

HOUSE No. 95

Text of a further amendment (offered by Mr. Michlewitz of Boston) to 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).
March 22, 2021.

The Commonwealth of Massachusetts

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

By striking out all after the enacting clause and inserting in place thereof the following:—

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 section 2 shall be in addition to any amounts previously authorized and made available for these
6 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 19
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 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:

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 which are applicable to the payment of and the collection of contributions pursuant to
33 said section 14 shall apply to the payment of and the collection of said excise; provided,

34 however, that said excise shall not be credited to the employer's account or to the solvency
35 account established pursuant to said section 14 except as otherwise provided in 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 is hereby established a separate fund to be known as the Federal Loan
47 Interest Fund which shall be administered by the commissioner, without liability on the part of
48 the commonwealth beyond the amount credited to and earned by the fund. Said fund shall consist
49 of all amounts received under section 14J1/2, which shall be credited to such fund, except as
50 otherwise provided in said section 14J1/2 and any other monies authorized by law to be credited
51 to said fund. Money credited to the fund shall be used only for the payment of interest required
52 to be paid under section 1202(b) of the federal Social Security Act. The monies in said fund shall
53 be continuously available to the commissioner for the payment of said interest without further
54 appropriation and shall not lapse at any time or be transferred to any other fund or account
55 except as provided in this section. On September 30 of each calendar year, the commissioner

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

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

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

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

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

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

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

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

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

94 SECTION 9. Notwithstanding chapter 62C of the General Laws or any other general or
95 special law to the contrary, all returns and payments for the 2020 calendar year that would be
96 otherwise due on April 15, 2021 pursuant to subsection (a) of section 6 of said chapter 62C shall
97 be due on May 17, 2021.

98 SECTION 10. Notwithstanding section 14 of chapter 151A of the General Laws, for
99 calendar years 2021 and 2022, the experience rate of an employer qualifying under subsection

100 (b) of said section 14 of said chapter 151A shall be the rate which appears in column “E” of
101 paragraph (1) of subsection (i) of said section 14 of said chapter 151A.

102 SECTION 11. Notwithstanding any federal interest charges for necessary federal
103 advances, the commissioner, as defined in subsection (e 1/2) of section 1 of chapter 151A of the
104 General Laws, may pursue any necessary federal advances to provide for timely payment of
105 benefits. Nothing in this act shall contribute to or allow for a reduction in benefits including, but
106 not limited to, the amount or length of benefits, pursuant to said chapter 151A.

107 SECTION 12. Notwithstanding any general or special law to the contrary, for the taxable
108 year beginning January 1, 2020, the following items shall be deducted from federal gross income
109 for the purpose of determining Massachusetts gross income under section 2 of chapter 62 of the
110 General Laws: (i) an amount which, but for this section, would be included in the gross income,
111 in whole or in part, of an eligible recipient, as described in subsection (a) of section 1102 of the
112 federal Coronavirus Aid, Relief, and Economic Security Act, P.L. 116-136, because of the
113 forgiveness described in subsection (b) of section 1106 of said federal Coronavirus Aid, Relief,
114 and Economic Security Act, P.L. 116-136; (ii) an amount of an advance received pursuant to
115 subsection (e) of section 1110 of said federal Coronavirus Aid, Relief, and Economic Security
116 Act, P.L. 116-136; (iii) an amount of any payment described in subsection (c) of section 1112 of
117 said federal Coronavirus Aid, Relief, and Economic Security Act, P.L. 116-136; and (iv) an
118 amount of funding received pursuant to section 331 of the federal Economic Aid to Hard-Hit
119 Small Businesses, Nonprofits, and Venues Act, P.L. 116-260.

120 SECTION 13. The following definitions shall apply to sections 13 to 17, inclusive, and
121 shall have the following meanings unless the context clearly requires otherwise:

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

125 “COVID-19 emergency paid sick leave”, paid time-off that is compensated by an
126 employer, and with the same employment benefits to which the employee is entitled from such
127 employer as a term of the employee’s employment, for the purposes described in subsection (b)
128 of section 15; provided, however, that in no case shall the employee’s hourly compensation be
129 less than that provided under section 1 of chapter 151 of the General Laws.

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

138 “Employee”, any person who performs services for an employer for wage, remuneration
139 or other compensation, including employees employed by the commonwealth, its departments,
140 sub-divisions, quasi-public agencies or a municipality, district, political subdivision or its
141 instrumentalities; provided, however, that notwithstanding any general or special law to the
142 contrary, “employee” shall include a family child care provider, as defined in subsection (a) of

143 section 17 of chapter 15D of the General Laws, and a personal care attendant, as defined in
144 section 70 of chapter 118E of the General Laws.

145 “Employer”, any individual, corporation, partnership or other private or public entity,
146 including any agent thereof, who engages the services of an employee for wages, remuneration
147 or other compensation, including, but not limited to, (i) the commonwealth, its departments, sub-
148 divisions or quasi-public agencies; or (ii) a municipality, district, political subdivision or its
149 instrumentalities; provided, however, that the United States government shall not be considered
150 an “employer”; provided further, that an individual employer shall be determined by the federal
151 employer identification number; provided further, that the department of early education and
152 care shall be deemed the employer of family child care providers, as defined in subsection (a) of
153 section 17 of chapter 15D of the General Laws; and provided further, that the PCA quality home
154 care workforce council established in section 71 of chapter 118E of the General Laws shall be
155 the employer of personal care attendants, as defined in section 70 of said chapter 118E.

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

159 “Family member”, the spouse, domestic partner, child, parent or parent of a spouse or
160 domestic partner of the employee, a person who stood in loco parentis to the employee when
161 such employee was a minor child or a grandchild, grandparent or sibling of the employee. For
162 the purposes of this definition, “person who stood in loco parentis” shall not include a person
163 with whom the employee has no personal relationship.

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

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

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

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

174 SECTION 14. There shall be established a fund known as the COVID-19 Emergency
175 Paid Sick Leave Fund to be administered by the executive office for administration and finance,
176 or any department or agency thereof designated by the executive office. The purpose of the fund
177 shall be to reimburse eligible employers for providing employees with COVID-19 emergency
178 paid sick leave. There shall be credited to the fund all amounts that are transferred or authorized
179 to be transferred thereto or directed to be deposited therein, and all amounts received as gifts,
180 grants or contributions for the purposes of the fund. Amounts credited to the fund shall not be
181 subject to appropriation. Any money remaining in the fund as of September 30, 2021 and not
182 subject to a filed employer reimbursement application under section 15, shall revert to the
183 General Fund; provided, however, that all money in the fund shall revert to the General Fund not
184 later than November 1, 2021.

185 SECTION 15. (a)(1) Notwithstanding any general or special law to the contrary, as a
186 result of the outbreak of the 2019 novel coronavirus, also known as COVID-19, as of the
187 effective date of this section, an employer shall provide, subject to section 16, COVID-19
188 emergency paid sick leave to its employees pursuant to paragraph (3) who are absent from and
189 are unable to work pursuant to subsection (b).

190 (2) The executive office for administration and finance, or any department or agency
191 thereof designated by the executive office, shall reimburse an employer from the COVID-19
192 Emergency Paid Sick Leave Fund, established in section 14, for the cost of providing COVID-19
193 emergency paid sick leave to an employee; provided, however, that any qualified sick leave
194 wages paid by an employer that are eligible for the tax credit for paid sick and paid family and
195 medical leave under the federal Families First Coronavirus Response Act, P.L. 116-127 or
196 subsequent extensions, including the federal Consolidated Appropriations Act, 2021 and the
197 federal American Rescue Plan Act of 2021, shall not be eligible for reimbursement from said
198 COVID-19 Emergency Paid Sick Leave Fund.

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

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

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

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

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

221 (5) An eligible employer who pays an employee for COVID-19 emergency paid sick
222 leave shall be reimbursed by the executive office for administration and finance, or any
223 department or agency thereof, in consultation with the department of revenue, from the COVID-
224 19 Emergency Paid Sick Leave Fund by submitting, in a form prescribed by the executive office
225 for administration and finance, or any department or agency thereof designated by the executive
226 office, an application as provided in paragraph (1) of subsection (e). The executive office, or any
227 department or agency thereof, shall provide such reimbursements directly to eligible employers
228 within 30 business days of the employer submitting the application.

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

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

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

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

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

247 (4) An employee’s need to care for a family member due to a quarantine order, or other
248 determination by a local, state or federal public official, a health authority having jurisdiction,
249 the family member’s employer or a health care provider that the family member’s presence on
250 the job or in the community would jeopardize the health of others because of the family

251 member's exposure to COVID-19, regardless of whether the family member has been diagnosed
252 with COVID-19; or

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

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

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

269 (d) The employee shall provide notice to the employer of the need for COVID-19
270 emergency paid sick leave as soon as practicable or foreseeable. After the first workday an
271 employee receives COVID-19 emergency paid sick leave, an employer may require the
272 employee to follow reasonable notice procedures in order to continue receiving COVID-19

273 emergency paid sick leave. An employer shall not require, as a condition of an employee's
274 taking COVID-19 emergency paid sick leave, that the employee search for or find a replacement
275 worker to cover the hours during which the employee is using COVID-19 emergency paid sick
276 leave.

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

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

291 (2) Health information related to COVID-19 emergency paid sick leave possessed by an
292 employer regarding an employee or employee's family member shall: (i) be maintained on a
293 separate form and in a separate file from other personnel information; (ii) be treated as
294 confidential medical records; (iii) not be disclosed except to the affected employee or with the

295 express permission of the affected employee; and (iv) be kept confidential in accordance with
296 any other state or federal law.

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

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

310 (h) Nothing in this section shall be construed to: (i) discourage employers, including the
311 commonwealth, its departments, sub-divisions or quasi-public agencies or a municipality,
312 district, political subdivision or its instrumentalities from adopting or retaining job-protected paid
313 time off policies that are more generous than policies set out in this section; (ii) diminish or
314 impair the obligation of an employer to comply with any contract, collective bargaining
315 agreement or any employment benefit program or plan in effect on the effective date of this
316 section that provides to employees greater job-protected paid time off rights than the rights

317 established under this section; or (iii) pre-empt the power of a municipality, district, political
318 subdivision or its instrumentalities from adopting or retaining job-protected paid time off policies
319 more generous than policies that comply with the requirements of this section.

320 Any employer with a separate COVID-19 sick leave policy who makes available an
321 amount of COVID-19 sick leave sufficient to meet the requirements of sections 14 to 16,
322 inclusive, that may be used for the same purposes and under the same conditions as COVID-19
323 emergency paid sick leave under said sections 14 to 16, inclusive, shall not be required to
324 provide additional COVID-19 emergency paid sick leave under said sections 14 to 16, inclusive.

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

335 (j) The executive office of labor and workforce development, in consultation with the
336 executive office for administration and finance and the executive office of health and human
337 services, shall develop and implement a multilingual outreach program to inform employers,

338 employees and health care providers about the availability of COVID-19 emergency paid sick
339 leave.

340 (k) The executive office for administration and finance, or any department or agency
341 thereof designated by the executive office, shall issue a report on the COVID-19 emergency paid
342 sick leave program. The report shall include, but not be limited to: (i) aggregate information on
343 the number of employees who were provided COVID-19 emergency paid sick leave; (ii) the
344 reason employees received COVID-19 emergency paid sick leave; (iii) the average amount paid
345 to employees who were provided COVID-19 emergency paid sick leave; (iv) the average length
346 of COVID-19 emergency paid sick leave; (v) the employers who received reimbursements from
347 the COVID-19 Emergency Paid Sick Leave Fund established in section 14; (vi) the average
348 amount of each reimbursement of the employer; and (vii) the total amount of reimbursements
349 received by each employer. The report shall not include any identifying information of an
350 individual employee. The report shall be filed with the clerks of the house of representatives and
351 the senate and the joint committee on labor and workforce development not later than January 1,
352 2022.

353 SECTION 16. COVID-19 emergency paid sick leave shall be available to an employee
354 under section 15 until: (i) money in the COVID-19 Emergency Paid Sick Leave Fund established
355 in section 14 is no longer available; (ii) notification from the executive office for administration
356 and finance, or any department or agency thereof designated by the executive office, to
357 employers that it reasonably anticipates funds will no longer be available for reimbursement; or
358 (iii) September 30, 2021, whichever first occurs.

359 SECTION 17. The executive office for administration and finance, or any department or
360 agency thereof designated by the executive office, may promulgate regulations necessary for the
361 implementation of sections 13 to 16, inclusive.

362 SECTION 18. Words used in this section and sections 19 to 21 inclusive, shall have the
363 same meaning as in section 1 of chapter 151A of the General Laws; provided, that the following
364 words shall, unless the context clearly requires otherwise, have the following meanings:

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

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

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

373 SECTION 19. (a) When authorized by a vote taken in the manner provided by section 3
374 of Article LXII of the Amendments to the Constitution of the Commonwealth, the state treasurer,
375 upon request of the governor, may issue special obligation bonds in 1 or more series and in
376 principal amounts necessary or estimated to be necessary to:

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

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

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

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

386 (v) refund outstanding bonds or notes secured by the Special Contribution
387 Unemployment Compensation Trust Fund established by section 21.

388 (b) The bonds authorized pursuant to this section may be issued by the state treasurer
389 upon a request by the governor and shall state the amount required for the purposes pursuant to
390 subsection (a) and the date or dates upon which such funds are required, and such other matters
391 as the secretary of labor and workforce development and the secretary of administration and
392 finance shall determine as appropriate under such request, consistent with carrying out the
393 purposes of this section. Such request may be filed with the state treasurer only after the
394 secretary of labor and workforce development and the secretary of administration and finance
395 send a letter to the governor recommending the issuance of revenue bonds.

396 (c) Any such bonds shall be special obligations of the commonwealth payable solely
397 from monies credited to the Special Contribution Unemployment Compensation Trust Fund
398 established in section 21; provided, however, that notwithstanding any general or special law to
399 the contrary, such bonds shall not be general obligations of the commonwealth. Bonds may be
400 issued in such manner and on such terms and conditions as the state treasurer may determine in

401 accordance with this subsection and, to the extent not inconsistent with this subsection, the
402 General Laws for the issuance of bonds of the commonwealth. Bonds may be secured by a trust
403 agreement entered into by the state treasurer, with the concurrence of the secretary of labor and
404 workforce development and the secretary of administration and finance, on behalf of the
405 commonwealth, and the trust agreement may pledge or assign all or any part of the amounts on
406 deposit in the Special Contribution Unemployment Compensation Trust Fund and rights to
407 receive the same, whether existing or coming into existence and whether held or thereafter
408 acquired, and the proceeds thereof. The state treasurer may, with the concurrence of the secretary
409 of labor and workforce development and the secretary of administration and finance, enter into
410 additional security, insurance or other forms of credit enhancement, which may be secured on a
411 parity or subordinate basis with the bonds. A pledge in any such trust agreement or credit
412 enhancement agreement shall be valid and binding from the time such pledge shall be made
413 without any physical delivery or further act, and the lien of such pledge shall be valid and
414 binding against all parties having claims of any kind in tort, contract or otherwise, whether such
415 parties have notice thereof or not. Any such pledge shall be perfected by filing of the trust
416 agreement or credit enhancement agreement in the records of the state treasurer and no filing
417 shall be required under chapter 106 of the General Laws. Any such trust agreement or credit
418 enhancement agreement may establish provisions defining defaults and establishing remedies
419 and other matters relating to the rights and security of the holders of the bonds or other secured
420 parties as determined by the state treasurer, including provisions relating to the establishment of
421 reserves, the issuance of additional or refunding bonds, whether or not secured on a parity basis,
422 the application of receipts, monies or funds pledged pursuant to such agreement, the regulation

423 of the custody, investment and application of monies and such other matters deemed necessary
424 or desirable by the state treasurer for the security of such bonds.

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

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

445 (f) In order to increase the marketability of any such bonds or notes issued by the
446 commonwealth, the commonwealth covenants with the purchasers and all subsequent owners
447 and transferees of bonds and notes issued by the state treasurer pursuant to this section in
448 consideration of the acceptance of the payment for the bonds and notes, until such bonds and
449 notes, together with the interest thereon, with interest on any unpaid installment of interest and
450 all costs and expenses in connection with any action or proceeding on behalf of such owners, are
451 duly met and discharged or unless expressly permitted or otherwise authorized by the term of
452 each contract and agreement made or entered into by or on behalf of the commonwealth with or
453 for the benefit of such owners: (i) no pledged funds shall be diverted from the Special
454 Contribution Unemployment Compensation Trust Fund; and (ii) so long as the sums are
455 necessary, as determined by the state treasurer in accordance with any applicable trust or security
456 agreement or credit enhancement agreement or insurance policy related to bonds or notes issued
457 by the state treasurer, for the purposes for which they have been pledged, notwithstanding any
458 general or special law to the contrary, the commonwealth will impose, charge, raise, levy, collect
459 and apply the assessment set forth in section 20 and other revenues, receipts, funds or moneys
460 pledged in an amount sufficient to pay all principal or redemption premium of and interest on the
461 bonds and notes and any other obligation due relating to such bonds and notes and comply with
462 the covenants set forth in the trust agreement providing for such bonds and notes.

463 SECTION 20. (a) For any year in which bonds or notes issued pursuant to section 19 are
464 outstanding, an employer entitled to an experience rate under section 14 of chapter 151A of the
465 General Laws shall be subject to, shall be assessed and shall pay an unemployment obligation
466 assessment.

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

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

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

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

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

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

481 (d) Not less than 30 days following the annual setting of the unemployment obligation
482 assessment rate, the commissioner shall provide written notice to the house and senate
483 committees on ways and means and the joint committee on labor and workforce development.
484 The notice shall include, but not be limited to: (i) the assessment rate; (ii) a description of the
485 formula on which the assessment rate was based; and (iii) the amounts of any outstanding
486 payments associated with bonds issued pursuant to section 19, including the amounts described
487 in clauses (i) to (iv), inclusive, of subsection (b).

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

491 (f) The unemployment obligation assessment shall be credited to the Special Contribution
492 Unemployment Compensation Trust Fund established pursuant to section 21. Receipts from the
493 assessment shall not be subject to the allowable state tax revenue limitations established by
494 chapter 62F of the General Laws.

495 SECTION 21. (a) There is hereby established on the books of the commonwealth a fund
496 to be known as the Special Contribution Unemployment Compensation Trust Fund. Said fund
497 shall be administered by the secretary of labor and workforce development, with the approval of
498 the secretary of administration and finance.

499 (b) All costs related to the organization, establishment and operation of the fund and all
500 costs related to the establishment of billing, payment and collection procedures for amounts
501 received from employers in payment of the unemployment obligation assessment established by
502 section 20, to the extent not payable under the trust agreement for bonds issued under section 19,
503 may be paid from other amounts available under chapter 151A of the General Laws when made
504 available thereunder for such purpose.

505 (c) Amounts in the fund shall be held by the secretary of labor and workforce
506 development or the secretary's designee, as trustee and not on account of the commonwealth,
507 exclusively for the purposes set forth in section 19, and the secretary of labor and workforce
508 development shall disburse amounts in the fund to a trustee under a trust agreement as set forth
509 in said section 19, without further appropriation. All amounts in the fund, including investment

510 earnings, shall be available for expenditure for any lawful purpose, including without limitation
511 payment of debt service on bonds or notes issued by the state treasurer, and may be pledged to
512 secure special obligation bonds in such manner and according to such priority as set forth in said
513 section 19 or a trust agreement established for such purpose.

514 (d) In order to increase the marketability of any bonds or notes of the trust which may be
515 secured by or payable from amounts held in the fund, the sums to be credited to the fund are
516 hereby impressed with a trust for the benefit of the trust and the holders from time to time of the
517 bonds or notes, and in consideration of the acceptance of payment for the bonds or notes, the
518 commonwealth covenants with the purchasers and all subsequent holders and transferees of the
519 bonds or notes that while the bond or note shall remain outstanding, and so long as the principal
520 of or interest on the bond or note shall remain unpaid, the sums to be credited to the fund shall
521 not be diverted from the control of the trust and, so long as the sums are necessary, as determined
522 by the state treasurer in accordance with any applicable trust or security agreement or credit
523 enhancement agreement or insurance policy related to bonds or notes issued by the state
524 treasurer, for the purposes for which they have been pledged, notwithstanding any general or
525 special law to the contrary, the commonwealth will impose, charge, raise, levy, collect and apply
526 the unemployment obligation assessment set forth in section 20 and other revenues, receipts,
527 funds or moneys pledged in an amount sufficient to pay all principal or redemption premium of
528 and interest on the bonds and notes and any other obligation due relating to such bonds and notes
529 and comply with the covenants set forth in the trust agreement providing for such bonds and
530 notes.

531 SECTION 22. Not later than 10 days after the effective date of this act, the secretary of
532 administration and finance shall direct the comptroller to transfer \$75,000,000 from federal funds

533 received by the commonwealth in response to the public health emergency caused by COVID-
534 19, if any, available and consistent with federal funding requirements to the COVID-19
535 Emergency Paid Sick Leave Fund established in section 14; provided, however, that if the
536 secretary of administration and finance certifies to the comptroller that no such funds are
537 available, the comptroller shall transfer \$75,000,000 from the General Fund to the COVID-19
538 Emergency Paid Sick Leave Fund.

539 SECTION 23. To meet the expenditures necessary in carrying out section 2, the state
540 treasurer shall, upon request of the governor, issue and sell bonds of the commonwealth in an
541 amount to be specified by the governor from time to time but not exceeding, in an aggregate
542 principal amount, \$7,000,000,000. All such bonds issued by the commonwealth shall be
543 designated on their face, the Unemployment Insurance Trust Fund Solvency Act of 2021, and
544 shall be issued for a maximum term of years, not exceeding 20 years, as the governor may
545 recommend to the general court under section 3 of Article LXII of the Amendments to the
546 Constitution of the Commonwealth. All such bonds shall be payable not later than June 30, 2046.
547 All interest and payments on account of principal on these bonds and notes shall be payable from
548 the Special Contribution Unemployment Compensation Trust Fund established pursuant to
549 section 21. Bonds and interest thereon issued under this section shall, notwithstanding any
550 provision of the General Laws or this act, be special obligations of the commonwealth payable
551 solely in accordance with the provisions of said section 21. Notwithstanding any general or
552 special law to the contrary, bonds and notes issued under this act and interest thereon shall not be
553 included in the computation of outstanding bonds for purposes of the limit imposed by the
554 second paragraph of section 60A of chapter 29 of the General Laws, nor shall debt service with

555 respect to these bonds and notes be included in the computation of the limit imposed by section
556 60B of said chapter 29.

557 SECTION 24. The department of family and medical leave shall conduct an analysis on
558 the expansion of the family and medical leave program established by chapter 175M of the
559 General Laws to provide coverage for future communicable illnesses related to a public health
560 emergency. Such analysis shall include, but not be limited to: (i) an examination of the costs and
561 benefits of providing coverage under such program, including, but not limited to, public health
562 and economic benefits; (ii) the impact of providing benefits under such program on other safety
563 net programs used during the COVID-19 pandemic to provide financial assistance to employees,
564 including, but not limited to, unemployment insurance; and (iii) the potential impact of providing
565 coverage for communicable illnesses related to a public health emergency on contributions to the
566 Family and Employment Security Trust Fund established in section 7 of said chapter 175M. The
567 department shall issue a report with its findings, including any legislative recommendations, if
568 any, to the clerks of the house and the senate and the joint committee on labor and workforce
569 development not later than December 31, 2022.

570 SECTION 25. (a) There shall be a special commission established pursuant to section 2A
571 of chapter 4 of the General Laws to study and develop recommendations on the solvency of the
572 unemployment trust fund established in section 14F of chapter 151A of the General Laws. The
573 commission shall consist of the following 21 members: the chairs of the joint committee on labor
574 and workforce development, who shall serve as co-chairs; 1 member appointed by the minority
575 leader of the house of representatives; 1 member appointed by the minority leader of the senate;
576 the secretary of labor and workforce development or a designee; the director of unemployment
577 assistance or a designee; 1 member appointed by the Massachusetts State Labor Council, AFL-

578 CIO; 1 member appointed by the Associated Industries of Massachusetts, Inc.; 1 member
579 appointed by the Massachusetts Legal Assistance Corporation representing unemployed workers;
580 1 member appointed by the Alliance for Business Leadership, Inc.; 1 member appointed by the
581 National Federation of Independent Business Massachusetts; 1 member appointed by the Union
582 of Minority Neighborhoods, Inc.; 1 member appointed by the Massachusetts Restaurant
583 Association, Inc.; 1 member appointed by the Black Economic Council of Massachusetts, Inc.; 1
584 member appointed by the Greater Boston Chamber of Commerce; 1 member appointed by the
585 Massachusetts Building Trades Council; 1 member appointed by the Massachusetts Competitive
586 Partnership; 1 member appointed by Greater Boston Legal Services Employment Unit; 1
587 member appointed by the Massachusetts Taxpayers Foundation, Inc.; 1 member appointed by the
588 Tufts University Jonathan M. Tisch College of Civic Life Center for State Policy Analysis; and 1
589 member appointed by the Retailers Association of Massachusetts, Inc.

590 (b) The commission shall study the long-term solvency of the unemployment trust fund,
591 including, but not limited to: (i) evaluating whether changes are necessary to the experience
592 rating system in order to promote solvency and reduce the tax impact on small businesses; (ii)
593 examining increasing or indexing the taxable wage base under section 14 of said chapter 151A;
594 (iii) examining the industry specific impacts of changes to the unemployment tax rate; (iv)
595 reviewing solvency efforts in other state unemployment tax systems; and (v) determining what
596 changes are necessary to benefit from federal tax credits and federal interest-free borrowing
597 under the Federal Unemployment Tax Act, 26 U.S.C. §§ 3301-3305. The report by the
598 commission shall include recommendations to promote the long-term solvency of the trust fund
599 and meet solvency criteria required by the United States Department of Labor under the Federal

600 Unemployment Tax Act, 26 U.S.C. § 3301-3305, and the Social Security Act, 42 U.S.C. §§
601 1321-1324 and applicable regulations and guidance.

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

604 (d) Not later than December 15, 2021, the commission shall file a report on its findings
605 and recommendations with the clerks of the house of representatives and the senate, the joint
606 committee on labor and workforce development and the house and senate committees on ways
607 and means.

608 SECTION 26. (a) As used in this section, “unemployment compensation”, shall, unless
609 the context clearly requires otherwise, mean unemployment compensation as defined under
610 section 85 of the federal Internal Revenue Code, including, but not limited to, benefits received
611 under chapter 151A of the General Laws, or other unemployment compensation authorized by
612 federal law including, but not limited to, the federal Federal-State Extended Unemployment
613 Compensation Act of 1970, the federal Coronavirus Aid, Relief and Economic Security Act of
614 2020, the federal Continued Assistance for Unemployed Workers Act of 2020, the federal Lost
615 Wages Assistance program or any amendments to those acts.

616 (b) Notwithstanding any general or special law to the contrary, for taxable years
617 beginning on January 1, 2020 and January 1, 2021, any amount, up to \$10,200, of unemployment
618 compensation that is included in a taxpayer’s federal gross income, as defined in section 1 of
619 chapter 62 of the General Laws, shall be deducted from said federal gross income for the purpose
620 of determining Massachusetts gross income under section 2 of chapter 62 of the General Laws if
621 the taxpayer’s household income is not more than 200 per cent of the federal poverty level as

622 calculated by the United States Department of Health and Human Services. For the purpose of
623 this subsection, “household income” shall be determined without regard to this section.

624 (c) The department of unemployment assistance, in conjunction with the department of
625 revenue, shall establish a public information and education campaign to notify taxpayers of the
626 income exclusion for unemployment compensation for tax years 2020 and 2021 established by
627 subsection (b) and the tax penalty relief provided in section 8; provided, however, that the
628 campaign shall include: (i) a multilingual notice of the availability of such unemployment
629 compensation exclusion; (ii) a description of, and the eligibility criteria for, the exclusion under
630 said subsection (b); and (iii) targeted and direct outreach to individuals who have received, or are
631 receiving, unemployment compensation. The department of unemployment assistance and the
632 department of revenue shall publish such information on their respective websites in a
633 conspicuous manner and location and shall be available in multiple languages as determined by
634 the department of unemployment assistance.

635 SECTION 27. Section 3 is hereby repealed.

636 SECTION 28. Section 8 is hereby repealed.

637 SECTION 29. Sections 13 to 17, inclusive, shall take effect 10 days after the effective
638 date of this act.

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

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