

SENATE No. 38

Senate, March 18, 2021 – Text of the Senate amendment to the House Bill financing a program for improvements to the Unemployment Insurance Trust Fund and providing relief to employers and workers in the Commonwealth (House, No. 90) (being the text of Senate, No. 35, printed as amended)

The Commonwealth of Massachusetts

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

1 SECTION 1. To provide for a program for improvements to the Unemployment
2 Insurance Trust Fund and relief to employers in the commonwealth, the sum set forth in section
3 2, for the several purposes and subject to the conditions specified in this act, is hereby made
4 available, subject to the laws regulating the disbursement of public funds. The sum set forth in
5 said section 2 shall be in addition to any amounts previously authorized and made available for
6 these purposes.

7 SECTION 2.

8 EXECUTIVE OFFICE FOR LABOR AND WORKFORCE DEVELOPMENT

9 Office of the Secretary

10 7003-2025 For the program to reduce the amount of, or avoid the need to obtain, a
11 federal advance from the federal government or to repay federal advances made to the
12 commonwealth from the federal unemployment account for the fiscal years 2020 to 2025,
13 inclusive, and to fund any reserve account, costs of issuance and capitalized interest, if any,
14 related to bonds issued for such purposes and the initial costs established pursuant to section 17

15 of this act and expenses of the administration of said program; provided, that the aggregate
16 principal amount shall not exceed the total amount authorized in this item.....\$7,000,000,000.

17 SECTION 3. Chapter 151A of the General Laws is hereby amended by inserting after
18 section 14J the following section:-

19 Section 14J1/2. For the period from January 1, 2021 to December 31, 2022, each
20 employer required to make contributions pursuant to section 14 shall pay an excise on the wages
21 paid to its employees in accordance with the following table:

Employer Account Reserve Percentages	Contribution Rate	Excise Rate
Positive Percentage		
17 or more	0.94	0.100
16.0 but less than 17.0	1.08	0.115
15.0 but less than 16.0	1.21	0.130
14.0 but less than 15.0	1.34	0.145
13.5 but less than 14.0	1.61	0.160
13.0 but less than 13.5	1.75	0.175
12.5 but less than 13.0	1.89	0.190
12.0 but less than 12.5	2.01	0.205
11.5 but less than 12.0	2.15	0.220
11.0 but less than 11.5	2.29	0.235
10.5 but less than 11.0	2.42	0.250
10.0 but less than 10.5	2.56	0.265
9.5 but less than 10.0	2.69	0.280

9.0 but less than 9.5	2.82	0.295
8.5 but less than 9.0	2.96	0.310
8.0 but less than 8.5	3.09	0.325
7.5 but less than 8.0	3.23	0.340
7.0 but less than 7.5	3.37	0.355
6.5 but less than 7.0	3.50	0.370
6.0 but less than 6.5	3.63	0.385
5.5 but less than 6.0	3.76	0.400
5.0 but less than 5.5	3.90	0.415
4.5 but less than 5.0	4.04	0.430
4.0 but less than 4.5	4.17	0.445
3.5 but less than 4.0	4.30	0.460
3.0 but less than 3.5	4.44	0.475
2.5 but less than 3.0	4.57	0.490
2.0 but less than 2.5	4.71	0.505
1.5 but less than 2.0	4.84	0.520
1.0 but less than 1.5	4.98	0.535
0.5 but less than 1.0	5.11	0.550
0.0 but less than .5	5.24	0.565
Negative Percentage		
0.0 but less than 1.0	7.03	0.580
1.0 but less than 3.0	7.64	0.595
3.0 but less than 5.0	8.26	0.610

5.0 but less than 7.0	8.86	0.625
7.0 but less than 9.0	9.48	0.640
9.0 but less than 11.0	10.09	0.655
11.0 but less than 13.0	10.70	0.670
13.0 but less than 15.0	11.31	0.685
15.0 but less than 17.0	11.93	0.700
17.0 but less than 19.0	12.53	0.715
19.0 but less than 21.0	13.15	0.730
21.0 but less than 23.0	13.76	0.745
23.0 or more	14.37	0.760

22 For the purpose of this section, the term “wages” shall include only that part of
23 remuneration on which the employer is required to make contributions pursuant to said section
24 14. Such excise shall be paid to the commissioner in accordance with the procedures prescribed
25 by the commissioner. The commissioner shall deposit the receipts of such excise into the Federal
26 Loan Interest Fund established in section 14K. Such receipts shall not be subject to the allowable
27 state tax revenue limitations established in chapter 62F. Prior to the depositing of the receipts,
28 the commissioner may deduct all administrative costs incurred as a result of this section,
29 including an amount as determined by the United States Secretary of Labor in accordance with
30 federal cost rules, if applicable.

31 Except where inconsistent with the terms of this section, the terms and conditions of this
32 chapter that are applicable to the payment of and the collection of contributions pursuant to said
33 section 14 shall apply to the payment of and the collection of said excise; provided, however,

34 that said excise shall not be credited to the employer's account or to the solvency account
35 established pursuant to said section 14 except as otherwise provided in said section 14K.

36 The commissioner, after providing not less than 60 days' written notice to the house and
37 senate committees on ways and means and the joint committee on labor and workforce
38 development, may adjust the excise rate specified in this section to pay interest required to be
39 paid to the Federal Loan Interest Fund established by said section 14K. The notice shall include,
40 but not be limited to: (i) the proposed adjusted excise rate; (ii) the estimated amount of funds that
41 will be raised by the adjusted excise rate; (iii) the rationale for adjusting the excise rate; (iv) the
42 balance of the Federal Loan Interest Fund established in said section 14K; and (v) the estimated
43 amount of interest required to be paid under section 1202(b) of the federal Social Security Act.

44 SECTION 4. Said chapter 151A is hereby further amended by striking out section 14K,
45 as appearing in 2018 Official Edition, and inserting in place thereof the following section:-

46 Section 14K. There shall be a separate fund to be known as the Federal Loan Interest
47 Fund that shall be administered by the commissioner, without liability on the part of the
48 commonwealth beyond the amount credited to and earned by the fund. The fund shall consist of
49 all amounts received under section 14J1/2 money authorized by law to be credited to the fund.
50 Money credited to the fund shall be used only for the payment of interest required to be paid
51 under section 1202(b) of the federal Social Security Act. The money in the fund shall be
52 continuously available to the commissioner for the payment of the interest without further
53 appropriation and shall not lapse at any time or be transferred to any other fund or account
54 except as provided in this section. On September 30 of each calendar year, the commissioner
55 shall transfer from the fund to the Unemployment Compensation Fund any amounts deposited

56 therein pursuant to said section 14J1/2 prior to the immediately preceding 36-month period that
57 have not been expended for the payment of interest. The commissioner shall credit such amounts
58 transferred to the solvency account pursuant to paragraph (1) of subsection (e) of section 14 as of
59 October 1 of the calendar year.

60 SECTION 5. Paragraph (b) of subsection (1) of section 30A of said chapter 151A, as
61 appearing in section 8 of chapter 201 of the acts of 2020, is hereby amended by striking out
62 subparagraph (2) and inserting in place thereof the following subparagraph:-

63 (2) There shall be a state “off” indicator for the commonwealth for the purposes of this
64 paragraph for weeks of unemployment if at any time the provisions of subparagraph (1) are not
65 met or 100 per cent federal sharing is not available under section 4105 of the federal Families
66 First Coronavirus Response Act, Public Law 116-127, hereinafter the “Families First Act”, or
67 any subsequent amendment to the Families First Act, or other federal law and the funding is
68 sufficient to meet the requirements of this subparagraph, including, but not limited to, the federal
69 Continued Assistance for Unemployed Workers Act of 2020.

70 SECTION 6. Paragraph (c) of said subsection 1 of said section 30A of said chapter 151A,
71 as so appearing, is hereby amended by striking out subparagraph (3) and inserting in place
72 thereof the following 2 subparagraphs:-

73 (3) There shall be a state “off” indicator for the purposes of this paragraph for weeks of
74 unemployment if at any time the provisions of subparagraph (1) are not met or 100 per cent
75 federal sharing is not available under section 4105 of the Families First Act, or any subsequent
76 amendment to the Families First Act, or other federal law and the funding is sufficient to meet

77 the requirements of this subparagraph, including, but not limited to, the federal Continued
78 Assistance for Unemployed Workers Act of 2020.

79 (4) With respect to determining whether the commonwealth is in an extended benefit
80 period from November 1, 2020 to December 31, 2021, inclusive, the commonwealth shall
81 disregard the requirement of paragraph (a) that no extended benefit period may begin before the
82 fourteenth week following the end of a prior extended benefit period that was in effect.

83 SECTION 7. Section 50 of chapter 201 of the acts of 2020 is hereby amended by striking
84 out the words “June 30” and inserting in place thereof the following words:- December 31.

85 SECTION 8. Notwithstanding chapter 62C of the General Laws or any other general or
86 special law to the contrary, in order to address disruptions caused by the outbreak of the 2019
87 novel coronavirus, also known as COVID-19, and the effects of the governor’s March 10, 2020
88 declaration of a state of emergency, for taxable year 2020, no tax penalty shall be imposed by the
89 commissioner of revenue on a taxpayer solely for failure to remit taxes imposed by chapter 62 of
90 the General Laws on unemployment compensation, as defined in section 85 of the Internal
91 Revenue Code, received by a taxpayer during taxable year 2020; provided, however, that if such
92 penalty has been assessed, it shall be abated by the commissioner of revenue in whole.

93 SECTION 9. Notwithstanding section 14 of chapter 151A of the General Laws, for
94 calendar years 2021 and 2022, the experience rate of an employer qualifying under subsection
95 (b) of said section 14 of said chapter 151A shall be the rate that appears in column “E” of
96 paragraph (1) of subsection (i) of said section 14 of said chapter 151A.

97 SECTION 10. Notwithstanding any federal interest charges for necessary federal
98 advances, the commissioner, as defined in subsection (e 1/2) of section 1 of chapter 151A of the

99 General Laws, may pursue any necessary federal advances to provide for timely payment of
100 benefits. Nothing in this act shall contribute to or allow for a reduction in benefits including, but
101 not limited to, the amount or length of benefits, pursuant to said chapter 151A.

102 SECTION 11. The following definitions shall apply to sections 11 to 14, inclusive, and
103 shall have the following meanings unless the context clearly requires otherwise:

104 “Child”, a biological, adopted or foster child, a stepchild or legal ward, a child to whom
105 the employee stands in loco parentis or a person to whom the employee stood in loco parentis
106 when the person was a minor child.

107 “COVID-19 emergency paid sick leave”, paid time-off that is compensated by an
108 employer at the employee’s regular rate of pay and with the same employment benefits the
109 employee normally earns during hours worked and to which the employee is entitled from such
110 employer as a term of the employee’s employment, for the purposes described in subsection (b)
111 of section 13; provided, however, that in no case shall the employee’s hourly compensation be
112 less than that provided under section 1 of chapter 151 of the General Laws.

113 “Domestic partner”, a person not less than 18 years of age who: (i) is dependent upon the
114 employee for support as shown by either unilateral dependence or mutual interdependence that is
115 evidenced by a nexus of factors including, but not limited to: (A) common ownership of real or
116 personal property; (B) common householding; (C) children in common; (D) signs of intent to
117 marry; (E) shared budgeting; and (F) the length of the personal relationship with the employee;
118 or (ii) has registered as the domestic partner of the employee with any registry of domestic
119 partnerships maintained by the employer of either party, or in any state, county, city, town or
120 village in the United States.

121 “Employee”, any person who performs services for an employer for wage, remuneration
122 or other compensation, including employees employed by the commonwealth, its departments,
123 sub-divisions, quasi-public agencies or a municipality, district, political subdivision or its
124 instrumentalities; provided, however, that notwithstanding any general or special law to the
125 contrary, “employee” shall include a family child care provider, as defined in subsection (a) of
126 section 17 of chapter 15D of the General Laws, and a personal care attendant, as defined in
127 section 70 of chapter 118E of the General Laws.

128 “Employer”, any individual, corporation, partnership or other private or public entity,
129 including any agent thereof, who engages the services of an employee for wages, remuneration
130 or other compensation, including, but not limited to, (i) the commonwealth, its departments, sub-
131 divisions or quasi-public agencies; or (ii) a municipality, district, political subdivision or its
132 instrumentalities; provided, however, that the United States government shall not be considered
133 an “employer”; provided further, that an individual employer shall be determined by the Federal
134 Employer Identification Number; provided further, that the department of early education and
135 care shall be deemed the employer of family child care providers, as defined in subsection (a) of
136 section 17 of chapter 15D of the General Laws; and provided further, that the PCA quality home
137 care workforce council established in section 71 of chapter 118E of the General Laws shall be
138 the employer of personal care attendants, as defined in section 70 of said chapter 118E.

139 “Employment benefits”, all benefits provided or made available to employees by an
140 employer, including, but not limited to, group life insurance, health insurance, disability
141 insurance, sick leave, annual or vacation leave, educational benefits and pensions.

142 “Family member”, the spouse, domestic partner, child, parent or parent of a spouse or
143 domestic partner of the employee, a person who stood in loco parentis to the employee when
144 such employee was a minor child or a grandchild, grandparent or sibling of the employee;
145 provided, however, that a “person who stood in loco parentis” shall not include a person with
146 whom the employee has no personal relationship.

147 “Health care provider”, a health care professional licensed under chapter 112 of the
148 General Laws or any other person licensed under federal or any state law to provide medical care
149 or emergency medical services and authorized to provide such services in the commonwealth.

150 “Parent”, a biological, adoptive, foster or step-parent of an employee or of an employee’s
151 spouse or domestic partner, a legal guardian of an employee or other person who stood in loco
152 parentis when the employee or employee’s spouse or domestic partner was a minor child.

153 “Spouse”, a person who is married to the employee.

154 “Telework”, a work flexibility arrangement under which an employee performs the duties
155 and responsibilities of such employee's position, and other authorized activities, from an
156 approved worksite other than the location from which the employee would otherwise work.

157 SECTION 12. There shall be established a fund known as the COVID-19 Emergency
158 Paid Sick Leave Fund to be administered by the executive office for administration and finance,
159 or any department or agency thereof designated by the executive office. The purpose of the fund
160 shall be to reimburse eligible employers for providing employees with COVID-19 emergency
161 paid sick leave. There shall be credited to the fund all amounts that are transferred or authorized
162 to be transferred thereto or directed to be deposited therein, and all amounts received as gifts,
163 grants or contributions for the purposes of the fund. Amounts credited to the fund shall not be

164 subject to appropriation. Any money remaining in the fund as of September 30, 2021 and not
165 subject to a filed employer reimbursement under section 13, shall revert to the General Fund;
166 provided, however, that all money in the fund shall revert to the General Fund not later than
167 November 1, 2021.

168 SECTION 13. (a)(1) Notwithstanding any general or special law to the contrary, as a
169 result of the outbreak of the 2019 novel coronavirus, also known as COVID-19, as of the
170 effective date of this section, an employer shall provide, subject to section 14, COVID-19
171 emergency paid sick leave to its employees pursuant to paragraph (3) who are absent from and
172 are unable to work pursuant to subsection (b).

173 (2) The executive office for administration and finance, or any department or agency
174 thereof designated by the executive office, shall reimburse an employer from the COVID-19
175 Emergency Paid Sick Leave Fund, established in section 12, for the cost of providing COVID-19
176 emergency paid sick leave to an employee; provided, however, that any qualified sick leave
177 wages paid by an employer that are eligible for the tax credit under the federal Families First
178 Coronavirus Response Act, H.R. 6201, P.L. 116-127 or subsequent extensions, including the
179 federal Consolidated Appropriations Act, 2021 and the American Rescue Plan Act of 2021, shall
180 not be eligible for reimbursement from said COVID Emergency Paid Sick Leave Fund.

181 (3) An employer shall provide the following amount of leave for an employee who takes
182 COVID-19 emergency paid sick leave:

183 (i) an employee who works 40 hours or more per week shall be provided 40 hours of
184 COVID-19 emergency paid sick leave;

185 (ii) an employee who works less than 40 hours a week, but maintains a regular schedule
186 with consistent hours per week, shall be provided COVID-19 emergency paid sick leave that is
187 equal to the number of hours that such employee works per week, on average over a 14-day
188 period of such regular schedule; or

189 (iii) for an employee whose schedule and weekly hours worked vary from week to week,
190 such employee shall be provided COVID-19 emergency paid sick leave that: (A) is equal to the
191 average number of hours that the employee was scheduled to work per week over the 6-month
192 period immediately preceding the date on which such employee takes the COVID-19 emergency
193 paid sick leave, including hours for which such employee took leave of any type; or (B) if the
194 employee did not work over such 6-month period, is equal to the reasonable expectation of the
195 employee at the time of hiring of the average number of hours per week that the employee would
196 normally be scheduled to work.

197 (4) An employee eligible for COVID-19 emergency paid sick leave shall be eligible for
198 leave that is compensated by the employer, while maintaining the same employment benefits to
199 which the employee is entitled as a term of employment by an employer to an employee;
200 provided, however, that no employee shall receive, and no employer shall be eligible for
201 reimbursement for such employee, COVID-19 emergency paid sick leave in excess of \$850 per
202 week.

203 (5) An eligible employer who pays an employee for COVID-19 emergency paid sick
204 leave shall be reimbursed by the executive office for administration and finance, or any
205 department or agency thereof, in consultation with the department of revenue, from the COVID-
206 19 Emergency Paid Sick Leave Fund by submitting, in a form prescribed by the executive office

207 for administration and finance, or any department or agency thereof designated by the executive
208 office, an application as provided in paragraph (1) of subsection (e). The executive office, or any
209 department or agency thereof, shall provide such reimbursements directly to eligible employers
210 within 30 business days of the employer submitting the application.

211 (6) An employee's COVID-19 emergency paid sick leave shall terminate at the beginning
212 of the employee's next scheduled work shift immediately following the termination of the need
213 for COVID-19 emergency paid sick leave under subsection (b).

214 (b) An employer shall provide COVID-19 emergency paid sick leave to an employee for
215 the following reasons related to the outbreak of the 2019 novel coronavirus, also known as
216 COVID-19:

217 (1) An employee's need to: (i) self-isolate and care for oneself because of the employee's
218 COVID-19 diagnosis; (ii) seek or obtain medical diagnosis, care or treatment for COVID-19
219 symptoms; or (iii) obtain immunization related to COVID-19 or the employee is recovering from
220 an injury, disability, illness or condition related to such immunization;

221 (2) An employee's need to care for a family member who: (i) is self-isolating due to a
222 COVID-19 diagnosis; or (ii) needs medical diagnosis, care or treatment for COVID-19
223 symptoms;

224 (3) A quarantine order, or other determination by a local, state or federal public official, a
225 health authority having jurisdiction, the employee's employer or a health care provider that the
226 employee's presence on the job or in the community would jeopardize the health of others
227 because of the employee's exposure to COVID-19 or exhibiting of symptoms, regardless of
228 whether the employee has been diagnosed with COVID-19;

229 (4) An employee's need to care for a family member due to a quarantine order, or other
230 determination by a local, state or federal public official, a health authority having jurisdiction,
231 the family member's employer or a health care provider that the family member's presence on
232 the job or in the community would jeopardize the health of others because of the family
233 member's exposure to COVID-19, regardless of whether the family member has been diagnosed
234 with COVID-19; or

235 (5) An employee's inability to telework because the employee has been diagnosed with
236 COVID-19 and the symptoms inhibit the ability of the employee to telework.

237 (c)(1) COVID-19 emergency paid sick leave provided by an employer may be reduced by
238 the amount of wages or wage replacement that an employee receives for that period under any
239 government program or law. COVID-19 emergency paid sick leave shall not be reduced by and
240 shall be in addition to all job protected time off, paid and unpaid, that the employer is required
241 provide to employees: (i) under section 148C of chapter 149 of the General Laws; (ii) under any
242 existing policy or program of the employer; (iii) pursuant to a collectively bargained agreement
243 between the employer and a collective bargaining representative of an employee; or (iv) under
244 federal law, to the extent permitted by that federal law; provided, however, said COVID-19
245 emergency paid sick leave may be reduced if the aggregate amount an employee would receive
246 would exceed the employee's average weekly wage. An employer shall not require an employee
247 to use other paid leave provided by the employer to the employee before the employee uses the
248 COVID-19 emergency paid sick leave, unless federal law requires otherwise.

249 (2) An employee may use COVID-19 emergency paid sick leave on an intermittent basis
250 and in hourly increments.

251 (d) The employee shall provide notice to the employer of the need for COVID-19
252 emergency paid sick leave as soon as practicable or foreseeable. After the first workday an
253 employee receives COVID-19 emergency paid sick leave, an employer may require the
254 employee to follow reasonable notice procedures in order to continue receiving COVID-19
255 emergency paid sick leave. An employer shall not require, as a condition of an employee's
256 taking COVID-19 emergency paid sick leave, that the employee search for or find a replacement
257 worker to cover the hours during which the employee is using COVID-19 emergency paid sick
258 leave.

259 (e)(1) Applications for reimbursements from an eligible employer from the COVID-19
260 Emergency Paid Sick Leave Fund shall be in a form prescribed by the executive office for
261 administration and finance, or any department or agency thereof designated by the executive
262 office, and shall include, but not be limited to, a copy of a written request for COVID-19
263 emergency paid sick leave from the employee to the employer, in which the employee provides:
264 (i) the employee's name; (ii) the date or dates for which leave is requested and taken; (iii) a
265 statement of the COVID-19 related reason the employee is requesting leave and written support
266 for such reason; and (iv) a statement that the employee is unable to work, including by means of
267 telework, for such reason.

268 In the case of a leave request based on a quarantine order or self-quarantine advice, the
269 statement from the employee shall also include: (i) the name of the governmental entity ordering
270 quarantine or the name of the health care provider advising self-quarantine; and (ii) if the person
271 subject to quarantine or advised to self-quarantine is not the employee, that person's name and
272 relation to the employee.

273 (2) Health information related to COVID-19 emergency paid sick leave possessed by an
274 employer regarding an employee or employee's family member shall: (i) be maintained on a
275 separate form and in a separate file from other personnel information; (ii) be treated as
276 confidential medical records; (iii) not be disclosed except to the affected employee or with the
277 express permission of the affected employee; and (iv) be kept confidential in accordance with
278 any other state or federal law.

279 (f) It shall be unlawful for any employer to interfere with, restrain or deny an employee's
280 ability to take COVID-19 emergency paid sick leave, including, but not limited to, using an
281 employee's taking of COVID-19 emergency paid sick leave as a negative factor in any
282 employment action, such as an evaluation, promotion, disciplinary action or termination, or
283 otherwise subjecting an employee to discipline or taking any other adverse action against an
284 employee for the use of COVID-19 emergency paid sick leave.

285 (g) It shall be unlawful for any employer to take any adverse action against an employee
286 because the employee opposes practices believed to be in violation of this section or because the
287 employee supports the exercise of rights of another employee under this section, including, but
288 not limited to: (i) filing an action or instituting or causing to be instituted any proceeding under
289 or related to this section; (ii) providing or intending to provide any information in connection
290 with any inquiry or proceeding related to this section; or (iii) testifying or intending to testify in
291 any inquiry or proceeding related to this section.

292 (h) Nothing in this section shall be construed to: (i) discourage employers, including the
293 commonwealth, its departments, sub-divisions or quasi-public agencies or a municipality,
294 district, political subdivision or its instrumentalities from adopting or retaining job-protected paid

295 time off policies that are more generous than policies set out in this section; (ii) diminish or
296 impair the obligation of an employer to comply with any contract, collective bargaining
297 agreement or any employment benefit program or plan in effect on the effective date of this
298 section that provides to employees greater job-protected paid time off rights than the rights
299 established under this section; or (iii) pre-empt the power of a municipality, district, political
300 subdivision or its instrumentalities from adopting or retaining job-protected paid time off policies
301 more generous than policies that comply with the requirements of this section.

302 Any employer with a separate COVID-19 sick leave policy who makes available an
303 amount of COVID-19 sick leave sufficient to meet the requirements of sections 12 to 14,
304 inclusive, that may be used for the same purposes and under the same conditions as COVID-19
305 emergency paid sick leave under said sections 12 to 14, inclusive, shall not be required to
306 provide additional COVID-19 emergency paid sick leave under said sections 12 to 14, inclusive.

307 (i) Not later than 7 days after the effective date of this section, the executive office of
308 labor and workforce development, in consultation with the executive office for administration
309 and finance, shall prepare and provide to employers notice of this section in English and in other
310 languages required under clause (iii) of subsection (d) of section 62A of chapter 151A of the
311 General Laws. Employers shall post and keep posted this notice in a conspicuous location
312 accessible to employees in every establishment where employees with rights under this section
313 work and shall provide a copy to their employees; provided, however, that in cases where the
314 employer does not maintain a physical workplace, or an employee teleworks or performs work
315 through a web-based platform, notification shall be sent via electronic communication or a
316 conspicuous posting in the web-based platform.

317 (j) The executive office of labor and workforce development, in consultation with the
318 executive office for administration and finance and the executive office of health and human
319 services, shall develop and implement a multilingual outreach program to inform employers,
320 employees and health care providers about the availability of COVID-19 emergency paid sick
321 leave.

322 (k) The executive office for administration and finance, or any department or agency
323 thereof designated by the executive office, shall issue a report on the COVID-19 emergency paid
324 sick leave program that shall include, but not be limited to: (i) aggregate information on the
325 number of employees who were provided COVID-19 emergency paid sick leave; (ii) the reason
326 employees received COVID-19 emergency paid sick leave; (iii) the average amount paid to
327 employees who were provided COVID-19 emergency paid sick leave; (iv) the average length of
328 COVID-19 emergency paid sick leave; (v) the employers who received reimbursements from the
329 COVID-19 Emergency Paid Sick Leave Fund established in section 12; (vi) the average amount
330 of each reimbursement of the employer; and (vii) the total amount of reimbursements received
331 by each employer. The report shall not include any identifying information of an individual
332 employee. The report shall be filed with the clerks of the house of representatives and the senate,
333 the house and senate committees on ways and means and the joint committee on labor and
334 workforce development not later than January 1, 2022.

335 SECTION 14. COVID-19 emergency paid sick leave shall be available to an employee
336 under section 13 until: (i) money in the COVID-19 Emergency Paid Sick Leave Fund established
337 in section 12 is no longer available; (ii) notification from the executive office for administration
338 and finance, or any department or agency thereof designated by the executive office, to

339 employers that it reasonably anticipates funds will no longer be available for reimbursement; or
340 (iii) September 30, 2021, whichever first occurs.

341 SECTION 15. The executive office for administration and finance, or any department or
342 agency thereof designated by the executive office, may promulgate regulations necessary for the
343 implementation of sections 11 to 14, inclusive.

344 SECTION 16. Definitions used in this section and sections 17 to 19, inclusive, shall have
345 the same meanings as in section 1 of chapter 151A of the General Laws; provided, that the
346 following words shall, unless the context clearly requires otherwise, have the following
347 meanings:

348 “Bond”, any type of special obligation bond, including a bond, note, certificate or other
349 instrument, or series thereof, issued by the commonwealth for the purposes set forth under this
350 act.

351 “Bond administrative expenses”, expenses incurred to issue and administer bonds
352 authorized under this act, or as otherwise necessary to ensure compliance with applicable federal
353 or state law.

354 “Federal advances”, loans issued by the federal government to the commonwealth for the
355 payment of compensation under Title XII of the federal Social Security Act or other federal law.

356 SECTION 17. (a) When authorized by a vote taken in the manner provided by section 3
357 of Article LXII of the Amendments to the Constitution of the Commonwealth, the state treasurer,
358 upon request of the governor, may issue special obligation bonds in 1 or more series and in
359 principal amounts necessary or estimated to be necessary to:

360 (i) reduce the amount of, or avoid the need to obtain, a federal advance from the federal
361 government;

362 (ii) repay federal advances made to the commonwealth from the federal unemployment
363 account for the fiscal years 2020 to 2025, inclusive;

364 (iii) repay prior years' interest and other related costs on federal advances for the fiscal
365 years 2020 to 2025, inclusive, to the extent not paid pursuant to section 14J1/2 of chapter 151A
366 of the General Laws;

367 (iv) fund any reserve account, costs of issuance, capitalized interest, if any, and the initial
368 bond administrative expenses; and

369 (v) refund outstanding bonds or notes secured by the Special Contribution
370 Unemployment Compensation Trust Fund established by section 19.

371 (b) The bonds authorized pursuant to this section may be issued by the state treasurer
372 upon a request by the governor and shall state the amount required for the purposes pursuant to
373 subsection (a) and the date or dates upon which such funds are required, and such other matters
374 as the secretary of labor and workforce development and the secretary of administration and
375 finance shall determine as appropriate under such request, consistent with carrying out the
376 purposes of this section. Such request may be filed with the state treasurer only after the
377 secretary of labor and workforce development and the secretary of administration and finance
378 send a letter to the governor recommending the issuance of revenue bonds.

379 (c) Any such bonds shall be special obligations of the commonwealth payable solely
380 from money credited to the Special Contribution Unemployment Compensation Trust Fund

381 established in section 19; provided, however, that notwithstanding any general or special law to
382 the contrary, such bonds shall not be general obligations of the commonwealth. Bonds may be
383 issued in such manner and on such terms and conditions as the state treasurer may determine in
384 accordance with this subsection and, to the extent not inconsistent with this subsection, the
385 General Laws for the issuance of bonds of the commonwealth. Bonds may be secured by a trust
386 agreement entered into by the state treasurer, with the concurrence of the secretary of labor and
387 workforce development and the secretary of administration and finance, on behalf of the
388 commonwealth, and the trust agreement may pledge or assign all or any part of the amounts on
389 deposit in the Special Contribution Unemployment Compensation Trust Fund and rights to
390 receive the same, whether existing or coming into existence and whether held or thereafter
391 acquired, and the proceeds thereof. The state treasurer may, with the concurrence of the secretary
392 of labor and workforce development and the secretary of administration and finance, enter into
393 additional security, insurance or other forms of credit enhancement, which may be secured on a
394 parity or subordinate basis with the bonds. A pledge in any such trust agreement or credit
395 enhancement agreement shall be valid and binding from the time such pledge shall be made
396 without any physical delivery or further act, and the lien of such pledge shall be valid and
397 binding against all parties having claims of any kind in tort, contract or otherwise, whether such
398 parties have notice thereof or not. Any such pledge shall be perfected by filing of the trust
399 agreement or credit enhancement agreement in the records of the state treasurer and no filing
400 shall be required under chapter 106 of the General Laws. Any such trust agreement or credit
401 enhancement agreement may establish provisions defining defaults and establishing remedies
402 and other matters relating to the rights and security of the holders of the bonds or other secured
403 parties as determined by the state treasurer, including provisions relating to the establishment of

404 reserves, the issuance of additional or refunding bonds, whether or not secured on a parity basis,
405 the application of receipts, money or funds pledged pursuant to such agreement, the regulation of
406 the custody, investment and application of money and such other matters deemed necessary or
407 desirable by the state treasurer for the security of such bonds.

408 (d) The state treasurer may also provide for issuance of temporary notes in anticipation of
409 bonds, grants, revenues or appropriations. The issuance of the notes shall be governed by this
410 section relating to the issuance of bonds. The state treasurer may also issue refunding bonds for
411 the purpose of paying any bonds at or before maturity, as provided for and permitted by the
412 terms of a trust agreement. The principal amount of bonds for the payment or redemption of
413 which, either at or before maturity, refunding bonds shall have been issued, shall be excluded
414 from the aggregate principal amount of bonds issued under this chapter for purposes of
415 computing the limit on outstanding bonds under this section.

416 (e) Bonds and notes issued by the commonwealth, their transfer and income therefrom,
417 including any profit made on the sale thereof, shall at all times be free from taxation within the
418 commonwealth. In connection with the issuance of bonds and notes of the commonwealth that
419 are intended to qualify for tax exemption under the federal Internal Revenue Code of 1986, as
420 amended, and to induce the purchase of such bonds and notes, the state treasurer may covenant
421 on behalf of the commonwealth with the purchasers or with the holders from time to time of such
422 bonds or notes or with a trustee or trustees for the benefit of such holders with respect to
423 compliance with the requirements of said Internal Revenue Code relative to such tax exemption,
424 including, but not limited to, compliance with provisions relating to the use of proceeds by
425 private parties, the investment of proceeds and the payment of rebate, so-called, to the federal

426 government. Any such covenant may appear on the bonds or notes or may be included in a
427 separate trust agreement.

428 (f) In order to increase the marketability of any such bonds or notes issued by the
429 commonwealth, the commonwealth covenants with the purchasers and all subsequent owners
430 and transferees of bonds and notes issued by the state treasurer pursuant to this section in
431 consideration of the acceptance of the payment for the bonds and notes, until such bonds and
432 notes, together with the interest thereon, with interest on any unpaid installment of interest and
433 all costs and expenses in connection with any action or proceeding on behalf of such owners, are
434 duly met and discharged or unless expressly permitted or otherwise authorized by the term of
435 each contract and agreement made or entered into by or on behalf of the commonwealth with or
436 for the benefit of such owners that: (i) no pledged funds shall be diverted from the Special
437 Contribution Unemployment Compensation Trust Fund; and (ii) so long as the sums are
438 necessary, as determined by the state treasurer in accordance with any applicable trust or security
439 agreement or credit enhancement agreement or insurance policy related to bonds or notes issued
440 by the state treasurer, for the purposes for which they have been pledged, notwithstanding any
441 general or special law to the contrary, the commonwealth will impose, charge, raise, levy, collect
442 and apply the assessment set forth in section 18 and other revenues, receipts, funds or moneys
443 pledged in an amount sufficient to pay all principal or redemption premium of and interest on the
444 bonds and notes and any other obligation due relating to such bonds and notes and comply with
445 the covenants set forth in trust the agreement providing for such bonds and notes.

446 SECTION 18. (a) For any year in which bonds or notes issued pursuant to section 17 are
447 outstanding, an employer entitled to an experience rate under section 14 of chapter 151A of the

448 General Laws shall be subject to, shall be assessed and shall pay an unemployment obligation
449 assessment.

450 (b) Annually, the commissioner shall set the unemployment obligation assessment rate at
451 an amount sufficient to ensure timely payment of all of the following:

452 (i) principal, interest and any redemption premium on the bonds or notes;

453 (ii) administrative expenses, credit enhancement fees and other fees, if any, in connection
454 with issuing the bonds or notes;

455 (iii) all other amounts required to be maintained and paid under the terms of applicable
456 trust agreements or credit enhancement agreements; and

457 (iv) amounts necessary to establish the ratings on the obligations that are assigned by a
458 nationally recognized rating service at a level determined by the treasurer in the state treasurer's
459 sole discretion.

460 (c) The rate shall be based on a formula prescribed by rules set forth by the
461 commissioner, using the employer's experience rate. The unemployment obligation assessment
462 rate shall apply to the same wage base to which the employer's unemployment tax applies for the
463 applicable period.

464 (d) Not less than 30 days following the annual setting of the unemployment obligation
465 assessment rate, the commissioner shall provide written notice to the house and senate
466 committees on ways and means and the joint committee on labor and workforce development.
467 The notice shall include, but not be limited to: (i) the assessment rate; (ii) a description of the
468 formula on which the assessment rate was based; and (iii) the amounts of any outstanding

469 payments associated with bonds issued pursuant to section 17, including the amounts described
470 in clauses (i) to (iv), inclusive, of subsection (b).

471 (e) The unemployment obligation assessment shall be due at the same time, collected in
472 the same manner and subject to the same penalties and interest as other contributions assessed
473 under said section 14 of said chapter 151A.

474 (f) The unemployment obligation assessment shall be credited to the Special Contribution
475 Unemployment Compensation Trust Fund established pursuant to section 19. Receipts from the
476 assessment shall not be subject to the allowable state tax revenue limitations established by
477 chapter 62F of the General Laws.

478 SECTION 19. (a) There shall be on the books of the commonwealth a fund to be known
479 as the Special Contribution Unemployment Compensation Trust Fund. The fund shall be
480 administered by the secretary of labor and workforce development, with the approval of the
481 secretary of administration and finance.

482 (b) All costs related to the organization, establishment and operation of the fund and all
483 costs related to the establishment of billing, payment and collection procedures for amounts
484 received from employers in payment of the unemployment obligation assessment established by
485 section 18, to the extent not payable under the trust agreement for bonds issued under section 17,
486 may be paid from other amounts available under chapter 151A of the General Laws when made
487 available thereunder for such purpose.

488 (c) Amounts in the fund shall be held by the secretary of labor and workforce
489 development or the secretary's designee, as trustee and not on account of the commonwealth,
490 exclusively for the purposes set forth in section 17, and the secretary of labor and workforce

491 development shall disburse amounts in the fund to a trustee under a trust agreement as set forth
492 in said section 17, without further appropriation. All amounts in the fund, including investment
493 earnings, shall be available for expenditure for any lawful purpose, including, but not limited to,
494 payment of debt service on bonds or notes issued by the state treasurer, and may be pledged to
495 secure special obligation bonds in such manner and according to such priority as set forth in said
496 section 17 or a trust agreement established for such purpose.

497 (d) In order to increase the marketability of any bonds or notes of the trust that may be
498 secured by or payable from amounts held in the fund, the sums to be credited to the fund are
499 hereby impressed with a trust for the benefit of the trust and the holders from time to time of the
500 bonds or notes, and in consideration of the acceptance of payment for the bonds or notes, the
501 commonwealth covenants with the purchasers and all subsequent holders and transferees of the
502 bonds or notes that while the bond or note shall remain outstanding, and so long as the principal
503 of or interest on the bond or note shall remain unpaid, the sums to be credited to the fund shall
504 not be diverted from the control of the trust and, so long as the sums are necessary, as determined
505 by the state treasurer in accordance with any applicable trust or security agreement or credit
506 enhancement agreement or insurance policy related to bonds or notes issued by the state
507 treasurer, for the purposes for which they have been pledged, notwithstanding any general or
508 special law to the contrary, the commonwealth will impose, charge, raise, levy, collect and apply
509 the unemployment obligation assessment set forth in section 18 and other revenues, receipts,
510 funds or moneys pledged in an amount sufficient to pay all principal or redemption premium of
511 and interest on the bonds and notes and any other obligation due relating to such bonds and notes
512 and comply with the covenants set forth in the trust agreement providing for such bonds and
513 notes.

514 SECTION 20. Not later than 10 days after the effective date of this act, the secretary of
515 administration and finance shall direct the comptroller to transfer \$75,000,000 from federal funds
516 received by the commonwealth in response to the public health emergency caused by COVID-
517 19, if any, available and consistent with federal funding requirements to the COVID-19
518 Emergency Paid Sick Leave Fund established in section 12; provided, however, that if the
519 secretary of administration and finance certifies to the comptroller that no such funds are
520 available, the comptroller shall transfer \$75,000,000 from the General Fund to the COVID-19
521 Emergency Paid Sick Leave Fund.

522 SECTION 21. To meet the expenditures necessary in carrying out section 2, the state
523 treasurer shall, upon request of the governor, issue and sell bonds of the commonwealth in an
524 amount to be specified by the governor from time to time but not exceeding, in an aggregate
525 principal amount, \$7,000,000,000. All such bonds issued by the commonwealth shall be
526 designated on their face, the Unemployment Insurance Trust Fund Solvency Act of 2021, and
527 shall be issued for a maximum term of years, not exceeding 10 years, as the governor may
528 recommend to the general court under section 3 of Article LXII of the Amendments to the
529 Constitution of the Commonwealth. All such bonds shall be payable not later than June 30, 2036.
530 All interest and payments on account of principal on these bonds and notes shall be payable from
531 the Special Contribution Unemployment Compensation Trust Fund established pursuant to
532 section 19. Bonds and interest thereon issued under this section shall, notwithstanding any
533 provision of the General Laws or this act, be special obligations of the commonwealth payable
534 solely in accordance with the provisions of said section 19. Notwithstanding any general or
535 special law to the contrary, bonds and notes issued under this act and interest thereon shall not be
536 included in the computation of outstanding bonds for purposes of the limit imposed by the

537 second paragraph of section 60A of chapter 29 of the General Laws, nor shall debt service with
538 respect to these bonds and notes be included in the computation of the limit imposed by section
539 60B of said chapter 29.

540 SECTION 22. The department of family and medical leave shall conduct an analysis on
541 the expansion of the family and medical leave program established by chapter 175M of the
542 General Laws to provide coverage for future communicable illnesses related to a public health
543 emergency. Such analysis shall include, but not be limited to: (i) an examination of the costs and
544 benefits of providing coverage under such program, including, but not limited to, public health
545 and economic benefits; (ii) the impact of providing benefits under such program on other safety
546 net programs used during the COVID-19 pandemic to provide financial assistance to employees,
547 including, but not limited to, unemployment insurance; and (iii) the potential impact of providing
548 coverage for communicable illnesses related to a public health emergency on contributions to the
549 Family and Employment Security Trust Fund established in section 7 of said chapter 175M. The
550 department shall issue a report with its findings, including any legislative recommendations, to
551 the clerks of the house and the senate, the house and senate committees on ways and means and
552 the joint committee on labor and workforce development not later than December 31, 2022.

553 SECTION 23. Notwithstanding any general or special law to the contrary, for the taxable
554 year beginning January 1, 2020, the following items shall be deducted from federal gross income
555 for the purpose of determining Massachusetts gross income under section 2 of chapter 62 of the
556 General Laws: (i) an amount which, but for this section, would be included in the gross income,
557 in whole or in part, of an eligible recipient, as described in subsection (a) of section 1102 of the
558 federal Coronavirus Aid, Relief, and Economic Security Act, P.L. 116-136, because of the
559 forgiveness described in subsection (b) of section 1106 of said Coronavirus Aid, Relief, and

560 Economic Security Act; (ii) an amount of an advance received pursuant to subsection (e) of
561 section 1110 of said Coronavirus Aid, Relief, and Economic Security Act; (iii) an amount of any
562 payment described in subsection (c) of section 1112 of said Coronavirus Aid, Relief, and
563 Economic Security Act; and (iv) an amount of funding received pursuant to section 331 of the
564 federal Economic Aid to Hard-Hit Small Businesses, Nonprofits, and Venues Act, P.L. 116-260.

565 SECTION 24. (a) As used in this section, “unemployment compensation” shall, unless
566 the context clearly requires otherwise, mean unemployment compensation as defined under
567 section 85 of the federal Internal Revenue Code, including, but not limited to, benefits received
568 under chapter 151A of the General Laws, or other unemployment compensation authorized by
569 federal law including, but not limited to, the federal Federal-State Extended Unemployment
570 Compensation Act of 1970, the federal Coronavirus Aid, Relief and Economic Security Act of
571 2020, the federal Continued Assistance for Unemployed Workers Act of 2020, the federal Lost
572 Wages Assistance program or any amendments to those acts.

573 (b) Notwithstanding any general or special law to the contrary, for taxable years
574 beginning on January 1, 2020 and January 1, 2021, any amount, up to \$10,200, of unemployment
575 compensation that is included in a taxpayer’s federal gross income shall be deducted from said
576 federal gross income for the purpose of determining Massachusetts gross income under section 2
577 of chapter 62 of the General Laws if the taxpayer’s household income is not more than 200 per
578 cent of the federal poverty level as calculated by the United States Department of Health and
579 Human Services. For the purpose of this subsection, “household income” shall be determined
580 without regard to this section.

581 (c) The department of unemployment assistance, in conjunction with the department of
582 revenue, shall establish a public information and education campaign to notify taxpayers of the
583 deduction of unemployment compensation under subsection (b) and the tax penalty relief
584 provided in section 8; provided, however, that the campaign shall utilize social media and shall
585 include: (i) multilingual notice of the availability of such unemployment insurance tax relief; (ii)
586 a description of, and the eligibility criteria for, the deduction under said subsection (b); and (iii)
587 targeted and direct outreach to individuals who have received, or are receiving, unemployment
588 compensation. The department of unemployment assistance and the department of revenue shall
589 publish such information on their respective websites in a conspicuous manner and location and
590 in multiple languages in accordance with clause (iii) of subsection (d) of section 62A of chapter
591 151A of the General Laws.

592 SECTION 25. (a) There shall be a special commission on solvency of the Unemployment
593 Trust Fund established in section 14F of chapter 151A of the General Laws. The commission
594 shall consist of: the chairs of the joint committee on labor and workforce development, who shall
595 serve as co-chairs; the secretary of labor and workforce development; the director of
596 unemployment assistance; 2 members appointed by the Massachusetts State Labor Council,
597 AFL-CIO; 1 member appointed by the Associated Industries of Massachusetts, Inc.; 1 member
598 appointed by the Massachusetts Legal Assistance Corporation representing unemployed workers;
599 1 member appointed by the Alliance for Business Leadership, Inc.; 1 member appointed by the
600 Union of Minority Neighborhoods, Inc.; 1 member appointed by the Massachusetts Restaurant
601 Association, Inc.; 1 member appointed by the Black Economic Council of Massachusetts, Inc.; 1
602 member appointed by the Massachusetts Building Trades Council; 1 member appointed by the

603 National Federation of Independent Businesses; and 1 member appointed by the Retailers
604 Association of Massachusetts, Inc.

605 (b) The commission shall study the long-term solvency of the trust fund, including, but
606 not limited to: (i) evaluating whether changes are necessary to the experience rating system that
607 would promote solvency and reduce the tax impact on small businesses; (ii) examining
608 increasing or indexing the taxable wage base under section 14 of said chapter 151A; (iii)
609 examining the industry specific impacts of changes to the unemployment tax rate; (iv) reviewing
610 solvency efforts in other state unemployment tax systems; (v) determining what changes are
611 necessary to benefit from federal tax credits and federal interest-free borrowing under the
612 Federal Unemployment Tax Act; and (vi) examining benefit structure. The executive office of
613 labor and workforce development and the department of unemployment assistance shall furnish
614 any necessary information or documentation to develop recommendations on the areas of study.
615 The commission may consult as necessary with relevant stakeholders, academic institutions and
616 experts and may convene them as an advisory panel.

617 (c) The commission shall hold at least 1 public hearing, and may hold additional hearings
618 as necessary, at which members of the public shall have an opportunity to speak.

619 (d) Not later than December 10, 2021, the commission shall file a report with the clerks
620 of the house and senate and the house and senate committees on ways and means that shall
621 include the commission's findings and recommendations for legislation that would ensure long-
622 term solvency of the trust fund and meet solvency criteria required by the United States
623 Department of Labor under the Federal Unemployment Tax Act and applicable regulations and
624 guidance.

625 SECTION 26. Notwithstanding chapter 62C of the General Laws or any other general or
626 special law to the contrary, all returns and payments for the 2020 calendar year that would be
627 otherwise due on April 15, 2021 pursuant to section 6 of said chapter 62C shall be due on May
628 17, 2021.

629 SECTION 27. Section 3 is hereby repealed.

630 SECTION 28. Section 8 is hereby repealed.

631 SECTION 29. Sections 11 to 14, inclusive, shall take effect 10 days after the effective
632 date of this act.

633 SECTION 30. Section 27 shall take effect on January 1, 2023.

634 SECTION 31. Section 28 shall take effect on January 1, 2022.