# Oregon Employment Department Advisory Council

## Implementation of HB 3389

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# House Bill 3389

- Bill signed on July 27, 2021, operative date of September 25, 2021
- Provides unemployment insurance tax relief to Oregon employers in response to the COVID-19 pandemic
- **Goal: support Oregon employers, stimulate recovery from the COVID-19 pandemic and maintain long-term solvency of Oregon's UI Trust Fund**

# House Bill 3389 (cont.)

- Legislators, the Governor's office, and OED worked together to craft bipartisan legislation that would reduce the tax impact to those employers, without putting the UI Trust Fund in danger of insolvency

- These changes take advantage of Oregon's solvent UI Trust Fund
  - Uses some existing reserves to provide **a mix of short-term and long-term** tax relief for Oregon businesses while protecting them against long-term risks of the UI Trust Fund becoming insolvent.
  - Businesses most impacted by the pandemic – like restaurants, barbershops and others that saw big increases in their experience ratings – will see the most relief.

# HB 3389 Key Provisions

- Avoids setting future UI Trust Fund balance targets based on the amount of benefits paid during the pandemic

- Extends the ‘look back period’
  - The ‘look back period’ is used to determine solvency level. HB 3389 changed this from 10 years to 20 years. This change will enhance long-term UI Trust Fund stability by taking a broader range of economic situations into account.

# HB 3389 Key Provisions (cont.)

- Uses the same experience ratings used to determine employers' 2020 UI tax rates when determining rates for 2022, 2023, and 2024
- Effectively, this disregards the impact of the pandemic when determining each employer's experience rating so businesses that had to close for public health reasons do not see their experience rating greatly increase as a result of measures taken to protect public health
- Tax rates may fluctuate in 2022 – 2024 due to tax schedule changes; however, rates will be based on experience rates prior to pandemic

# HB 3389 Key Provisions (cont.)

- Reduces fund adequacy targets by about 10% overall
  - This reduces the overall amount of taxes collected.
- Codifies in statute deferral offered by the Department during the pandemic
  - Allows employers who meet certain criteria to **defer** up to one-third of their taxes due for calendar year 2021 until June 30, 2022 **without accruing interest or penalties** on the deferred amounts.

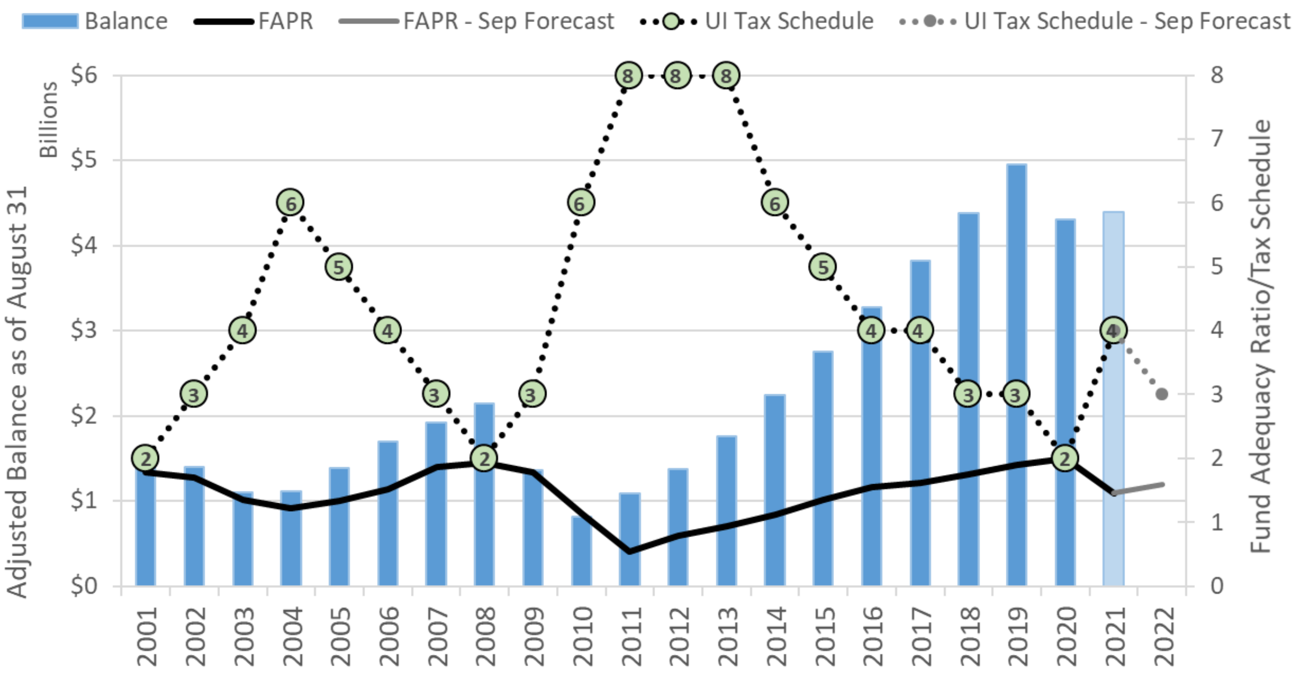
# HB 3389 Key Provisions (cont.)

- Enables eligible employers full or partial forgiveness of their deferred 2021 UI taxes based on each employer's UI tax rate increase from 2020 to 2021
  - Increases of more than 2% get 100% forgiveness of deferred UI taxes.
  - Increases of more than 1.5% to 2% get 75% of their deferred UI taxes forgiven.
  - Increases of more than 1% to 1.5% get 50% of their deferred UI taxes forgiven.

# HB 3389 Key Provisions (cont.)

UI Tax Schedule:

- One schedule lower in 2022
- Expected to be two schedules lower in 2023 – 2025



# Communications and Public Outreach

- Published an informational web page
- Sent direct emails to employers
- Distributed a press release
- Posted on social media
- Added a section to weekly email update
- Mailed notices to employers

# Impact on Employers

- **These changes, from 2021 – 2029, are estimated to save employers $2.2 billion**
- Estimated over 50,000 more employers will have a tax rate of 2.5% or less, and more than 42,300 fewer employers will have a rate of 2.6% or more
- 76,000-80,000 employers are projected to be eligible for deferral with over $42 million of 2021 tax liability estimated to be forgiven

# Deferral and Forgiveness

Employers must meet the following conditions:

- As of January 1, 2021 have paid all outstanding UI tax contributions and related liabilities.
- File all required 2021 payroll reports on time.
- Pay all 2021 tax liabilities on time that are not deferred or forgiven.
- Experience a UI tax rate increased by 0.5% or more from 2020 to 2021.

# Deferral and Forgiveness - What to Expect

- Employers do not need to file an application
- Employers will continue receiving automatically generated notices for unpaid, deferred 2021 UI taxes; these can be disregarded if the employer meets all of the deferral requirements
- Employers must meet the requirements for the full 2021 tax year; refunds/credits will begin after January 2022, when the last 2021 wage reports and payments are due - work should be completed by mid-late 2022
- If a report or payment is late the employer becomes ineligible:
  - The Department will notify the employer in writing; deferred UI tax, accrued penalties and interest become due.
  - Employers who experience errors in their quarterly filing should notify the Employment Department immediately so extenuating circumstances can be reviewed.

# Deferral and Forgiveness - Amounts

- Employer contributions of **$98 million** are deferrable for Q1 – Q2, 2021
- **$23 million** of Q1 – Q2, 2021, deferrable amount is eligible for forgiveness
- After Q3 and Q4, 2021 are completed, impact amounts and the number of eligible employers for prior quarters could change

| | | Quarter 1 | | Quarter 2 | |
|---|---|---|---|---|---|
| **Category** | **Employers** | **Deferrable Amount** | **Forgiveness Amount** | **Deferrable Amount** | **Forgiveness Amount** |
| Deferral only | 61,158 | $35,220,421.27 | $0.00 | $30,167,284.50 | $0.00 |
| 50% forgiveness | 5,272 | $7,294,428.26 | $3,647,214.13 | $7,056,115.38 | $3,528,057.69 |
| 75% forgiveness | 5,568 | $5,334,054.28 | $4,000,540.71 | $5,307,023.07 | $3,980,267.30 |
| 100% forgiveness | 8,810 | $3,569,510.87 | $3,569,510.87 | $4,103,517.39 | $4,103,517.39 |
| Total | 80,808 | $51,418,414.69 | $11,217,265.71 | $46,633,940.34 | $11,611,842.38 |

# UI Trust Fund Solvency - National

- 12 states and territories had outstanding balances or were currently borrowing in late September 2021 totaling over $45.5 billion
- Many states used CARES Act or ARPA funds to avoid, or minimize, borrowing money for the UI Trust Fund. Oregon was able to direct those funds to provide other needed support to Oregonians
- Employers in states that borrow money face increased UI taxes to repay borrowed funds, interest, and in some cases they lose federal payroll tax credits as well

# Trust Fund Solvency - Oregon

- Oregon is a leader in funding its UI Trust Fund
  - Our UI Trust Fund has provided exactly the type of countercyclical economic safety net it was designed to
  - Allowed Oregon to weather the 'Great Recession' and the 'Pandemic Recession', the most severe strain on the UI Trust Fund ever, without having to borrow and incur more costs to Oregon employers, but instead was able to use some of its accumulated savings to mitigate the impact to Oregon businesses
  - HB 3389 takes advantage of Oregon's very solvent UI Trust Fund to provide relief to employers while protecting them against long-term risks of the UI Trust Fund becoming insolvent

# Thank You

State of Oregon
Employment Department