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HOUSE . . . . . No. 55

The Commonwealth of Massachusetts

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CHARLES D. BAKER
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LIEUTENANT GOVERNOR

January 13, 2021

To the Honorable Senate and House of Representatives,

As the 192nd General Court begins, I am refiling for your consideration a bill that was filed in the previous legislative session entitled, "An Act Financing a Program for Improvements to the Unemployment Insurance Trust Fund and Relief to Employers in the Commonwealth". This legislation would provide rate relief to the employers of the Commonwealth, ensure that the Unemployment Insurance Trust Fund is sufficiently solvent to continue benefits for Massachusetts workers, 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 freeze employer contribution rates would be based on the higher rate schedule "G" beginning on January 1. The legislation would allow us to charge employers at the schedule "E" rate retroactively.

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.

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.

I urge you to enact this legislation as soon as possible, and in no event later than early March when rate notices will be issued, so that we may provide certainty to businesses that are planning and making business decisions for this 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 need during the winter months of 2021.

Respectfully submitted

Charles D. Baker,
Governor

HOUSE . . . . . No. 55

The Commonwealth of Massachusetts

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

An Act financing a program for improvements to the Unemployment Insurance Trust Fund and relief to employers in the Commonwealth.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to immediately begin to restore solvency to the Unemployment Insurance Trust Fund, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience., 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. To provide for a program for improvements to the Unemployment Insurance Trust Fund and relief to employers in the Commonwealth, the sums set forth in this act, for the several purposes and subject to the conditions specified in this act, are hereby made available, subject to the laws regulating the disbursement of public funds. This sum shall be in addition to any amounts previously authorized and made available for these purposes.

SECTION 2.

EXECUTIVE OFFICE FOR LABOR AND WORKFORCE DEVELOPMENT

Office of the Secretary

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

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

Section 14J1/2. For the period from January 1, 2021 until December 31, 2022, each employer required to make contributions pursuant to section 14 shall pay an excise on the wages 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

29	13.0	1.75	0.175
30	12.5	1.89	0.190
31	12.0	2.01	0.205
32	11.5	2.15	0.220
33	11.0	2.29	0.235
34	10.5	2.42	0.250
35	10.0	2.56	0.265
36	9.5	2.69	0.280
37	9.0	2.82	0.295
38	8.5	2.96	0.310
39	8.0	3.09	0.325
40	7.5	3.23	0.340
41	7.0	3.37	0.355
42	6.5	3.50	0.370
43	6.0	3.63	0.385
44	5.5	3.76	0.400
45	5.0	3.90	0.415

46	4.5	4.04	0.430
47	4.0	4.17	0.445
48	3.5	4.30	0.460
49	3.0	4.44	0.475
50	2.5	4.57	0.490
51	2.0	4.71	0.505
52	1.5	4.84	0.520
53	1.0	4.98	0.535
54	0.5	5.11	0.550
55	0.0	5.24	0.565
56			
57			
58	NEGATIVE PERCENT 0.0 or less	7.03	0.580
59	-1.0	7.64	0.595
60	-3.0	8.26	0.610
61	-5.0	8.86	0.625
62	-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

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

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

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

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

Section 14K. There is hereby established a separate fund to be known as the Federal Loan Interest Fund which shall be administered by the commissioner, without liability on the part of the commonwealth beyond the amount credited to and earned by the fund. Said fund shall consist of all amounts received under section 14J1/2, which shall be credited to such fund, except as otherwise provided in said section 14J1/2 and any other monies authorized by law to be credited to said fund. Money in the fund shall be used only for the payment of interest required to be paid under section 1202(b) of the Social Security Act. The monies in said fund shall be continuously available to the commissioner for the payment of said interest without further appropriation and shall not lapse at any time or be transferred to any other fund or account except as herein provided. On September 30 of each calendar year, the commissioner shall transfer from the Federal Loan Interest Fund to the Unemployment Compensation Fund any amounts deposited therein pursuant to section 14J1/2 prior to the immediately preceding 36 month period which

have not been expended for the payment of interest. The commissioner shall credit such amounts transferred to the solvency account pursuant to paragraph (1) of subsection (e) of section 14 as of October 1 of said calendar year.

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

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

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

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

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

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

"Secretaries", the secretary of administration and finance and the secretary of labor and workforce development.

"Secretary", the secretary of labor and workforce development.

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

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

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

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

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

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

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

(c) Any such bonds shall be special obligations of the commonwealth payable solely from monies credited to the Special Contribution Unemployment Compensation Trust Fund established in section 10; provided, however, that notwithstanding any general or special law to the contrary, such bonds shall not be general obligations of the commonwealth. Bonds may be issued in such manner and on such terms and conditions as the treasurer may determine in accordance with this paragraph and, to the extent not inconsistent with this paragraph, the General Laws for the issuance of bonds of the commonwealth. Bonds may be secured by a trust agreement entered into by the treasurer, with the concurrence of the secretaries, on behalf of the commonwealth, which trust agreement may pledge or assign all of the amounts on deposit in the Special Contribution Unemployment Compensation Trust Fund and rights to receive the same, whether existing or coming into existence and whether held or thereafter acquired, and the proceeds thereof. The treasurer may, with the concurrence of the secretaries, enter into additional

security, insurance or other forms of credit enhancement which may be secured on a parity or subordinate basis with the bonds. A pledge in any such trust agreement or credit enhancement agreement shall be valid and binding from the time such pledge shall be made without any physical delivery or further act, and the lien of such pledge shall be valid and binding against all parties having claims of any kind in tort, contract or otherwise, whether such parties have notice thereof or not. Any such pledge shall be perfected by filing of the trust agreement or credit enhancement agreement in the records of the treasurer and no filing need be made under chapter 106 of the General Laws. Any such trust agreement or credit enhancement agreement may establish provisions defining defaults and establishing remedies and other matters relating to the rights and security of the holders of the bonds or other secured parties as determined by the treasurer, including provisions relating to the establishment of reserves, the issuance of additional or refunding bonds, whether or not secured on a parity basis, the application of receipts, monies or funds pledged pursuant to such agreement, the regulation of the custody, investment and application of monies and such other matters deemed necessary or desirable by the treasurer for the security of such bonds.

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

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

(f) In order to increase the marketability of any such bonds or notes issued by the commonwealth, the commonwealth covenants with the purchasers and all subsequent owners and transferees of bonds and notes issued by the treasurer pursuant to this section in consideration of the acceptance of the payment for the bonds and notes, until such bonds and notes, together with the interest thereon, with interest on any unpaid installment of interest and all costs and expenses in connection with any action or proceeding on behalf of such owners, are duly met and discharged or unless expressly permitted or otherwise authorized by the term of each contract and agreement made or entered into by or on behalf of the commonwealth with or for the benefit of such owners: (i) no pledged funds shall be diverted from the Special Contribution Unemployment Compensation Trust Fund; and (ii) so long as the sums are necessary, as determined by the treasurer in accordance with any applicable trust or security

agreement or credit enhancement agreement or insurance policy related to bonds or notes issued by the treasurer, for the purposes for which they have been pledged, notwithstanding any general or special law to the contrary, the commonwealth will impose, charge, raise, levy, collect and apply the assessment set forth in section 9 and other revenues, receipts, funds or moneys pledged in an amount sufficient to pay all principal or redemption premium of and interest on the bonds and notes and any other obligation due relating to such bonds and notes and comply with the covenants set forth in trust agreement providing for such bonds and notes.

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

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

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

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

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

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

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

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

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

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

(b) All costs related to the organization, establishment and operation of the fund and all costs related to the establishment of billing, payment and collection procedures for amounts received from employers in payment of the assessment established by section 9, to the extent not payable under the trust agreement for bonds issued under section 8, may be paid from other amounts available under chapter 151A of the General Laws when made available thereunder for such purpose.

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

8, and the secretary shall disburse amounts in the fund to a trustee under a trust agreement as set forth in said section 8, without further appropriation. All amounts in the fund, including investment earnings, shall be available for expenditure for any lawful purpose, including without limitation payment of debt service on bonds or notes issued by the treasurer, and may be pledged to secure special obligation bonds in such manner and according to such priority as set forth in said section 8 or a trust agreement established for such purpose.

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

SECTION 11. To meet the expenditures necessary in carrying out section 2, the treasurer shall, upon request of the governor, issue and sell bonds of the commonwealth in an amount to be specified by the governor from time to time but not exceeding, in an aggregate principal amount, $7,000,000,000. All such bonds issued by the commonwealth shall be designated on their face, the Unemployment Insurance Trust Fund Solvency Act of 2021, and shall be issued for a maximum term of years, not exceeding 30 years, as the governor may recommend to the general court under section 3 of Article LXII of the Amendments to the Constitution of the Commonwealth. All such bonds shall be payable not later than June 30, 2056. All interest and payments on account of principal on these bonds and notes shall be payable from the Special Contribution Unemployment Compensation Trust Fund established pursuant to section 10. Bonds and interest thereon issued under this section shall, notwithstanding any provision of the General Laws or this act, be special obligations of the commonwealth payable solely in accordance with the provisions of said section 10. Notwithstanding any general or special law to the contrary, bonds and notes issued under this act and interest thereon shall not be included in the computation of outstanding bonds for purposes of the limit imposed by the second paragraph of section 60A of chapter 29 of the General Laws, nor shall debt service with respect to these bonds and notes be included in the computation of the limit imposed by section 60B of said chapter 29.