

CERTIFICATION OF ENROLLMENT  
**ENGROSSED SUBSTITUTE SENATE BILL 5478**

67th Legislature  
2021 Regular Session

Passed by the Senate April 24, 2021  
Yeas 49 Nays 0

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**President of the Senate**

Passed by the House April 22, 2021  
Yeas 95 Nays 2

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**Speaker of the House of  
Representatives**

Approved

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**Governor of the State of Washington**

CERTIFICATE

I, Brad Hendrickson, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **ENGROSSED SUBSTITUTE SENATE BILL 5478** as passed by the Senate and the House of Representatives on the dates hereon set forth.

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**Secretary**

FILED

**Secretary of State  
State of Washington**

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**ENGROSSED SUBSTITUTE SENATE BILL 5478**

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AS AMENDED BY THE HOUSE

Passed Legislature - 2021 Regular Session

**State of Washington                      67th Legislature                      2021 Regular Session**

**By** Senate Ways & Means (originally sponsored by Senators Keiser, Mullet, Billig, Cleveland, Conway, Das, Hunt, King, Kuderer, Lias, Lovelett, Nguyen, Randall, Rolfes, Saldaña, Stanford, Van De Wege, and Wilson, C.)

READ FIRST TIME 04/02/21.

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

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

6            NEW SECTION.    **Sec. 1.**    (1) The legislature finds that certain  
7 businesses in Washington have experienced significant and  
8 unanticipated impacts during the COVID-19 pandemic. The legislature  
9 intends to preemptively minimize the disproportionate impact COVID-19  
10 economic closures have had on these businesses.

11            (2) Small businesses in particular have fewer reserves and fewer  
12 resources to rely upon in periods of downturn. Those businesses owned  
13 by historically disadvantaged groups, such as women, minority  
14 populations, and immigrants, often experience disproportionately more  
15 distress and burden due to the economic impacts of the COVID-19  
16 pandemic compared to their counterparts across the remaining business  
17 community. These businesses are absolutely critical to the success of  
18 Washington's continued high ratings, number one gross domestic  
19 product, and are part of the backbone of Washington's diverse and  
20 resilient economy.

1 (3) The legislature finds that ESSB 5061, passed by the  
2 legislature and signed by the governor earlier in the 2021 session,  
3 mitigated immediate impacts to employers through caps on the social  
4 tax, suspension of the solvency surcharge, and relief of certain  
5 benefit charges.

6 (4) The legislature now intends to address the disproportionate  
7 impacts on small and other significantly impacted businesses beyond  
8 the limited time period addressed in ESSB 5061. The legislature  
9 intends to provide this targeted relief through the one-time  
10 application of funds, in order to provide critical support for many  
11 of the businesses that are essential to Washington's recovery and  
12 ongoing economic vitality, while maintaining a healthy unemployment  
13 insurance trust fund for Washington's workers.

14 NEW SECTION. **Sec. 2.** A new section is added to chapter 50.16  
15 RCW to read as follows:

16 (1) The unemployment insurance relief account is created in the  
17 custody of the state treasurer. Revenues to the account consist of  
18 appropriations and transfers by the legislature and all other funding  
19 directed for deposit into the account. Only the commissioner of the  
20 employment security department or the commissioner's designee may  
21 authorize expenditures from the account. Expenditures from the  
22 account may be used only for reimbursing the unemployment  
23 compensation fund created in RCW 50.16.010 for forgiven benefits for  
24 COVID-19 impacted businesses pursuant to sections 3, 4, 5, 6, 7, 8,  
25 and 9 of this act. The account is subject to the allotment procedures  
26 under chapter 43.88 RCW, but an appropriation is not required for  
27 expenditures.

28 (2) By July 1, 2022, the commissioner must certify to the state  
29 treasurer the amount of any unobligated moneys in the unemployment  
30 insurance relief account that were appropriated by the legislature  
31 from the general fund during the 2021-2023 fiscal biennium, and the  
32 treasurer must transfer those moneys back to the general fund.

33 NEW SECTION. **Sec. 3.** A new section is added to chapter 50.29  
34 RCW to read as follows:

35 (1) By December 20, 2021, the department must determine the  
36 forgiven benefits for approved category 1 employers to be reimbursed  
37 by the unemployment insurance relief account instead of charged to  
38 the employer's experience rating account. Total forgiven benefits for

1 all approved category 1 employers may not exceed the available  
2 benefits for category 1.

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

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

10 (a) "Approved benefits" means benefits paid to employees of an  
11 approved category 1 employer during the fiscal year ending June 30,  
12 2021, not to exceed an amount that would reduce the employer's rate  
13 class increase to no more than a two rate class increase. Approved  
14 benefits must not include benefits that were not charged to the  
15 employer's experience rating account or benefits otherwise relieved  
16 under RCW 50.29.021.

17 (b) "Approved category 1 employer" means a contribution paying  
18 employer:

19 (i) With 20 or fewer employees in the state as reported on the  
20 employer's fourth quarter report to the department for 2020;

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

24 (iii) Whose North American industry classification system code  
25 for rate year 2021 is within "323," "331," "448," "451," "453,"  
26 "481," "485," "487," "512," "711," "712," "713," "721," "722," "812,"  
27 and "814."

28 (c) "Available benefits for category 1" means \$100,000,000 of the  
29 total amount of money in the unemployment insurance relief account.

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

32 (e) "Forgiveness ratio" is computed by dividing the available  
33 benefits for category 1 by the total approved benefits. The  
34 forgiveness ratio cannot be more than one.

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

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

39 (5) This section expires July 30, 2022.

1        NEW SECTION.    **Sec. 4.**    A new section is added to chapter 50.29

2    RCW to read as follows:

3        (1) By December 20, 2021, the department must determine the  
4    forgiven benefits for approved category 2 employers to be reimbursed  
5    by the unemployment insurance relief account instead of charged to  
6    the employer's experience rating account. Total forgiven benefits for  
7    all approved category 2 employers may not exceed the available  
8    benefits for category 2.

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

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

16        (a) "Approved benefits" means benefits paid to employees of an  
17   approved category 2 employer during the fiscal year ending June 30,  
18   2021, not to exceed an amount that would reduce the employer's rate  
19   class increase to no more than a two rate class increase. Approved  
20   benefits must not include benefits that were not charged to the  
21   employer's experience rating account or benefits otherwise relieved  
22   under RCW 50.29.021.

23        (b) "Approved category 2 employer" means a contribution paying  
24   employer:

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

28        (ii) Whose North American industry classification system code for  
29   rate year 2021 is within "323," "331," "448," "451," "453," "481,"  
30   "485," "487," "512," "711," "712," "713," "721," "722," "812," and  
31   "814"; and

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

34        (c) "Available benefits for category 2" means the sum total of:

35        (i) The difference between the available benefits for category 1,  
36   as defined in section 3 of this act, and the total forgiven benefits  
37   for approved category 1 employers, as defined in section 3 of this  
38   act; and

39        (ii) \$175,000,000 of the total amount of money in the  
40   unemployment insurance relief account.

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

3 (e) "Forgiveness ratio" is computed by dividing the available  
4 benefits for category 2 by the total approved benefits. The  
5 forgiveness ratio cannot be more than one.

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

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

10 (5) This section expires July 30, 2022.

11 NEW SECTION. **Sec. 5.** A new section is added to chapter 50.29  
12 RCW to read as follows:

13 (1) By December 20, 2021, the department must determine the  
14 forgiven benefits for approved category 3 employers to be reimbursed  
15 by the unemployment insurance relief account instead of charged to  
16 the employer's experience rating account. Total forgiven benefits for  
17 all approved category 3 employers may not exceed the available  
18 benefits for category 3.

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

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

26 (a) "Approved benefits" means benefits paid to employees of an  
27 approved category 3 employer during the fiscal year ending June 30,  
28 2021, not to exceed an amount that would reduce the employer's rate  
29 class increase to no more than a three rate class increase. Approved  
30 benefits must not include benefits that were not charged to the  
31 employer's experience rating account or benefits otherwise relieved  
32 under RCW 50.29.021.

33 (b) "Approved category 3 employer" means a contribution paying  
34 employer:

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

38 (ii) With 20 or fewer employees in the state as reported on the  
39 employer's fourth quarter report to the department for 2020; and

1 (iii) Who does not meet the definition of approved category 1  
2 employer under section 3(3) of this act or approved category 2  
3 employer under section 4(3) of this act.

4 (c) "Available benefits for category 3" means the sum total of:

5 (i) The difference between the available benefits for category 2,  
6 as defined under section 4 of this act, and the total forgiven  
7 benefits for approved category 2 employers, as defined under section  
8 4 of this act; and

9 (ii) \$75,000,000 of the total amount of money in the unemployment  
10 insurance relief account.

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

13 (e) "Forgiveness ratio" is computed by dividing the available  
14 benefits for category 3 by the total approved benefits. The  
15 forgiveness ratio cannot be more than one.

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

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

20 (5) This section expires July 30, 2022.

21 NEW SECTION. **Sec. 6.** A new section is added to chapter 50.29  
22 RCW to read as follows:

23 (1) By December 20, 2021, the department must determine the  
24 forgiven benefits for approved category 4 employers to be reimbursed  
25 by the unemployment insurance relief account instead of charged to  
26 the employer's experience rating account. Total forgiven benefits for  
27 all approved category 4 employers may not exceed the available  
28 benefits for category 4.

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

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

36 (a) "Approved benefits" means benefits paid to employees of an  
37 approved category 4 employer during the fiscal year ending June 30,  
38 2021, not to exceed an amount that would reduce the employer's rate  
39 class increase to no more than a three rate class increase. Approved

1 benefits must not include benefits that were not charged to the  
2 employer's experience rating account or benefits otherwise relieved  
3 under RCW 50.29.021.

4 (b) "Approved category 4 employer" means a contribution paying  
5 employer:

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

9 (ii) With at least 21 but fewer than 5,000 employees in the state  
10 as reported on the employer's fourth quarter report to the department  
11 for 2020; and

12 (iii) Who does not meet the definition of approved category 1  
13 employer under section 3(3) of this act, approved category 2 employer  
14 under section 4(3) of this act, or approved category 3 employer under  
15 section 5(3) of this act.

16 (c) "Available benefits for category 4" means the sum total of:

17 (i) The difference between the available benefits for category 3,  
18 as defined under section 5 of this act, and the total forgiven  
19 benefits for approved category 3 employers, as defined under section  
20 5 of this act; and

21 (ii) \$150,000,000 of the total amount of money in the  
22 unemployment insurance relief account.

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

25 (e) "Forgiveness ratio" is computed by dividing the available  
26 benefits for category 4 by the total approved benefits. The  
27 forgiveness ratio cannot be more than one.

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

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

32 (5) This section expires July 30, 2022.

33 NEW SECTION. **Sec. 7.** A new section is added to chapter 50.29  
34 RCW to read as follows:

35 (1) If moneys remain in the unemployment insurance relief account  
36 after the department determines the forgiven benefits for all  
37 approved employers pursuant to sections 3 through 6 of this act, then  
38 by December 21, 2021, the department must again determine any  
39 forgiven benefits for approved category 1 employers to be reimbursed



1 by the unemployment insurance relief account instead of charged to  
2 the employer's experience rating account. Total forgiven benefits for  
3 all approved category 1 employers may not exceed the available  
4 benefits for category 1.

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

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

12 (a) "Approved benefits" means any remaining benefits paid to  
13 employees of an approved category 1 employer during the fiscal year  
14 ending June 30, 2021, that were not previously forgiven under section  
15 3 of this act, not to exceed an amount that would reduce the  
16 employer's rate class increase to no more than a two rate class  
17 increase. Approved benefits must not include benefits that were not  
18 charged to the employer's experience rating account or benefits  
19 otherwise relieved under RCW 50.29.021.

20 (b) "Approved category 1 employer" has the same meaning as  
21 defined in section 3 of this act.

22 (c) "Available benefits for category 1" means the total amount of  
23 money remaining in the unemployment insurance relief account after  
24 benefits are forgiven according to sections 3 through 6 of this act.

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

27 (e) "Forgiveness ratio" is computed by dividing the available  
28 benefits for category 1 by the total approved benefits. The  
29 forgiveness ratio cannot be more than one.

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

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

34 (5) This section expires July 30, 2022.

35 NEW SECTION. **Sec. 8.** A new section is added to chapter 50.29  
36 RCW to read as follows:

37 (1) If moneys remain in the unemployment insurance relief account  
38 after the department determines the forgiven benefits for approved  
39 category 1 employers pursuant to section 7 of this act, the

1 department must again determine any forgiven benefits for approved  
2 category 2 employers to be reimbursed by the unemployment insurance  
3 relief account instead of charged to the employer's experience rating  
4 account. Total forgiven benefits for all approved category 2  
5 employers may not exceed the available benefits for category 2.

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

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

13 (a) "Approved benefits" means any remaining benefits paid to  
14 employees of an approved category 2 employer during the fiscal year  
15 ending June 30, 2021, that were not previously forgiven under section  
16 4 of this act, not to exceed an amount that would reduce the  
17 employer's rate class increase to no more than a two rate class  
18 increase. Approved benefits must not include benefits that were not  
19 charged to the employer's experience rating account or benefits  
20 otherwise relieved under RCW 50.29.021.

21 (b) "Approved category 2 employer" has the same meaning as  
22 defined in section 4 of this act.

23 (c) "Available benefits for category 2" means the difference  
24 between the available benefits for category 1, as defined in section  
25 7 of this act, and the total forgiven benefits for approved category  
26 1 employers, as defined in section 7 of this act.

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

29 (e) "Forgiveness ratio" is computed by dividing the available  
30 benefits for category 2 by the total approved benefits. The  
31 forgiveness ratio cannot be more than one.

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

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

36 (5) This section expires July 30, 2022.

37 NEW SECTION. **Sec. 9.** A new section is added to chapter 50.29  
38 RCW to read as follows:

1 (1) If moneys remain in the unemployment insurance relief account  
2 after the department determines the forgiven benefits for approved  
3 category 2 employers pursuant to section 8 of this act, the  
4 department must again determine any forgiven benefits for approved  
5 category 3 employers to be reimbursed by the unemployment insurance  
6 relief account instead of charged to the employer's experience rating  
7 account. Total forgiven benefits for all approved category 3  
8 employers may not exceed the available benefits for category 3.

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

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

16 (a) "Approved benefits" means any remaining benefits paid to  
17 employees of an approved category 3 employer during the fiscal year  
18 ending June 30, 2021, that were not previously forgiven under section  
19 5 of this act, not to exceed an amount that would reduce the  
20 employer's rate class increase to no more than a three rate class  
21 increase. Approved benefits must not include benefits that were not  
22 charged to the employer's experience rating account or benefits  
23 otherwise relieved under RCW 50.29.021.

24 (b) "Approved category 3 employer" has the same meaning as  
25 defined in section 5 of this act.

26 (c) "Available benefits for category 3" means the difference  
27 between the available benefits for category 2, as defined under  
28 section 8 of this act, and the total forgiven benefits for approved  
29 category 2 employers, as defined under section 8 of this act.

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

32 (e) "Forgiveness ratio" is computed by dividing the available  
33 benefits for category 3 by the total approved benefits. The  
34 forgiveness ratio cannot be more than one.

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

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

39 (5) This section expires July 30, 2022.

1        NEW SECTION.    **Sec. 10.**    A new section is added to chapter 50.29  
2    RCW to read as follows:

3        (1) By September 1st of each year, the department must determine  
4    which employers have not paid all contributions, penalties, or  
5    interest due, and have not entered into a department-approved  
6    deferred payment contract, as of that date.

7        (2) By September 1st of each year, for each employer meeting the  
8    criteria in subsection (1) of this section, the department must  
9    notify the employer of the availability of deferred payment contracts  
10   with the department. The department must provide technical, and  
11   culturally and linguistically relevant, assistance as needed to the  
12   employer in navigating the process for entering into a department-  
13   approved payment contract.

14       NEW SECTION.    **Sec. 11.**    If any part of this act is found to be in  
15   conflict with federal requirements that are a prescribed condition to  
16   the allocation of federal funds to the state or the eligibility of  
17   employers in this state for federal unemployment tax credits, the  
18   conflicting part of this act is inoperative solely to the extent of  
19   the conflict, and the finding or determination does not affect the  
20   operation of the remainder of this act. Rules adopted under this act  
21   must meet federal requirements that are a necessary condition to the  
22   receipt of federal funds by the state or the granting of federal  
23   unemployment tax credits to employers in this state.

24       NEW SECTION.    **Sec. 12.**    This act is necessary for the immediate  
25   preservation of the public peace, health, or safety, or support of  
26   the state government and its existing public institutions, and takes  
27   effect immediately.

--- END ---