# SENATE . . . . . No. 38

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

## The Commonwealth of Massachusetts

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

SECTION 1. To provide for a program for improvements to the Unemployment Insurance Trust Fund and relief to employers in the commonwealth, the sum set forth in section 2, for the several purposes and subject to the conditions specified in this act, is hereby made available, subject to the laws regulating the disbursement of public funds. The sum set forth in said section 2 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 17

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 is hereby amended by inserting after section 14J the following section:-

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

| 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 |

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 said section 14. Such excise shall be paid to the commissioner in accordance with the procedures prescribed by the commissioner. The commissioner shall deposit the receipts of such excise into the Federal Loan Interest Fund established in section 14K. Such receipts shall not be subject to the allowable state tax revenue limitations established in 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 that are applicable to the payment of and the collection of contributions pursuant to said section 14 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 said section 14 except as otherwise provided in said section 14K.

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

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

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

therein pursuant to said section 14J1/2 prior to the immediately preceding 36-month period that 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 the calendar year.

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

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

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

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

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

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

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

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

SECTION 9. 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 that appears in column “E” of paragraph (1) of subsection (i) of said section 14 of said chapter 151A.

SECTION 10. Notwithstanding any federal interest charges for necessary federal advances, the commissioner, as defined in subsection (e 1/2) 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 11. The following definitions shall apply to sections 11 to 14, inclusive, and shall have the following meanings unless the context clearly requires otherwise:

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

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

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

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

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

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

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

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

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

"Spouse", a person who is married to the employee.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

"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 issued by the federal government to the commonwealth for the payment of compensation under Title XII of the federal Social Security Act or other federal law.

SECTION 17. (a) When authorized by a vote taken in the manner provided by section 3 of Article LXII of the Amendments to the Constitution of the Commonwealth, the state 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 established by section 19.

(b) The bonds authorized pursuant to this section may be issued by the state treasurer upon a request by the governor and shall state the amount required for the purposes pursuant to subsection (a) and the date or dates upon which such funds are required, and such other matters as the secretary of labor and workforce development and the secretary of administration and finance shall determine as appropriate under such request, consistent with carrying out the purposes of this section. Such request may be filed with the state treasurer only after the secretary of labor and workforce development and the secretary of administration and finance 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 money credited to the Special Contribution Unemployment Compensation Trust Fund

established in section 19; 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 state treasurer may determine in accordance with this subsection and, to the extent not inconsistent with this subsection, the General Laws for the issuance of bonds of the commonwealth. Bonds may be secured by a trust agreement entered into by the state treasurer, with the concurrence of the secretary of labor and workforce development and the secretary of administration and finance, on behalf of the commonwealth, and the trust agreement may pledge or assign all or any part 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 state treasurer may, with the concurrence of the secretary of labor and workforce development and the secretary of administration and finance, 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 state treasurer and no filing shall be required 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 state 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, money or funds pledged pursuant to such agreement, the regulation of the custody, investment and application of money and such other matters deemed necessary or desirable by the state treasurer for the security of such bonds.

(d) The state 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 state 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 that are intended to qualify for tax exemption under the federal Internal Revenue Code of 1986, as amended, and to induce the purchase of such bonds and notes, the state 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, but not limited to, 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 state 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 that: (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 state 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 state 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 18 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 the agreement providing for such bonds and notes.

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

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

(b) Annually, the commissioner shall set the unemployment obligation assessment rate at 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 state treasurer's sole discretion.

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

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

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

(e) The unemployment obligation assessment shall be 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.

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

SECTION 19. (a) There shall be on the books of the commonwealth a fund to be known as the Special Contribution Unemployment Compensation Trust Fund. The fund shall be administered by the secretary of labor and workforce development, 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 unemployment obligation assessment established by section 18, to the extent not payable under the trust agreement for bonds issued under section 17, 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 of labor and workforce development or the secretary’s designee, as trustee and not on account of the commonwealth, exclusively for the purposes set forth in section 17, and the secretary of labor and workforce

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

(d) In order to increase the marketability of any bonds or notes of the trust that 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 state 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 state 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 unemployment obligation assessment set forth in section 18 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 the trust agreement providing for such bonds and notes.

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

SECTION 21. To meet the expenditures necessary in carrying out section 2, the state 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 10 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, 2036. 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 19. 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 19. 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.

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

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

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

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

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

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

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

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

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

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

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

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

SECTION 27. Section 3 is hereby repealed.

SECTION 28. Section 8 is hereby repealed.

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

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

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