AN ACT Relating to unemployment insurance relief for certain employers; adding a new section to chapter 50.16 RCW; adding new sections to chapter 50.29 RCW; creating new sections; providing expiration dates; and declaring an emergency.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

NEW SECTION. Sec. 1. Amid unprecedented and ongoing stresses on our unemployment compensation fund and a sharp increase in the need for benefits during the COVID-19 public health emergency, the legislature intends to minimize the impact of public health precautionary measures on certain employers and the resulting impact on the experience rate component of their unemployment insurance premium rate. The first bill passed by the 2021 legislature and signed by the governor, Engrossed Substitute Senate Bill No. 5061, provided immediate relief to all employers by noncharging $1.2 billion in benefits paid during the 11 weeks of the initial COVID-19 closures, reducing the social tax component for five years, and suspending the solvency surcharge until 2025. This swift action led to the state's average unemployment insurance tax rate in 2021 increasing by only 0.03 percent, instead of 0.85 percent as was expected if the legislature had not acted. The legislature now intends to prepare for 2022 by preemptively minimizing the
disproportionate impact COVID-19 economic closures have had on
certain businesses, while continuing to ensure a healthy unemployment
compensation fund that can maintain critical economic support to
Washington workers.

NEW SECTION. Sec. 2. A new section is added to chapter 50.16
RCW to read as follows:
(1) The unemployment insurance relief account is created in the
custody of the state treasurer. Revenues to the account consist of
appropriations and transfers by the legislature and all other funding
directed for deposit into the account. Only the commissioner of the
employment security department or the commissioner's designee may
authorize expenditures from the account. Expenditures from the
account may be used only for reimbursing the unemployment
compensation fund created in RCW 50.16.010 for forgiven benefits for
COVID-19 impacted businesses pursuant to sections 3 and 4 of this
act. The account is subject to the allotment procedures under chapter
43.88 RCW, but an appropriation is not required for expenditures.
(2) By July 1, 2022, the commissioner must certify to the state
treasurer the amount of any unobligated moneys in the unemployment
insurance relief account that were appropriated by the legislature
from the general fund during the 2021-2023 fiscal biennium, and the
treasurer must transfer those moneys back to the general fund.

NEW SECTION. Sec. 3. A new section is added to chapter 50.29
RCW to read as follows:
(1) By November 1, 2021, the department must determine the
forgiven benefits for approved category 1 employers to be reimbursed
by the unemployment insurance relief account instead of charged to
the employer's experience rating account.
(2) The department will not charge the forgiven benefits to the
employer's experience rating account. The commissioner must instead
transfer from the unemployment insurance relief account to the
unemployment compensation fund created in RCW 50.16.010 an amount
equal to the forgiven benefits.
(3) For the purposes of this section, the following definitions
apply:
(a) "Approved benefits" means benefits paid to employees of an
approved category 1 employer during the fiscal year ending June 30,
2021, not to exceed an amount that would reduce the employer's rate
class increase to no more than a two rate class increase. Approved
benefits must not include benefits that were not charged to the
employer's experience rating account or benefits otherwise relieved
under RCW 50.29.021.

(b) "Approved category 1 employer" means a contribution paying
employer, excluding any ineligible employer:

(i) Whose experience rating under RCW 50.29.025(1)(a)(ii) has
increased by two or more rate classes from rate year 2021 to rate
year 2022; and

(ii)(A) Whose North American industry classification system code
for rate year 2021 is within "323," "448," "451," "453," "481,"
(B) Which is a grocery store which: (I) Had fewer than 25
employees in the state as reported on the employer's fourth quarter
report to the department for 2019 and (II) was located within five
miles of an international border, which was closed at any time in
2021 due to COVID-19.

(c) "Forgiven benefits" means the approved benefits for an
individual employer multiplied by the forgiveness ratio.

(d) "Forgiveness ratio" is computed by dividing 50 percent of the
total amount of money in the unemployment insurance relief account by
the total approved benefits. The forgiveness ratio cannot be more
than one.

(e) "Ineligible employer" means any employer that has not paid
all contributions, penalties, and interest due by September 30, 2021,
or has not entered into a department-approved deferred payment

(f) "Total approved benefits" means the sum total of all approved
benefits.

(4) The department must adopt such rules as are necessary to
carry out the purposes of this section.

(5) This section expires July 30, 2022.

NEW SECTION. Sec. 4. A new section is added to chapter 50.29
RCW to read as follows:

(1) By November 1, 2021, the department must determine the
forgiven benefits for approved category 2 employers to be reimbursed
by the unemployment insurance relief account instead of charged to
the employer's experience rating account.

p. 3 SSB 5478
(2) The department will not charge the forgiven benefits to the employer's experience rating account. The commissioner must instead transfer from the unemployment insurance relief account to the unemployment compensation fund created in RCW 50.16.010 an amount equal to the forgiven benefits.

(3) For the purposes of this section, the following definitions apply:

(a) "Approved benefits" means benefits paid to employees of an approved category 2 employer during the fiscal year ending June 30, 2021, not to exceed an amount that would reduce the employer's rate class increase to no more than a four rate class increase. Approved benefits must not include benefits that were not charged to the employer's experience rating account or benefits otherwise relieved under RCW 50.29.021.

(b) "Approved category 2 employer" means a contribution paying employer, excluding any ineligible employer:

(i) Whose experience rating under RCW 50.29.025(1)(a)(ii) has increased by six or more rate classes from rate year 2021 to rate year 2022;

(ii) With fewer than 40,000 employees in the state as reported on the employer's fourth quarter report to the department for 2019; and

(iii) Who does not meet the definition of approved category 1 employer under section 3(3)(b) of this act.

(c) "Forgiven benefits" means the approved benefits for an individual employer multiplied by the forgiveness ratio.

(d) "Forgiveness ratio" is computed by dividing 50 percent of the total amount of money in the unemployment insurance relief account by the total approved benefits. The forgiveness ratio cannot be more than one.

(e) "Ineligible employer" means any employer that has not paid all contributions, penalties, and interest due by September 30, 2021, or has not entered into a department-approved deferred payment contract by September 30, 2021.

(f) "Total approved benefits" means the sum total of all approved benefits.

(4) The department must adopt such rules as are necessary to carry out the purposes of this section.

(5) This section expires July 30, 2022.
NEW SECTION. Sec. 5. If any part of this act is found to be in conflict with federal requirements that are a prescribed condition to the allocation of federal funds to the state or the eligibility of employers in this state for federal unemployment tax credits, the conflicting part of this act is inoperative solely to the extent of the conflict, and the finding or determination does not affect the operation of the remainder of this act. Rules adopted under this act must meet federal requirements that are a necessary condition to the receipt of federal funds by the state or the granting of federal unemployment tax credits to employers in this state.

NEW SECTION. Sec. 6. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately.

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