph (6) and the per-employee cost of
61 unreimbursed physician care, as calculated in paragraph (8).

62 (10) Notwithstanding this section, the total annual fair share employer
63 contribution shall not exceed $295 per employee, which may be made in a single payment or in
64 equal amounts semi-annually or quarterly, at the employer's discretion.

65 (11) In calculating the fair share employer contribution, employees who have qualifying
66 health insurance coverage from a spouse, parent, veteran's plan, Medicare or a plan or plans due
67 to disability or retirement shall not be included in the numerator or denominator for purposes of
68 determining whether an employer is a contributing employer. The employer shall keep and
69 maintain proof of their employee's insurance status, in a reasonable manner as defined by the
70 authority.

71 (d)(1) The director shall assess each employer liable for a fair share employer
72 contribution in a quarter an amount based on 25 per cent of the annual fair share employer

73 contribution rate applicable to that quarterly period and may implement penalties for employers
74 who fail to make contributions as required by this section.

75 (2) In order to reduce the administrative costs of collection of contributions, the director
76 shall, to the extent possible, use any existing procedures implemented by the department to make
77 similar collections. Amounts collected pursuant to this section shall be deposited in the
78 Commonwealth Care Trust Fund, established in section 2OOO of chapter 29.

79 (3) Before depositing the amounts, the director may deduct all administrative costs
80 incurred by the department as a result of this section, including an amount as determined by the
81 United States Secretary of Labor in accordance with federal cost rules. Except where inconsistent
82 with this section, the terms and conditions of chapter 151A that are applicable to the payment
83 and collection of contributions shall apply to the same extent to the payment and collection of
84 any obligation under this section.

85 (e) An employer aggrieved by a determination of the director with respect to its liability
86 for the fair share employer contribution or with respect to the amount it is required to pay may
87 appeal such determination within 60 days and in the form and manner as specified by the
88 department.

89 (f) The department and the health policy commission under chapter 6D may
90 waive or mitigate an employer's fair share contributions, fines, interest and related fees.

91 (g) Pending a fair share contributions appeal decision pursuant to subsection (e),
92 the department shall not continue to accrue or collect interest, penalties or fees on the fair share
93 contribution.

94 (h) The department or any entity of the commonwealth shall not take any funds
95 out of an employer's bank account if the employer has filed a fair share contributions appeal
96 pursuant to subsection (e) or is in the process of mediation and is awaiting a decision.

97 (i) The department's help center staff shall not request identifying information
98 from an employer that is seeking assistance from the department helpline, nor shall the staff
99 share customer information with the audit department staff. No information recorded by the
100 helpline may be used in an audit proceeding or be used to initiate an audit.

101 (j) Upon completion of a hearing on an appeal with respect to an employer's
102 liability for the fair share employer contribution or to the amount it is required to pay, the
103 department shall render a written decision within 90 days.

104 (k) The department shall promulgate regulations necessary to implement this section. In
105 promulgating regulations defining the term “contribution” under this section, no proposed
106 regulation by the department, except an emergency regulation, shall take effect until 60 days
107 after the proposed regulations have been transmitted to the joint committee on health care
108 financing and the joint committee on financial services.

109 SECTION 2. Section 1 shall take effect upon either: (i) the repeal of 26 U.S.C. §4980H;
110 or (ii) a determination by the secretary of the executive office of health and human services that
111 the provisions of federal law under the Patient Protection and Affordable Care Act requiring
112 applicable large employers to offer minimum essential health insurance coverage under an
113 employer-sponsored plan to full-time equivalent employees or make a shared responsibility
114 payment to the Internal Revenue Service, known as the shared responsibility provisions,
115 employer mandate or pay or play provisions” is eliminated or no longer enforced.