

HOUSE No. 5206

The Commonwealth of Massachusetts



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LIEUTENANT GOVERNOR

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To the Honorable Senate and House of Representatives,

I am filing for your consideration a bill entitled “An Act Financing a Program for Improvements to the Unemployment Insurance Trust Fund and Relief to Employers in the Commonwealth”. This legislation proposes to provide relief to the employers of the Commonwealth, ensure that the Unemployment Insurance Trust Fund is sufficiently solvent to continue benefits for Massachusetts worker,s and establish a mechanism to repay federal borrowing that has occurred. It is critical that these steps be taken as soon as possible as part of the ongoing response to the COVID-19 pandemic.

Specifically, this bill proposes to freeze the experience rate of employers for calendar years 2021 and 2022 at rate schedule “E”. This freeze will provide employers immediate rate relief by slowing the annual employer unemployment insurance contribution growth rate. Without this rate freeze, employer contribution rates would be based on the higher rate schedule “G” beginning on January 1.

This legislation also establishes a surcharge on contributory employers from January 1, 2021 until December 31, 2022 to fund interest payments on repayable advances the Commonwealth’s Unemployment Trust Fund has received or will receive from the U.S. Department of Labor. The legislation establishes a separate fund to house these surcharge proceeds. Given the significant increase in unemployment claims resulting from the COVID-19 pandemic, these federal advances were necessary to assure payment of all unemployment

insurance (UI) compensation due. The first interest payment is due Fall 2021 and it cannot be paid from the state unemployment trust fund, per federal law.

Additionally, this legislation authorizes the Commonwealth to issue special obligation bonds to repay the federal advances made to the Commonwealth from the federal unemployment account for the fiscal years 2020 to 2025 and to establish positive trust fund solvency with which to pay benefits and other related expenses.

I recognize that I am filing this bill at the very end of the extended formal legislative session. The session was extended for matters such as this: legislation that responds to the critical needs of the Commonwealth during the pandemic. It is important that this legislation be enacted by the end of the calendar year in order to provide certainty to businesses that are planning and making business decisions for the coming year. A commitment now that the amounts employers pay for UI will not increase by hundreds of millions of dollars in April will provide additional flexibility and predictability that businesses can utilize over the winter months of 2021.

Lastly, the financing proposals included in this bill are critically important to ensure that the proposed relief to businesses will not come at the expense of the solvency of the UI Trust Fund at a time when the finances of the Commonwealth's unemployment benefit system have been stressed as never before. For all of these reasons, I urge you to enact this legislation promptly.

Respectfully submitted

Charles D. Baker,
Governor

9 7003-2025 For the program to reduce the amount of, or avoid the need to obtain, a
10 federal advance from the federal government or to repay federal advances made to the
11 commonwealth from the federal unemployment account for the fiscal years 2020 to 2025,
12 inclusive, and to fund any reserve account, costs of issuance, and capitalized interest, if any,
13 related to bonds issued for such purposes and the initial costs established pursuant to section 8 of
14 this act and expenses of the administration of said program; provided, that the aggregate
15 principal amount shall not exceed the total amount authorized in this item
16\$7,000,000,000.

17 SECTION 3. Chapter 151A of the General Laws, as appearing in the 2018 Official
18 Edition, is hereby amended by inserting after section 14J the following section:-

19 Section 14J1/2. For the period from January 1, 2021 until 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:

Experience Factor	Contribution Rate	Excise Rate
POSITIVE PERCENT 17 or more	0.94	0.100
16.0	1.08	0.115
15.0	1.21	0.130
14.0	1.34	0.145
13.5	1.61	0.160
13.0	1.75	0.175
12.5	1.89	0.190
12.0	2.01	0.205
11.5	2.15	0.220
11.0	2.29	0.235
10.5	2.42	0.250
10.0	2.56	0.265
9.5	2.69	0.280
9.0	2.82	0.295
8.5	2.96	0.310

8.0	3.09	0.325
7.5	3.23	0.340
7.0	3.37	0.355
6.5	3.50	0.370
6.0	3.63	0.385
5.5	3.76	0.400
5.0	3.90	0.415
4.5	4.04	0.430
4.0	4.17	0.445
3.5	4.30	0.460
3.0	4.44	0.475
2.5	4.57	0.490
2.0	4.71	0.505
1.5	4.84	0.520
1.0	4.98	0.535
0.5	5.11	0.550
0.0	5.24	0.565
NEGATIVE PERCENT 0.0 or less	7.03	0.580
-1.0	7.64	0.595
-3.0	8.26	0.610
-5.0	8.86	0.625
-7.0	9.48	0.640
-9.0	10.09	0.655
-11.0	10.70	0.670
-13.0	11.31	0.685
-15.0	11.93	0.700
-17.0	12.53	0.715
-19.0	13.15	0.730
-21.0	13.76	0.745
-23.0 or less	14.37	0.760

22

23 For the purpose of this section, the term “wages” shall include only that part of
24 remuneration on which the employer is required to make contributions pursuant to section 14.
25 Such excise shall be paid to the commissioner in accordance with the procedures prescribed by
26 the commissioner, and shall be due at the same time as the contributions required pursuant to
27 section 14 are due. The commissioner shall deposit the receipts of such excise into the Federal

28 Loan Interest Fund established by section 14K. Such receipts shall not be subject to the
29 allowable state tax revenue limitations established by chapter 62F. Prior to the depositing of the
30 receipts, the commissioner may deduct all administrative costs incurred as a result of this section,
31 including an amount as determined by the United States Secretary of Labor in accordance with
32 federal cost rules, if applicable.

33 Except where inconsistent with the terms of this section, the terms and conditions of this
34 chapter which are applicable to the payment of and the collection of contributions shall apply to
35 the payment of and the collection of said excise; provided, however, that said excise shall not be
36 credited to the employer's account or to the solvency account established pursuant to section 14
37 except as otherwise provided in section 14K.

38 The commissioner, after providing at least 30 days' notice to the chairs of the joint
39 committee on labor and workforce development, may adjust the excise rate specified in this
40 section to pay interest required to be paid to the Federal Loan Interest Fund.

41 SECTION 4. Said chapter 151A, as so appearing, is hereby further amended by striking
42 out section 14K and inserting in place thereof the following section:-

43 Section 14K. There is hereby established a separate fund to be known as the Federal Loan
44 Interest Fund which shall be administered by the commissioner, without liability on the part of
45 the commonwealth beyond the amount credited to and earned by the fund. Said fund shall consist
46 of all amounts received under section 14J1/2, which shall be credited to such fund, except as
47 otherwise provided in said section 14J1/2 and any other monies authorized by law to be credited
48 to said fund. Money in the fund shall be used only for the payment of interest required to be paid
49 under section 1202(b) of the Social Security Act. The monies in said fund shall be continuously

50 available to the commissioner for the payment of said interest without further appropriation and
51 shall not lapse at any time or be transferred to any other fund or account except as herein
52 provided. On September 30 of each calendar year, the commissioner shall transfer from the
53 Federal Loan Interest Fund to the Unemployment Compensation Fund any amounts deposited
54 therein pursuant to section 14J1/2 prior to the immediately preceding 36 month period which
55 have not been expended for the payment of interest. The commissioner shall credit such amounts
56 transferred to the solvency account pursuant to paragraph (1) of subsection (e) of section 14 as of
57 October 1 of said calendar year.

58 SECTION 5. Notwithstanding section 14 of chapter 151A of the General Laws, for
59 calendar years 2021 and 2022, the experience rate of an employer qualifying under subsection
60 (b) of said section 14 of said chapter 151A shall be the rate which appears in column “E” of
61 paragraph (1) of subsection (i) of said section 14 of said chapter 151A.

62 SECTION 6. Notwithstanding any federal interest charges for necessary federal
63 advances, the director of unemployment assistance or “commissioner” as defined in subsection
64 (e ½) of section 1 of chapter 151A of the General Laws may pursue any necessary federal
65 advances to provide for timely payment of benefits. Nothing in this act shall contribute to or
66 allow for a reduction in benefits including, but not limited to, the amount or length of benefits,
67 pursuant to said chapter 151A.

68 SECTION 7. Words used in this section and sections 8 to 10, inclusive, of this act shall
69 have the same meaning as in section 1 of chapter 151A of the General Laws. The following
70 words as used in this section and sections 8 to 10, inclusive, shall have the following meanings
71 unless the context clearly requires otherwise:

72 “Bond.” Any type of special obligation bond, including a bond, note, certificate or other
73 instrument, or series thereof, issued by the commonwealth for the purposes set forth under this
74 act.

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

78 “Federal advances.” Loans by the federal government to the commonwealth for the
79 payment of compensation under Title XII of the Social Security Act (58 Stat. 790, 42 U.S.C. §
80 1321 et seq.) or any similar federal law.

81 “Secretaries”, the secretary of administration and finance and the secretary of labor and
82 workforce development.

83 “Secretary”, the secretary of labor and workforce development.

84 SECTION 8. (a) When authorized by a vote taken in the same manner provided by
85 Section 3 of Article LXII of the Amendments to the Constitution of the Commonwealth, the
86 treasurer, upon request of the governor, may issue special obligation bonds in 1 or more series
87 and in principal amounts necessary or estimated to be necessary to:

88 (i) Reduce the amount of, or avoid the need to obtain, a federal advance from the federal
89 government;

90 (ii) Repay federal advances made to the commonwealth from the federal unemployment
91 account for the fiscal years 2020 to 2025, inclusive;

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

95 (iv) Fund any reserve account, costs of issuance, capitalized interest, if any, and the initial
96 bond administrative expenses; and.

97 (v) Refund outstanding bonds or notes secured by the Special Contribution
98 Unemployment Compensation Trust Fund.

99 (b) The bonds authorized pursuant to this section shall be issued by the treasurer upon a
100 request by the governor, and state the amount required for the above purposes and the date or
101 dates upon which such funds are required, and such other matters as the secretaries shall
102 determine as appropriate under such request, consistent with carrying out the purposes of this
103 section. Such request can be filed with the treasurer only after the secretaries send a letter to the
104 governor recommending the issuance of revenue bonds.

105 (c) Any such bonds shall be special obligations of the commonwealth payable solely
106 from monies credited to the Special Contribution Unemployment Compensation Trust Fund
107 established in section 10; provided, however, that notwithstanding any general or special law to
108 the contrary, such bonds shall not be general obligations of the commonwealth. Bonds may be
109 issued in such manner and on such terms and conditions as the treasurer may determine in
110 accordance with this paragraph and, to the extent not inconsistent with this paragraph, the
111 General Laws for the issuance of bonds of the commonwealth. Bonds may be secured by a trust
112 agreement entered into by the treasurer, with the concurrence of the secretaries, on behalf of the
113 commonwealth, which trust agreement may pledge or assign all of the amounts on deposit in the

114 Special Contribution Unemployment Compensation Trust Fund and rights to receive the same,
115 whether existing or coming into existence and whether held or thereafter acquired, and the
116 proceeds thereof. The treasurer may, with the concurrence of the secretaries, enter into additional
117 security, insurance or other forms of credit enhancement which may be secured on a parity or
118 subordinate basis with the bonds. A pledge in any such trust agreement or credit enhancement
119 agreement shall be valid and binding from the time such pledge shall be made without any
120 physical delivery or further act, and the lien of such pledge shall be valid and binding against all
121 parties having claims of any kind in tort, contract or otherwise, whether such parties have notice
122 thereof or not. Any such pledge shall be perfected by filing of the trust agreement or credit
123 enhancement agreement in the records of the treasurer and no filing need be made under chapter
124 106 of the General Laws. Any such trust agreement or credit enhancement agreement may
125 establish provisions defining defaults and establishing remedies and other matters relating to the
126 rights and security of the holders of the bonds or other secured parties as determined by the
127 treasurer, including provisions relating to the establishment of reserves, the issuance of
128 additional or refunding bonds, whether or not secured on a parity basis, the application of
129 receipts, monies or funds pledged pursuant to such agreement, the regulation of the custody,
130 investment and application of monies and such other matters deemed necessary or desirable by
131 the treasurer for the security of such bonds.

132 (d) The treasurer may also provide for issuance of temporary notes in anticipation of
133 bonds, grants, revenues or appropriations. The issuance of the notes shall be governed by this
134 section relating to the issuance of bonds. The treasurer may also issue refunding bonds for the
135 purpose of paying any bonds at or before maturity, as provided for and permitted by the terms of
136 a trust agreement. The principal amount of bonds for the payment or redemption of which, either

137 at or before maturity, refunding bonds shall have been issued, shall be excluded from the
138 aggregate principal amount of bonds issued under this chapter for purposes of computing the
139 limit on outstanding bonds under this section.

140 (e) Bonds and notes issued by the commonwealth, their transfer and income therefrom,
141 including any profit made on the sale thereof, shall at all times be free from taxation within the
142 commonwealth. In connection with the issuance of bonds and notes of the commonwealth which
143 are intended to qualify for tax exemption under the Internal Revenue Code of 1986, and to
144 induce the purchase of such bonds and notes, the treasurer may covenant on behalf of the
145 commonwealth with the purchasers or with the holders from time to time of such bonds or notes
146 or with a trustee or trustees for the benefit of such holders with respect to compliance with the
147 requirements of said Internal Revenue Code relative to such tax exemption, including without
148 limitation compliance with provisions relating to the use of proceeds by private parties, the
149 investment of proceeds and the payment of rebate, so-called, to the federal government. Any
150 such covenant may appear on the bonds or notes or may be included in a separate trust
151 agreement.

152 (f) In order to increase the marketability of any such bonds or notes issued by the
153 commonwealth, the commonwealth covenants with the purchasers and all subsequent owners
154 and transferees of bonds and notes issued by the treasurer pursuant to this section in
155 consideration of the acceptance of the payment for the bonds and notes, until such bonds and
156 notes, together with the interest thereon, with interest on any unpaid installment of interest and
157 all costs and expenses in connection with any action or proceeding on behalf of such owners, are
158 duly met and discharged or unless expressly permitted or otherwise authorized by the term of
159 each contract and agreement made or entered into by or on behalf of the commonwealth with or

160 for the benefit of such owners: (i) no pledged funds shall be diverted from the Special
161 Contribution Unemployment Compensation Trust Fund; and (ii) so long as the sums are
162 necessary, as determined by the treasurer in accordance with any applicable trust or security
163 agreement or credit enhancement agreement or insurance policy related to bonds or notes issued
164 by the treasurer, for the purposes for which they have been pledged, notwithstanding any general
165 or special law to the contrary, the commonwealth will impose, charge, raise, levy, collect and
166 apply the assessment set forth in section 9 and other revenues, receipts, funds or moneys pledged
167 in an amount sufficient to pay all principal or redemption premium of and interest on the bonds
168 and notes and any other obligation due relating to such bonds and notes and comply with the
169 covenants set forth in trust agreement providing for such bonds and notes.

170 SECTION 9. For any year in which bonds issued pursuant to section 8 are outstanding,
171 an employer entitled to an experience rating under section 14 of chapter 151A of the General
172 Laws is subject to, shall be assessed, and shall pay an unemployment obligation assessment.

173 On an annual basis, the commissioner shall set the unemployment obligation assessment
174 rate an amount sufficient to ensure timely payment of all of the following:

175 (i) Principal, interest and any redemption premium on the bonds or notes;

176 (ii) Administrative expenses, credit enhancement fees and other fees, if any, in
177 connection with issuing the bonds or notes;

178 (iii) All other amounts required to be maintained and paid under the terms of applicable
179 trust agreements or credit enhancement agreements; and

180 (iv) Amounts necessary to establish the ratings on the obligations that are assigned by a
181 nationally recognized rating service at a level determined by the treasurer in the treasurer's sole
182 discretion.

183 The rate shall be based on a formula prescribed by rules set forth by the commissioner,
184 using the employer's experience rating. The unemployment obligation assessment rate shall
185 apply to the same wage base to which the employer's unemployment tax applies for the
186 applicable period.

187 The unemployment obligation assessment is due at the same time, collected in the same
188 manner, and subject to the same penalties and interest as other contributions assessed under said
189 section 14 of said chapter 151A.

190 The assessment shall be credited to the Special Contribution Unemployment
191 Compensation Trust Fund established pursuant to section 10. Receipts from the assessment shall
192 not be subject to the allowable state tax revenue limitations established by chapter 62F

193 SECTION 10. (a) There is hereby established on the books of the commonwealth a fund
194 to be known as the Special Contribution Unemployment Compensation Trust Fund. Said fund
195 shall be administered by the Secretary, with the approval of the secretary of administration and
196 finance,

197 (b) All costs related to the organization, establishment and operation of the fund and all
198 costs related to the establishment of billing, payment and collection procedures for amounts
199 received from employers in payment of the assessment established by section 9, to the extent not
200 payable under the trust agreement for bonds issued under section 8, may be paid from other

201 amounts available under chapter 151A of the General Laws when made available thereunder for
202 such purpose.

203 (c) Amounts in the fund shall be held by the secretary or the secretary's designee, as
204 trustee and not on account of the commonwealth, exclusively for the purposes set forth in section
205 8, and the secretary shall disburse amounts in the fund to a trustee under a trust agreement as set
206 forth in said section 8, without further appropriation. All amounts in the fund, including
207 investment earnings, shall be available for expenditure for any lawful purpose, including without
208 limitation payment of debt service on bonds or notes issued by the treasurer, and may be pledged
209 to secure special obligation bonds in such manner and according to such priority as set forth in
210 said section 8 or a trust agreement established for such purpose.

211 (d) In order to increase the marketability of any bonds or notes of the trust which may be
212 secured by or payable from amounts held in the fund, the sums to be credited to the fund are
213 hereby impressed with a trust for the benefit of the trust and the holders from time to time of the
214 bonds or notes, and in consideration of the acceptance of payment for the bonds or notes, the
215 commonwealth covenants with the purchasers and all subsequent holders and transferees of the
216 bonds or notes that while the bond or note shall remain outstanding, and so long as the principal
217 of or interest on the bond or note shall remain unpaid, the sums to be credited to the fund shall
218 not be diverted from the control of the trust and, so long as the sums are necessary, as determined
219 by the treasurer in accordance with any applicable trust or security agreement or credit
220 enhancement agreement or insurance policy related to bonds or notes issued by the treasurer, for
221 the purposes for which they have been pledged, notwithstanding any general or special law to the
222 contrary, the commonwealth will impose, charge, raise, levy, collect and apply the assessment
223 set forth in section 9 and other revenues, receipts, funds or moneys pledged in an amount

224 sufficient to pay all principal or redemption premium of and interest on the bonds and notes and
225 any other obligation due relating to such bonds and notes and comply with the covenants set
226 forth in trust agreement providing for such bonds and notes.

227 SECTION 11. To meet the expenditures necessary in carrying out section 2, the
228 treasurer shall, upon request of the governor, issue and sell bonds of the commonwealth in an
229 amount to be specified by the governor from time to time but not exceeding, in an aggregate
230 principal amount, \$7,000,000,000. All such bonds issued by the commonwealth shall be
231 designated on their face, the Unemployment Insurance Trust Fund Solvency Act of 2020, and
232 shall be issued for a maximum term of years, not exceeding 30 years, as the governor may
233 recommend to the general court under section 3 of Article LXII of the Amendments to the
234 Constitution of the Commonwealth. All such bonds shall be payable not later than June 30, 2055.
235 All interest and payments on account of principal on these bonds and notes shall be payable from
236 the Special Contribution Unemployment Compensation Trust Fund established pursuant to
237 section 10. Bonds and interest thereon issued under this section shall, notwithstanding any
238 provision of the General Laws or this act, be special obligations of the commonwealth payable
239 solely in accordance with the provisions of said section 10. Notwithstanding any general or
240 special law to the contrary, bonds and notes issued under this act and interest thereon shall not be
241 included in the computation of outstanding bonds for purposes of the limit imposed by the
242 second paragraph of section 60A of chapter 29 of the General Laws, nor shall debt service with
243 respect to these bonds and notes be included in the computation of the limit imposed by section
244 60B of said chapter 29.