

CERTIFICATION OF ENROLLMENT

ENGROSSED SUBSTITUTE SENATE BILL 5478

Chapter 292, Laws of 2021

67th Legislature
2021 Regular Session

UNEMPLOYMENT INSURANCE—FORGIVEN BENEFITS—RELIEF ACCOUNT

EFFECTIVE DATE: May 12, 2021

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

DENNY HECK

President of the Senate

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

LURIE JINKINS

**Speaker of the House of
Representatives**

Approved May 12, 2021 3:13 PM

JAY INSLEE

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.

BRAD HENDRICKSON

Secretary

FILED

May 12, 2021

**Secretary of State
State of Washington**

ENGROSSED SUBSTITUTE SENATE BILL 5478

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.

 Passed by the Senate April 24, 2021.
 Passed by the House April 22, 2021.
 Approved by the Governor May 12, 2021.
 Filed in Office of Secretary of State May 12, 2021.

 --- END ---