

# HOUSE . . . . . No. 89

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## The Commonwealth of Massachusetts

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HOUSE OF REPRESENTATIVES, March 10, 2021.

The committee on Ways and Means to whom was referred the message from His Excellency the Governor recommending legislation relative to financing a program for improvements to the Unemployment Insurance Trust Fund and relief to employers in the Commonwealth (House, No. 55), reports recommending that the accompanying bill (House, No. 89) ought to pass [Bond Issue: \$7,000,000,000.00].

For the committee,

AARON MICHLEWITZ.

**HOUSE . . . . . No. 89**

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**The Commonwealth of Massachusetts**

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

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

*Whereas*, The deferred operation of this act would tend to defeat its purpose, which is to immediately begin to restore solvency to the Unemployment Insurance Trust Fund, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

*Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:*

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  
17 item.....\$7,000,000,000.

18           SECTION 3. Paragraph (2) of subsection (a) of section 2 of chapter 62 of the General  
19 Laws, as appearing in the 2018 Official Edition, is hereby amended by adding the following  
20 subparagraph:-

21           (R) An amount which, but for this section, would be included in the gross income for  
22 taxable year 2020, in whole or in part, of an eligible recipient, as described in subsection (a) of  
23 section 1102 of the federal Coronavirus Aid, Relief, and Economic Security Act of 2020, Public  
24 Law 116-136, because of the forgiveness described in subsection (b) of section 1106 of said act.

25           SECTION 4. Section 6 of said chapter 62 is hereby amended by adding the following  
26 subsection:-

27           (x) (1) As used in this subsection, “unemployment compensation”, shall, unless the  
28 context clearly requires otherwise, mean unemployment compensation included in gross income  
29 pursuant to section 2 and as defined under section 85 of the Code, including, but not limited to,  
30 benefits received under chapter 151A, or other unemployment compensation authorized by  
31 federal law, including, but not limited to, the federal Federal-State Extended Unemployment

32 Compensation Act of 1970, the federal Coronavirus Aid, Relief and Economic Security Act of  
33 2020, the federal Continued Assistance for Unemployed Workers Act of 2020 or any  
34 amendments to those acts.

35 (2) For taxable years 2020 and 2021, a taxpayer shall be allowed a credit against the  
36 taxes imposed by this chapter in each taxable year if: (i) the taxpayer qualified for and received  
37 unemployment compensation; and (ii) the taxpayer's household income for the taxable year does  
38 not exceed 200 per cent of the federal poverty level as calculated by the United States  
39 Department of Health and Human Services. The allowable credit shall be equal to 5 per cent of  
40 unemployment compensation received by the taxpayer and included in the taxpayer's gross  
41 income for the taxable year pursuant to section 2. If the amount of the credit allowed under this  
42 subsection exceeds the taxpayer's tax liability, the commissioner shall treat the excess as an  
43 overpayment and shall pay the taxpayer the entire amount of the excess without interest.

44 (3) The total amount of credits that may be authorized in taxable year 2020 shall not  
45 exceed \$30,000,000; provided, however, that when the total amount of credits authorized in  
46 taxable year 2020 equals \$20,000,000, the commissioner shall provide written notice to the  
47 house and senate committees on ways and means.

48 (4) The total amount of credits that may be authorized in taxable year 2021 shall not  
49 exceed \$20,000,000.

50 (5) The commissioner shall file a report with the house and senate committees on ways  
51 and means and the chairs of the joint committee on revenue identifying the total amount of  
52 credits claimed pursuant to this subsection for taxable year 2020 not later than September 1,  
53 2021 and for taxable year 2021 not later than September 1, 2022.

54 (6) The commissioner may promulgate regulations or guidance to implement this  
55 subsection.

56 SECTION 5. Chapter 151A of the General Laws is hereby amended by inserting after  
57 section 14J the following section:-

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

61	Employer Account		
62	Reserve Percentages	Contribution Rate	Excise Rate
63			
64	Positive Percentage		
65	17 or more	0.94	0.100
66	16.0 but less than 17.0	1.08	0.115
67	15.0 but less than 16.0	1.21	0.130
68	14.0 but less than 15.0	1.34	0.145
69	13.5 but less than 14.0	1.61	0.160
70	13.0 but less than 13.5	1.75	0.175
71	12.5 but less than 13.0	1.89	0.190
72	12.0 but less than 12.5	2.01	0.205
73	11.5 but less than 12.0	2.15	0.220

74	11.0 but less than 11.5	2.29	0.235
75	10.5 but less than 11.0	2.42	0.250
76	10.0 but less than 10.5	2.56	0.265
77	9.5 but less than 10.0	2.69	0.280
78	9.0 but less than 9.5	2.82	0.295
79	8.5 but less than 9.0	2.96	0.310
80	8.0 but less than 8.5	3.09	0.325
81	7.5 but less than 8.0	3.23	0.340
82	7.0 but less than 7.5	3.37	0.355
83	6.5 but less than 7.0	3.50	0.370
84	6.0 but less than 6.5	3.63	0.385
85	5.5 but less than 6.0	3.76	0.400
86	5.0 but less than 5.5	3.90	0.415
87	4.5 but less than 5.0	4.04	0.430
88	4.0 but less than 4.5	4.17	0.445
89	3.5 but less than 4.0	4.30	0.460
90	3.0 but less than 3.5	4.44	0.475

91	2.5 but less than 3.0	4.57	0.490
92	2.0 but less than 2.5	4.71	0.505
93	1.5 but less than 2.0	4.84	0.520
94	1.0 but less than 1.5	4.98	0.535
95	0.5 but less than 1.0	5.11	0.550
96	0.0 but less than .5	5.24	0.565
97	Negative Percentage		
98	0.0 but less than 1.0	7.03	0.580
99	1.0 but less than 3.0	7.64	0.595
100	3.0 but less than 5.0	8.26	0.610
101	5.0 but less than 7.0	8.86	0.625
102	7.0 but less than 9.0	9.48	0.640
103	9.0 but less than 11.0	10.09	0.655
104	11.0 but less than 13.0	10.70	0.670
105	13.0 but less than 15.0	11.31	0.685
106	15.0 but less than 17.0	11.93	0.700
107	17.0 but less than 19.0	12.53	0.715

108	19.0 but less than 21.0	13.15	0.730
109	21.0 but less than 23.0	13.76	0.745
110	23.0 or more	14.37	0.760

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

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

126 The commissioner, after providing not less than 60 days’ written notice to the chairs of  
127 the house and senate committees on ways and means and the chairs of the joint committee on  
128 labor and workforce development, may adjust the excise rate specified in this section to pay  
129 interest required to be paid to the Federal Loan Interest Fund established by section 14K. The



130 notice shall include, but not be limited to: (i) the proposed adjusted excise rate; (ii) the estimated  
131 amount of funds that will be raised by the adjusted excise rate; (iii) the rationale for adjusting the  
132 excise rate; (iv) the balance of the Federal Loan Interest Fund established by section 14K; and  
133 (v) the estimated amount of interest required to be paid under section 1202(b) of the Social  
134 Security Act.

135 SECTION 6. Said chapter 151A is hereby further amended by striking out section 14K  
136 and inserting in place thereof the following section:-

137 Section 14K. There is hereby established a separate fund to be known as the Federal Loan  
138 Interest Fund which shall be administered by the commissioner, without liability on the part of  
139 the commonwealth beyond the amount credited to and earned by the fund. Said fund shall consist  
140 of all amounts received under section 14J1/2, which shall be credited to such fund, except as  
141 otherwise provided in said section 14J1/2 and any other monies authorized by law to be credited  
142 to said fund. The monies credited to said fund shall be used only for the payment of interest  
143 required to be paid under section 1202(b) of the Social Security Act. The monies in said fund  
144 shall be continuously available to the commissioner for the payment of said interest without  
145 further appropriation and shall not lapse at any time or be transferred to any other fund or  
146 account except as provided in this section. On September 30 of each calendar year, the  
147 commissioner shall transfer from said fund to the Unemployment Compensation Fund any  
148 amounts deposited therein pursuant to section 14J1/2 prior to the immediately preceding 36  
149 month period which have not been expended for the payment of interest. The commissioner shall  
150 credit such amounts transferred to the solvency account pursuant to paragraph (1) of subsection  
151 (e) of section 14 as of October 1 of said calendar year.

152 SECTION 7. Paragraph (b) of subsection (1) of section 30A of said chapter 151A, as  
153 appearing in section 8 of chapter 201 of the acts of 2020, is hereby amended by striking out  
154 subparagraph (2) and inserting in place thereof the following subparagraph:-

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

162 SECTION 8. Paragraph (c) of said subsection 1 of said section 30A of said chapter 151A,  
163 as so appearing, is hereby amended by striking out subparagraph (3) and inserting in place  
164 thereof the following 2 subparagraphs:-

165 (3) There shall be a state “off” indicator for the purposes of this paragraph for weeks of  
166 unemployment if at any time the provisions of subparagraph (1) are not met or 100 per cent  
167 federal sharing is not available under section 4105 of the Families First Act, or any subsequent  
168 amendment to the Families First Act, or other federal law and the funding is sufficient to meet  
169 the requirements of this subparagraph, including, but not limited to, the federal Continued  
170 Assistance for Unemployed Workers Act of 2020.

171 (4) With respect to determining whether the state is in an extended benefit period from  
172 November 1, 2020 to December 31, 2021, inclusive, the commonwealth shall disregard the

173 requirement of paragraph (a) that no extended benefit period may begin before the 14th week  
174 following the end of a prior extended benefit period which was in effect.

175 SECTION 9. Section 50 of chapter 201 of the acts of 2020 is hereby amended by striking  
176 out the words “June 30” and inserting in place thereof the following words:- December 31.

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

185 SECTION 11. Notwithstanding section 14 of chapter 151A of the General Laws, for  
186 calendar years 2021 and 2022, the experience rate of an employer qualifying under subsection  
187 (b) of said section 14 of said chapter 151A shall be the rate which appears in column “E” of  
188 paragraph (1) of subsection (i) of said section 14 of said chapter 151A.

189 SECTION 12. Notwithstanding any federal interest charges for necessary federal  
190 advances, the commissioner, as defined in subsection (e 1/2) of section 1 of chapter 151A of the  
191 General Laws, may pursue any necessary federal advances to provide for timely payment of  
192 benefits. Nothing in this act shall contribute to or allow for a reduction in benefits including, but  
193 not limited to, the amount or length of benefits, pursuant to said chapter 151A.

194 SECTION 13. The following definitions shall apply to sections 13 to 16, inclusive, and  
195 shall have the following meanings, unless the context clearly requires otherwise:

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

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

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

212 “Employee”, any person who performs services for an employer for wage, remuneration,  
213 or other compensation, including employees employed by the commonwealth, its departments,  
214 sub-divisions, quasi-public agencies, or a municipality, district, political subdivision or its  
215 instrumentalities; provided, however, that notwithstanding any special or general law to the

216 contrary, “employee” shall include a family child care provider, as defined in subsection (a) of  
217 section 17 of chapter 15D of the General Laws, and personal care attendant, as defined in section  
218 70 of chapter 118E of the General Laws.

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

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

233 “Family member”, the spouse, domestic partner, child, parent or parent of a spouse or  
234 domestic partner of the employee; a person who stood in loco parentis to the employee when  
235 such employee was a minor child; a grandchild, grandparent or sibling of the employee. For the  
236 purposes of this definition, “person who stood in loco parentis” shall not include a person with  
237 whom the employee has no personal relationship.

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

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

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

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

248 SECTION 14. There shall be established a fund known as the COVID-19 Emergency  
249 Paid Sick Leave Fund to be administered by the executive office for administration and finance.  
250 The purpose of the fund shall be to reimburse eligible employers for providing employees with  
251 COVID-19 emergency paid sick leave. There shall be credited to the fund all amounts that are  
252 transferred or authorized to be transferred thereto or directed to be deposited therein, and all  
253 amounts received as gifts, grants, or contributions for the purposes of the fund. Amounts credited  
254 to the fund shall not be subject to appropriation. Any money remaining in the fund as of  
255 September 30, 2021 and not subject to a filed employer reimbursement under section 15, shall  
256 revert to the General Fund; provided, however, that all money in the fund shall revert to the  
257 General Fund not later than November 1, 2021.

258 SECTION 15. (a)(1) Notwithstanding any general or special law to the contrary, as a  
259 result of the outbreak of the 2019 novel coronavirus, also known as COVID-19, as of the

260 effective date of this section, an employer shall provide, subject to section 16, COVID-19  
261 emergency paid sick leave to its employees, pursuant to clause (3), who are absent from and are  
262 unable to work pursuant to subsection (b).

263 (2) The executive office for administration and finance shall reimburse an employer from  
264 the COVID-19 Emergency Paid Sick Leave Fund, established in section 14, for the cost of  
265 providing COVID-19 emergency paid sick leave to an employee; provided, however, that an  
266 employer with fewer than 500 employees at the time said employee used COVID-19 emergency  
267 paid sick leave, the commonwealth, its departments, sub-divisions, quasi-public agencies, or a  
268 municipality, district, political subdivision or its instrumentalities shall not be eligible for  
269 reimbursement from said COVID-19 Emergency Paid Sick Leave Fund.

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

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

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

278 (iii) for an employee whose schedule and weekly hours worked vary from week to week,  
279 such employee shall be provided COVID-19 emergency paid sick leave that: (A) is equal to the  
280 average number of hours that the employee was scheduled to work per week over the 6-month  
281 period immediately preceding the date on which such employee takes the COVID-19 emergency

282 paid sick leave, including hours for which such employee took leave of any type; or (B) if the  
283 employee did not work over such 6-month period, is equal to the reasonable expectation of the  
284 employee at the time of hiring of the average number of hours per week that the employee would  
285 normally be scheduled to work.

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

292 (5) An eligible employer who pays an employee for COVID-19 emergency paid sick  
293 leave shall be reimbursed by the executive office for administration and finance, or any  
294 departments and agencies thereof, in consultation with the department of revenue, from the  
295 COVID-19 Emergency Paid Sick Leave Fund by submitting, in a form prescribed by the  
296 executive office of administration and finance, an application as provided in paragraph (1) of  
297 subsection (e). The executive office shall provide such reimbursements directly to eligible  
298 employers within 30 business days.

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



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

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

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

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

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

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

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

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

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

345 worker to cover the hours during which the employee is using COVID-19 emergency paid sick  
346 leave.

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

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

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

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

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

379 (h) Nothing in this section shall be construed to: (i) discourage employers, including the  
380 commonwealth, its departments, sub-divisions, quasi-public agencies, and municipality, district,  
381 political subdivision or its instrumentalities, from adopting or retaining job-protected paid time  
382 off policies that are more generous than policies set out in this section; (ii) diminish or impair the  
383 obligation of an employer to comply with any contract, collective bargaining agreement, or any  
384 employment benefit program or plan in effect on the effective date of this section that provides to  
385 employees greater job-protected paid time off rights than the rights established under this  
386 section; or (iii) pre-empt the power of a municipality, district, political subdivision or its  
387 instrumentalities, from adopting or retaining job-protected paid time off policies more generous  
388 than policies that comply with the requirements of this section.

389 (i) Notice of this section shall be prepared by the executive office of labor and workforce  
390 development, in consultation with the executive office for administration and finance, in English  
391 and in other languages required under clause (iii) of subsection (d) of section 62A of chapter  
392 151A of the General Laws, and shall be provided to employers not later than 7 days after the  
393 effective date of this section. Employers shall post this notice in a conspicuous location  
394 accessible to employees in every establishment where employees with rights under this section  
395 work and shall provide a copy to their employees; provided, however, that in cases where the  
396 employer does not maintain a physical workplace, or an employee teleworks or performs work  
397 through a web-based platform, notification shall be sent via electronic communication or a  
398 conspicuous posting in the web-based platform.

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

404 (k) The executive office for administration and finance shall issue a report on the  
405 COVID-19 emergency paid sick leave program. The report shall include, but not be limited to:  
406 (i) aggregate information on the number of employees who were provided COVID-19  
407 emergency paid sick leave; (ii) the reason employees received COVID-19 emergency paid sick  
408 leave; (iii) the average amount paid to employees who were provided COVID-10 emergency  
409 paid sick leave; (iv) the average length of COVID-19 emergency paid sick leave; (v) the  
410 employers who received reimbursements from the COVID-19 Emergency Paid Sick Leave Fund  
411 established in section 14; (vi) the average amount of each reimbursement of the employer; and

412 (vii) the total amount of reimbursements received by each employer. The report shall not include  
413 any identifying information of an individual employee. The report shall be filed with the clerks  
414 of the house of representatives and the senate and the chairs of the joint committee on labor and  
415 workforce development not later than January 1, 2022.

416 SECTION 16. COVID-19 emergency paid sick leave shall be available to an employee  
417 under section 15 until: (i) monies in the COVID-19 Emergency Paid Sick Leave Fund  
418 established in section 14 are no longer available; (ii) notification from the executive office for  
419 administration and finance to employers that it reasonably anticipates funds will no longer be  
420 available for reimbursement; or (iii) September 30, 2021, whichever is first.

421 SECTION 17. The executive office for administration and finance, or any departments  
422 and agencies thereof, may promulgate regulations necessary for the implementation of sections  
423 13 to 16, inclusive.

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

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

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

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

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

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

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

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

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

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

450 (b) The bonds authorized pursuant to this section may be issued by the treasurer upon a  
451 request by the governor, and shall state the amount required for the purposes pursuant to  
452 subsection (a) and the date or dates upon which such funds are required, and such other matters  
453 as the secretary of labor and workforce development and the secretary of administration and

454 finance shall determine as appropriate under such request, consistent with carrying out the  
455 purposes of this section. Such request may be filed with the treasurer only after the secretary of  
456 labor and workforce development and the secretary of administration and finance send a letter to  
457 the governor recommending the issuance of revenue bonds.

458 (c) Any such bonds shall be special obligations of the commonwealth payable solely  
459 from monies credited to the Special Contribution Unemployment Compensation Trust Fund  
460 established in section 21; provided, however, that notwithstanding any general or special law to  
461 the contrary, such bonds shall not be general obligations of the commonwealth. Bonds may be  
462 issued in such manner and on such terms and conditions as the treasurer may determine in  
463 accordance with this subsection and, to the extent not inconsistent with this subsection, the  
464 General Laws for the issuance of bonds of the commonwealth. Bonds may be secured by a trust  
465 agreement entered into by the treasurer, with the concurrence of the secretary of labor and  
466 workforce development and the secretary of administration and finance, on behalf of the  
467 commonwealth, which trust agreement may pledge or assign all or any part of the amounts on  
468 deposit in the Special Contribution Unemployment Compensation Trust Fund and rights to  
469 receive the same, whether existing or coming into existence and whether held or thereafter  
470 acquired, and the proceeds thereof. The treasurer may, with the concurrence of the secretary of  
471 labor and workforce development and the secretary of administration and finance, enter into  
472 additional security, insurance or other forms of credit enhancement, which may be secured on a  
473 parity or subordinate basis with the bonds. A pledge in any such trust agreement or credit  
474 enhancement agreement shall be valid and binding from the time such pledge shall be made  
475 without any physical delivery or further act, and the lien of such pledge shall be valid and  
476 binding against all parties having claims of any kind in tort, contract or otherwise, whether such



477 parties have notice thereof or not. Any such pledge shall be perfected by filing of the trust  
478 agreement or credit enhancement agreement in the records of the treasurer and no filing shall be  
479 required under chapter 106 of the General Laws. Any such trust agreement or credit  
480 enhancement agreement may establish provisions defining defaults and establishing remedies  
481 and other matters relating to the rights and security of the holders of the bonds or other secured  
482 parties as determined by the treasurer, including provisions relating to the establishment of  
483 reserves, the issuance of additional or refunding bonds, whether or not secured on a parity basis,  
484 the application of receipts, monies or funds pledged pursuant to such agreement, the regulation  
485 of the custody, investment and application of monies and such other matters deemed necessary  
486 or desirable by the treasurer for the security of such bonds.

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

495 (e) Bonds and notes issued by the commonwealth, their transfer and income therefrom,  
496 including any profit made on the sale thereof, shall at all times be free from taxation within the  
497 commonwealth. In connection with the issuance of bonds and notes of the commonwealth which  
498 are intended to qualify for tax exemption under the Internal Revenue Code of 1986, and to  
499 induce the purchase of such bonds and notes, the treasurer may covenant on behalf of the

500 commonwealth with the purchasers or with the holders from time to time of such bonds or notes  
501 or with a trustee or trustees for the benefit of such holders with respect to compliance with the  
502 requirements of said Internal Revenue Code relative to such tax exemption, including without  
503 limitation compliance with provisions relating to the use of proceeds by private parties, the  
504 investment of proceeds and the payment of rebate, so-called, to the federal government. Any  
505 such covenant may appear on the bonds or notes or may be included in a separate trust  
506 agreement.

507 (f) In order to increase the marketability of any such bonds or notes issued by the  
508 commonwealth, the commonwealth covenants with the purchasers and all subsequent owners  
509 and transferees of bonds and notes issued by the treasurer pursuant to this section in  
510 consideration of the acceptance of the payment for the bonds and notes, until such bonds and  
511 notes, together with the interest thereon, with interest on any unpaid installment of interest and  
512 all costs and expenses in connection with any action or proceeding on behalf of such owners, are  
513 duly met and discharged or unless expressly permitted or otherwise authorized by the term of  
514 each contract and agreement made or entered into by or on behalf of the commonwealth with or  
515 for the benefit of such owners: (i) no pledged funds shall be diverted from the Special  
516 Contribution Unemployment Compensation Trust Fund; and (ii) so long as the sums are  
517 necessary, as determined by the treasurer in accordance with any applicable trust or security  
518 agreement or credit enhancement agreement or insurance policy related to bonds or notes issued  
519 by the treasurer, for the purposes for which they have been pledged, notwithstanding any general  
520 or special law to the contrary, the commonwealth will impose, charge, raise, levy, collect and  
521 apply the assessment set forth in section 20 and other revenues, receipts, funds or moneys  
522 pledged in an amount sufficient to pay all principal or redemption premium of and interest on the

523 bonds and notes and any other obligation due relating to such bonds and notes and comply with  
524 the covenants set forth in trust agreement providing for such bonds and notes.

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

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

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

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

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

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

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

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

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

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

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

561 (b) All costs related to the organization, establishment and operation of the fund and all  
562 costs related to the establishment of billing, payment and collection procedures for amounts  
563 received from employers in payment of the unemployment obligation assessment established by  
564 section 20, to the extent not payable under the trust agreement for bonds issued under section 19,

565 may be paid from other amounts available under chapter 151A of the General Laws when made  
566 available thereunder for such purpose.

567 (c) Amounts in the fund shall be held by the secretary of labor and workforce  
568 development or the secretary's designee, as trustee and not on account of the commonwealth,  
569 exclusively for the purposes set forth in section 19, and the secretary of labor and workforce  
570 development shall disburse amounts in the fund to a trustee under a trust agreement as set forth  
571 in said section 19, without further appropriation. All amounts in the fund, including investment  
572 earnings, shall be available for expenditure for any lawful purpose, including without limitation  
573 payment of debt service on bonds or notes issued by the treasurer, and may be pledged to secure  
574 special obligation bonds in such manner and according to such priority as set forth in said section  
575 19 or a trust agreement established for such purpose.

576 (d) In order to increase the marketability of any bonds or notes of the trust which may be  
577 secured by or payable from amounts held in the fund, the sums to be credited to the fund are  
578 hereby impressed with a trust for the benefit of the trust and the holders from time to time of the  
579 bonds or notes, and in consideration of the acceptance of payment for the bonds or notes, the  
580 commonwealth covenants with the purchasers and all subsequent holders and transferees of the  
581 bonds or notes that while the bond or note shall remain outstanding, and so long as the principal  
582 of or interest on the bond or note shall remain unpaid, the sums to be credited to the fund shall  
583 not be diverted from the control of the trust and, so long as the sums are necessary, as determined  
584 by the treasurer in accordance with any applicable trust or security agreement or credit  
585 enhancement agreement or insurance policy related to bonds or notes issued by the treasurer, for  
586 the purposes for which they have been pledged, notwithstanding any general or special law to the  
587 contrary, the commonwealth will impose, charge, raise, levy, collect and apply the

588 unemployment obligation assessment set forth in section 20 and other revenues, receipts, funds  
589 or moneys pledged in an amount sufficient to pay all principal or redemption premium of and  
590 interest on the bonds and notes and any other obligation due relating to such bonds and notes and  
591 comply with the covenants set forth in trust agreement providing for such bonds and notes.

592 SECTION 22. Not later than 10 days after the effective date of this act, the secretary of  
593 administration and finance shall direct the comptroller to transfer \$75,000,000 from federal funds  
594 received by the commonwealth in response to the public health emergency caused by COVID-  
595 19, if any, available and consistent with federal funding requirements to the COVID-19  
596 Emergency Paid Sick Leave Fund established in section 14; provided, however, that if the  
597 secretary of administration and finance certifies to the comptroller that no such funds are  
598 available, the comptroller shall transfer \$75,000,000 from the General Fund to said COVID-19  
599 Emergency Paid Sick Leave Fund.

600 SECTION 23. To meet the expenditures necessary in carrying out section 2, the treasurer  
601 shall, upon request of the governor, issue and sell bonds of the commonwealth in an amount to  
602 be specified by the governor from time to time but not exceeding, in an aggregate principal  
603 amount, \$7,000,000,000. All such bonds issued by the commonwealth shall be designated on  
604 their face, the Unemployment Insurance Trust Fund Solvency Act of 2021, and shall be issued  
605 for a maximum term of years, not exceeding 30 years, as the governor may recommend to the  
606 general court under section 3 of Article LXII of the Amendments to the Constitution of the  
607 Commonwealth. All such bonds shall be payable not later than June 30, 2056. All interest and  
608 payments on account of principal on these bonds and notes shall be payable from the Special  
609 Contribution Unemployment Compensation Trust Fund established pursuant to section 21.  
610 Bonds and interest thereon issued under this section shall, notwithstanding any provision of the

611 General Laws or this act, be special obligations of the commonwealth payable solely in  
612 accordance with the provisions of said section 21. Notwithstanding any general or special law to  
613 the contrary, bonds and notes issued under this act and interest thereon shall not be included in  
614 the computation of outstanding bonds for purposes of the limit imposed by the second paragraph  
615 of section 60A of chapter 29 of the General Laws, nor shall debt service with respect to these  
616 bonds and notes be included in the computation of the limit imposed by section 60B of said  
617 chapter 29.

618 SECTION 24. The department of unemployment assistance, in conjunction with the  
619 department of revenue, shall establish a public information and education campaign to notify  
620 taxpayers of the unemployment insurance tax credit for tax years 2020 and 2021 established by  
621 subsection (x) of section 6 of chapter 62 of the General Laws; provided, the campaign shall  
622 include: (i) notice of the availability of such unemployment insurance tax credit; (ii) a  
623 description of and the eligibility criteria for the tax credit; and (iii) targeted and direct outreach to  
624 individuals receiving unemployment compensation in the commonwealth. The department of  
625 unemployment assistance and the department of revenue shall publish such information on their  
626 respective websites in a conspicuous manner and location, which shall be available in multiple  
627 languages as determined by the department of unemployment assistance.

628 SECTION 25. The department of family and medical leave shall conduct an analysis on  
629 the expansion of the family and medical leave program established by chapter 175M of the  
630 General Laws to provide coverage for future communicable illnesses related to a public health  
631 emergency. Such analysis shall include, but not be limited to: (i) an examination of the costs and  
632 benefits of providing coverage under such program, including but not limited to public health  
633 and economic benefits; (ii) the impact of providing benefits under such program on other safety

634 net programs used during the COVID-19 pandemic to provide financial assistance to employees,  
635 including but not limited to unemployment insurance; and (iii) the potential impact of providing  
636 coverage for communicable illnesses related to a public health emergency on contributions to the  
637 Family and Employment Security Trust Fund established in section 7 of chapter 175M of the  
638 General Laws. The department shall issue a report with its findings, including any legislative  
639 recommendations, if any, to the clerks of the house and the senate and the chairs of the joint  
640 committee on labor and workforce development, no later than December 31, 2022.

641 SECTION 26. Sections 4 and 5 are hereby repealed.

642 SECTION 27. Section 10 is hereby repealed.

643 SECTION 28. Sections 13 to 17, inclusive, shall take effect 10 days after the effective  
644 date of this act.

645 SECTION 29. Section 26 shall take effect on January 1, 2023.

646 SECTION 30. Section 27 shall take effect on January 1, 2022.