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**SECOND SUBSTITUTE HOUSE BILL 2630**

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**State of Washington                      61st Legislature                      2010 Regular Session**

**By** House Education Appropriations (originally sponsored by Representatives Probst, Kenney, Conway, Maxwell, Jacks, White, Simpson, Seaquist, Sells, Goodman, Ormsby, and Santos)

READ FIRST TIME 02/09/10.

1            AN ACT Relating to creating the opportunity express program;  
2 amending RCW 28C.04.390, 50.04.070, 50.04.072, 50.16.030, and  
3 50.24.010; adding a new section to chapter 28B.50 RCW; adding a new  
4 section to chapter 50.24 RCW; creating new sections; and declaring an  
5 emergency.

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

7            NEW SECTION.    **Sec. 1.** (1) The legislature finds that in times of  
8 severe economic recession, the state has a special obligation to help  
9 unemployed and low-income citizens access the training and education  
10 necessary to help them find and keep living wage jobs. The legislature  
11 also finds that during times of recession, when state revenues are at  
12 their lowest, demand for education and training are at their highest,  
13 making it especially important for the legislature to set clear goals  
14 and make the most efficient use of limited state resources.

15            (2) The legislature therefore intends to expand training and  
16 education programs, which have proven to be successful, to help  
17 Washington citizens receive the training they need. These programs  
18 include the worker retraining program, the opportunity grant program,  
19 and the opportunity internship program. The legislature further

1 intends to create more effective intake and outreach systems to reach  
2 the greatest number of citizens and connect them to the resources they  
3 need, including college, apprenticeship, and preapprenticeship.

4 (3) The legislature also intends to empower employers to make  
5 voluntary donations and invest in the training and education necessary  
6 to guarantee the availability of a skilled workforce. The legislature  
7 finds that, following enactment of legislation during the 2010 session,  
8 a modernization incentive payment of approximately ninety-eight million  
9 dollars will be transferred into the unemployment trust fund. This  
10 payment will be in addition to amounts previously made available to the  
11 state by section 903 of the social security act (Reed act) and by  
12 section 2003 of the American recovery and reinvestment act of 2009, of  
13 which more than sixty million dollars will be unspent at the end of the  
14 2009-2011 biennium and more than thirty million dollars will be unspent  
15 at the end of the 2011-2013 biennium. The legislature also finds that,  
16 in times of severe economic recession, it is especially important for  
17 the legislature to prioritize the use of these amounts to make possible  
18 investments in training and education.

19 **Sec. 2.** RCW 28C.04.390 and 1999 c 121 s 1 are each amended to read  
20 as follows:

21 (1) The college board worker retraining program funds shall be used  
22 for training programs and related support services, including financial  
23 aid, counseling, referral to training resources, job referral, and job  
24 development that:

25 (a) Are consistent with the unified plan for workforce development;

26 (b) Provide increased enrollments for dislocated workers;

27 (c) Provide customized training opportunities for dislocated  
28 workers; and

29 (d) Provide increased enrollments and support services, including  
30 financial aid for those students not receiving unemployment insurance  
31 benefits, that do not replace or supplant any existing enrollments,  
32 programs, support services, or funding sources.

33 (2) The college board shall develop a plan for use of the worker  
34 retraining program funds in conjunction with the workforce training  
35 customer advisory committee established in subsection (3) of this  
36 section. In developing the plan the college board shall:

1 (a) Provide that applicants for worker retraining program funds  
2 shall solicit financial support for training programs and give priority  
3 in receipt of funds to those applicants which are most successful in  
4 matching public dollars with financial support;

5 (b) Provide that applicants for worker retraining program funds  
6 shall develop training programs in partnership with local businesses,  
7 industry associations, labor, and other partners as appropriate and  
8 give priority in receipt of funds to those applicants who develop  
9 customized training programs in partnership with local businesses,  
10 industry associations, and labor organizations;

11 (c) Give priority in receipt of funds to those applicants serving  
12 rural areas;

13 (d) Ensure that applicants receiving worker retraining program  
14 funds gather information from local workforce development councils on  
15 employer workforce needs, including the needs of businesses with less  
16 than twenty-five employees; (~~and~~)

17 (e) Provide for specialized vocational training at a private career  
18 school or college at the request of a recipient eligible under  
19 subsection (1)(b) of this section. Available tuition for the training  
20 is limited to the amount that would otherwise be payable per enrolled  
21 quarter to a public institution; and

22 (f) Give priority in receipt of funds to those applicants working  
23 toward careers in the aerospace, health care, advanced manufacturing,  
24 construction, renewable energy industries, high-demand occupations in  
25 strategic industry clusters identified in the state comprehensive plan  
26 and the workforce development councils' local comprehensive plans for  
27 workforce educational training as identified in RCW 28C.18.080 and  
28 28C.18.150, or occupations and industries identified by community and  
29 technical colleges in collaboration with local workforce development  
30 councils. For purposes of this section, health care includes long-term  
31 care.

32 (3) The executive director of the college board shall appoint a  
33 workforce training customer advisory committee by July 1, 1999, to:

34 (a) Assist in the development of the plan for the use of the  
35 college board worker retraining program funds and recommend guidelines  
36 to the college board for the operation of worker retraining programs;

37 (b) Recommend selection criteria for worker retraining programs and  
38 grant applicants for receipt of worker retraining program grants;

1 (c) Provide advice to the college board on other workforce  
2 development activities of the community and technical colleges;

3 (d) Recommend selection criteria for job skills grants, consistent  
4 with criteria established in this chapter and chapter 121, Laws of  
5 1999. Such criteria shall include a prioritization of job skills  
6 applicants in rural areas;

7 (e) Recommend guidelines to the college board for the operation of  
8 the job skills program; and

9 (f) Recommend grant applicants for receipt of job skills program  
10 grants.

11 (4) Members of the workforce training customer advisory committee  
12 shall consist of three college system representatives selected by the  
13 executive director of the college board, three representatives of  
14 business selected from nominations provided by statewide business  
15 organizations, and three representatives of labor selected from  
16 nominations provided by a statewide labor organization representing a  
17 cross-section of workers in the state.

18 NEW SECTION. **Sec. 3.** A new section is added to chapter 28B.50 RCW  
19 to read as follows:

20 By July 1, 2010, and within existing resources, the college board  
21 may create a single web site for the purpose of advertising the  
22 availability of opportunity express funding to Washington citizens;  
23 explaining that opportunity express helps people who want to pursue  
24 college and apprenticeship for certain targeted industries; and  
25 explaining that opportunity express includes three tracks: Worker  
26 retraining, training programs approved by the commissioner of the  
27 employment security department, training programs administered by labor  
28 and management partnerships for unemployed adults; opportunity  
29 internships for high school students; and opportunity grants for low-  
30 income adults. The web site may also direct interested individuals to  
31 the appropriate local intake office. The web site may also include a  
32 link to the Washington state department of labor and industries  
33 apprenticeship program.

34 NEW SECTION. **Sec. 4.** A new section is added to chapter 50.24 RCW  
35 to read as follows:

36 (1) For rate years 2010 and 2011, the opportunity express

1 unemployment tax credit is allowed for voluntary contributions made  
2 under subsection (2) of this section. The total amount of the credit  
3 taken under this section for a calendar quarter shall equal one hundred  
4 ten percent of voluntary contributions for the same calendar quarter,  
5 but may not exceed the portion of contributions attributable to the  
6 social cost factor rate under RCW 50.29.025(2) for the same calendar  
7 quarter. The credit shall be earned, and claimed against contributions  
8 due under RCW 50.24.010, for the calendar quarter for which the  
9 voluntary contributions are made by the employer claiming credit under  
10 this subsection. Unused credits may not be carried over or used in  
11 subsequent calendar quarters. No refunds shall be granted for credits  
12 under this subsection. The total amount of all credits taken by all  
13 employers may not exceed ninety-seven million seven hundred twenty-nine  
14 thousand dollars.

15 (2) For rate years 2010 and 2011, voluntary contributions to the  
16 opportunity express account shall accrue and become payable by each  
17 employer described under RCW 50.04.080 that elects to make voluntary  
18 contributions and receive opportunity express unemployment tax credits  
19 under subsection (1) of this section, except employers as described in  
20 RCW 50.44.010 and 50.44.030 who have properly elected to make payments  
21 in lieu of contributions, taxable local government employers as  
22 described in RCW 50.44.035, and those employers who are required to  
23 make payments in lieu of contributions. The total amount of the  
24 contributions made under this section for any calendar quarter shall be  
25 determined by the employer. If the amount of voluntary contributions  
26 to the account exceeds eighty-eight million eight hundred forty-four  
27 thousand dollars, any excess shall be considered surplus and  
28 transferred to the unemployment trust fund for purposes consistent with  
29 the requirements of the unemployment trust fund.

30 (3) A separate and identifiable account, which shall be known as  
31 the opportunity express account, is established. Up to eighty-eight  
32 million eight hundred forty-four thousand dollars in the account may be  
33 spent only after appropriation. The account shall be used only for the  
34 worker retraining program, training programs approved by the  
35 commissioner of the employment security department, training programs  
36 administered by labor and management partnerships, the opportunity  
37 internship program, and the opportunity grant program, and for

1 administrative costs related to these programs and collection of  
2 voluntary contributions under this section.

3 **Sec. 5.** RCW 50.04.070 and 1985 ex.s. c 5 s 4 are each amended to  
4 read as follows:

5 "Contributions" means the money payments due to the state  
6 unemployment compensation fund as provided in RCW 50.24.010, to the  
7 federal interest payment fund under RCW 50.16.070, to the opportunity  
8 express account under section 4 of this act, or to the special account  
9 in the administrative contingency fund under RCW 50.24.014.

10 **Sec. 6.** RCW 50.04.072 and 1985 ex.s. c 5 s 5 are each amended to  
11 read as follows:

12 The terms "contributions" and "payments in lieu of contributions"  
13 used in this title, whether singular or plural, designate the money  
14 payments to be made to the state unemployment compensation fund, to the  
15 federal interest payment fund under RCW 50.16.070, to the opportunity  
16 express account under section 4 of this act, or to the special account  
17 in the administrative contingency fund under RCW 50.24.014 and are  
18 deemed to be taxes due to the state of Washington.

19 **Sec. 7.** RCW 50.16.030 and 2006 c 13 s 7 are each amended to read  
20 as follows:

21 (1)(a) Except as provided in (b) and (c) of this subsection, moneys  
22 shall be requisitioned from this state's account in the unemployment  
23 trust fund solely for the payment of benefits and repayment of loans  
24 from the federal government to guarantee solvency of the unemployment  
25 compensation fund in accordance with regulations prescribed by the  
26 commissioner, except that money credited to this state's account  
27 pursuant to section 903 of the social security act, as amended, shall  
28 be used exclusively as provided in RCW 50.16.030(5). The commissioner  
29 shall from time to time requisition from the unemployment trust fund  
30 such amounts, not exceeding the amounts standing to its account  
31 therein, as he or she deems necessary for the payment of benefits for  
32 a reasonable future period. Upon receipt thereof the treasurer shall  
33 deposit such moneys in the benefit account and shall issue his or her  
34 warrants for the payment of benefits solely from such benefits account.

1 (b) Moneys for the payment of regular benefits as defined in RCW  
2 50.22.010 shall be requisitioned during fiscal year 2006 in the  
3 following order:

4 (i) First, from the moneys credited to this state's account in the  
5 unemployment trust fund pursuant to section 903 of the social security  
6 act, as amended in section 209 of the temporary extended unemployment  
7 compensation act of 2002 (42 U.S.C. Sec. 1103(d)), the amount equal to  
8 the amount of benefits charged that exceed the contributions paid in  
9 the four consecutive calendar quarters ending on June 30, 2006, because  
10 the social cost factor contributions that employers are subject to  
11 under RCW 50.29.025(2)(b)(ii)(B) are less than the social cost factor  
12 contributions that these employers would have been subject to if RCW  
13 50.29.025(2)(b)(ii)(A) had applied to these employers; and

14 (ii) Second, after the requisitioning required under (b)(i) of this  
15 subsection, from all other moneys credited to this state's account in  
16 the unemployment trust fund.

17 (c) Moneys for the payment of regular benefits as defined in RCW  
18 50.22.010 shall be requisitioned during fiscal year 2011 in the  
19 following order:

20 (i) First, from the moneys credited to this state's account in the  
21 unemployment trust fund pursuant to section 903 of the social security  
22 act, as amended in section 2003 of the American recovery and  
23 reinvestment act of 2009 (42 U.S.C. Sec. 1103(f)), ninety-seven million  
24 seven hundred twenty-nine thousand two hundred nineteen dollars; and

25 (ii) Second, after the requisitioning required under (c)(i) of this  
26 subsection, from all other moneys credited to this state's account in  
27 the unemployment trust fund.

28 (2) Expenditures of such moneys in the benefit account and refunds  
29 from the clearing account shall not be subject to any provisions of law  
30 requiring specific appropriations or other formal release by state  
31 officers of money in their custody, and RCW 43.01.050, as amended,  
32 shall not apply. All warrants issued by the treasurer for the payment  
33 of benefits and refunds shall bear the signature of the treasurer and  
34 the countersignature of the commissioner, or his or her duly authorized  
35 agent for that purpose.

36 (3) Any balance of moneys requisitioned from the unemployment trust  
37 fund which remains unclaimed or unpaid in the benefit account after the  
38 expiration of the period for which sums were requisitioned shall either

1 be deducted from estimates for, and may be utilized for the payment of,  
2 benefits during succeeding periods, or in the discretion of the  
3 commissioner, shall be redeposited with the secretary of the treasury  
4 of the United States of America to the credit of this state's account  
5 in the unemployment trust fund.

6 (4) Money credited to the account of this state in the unemployment  
7 trust fund by the secretary of the treasury of the United States of  
8 America pursuant to section 903 of the social security act, as amended,  
9 may be requisitioned and used for the payment of expenses incurred for  
10 the administration of this title pursuant to a specific appropriation  
11 by the legislature, provided that the expenses are incurred and the  
12 money is requisitioned after the enactment of an appropriation law  
13 which:

14 (a) Specifies the purposes for which such money is appropriated and  
15 the amounts appropriated therefor;

16 (b) Limits the period within which such money may be obligated to  
17 a period ending not more than two years after the date of the enactment  
18 of the appropriation law; and

19 (c) Limits the amount which may be obligated during a twelve-month  
20 period beginning on July 1st and ending on the next June 30th to an  
21 amount which does not exceed the amount by which (i) the aggregate of  
22 the amounts credited to the account of this state pursuant to section  
23 903 of the social security act, as amended, during the same twelve-  
24 month period and the thirty-four preceding twelve-month periods,  
25 exceeds (ii) the aggregate of the amounts obligated pursuant to RCW  
26 50.16.030 (4), (5) and (6) and charged against the amounts credited to  
27 the account of this state during any of such thirty-five twelve-month  
28 periods. For the purposes of RCW 50.16.030 (4), (5) and (6), amounts  
29 obligated during any such twelve-month period shall be charged against  
30 equivalent amounts which were first credited and which are not already  
31 so charged; except that no amount obligated for administration during  
32 any such twelve-month period may be charged against any amount credited  
33 during such a twelve-month period earlier than the thirty-fourth  
34 twelve-month period preceding such period: PROVIDED, That any amount  
35 credited to this state's account under section 903 of the social  
36 security act, as amended, which has been appropriated for expenses of  
37 administration, whether or not withdrawn from the trust fund shall be

1 excluded from the unemployment compensation fund balance for the  
2 purpose of experience rating credit determination.

3 (5) Money credited to the account of this state pursuant to section  
4 903 of the social security act, as amended, may not be withdrawn or  
5 used except for the payment of benefits and for the payment of expenses  
6 of administration and of public employment offices pursuant to RCW  
7 50.16.030 (4), (5) and (6). However, moneys credited because of excess  
8 amounts in federal accounts in federal fiscal years 1999, 2000, and  
9 2001 shall be used solely for the administration of the unemployment  
10 compensation program and are not subject to appropriation by the  
11 legislature for any other purpose.

12 (6) Money requisitioned as provided in RCW 50.16.030 (4), (5) and  
13 (6) for the payment of expenses of administration shall be deposited in  
14 the unemployment compensation fund, but until expended, shall remain a  
15 part of the unemployment compensation fund. The commissioner shall  
16 maintain a separate record of the deposit, obligation, expenditure and  
17 return of funds so deposited. Any money so deposited which either will  
18 not be obligated within the period specified by the appropriation law  
19 or remains unobligated at the end of the period, and any money which  
20 has been obligated within the period but will not be expended, shall be  
21 returned promptly to the account of this state in the unemployment  
22 trust fund.

23 **Sec. 8.** RCW 50.24.010 and 2000 c 2 s 2 are each amended to read as  
24 follows:

25 Contributions shall accrue and become payable by each employer  
26 (except employers as described in RCW 50.44.010 who have properly  
27 elected to make payments in lieu of contributions and those employers  
28 who are required to make payments in lieu of contributions) for each  
29 calendar year in which the employer is subject to this title at the  
30 rate established pursuant to chapter 50.29 RCW, and for rate years 2010  
31 and 2011, plus any voluntary contributions and less any opportunity  
32 express unemployment tax credit under section 4 of this act.

33 In each rate year, the amount of wages subject to tax for each  
34 individual shall be one hundred fifteen percent of the amount of wages  
35 subject to tax for the previous year rounded to the next lower one  
36 hundred dollars, except that the amount of wages subject to tax in any  
37 rate year shall not exceed eighty percent of the "average annual wage

1 for contributions purposes" for the second preceding calendar year  
2 rounded to the next lower one hundred dollars. However, the amount  
3 subject to tax shall be twenty-four thousand three hundred dollars for  
4 rate year 2000.

5 In making computations under this section and RCW 50.29.010, wages  
6 paid based on services for employers making payments in lieu of  
7 contributions shall not be considered remuneration. Moneys paid from  
8 the fund, based on services performed for employers who make payments  
9 in lieu of contributions, which have not been reimbursed to the fund as  
10 of any June 30 shall be deemed an asset of the unemployment  
11 compensation fund, to the extent that such moneys exceed the amount of  
12 payments in lieu of contributions which the commissioner has previously  
13 determined to be uncollectible: PROVIDED, FURTHER, That the amount  
14 attributable to employment with the state shall also include interest  
15 as provided for in RCW 50.44.020.

16 Contributions shall become due and be paid by each employer to the  
17 treasurer for the unemployment compensation fund in accordance with  
18 such regulations as the commissioner may prescribe, and shall not be  
19 deducted, in whole or in part, from the remuneration of individuals in  
20 employment of the employer. Any deduction in violation of the  
21 provisions of this section shall be unlawful.

22 In the payment of any contributions, a fractional part of a cent  
23 shall be disregarded unless it amounts to one-half cent or more, in  
24 which case it shall be increased to one cent.

25 NEW SECTION. **Sec. 9.** If any part of this act is found to be in  
26 conflict with federal requirements that are a prescribed condition to  
27 the allocation of federal funds to the state, the conflicting part of  
28 this act is inoperative solely to the extent of the conflict and with  
29 respect to the agencies directly affected, and this finding does not  
30 affect the operation of the remainder of this act in its application to  
31 the agencies concerned. Rules adopted under this act must meet federal  
32 requirements that are a necessary condition to the receipt of federal  
33 funds by the state.

34 NEW SECTION. **Sec. 10.** If any provision of this act or its  
35 application to any person or circumstance is held invalid, the

1 remainder of the act or the application of the provision to other  
2 persons or circumstances is not affected.

3 NEW SECTION. **Sec. 11.** This act is necessary for the immediate  
4 preservation of the public peace, health, or safety, or support of the  
5 state government and its existing public institutions, and takes effect  
6 immediately.

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