
ENGROSSED HOUSE BILL 1091

State of Washington

62nd Legislature

2011 Regular Session

By Representatives Sells, Reykdal, and Kenney; by request of Governor Gregoire

Read first time 01/11/11. Referred to Committee on Labor & Workforce Development.

1 AN ACT Relating to modifying the unemployment insurance program;
2 amending RCW 50.20.120, 50.29.021, 50.16.030, 50.22.010, 50.22.155,
3 50.20.099, 50.22.130, 50.22.155, 50.22.140, 50.24.014, 50.04.075,
4 50.20.130, 50.29.021, 50.22.157, and 50.29.025; adding a new section to
5 chapter 50.20 RCW; adding a new section to chapter 43.215 RCW; adding
6 a new section to chapter 70.47 RCW; adding a new section to chapter
7 74.09 RCW; creating new sections; providing a contingent effective
8 date; providing a contingent expiration date; and declaring an
9 emergency.

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

11 **PART I**

12 **Temporary Benefit Increase**

13 NEW SECTION. **Sec. 1.** A new section is added to chapter 50.20 RCW
14 to read as follows:

15 (1) Except as provided for in subsection (3) of this section, for
16 claims with an effective date on or after March 6, 2011, and before
17 November 6, 2011, an individual's weekly benefit amount shall be the

1 amount established under RCW 50.20.120 plus an additional temporary
2 benefit increase of twenty-five dollars. The weekly benefit amount
3 under this section:

4 (a) Is payable for all weeks of regular, extended, emergency,
5 supplemental, or additional benefits on that claim;

6 (b) Shall increase the maximum benefits payable to the individual
7 under RCW 50.20.120(1) by a corresponding dollar amount; and

8 (c) Shall increase the maximum amount payable weekly and the
9 minimum amount payable weekly, irrespective of the provisions of RCW
10 50.20.120(3).

11 (2) Payment of benefits to individuals whose weekly benefit amounts
12 are increased under this section shall be subject to the same terms and
13 conditions under this title that apply to the payment of benefits to
14 individuals whose benefit amounts are established under RCW 50.20.120.

15 (3) The department must calculate the total amount of temporary
16 benefit increases paid under subsection (1) of this section.

17 (a) In calculating the total amount of temporary benefit increases,
18 weeks of emergency unemployment compensation and extended benefits
19 shall not be considered.

20 (b) Except as provided for in (c) of this subsection, when the
21 total amount of temporary benefit increases for all weeks equals sixty-
22 eight million dollars, the temporary benefit increase under subsection
23 (1) of this section may not be paid for any additional weeks. An
24 individual's maximum benefits payable, maximum amount payable weekly,
25 or the minimum amount payable weekly must be adjusted accordingly.

26 (c) An individual receiving emergency unemployment compensation or
27 extended benefits under this section shall continue to receive the
28 temporary benefit increase for all weeks of emergency unemployment
29 compensation or extended benefits.

30 **Sec. 2.** RCW 50.20.120 and 2009 c 3 s 3 are each amended to read as
31 follows:

32 Except as provided in RCW 50.20.1201 and section 1 of this act,
33 benefits shall be payable as provided in this section.

34 (1) For claims with an effective date on or after April 4, 2004,
35 benefits shall be payable to any eligible individual during the
36 individual's benefit year in a maximum amount equal to the lesser of

1 twenty-six times the weekly benefit amount, as determined in subsection
2 (2) of this section, or one-third of the individual's base year wages
3 under this title.

4 (2) For claims with an effective date on or after April 24, 2005,
5 an individual's weekly benefit amount shall be an amount equal to three
6 and eighty-five one-hundredths percent of the average quarterly wages
7 of the individual's total wages during the two quarters of the
8 individual's base year in which such total wages were highest.

9 (3) The maximum and minimum amounts payable weekly shall be
10 determined as of each June 30th to apply to benefit years beginning in
11 the twelve-month period immediately following such June 30th.

12 (a) The maximum amount payable weekly shall be either four hundred
13 ninety-six dollars or sixty-three percent of the "average weekly wage"
14 for the calendar year preceding such June 30th, whichever is greater.

15 (b) The minimum amount payable weekly shall be fifteen percent of
16 the "average weekly wage" for the calendar year preceding such June
17 30th.

18 (4) If any weekly benefit, maximum benefit, or minimum benefit
19 amount computed herein is not a multiple of one dollar, it shall be
20 reduced to the next lower multiple of one dollar.

21 **Sec. 3.** RCW 50.29.021 and 2010 c 25 s 1 are each amended to read
22 as follows:

23 (1) This section applies to benefits charged to the experience
24 rating accounts of employers for claims that have an effective date on
25 or after January 4, 2004.

26 (2)(a) An experience rating account shall be established and
27 maintained for each employer, except employers as described in RCW
28 50.44.010, 50.44.030, and 50.50.030 who have properly elected to make
29 payments in lieu of contributions, taxable local government employers
30 as described in RCW 50.44.035, and those employers who are required to
31 make payments in lieu of contributions, based on existing records of
32 the employment security department.

33 (b) Benefits paid to an eligible individual shall be charged to the
34 experience rating accounts of each of such individual's employers
35 during the individual's base year in the same ratio that the wages paid
36 by each employer to the individual during the base year bear to the

1 wages paid by all employers to that individual during that base year,
2 except as otherwise provided in this section.

3 (c) When the eligible individual's separating employer is a covered
4 contribution paying base year employer, benefits paid to the eligible
5 individual shall be charged to the experience rating account of only
6 the individual's separating employer if the individual qualifies for
7 benefits under:

8 (i) RCW 50.20.050 (1)(b)(i) or (2)(b)(i), as applicable, and became
9 unemployed after having worked and earned wages in the bona fide work;
10 or

11 (ii) RCW 50.20.050 (1)(b) (v) through (x) or (2)(b) (v) through
12 (x).

13 (3) The legislature finds that certain benefit payments, in whole
14 or in part, should not be charged to the experience rating accounts of
15 employers except those employers described in RCW 50.44.010, 50.44.030,
16 and 50.50.030 who have properly elected to make payments in lieu of
17 contributions, taxable local government employers described in RCW
18 50.44.035, and those employers who are required to make payments in
19 lieu of contributions, as follows:

20 (a) Benefits paid to any individual later determined to be
21 ineligible shall not be charged to the experience rating account of any
22 contribution paying employer. However, when a benefit claim becomes
23 invalid due to an amendment or adjustment of a report where the
24 employer failed to report or inaccurately reported hours worked or
25 remuneration paid, or both, all benefits paid will be charged to the
26 experience rating account of the contribution paying employer or
27 employers that originally filed the incomplete or inaccurate report or
28 reports. An employer who reimburses the trust fund for benefits paid
29 to workers and who fails to report or inaccurately reported hours
30 worked or remuneration paid, or both, shall reimburse the trust fund
31 for all benefits paid that are based on the originally filed incomplete
32 or inaccurate report or reports.

33 (b) Benefits paid to an individual filing under the provisions of
34 chapter 50.06 RCW shall not be charged to the experience rating account
35 of any contribution paying employer only if:

36 (i) The individual files under RCW 50.06.020(1) after receiving
37 crime victims' compensation for a disability resulting from a nonwork-
38 related occurrence; or

1 (ii) The individual files under RCW 50.06.020(2).

2 (c) Benefits paid which represent the state's share of benefits
3 payable as extended benefits defined under RCW 50.22.010(6) shall not
4 be charged to the experience rating account of any contribution paying
5 employer.

6 (d) In the case of individuals who requalify for benefits under RCW
7 50.20.050 or 50.20.060, benefits based on wage credits earned prior to
8 the disqualifying separation shall not be charged to the experience
9 rating account of the contribution paying employer from whom that
10 separation took place.

11 (e) Benefits paid to an individual who qualifies for benefits under
12 RCW 50.20.050 (1)(b) (iv) or (xi) or (2)(b) (iv) or (xi), as
13 applicable, shall not be charged to the experience rating account of
14 any contribution paying employer.

15 (f) With respect to claims with an effective date on or after the
16 first Sunday following April 22, 2005, benefits paid that exceed the
17 benefits that would have been paid if the weekly benefit amount for the
18 claim had been determined as one percent of the total wages paid in the
19 individual's base year shall not be charged to the experience rating
20 account of any contribution paying employer. This subsection (3)(f)
21 does not apply to the calculation of contribution rates under RCW
22 50.29.025 for rate year 2010 and thereafter.

23 (g) The forty-five dollar increase paid as part of an individual's
24 weekly benefit amount as provided in RCW 50.20.1201 and the twenty-five
25 dollar increase paid as part of an individual's weekly benefit amount
26 as provided in section 1 of this act shall not be charged to the
27 experience rating account of any contribution paying employer.

28 (h) With respect to claims where the minimum amount payable weekly
29 is increased to one hundred fifty-five dollars pursuant to RCW
30 50.20.1201(3), benefits paid that exceed the benefits that would have
31 been paid if the minimum amount payable weekly had been calculated
32 pursuant to RCW 50.20.120 shall not be charged to the experience rating
33 account of any contribution paying employer.

34 (i) Training benefits paid to an individual under RCW 50.22.155
35 shall not be charged to the experience rating account of any
36 contribution paying employer.

37 (4)(a) A contribution paying base year employer, not otherwise

1 eligible for relief of charges for benefits under this section, may
2 receive such relief if the benefit charges result from payment to an
3 individual who:

4 (i) Last left the employ of such employer voluntarily for reasons
5 not attributable to the employer;

6 (ii) Was discharged for misconduct or gross misconduct connected
7 with his or her work not a result of inability to meet the minimum job
8 requirements;

9 (iii) Is unemployed as a result of closure or severe curtailment of
10 operation at the employer's plant, building, worksite, or other
11 facility. This closure must be for reasons directly attributable to a
12 catastrophic occurrence such as fire, flood, or other natural disaster;

13 (iv) Continues to be employed on a regularly scheduled permanent
14 part-time basis by a base year employer and who at some time during the
15 base year was concurrently employed and subsequently separated from at
16 least one other base year employer. Benefit charge relief ceases when
17 the employment relationship between the employer requesting relief and
18 the claimant is terminated. This subsection does not apply to shared
19 work employers under chapter 50.06 RCW; or

20 (v) Was hired to replace an employee who is a member of the
21 military reserves or National Guard and was called to federal active
22 military service by the president of the United States and is
23 subsequently laid off when that employee is reemployed by their
24 employer upon release from active duty within the time provided for
25 reemployment in RCW 73.16.035.

26 (b) The employer requesting relief of charges under this subsection
27 must request relief in writing within thirty days following mailing to
28 the last known address of the notification of the valid initial
29 determination of such claim, stating the date and reason for the
30 separation or the circumstances of continued employment. The
31 commissioner, upon investigation of the request, shall determine
32 whether relief should be granted.

33 **Sec. 4.** RCW 50.16.030 and 2006 c 13 s 7 are each amended to read
34 as follows:

35 (1)(a) Except as provided in (b) and (c) of this subsection, moneys
36 shall be requisitioned from this state's account in the unemployment
37 trust fund solely for the payment of benefits and repayment of loans

1 from the federal government to guarantee solvency of the unemployment
2 compensation fund in accordance with regulations prescribed by the
3 commissioner, except that money credited to this state's account
4 pursuant to section 903 of the social security act, as amended, shall
5 be used exclusively as provided in (~~RCW 50.16.030(5)~~) subsection (5)
6 of this section. The commissioner shall from time to time requisition
7 from the unemployment trust fund such amounts, not exceeding the
8 amounts standing to its account therein, as he or she deems necessary
9 for the payment of benefits for a reasonable future period. Upon
10 receipt thereof the treasurer shall deposit such moneys in the benefit
11 account and shall issue his or her warrants for the payment of benefits
12 solely from such benefits account.

13 (b) During fiscal year 2006, moneys for the payment of regular
14 benefits as defined in RCW 50.22.010 shall be requisitioned (~~during~~
15 ~~fiscal year 2006~~) in the following order:

16 (i) First, from the moneys credited to this state's account in the
17 unemployment trust fund pursuant to section 903 of the social security
18 act, as amended in section 209 of the temporary extended unemployment
19 compensation act of 2002 (42 U.S.C. Sec. 1103(d)), the amount equal to
20 the amount of benefits charged that exceed the contributions paid in
21 the four consecutive calendar quarters ending on June 30, 2006, because
22 the social cost factor contributions that employers are subject to
23 under RCW 50.29.025(2)(b)(ii)(B) are less than the social cost factor
24 contributions that these employers would have been subject to if RCW
25 50.29.025(2)(b)(ii)(A) had applied to these employers; and

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

29 (c) During fiscal years 2012 and 2013, if moneys are credited to
30 this state's account in the unemployment trust fund pursuant to section
31 903(f)(3) of the social security act, as amended in section 2003 of the
32 American recovery and reinvestment act of 2009 (42 U.S.C. Sec.
33 1103(f)(3)), moneys for the payment of regular benefits as defined in
34 RCW 50.22.010 shall be requisitioned in the following order:

35 (i) First, from the moneys credited to this state's account in the
36 unemployment trust fund pursuant to section 903 of the social security
37 act, as amended in section 2003 of the American recovery and
38 reinvestment act of 2009 (42 U.S.C. Sec. 1103(f)), a total amount

1 during the two-year period consisting of fiscal years 2012 and 2013
2 that is equal to the total amount of temporary benefit increases under
3 section 1 of this act. This subsection shall not be construed as
4 requiring that the total amount be requisitioned in each of these
5 fiscal years; and

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

9 (2) Expenditures of such moneys in the benefit account and refunds
10 from the clearing account shall not be subject to any provisions of law
11 requiring specific appropriations or other formal release by state
12 officers of money in their custody, and RCW 43.01.050, as amended,
13 shall not apply. All warrants issued by the treasurer for the payment
14 of benefits and refunds shall bear the signature of the treasurer and
15 the countersignature of the commissioner, or his or her duly authorized
16 agent for that purpose.

17 (3) Any balance of moneys requisitioned from the unemployment trust
18 fund which remains unclaimed or unpaid in the benefit account after the
19 expiration of the period for which sums were requisitioned shall either
20 be deducted from estimates for, and may be utilized for the payment of,
21 benefits during succeeding periods, or in the discretion of the
22 commissioner, shall be redeposited with the secretary of the treasury
23 of the United States of America to the credit of this state's account
24 in the unemployment trust fund.

25 (4) Money credited to the account of this state in the unemployment
26 trust fund by the secretary of the treasury of the United States of
27 America pursuant to section 903 of the social security act, as amended,
28 may be requisitioned and used for the payment of expenses incurred for
29 the administration of this title pursuant to a specific appropriation
30 by the legislature, provided that the expenses are incurred and the
31 money is requisitioned after the enactment of an appropriation law
32 which:

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

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

1 (c) Limits the amount which may be obligated during a twelve-month
2 period beginning on July 1st and ending on the next June 30th to an
3 amount which does not exceed the amount by which (i) the aggregate of
4 the amounts credited to the account of this state pursuant to section
5 903 of the social security act, as amended, during the same twelve-
6 month period and the thirty-four preceding twelve-month periods,
7 exceeds (ii) the aggregate of the amounts obligated pursuant to ((RCW
8 ~~50.16.030 (4), (5) and~~) subsections (4) through (6) of this section
9 and charged against the amounts credited to the account of this state
10 during any of such thirty-five twelve-month periods. For the purposes
11 of ((RCW ~~50.16.030 (4), (5) and~~) subsections (4) through (6) of this
12 section, amounts obligated during any such twelve-month period shall be
13 charged against equivalent amounts which were first credited and which
14 are not already so charged; except that no amount obligated for
15 administration during any such twelve-month period may be charged
16 against any amount credited during such a twelve-month period earlier
17 than the thirty-fourth twelve-month period preceding such period:
18 PROVIDED, That any amount credited to this state's account under
19 section 903 of the social security act, as amended, which has been
20 appropriated for expenses of administration, whether or not withdrawn
21 from the trust fund shall be excluded from the unemployment
22 compensation fund balance for the purpose of experience rating credit
23 determination.

24 (5) Money credited to the account of this state pursuant to section
25 903 of the social security act, as amended, may not be withdrawn or
26 used except for the payment of benefits and for the payment of expenses
27 of administration and of public employment offices pursuant to ((RCW
28 ~~50.16.030 (4), (5) and~~) subsections (4) through (6) of this section.
29 However, moneys credited because of excess amounts in federal accounts
30 in federal fiscal years 1999, 2000, and 2001 shall be used solely for
31 the administration of the unemployment compensation program and are not
32 subject to appropriation by the legislature for any other purpose.

33 (6) Money requisitioned as provided in ((RCW ~~50.16.030 (4), (5)~~
34 ~~and~~) subsections (4) through (6) of this section for the payment of
35 expenses of administration shall be deposited in the unemployment
36 compensation fund, but until expended, shall remain a part of the
37 unemployment compensation fund. The commissioner shall maintain a
38 separate record of the deposit, obligation, expenditure and return of

1 funds so deposited. Any money so deposited which either will not be
2 obligated within the period specified by the appropriation law or
3 remains unobligated at the end of the period, and any money which has
4 been obligated within the period but will not be expended, shall be
5 returned promptly to the account of this state in the unemployment
6 trust fund.

7 **PART II**
8 **Extended Benefits**

9 **Sec. 5.** RCW 50.22.010 and 2009 c 493 s 4 are each amended to read
10 as follows:

11 As used in this chapter, unless the context clearly indicates
12 otherwise:

13 (1) "Extended benefit period" means a period which:

14 (a) Begins with the third week after a week for which there is an
15 "on" indicator; and

16 (b) Ends with the third week after the first week for which there
17 is an "off" indicator: PROVIDED, That no extended benefit period shall
18 last for a period of less than thirteen consecutive weeks, and further
19 that no extended benefit period may begin by reason of an "on"
20 indicator before the fourteenth week after the close of a prior
21 extended benefit period which was in effect with respect to this state.

22 (2) There is an "on" indicator for this state for a week if the
23 commissioner determines, in accordance with the regulations of the
24 United States secretary of labor, that for the period consisting of
25 such week and the immediately preceding twelve weeks:

26 (a) The rate of insured unemployment, not seasonally adjusted,
27 equaled or exceeded one hundred twenty percent of the average of such
28 rates for the corresponding thirteen-week period ending in each of the
29 preceding two calendar years and equaled or exceeded five percent; or

30 (b) For benefits for weeks of unemployment beginning after March 6,
31 1993:

32 (i) The average rate of total unemployment, seasonally adjusted, as
33 determined by the United States secretary of labor, for the period
34 consisting of the most recent three months for which data for all
35 states are published before the close of the week equals or exceeds six
36 and one-half percent; and

1 (ii) The average rate of total unemployment in the state,
2 seasonally adjusted, as determined by the United States secretary of
3 labor, for the three-month period referred to in (b)(i) of this
4 subsection, equals or exceeds one hundred ten percent of the average
5 for either or both of the corresponding three-month periods ending in
6 the two preceding calendar years.

7 (c) This subsection applies as provided under the tax relief,
8 unemployment insurance reauthorization, and job creation act of 2010
9 (P.L. 111-312) as it existed on December 17, 2010, or such subsequent
10 date as may be provided by the department by rule, consistent with the
11 purposes of this subsection:

12 (i) The average rate of insured unemployment, not seasonally
13 adjusted, equaled or exceeded one hundred twenty percent of the average
14 of such rates for the corresponding thirteen-week period ending in all
15 of the preceding three calendar years and equaled or exceeded five
16 percent; or

17 (ii) The average rate of total unemployment, seasonally adjusted,
18 as determined by the United States secretary of labor, for the period
19 consisting of the most recent three months for which data for all
20 states are published before the close of the week equals or exceeds six
21 and one-half percent; and

22 (iii) The average rate of total unemployment in the state,
23 seasonally adjusted, as determined by the United States secretary of
24 labor, for the three-month period referred to in (c)(ii) of this
25 subsection, equals or exceeds one hundred ten percent of the average
26 for any of the corresponding three-month periods ending in the three
27 preceding calendar years.

28 (3) "High unemployment period" means any period of unemployment
29 beginning after March 6, 1993, during which an extended benefit period
30 would be in effect if:

31 (a) The average rate of total unemployment, seasonally adjusted, as
32 determined by the United States secretary of labor, for the period
33 consisting of the most recent three months for which data for all
34 states are published before the close of the week equals or exceeds
35 eight percent; and

36 (b) The average rate of total unemployment in the state, seasonally
37 adjusted, as determined by the United States secretary of labor, for
38 the three-month period referred to in (a) of this subsection, equals or

1 exceeds one hundred ten percent of the average for either or both of
2 the corresponding three-month periods ending in the two preceding
3 calendar years.

4 (c) This subsection applies as provided under the tax relief,
5 unemployment insurance reauthorization, and job creation act of 2010
6 (P.L. 111-312) as it existed on December 17, 2010, or such subsequent
7 date as may be provided by the department by rule, consistent with the
8 purposes of this subsection.

9 (i) The average rate of total unemployment, seasonally adjusted, as
10 determined by the United States secretary of labor, for the period
11 consisting of the most recent three months for which data for all
12 states are published before the close of the week equals or exceeds
13 eight percent; and

14 (ii) The average rate of total unemployment in the state,
15 seasonally adjusted, as determined by the United States secretary of
16 labor, for the three-month period referred to in (a) of this
17 subsection, equals or exceeds one hundred ten percent of the average
18 for any of the corresponding three-month periods ending in the three
19 preceding calendar years.

20 (4) There is an "off" indicator for this state for a week only if,
21 for the period consisting of such week and immediately preceding twelve
22 weeks, none of the options specified in subsection (2) or (3) of this
23 section result in an "on" indicator.

24 (5) "Regular benefits" means benefits payable to an individual
25 under this title or under any state law (including benefits payable to
26 federal civilian employees and to ex-servicemen pursuant to 5 U.S.C.
27 chapter 85) other than extended benefits or additional benefits.

28 (6) "Extended benefits" means benefits payable for weeks of
29 unemployment beginning in an extended benefit period to an individual
30 under this title or under any state law (including benefits payable to
31 federal civilian employees and to ex-servicemen pursuant to 5 U.S.C.
32 chapter 85) other than regular or additional benefits.

33 (7) "Additional benefits" are benefits totally financed by the
34 state and payable under this title to exhaustees by reason of
35 conditions of high unemployment or by reason of other special factors.

36 (8) "Eligibility period" of an individual means:

37 (a) The period consisting of the weeks in his or her benefit year

1 which begin in an extended benefit period that is in effect in this
2 state and, if his or her benefit year ends within such extended benefit
3 period, any weeks thereafter which begin in such period; or

4 (b) For an individual who is eligible for emergency unemployment
5 compensation during the extended benefit period beginning February 15,
6 2009, the period consisting of the week ending February 28, 2009,
7 (~~through the week ending May 29, 2010~~) and applies as provided under
8 the tax relief, unemployment insurance reauthorization, and job
9 creation act of 2010 (P.L. 111-312) as it existed on December 17, 2010,
10 or such subsequent date as may be provided by the department by rule,
11 consistent with the purposes of this subsection.

12 (9) "Additional benefit eligibility period" of an individual means
13 the period consisting of the weeks in his or her benefit year which
14 begin in an additional benefit period that is in effect and, if his or
15 her benefit year ends within such additional benefit period, any weeks
16 thereafter which begin in such period.

17 (10) "Exhaustee" means an individual who, with respect to any week
18 of unemployment in his or her eligibility period:

19 (a) Has received, prior to such week, all of the regular benefits
20 that were payable to him or her under this title or any other state law
21 (including dependents' allowances and regular benefits payable to
22 federal civilian employees and ex-servicemen under 5 U.S.C. chapter 85)
23 in his or her current benefit year that includes such week; or

24 (b) Has received, prior to such week, all of the regular benefits
25 that were available to him or her under this title or any other state
26 law (including dependents' allowances and regular benefits available to
27 federal civilian employees and ex-servicemen under 5 U.S.C. chapter 85)
28 in his or her current benefit year that includes such week, after the
29 cancellation of some or all of his or her wage credits or the total or
30 partial reduction of his or her rights to regular benefits: PROVIDED,
31 That, for the purposes of (a) and (b), an individual shall be deemed to
32 have received in his or her current benefit year all of the regular
33 benefits that were payable to him or her, or available to him or her,
34 as the case may be, even though:

35 (i) As a result of a pending appeal with respect to wages or
36 employment, or both, that were not included in the original monetary
37 determination with respect to his or her current benefit year, he or

1 she may subsequently be determined to be entitled to more regular
2 benefits; or

3 (ii) By reason of the seasonal provisions of another state law, he
4 or she is not entitled to regular benefits with respect to such week of
5 unemployment (although he or she may be entitled to regular benefits
6 with respect to future weeks of unemployment in the next season, as the
7 case may be, in his or her current benefit year), and he or she is
8 otherwise an exhaustee within the meaning of this section with respect
9 to his or her right to regular benefits under such state law seasonal
10 provisions during the season or off season in which that week of
11 unemployment occurs; or

12 (iii) Having established a benefit year, no regular benefits are
13 payable to him or her during such year because his or her wage credits
14 were canceled or his or her right to regular benefits was totally
15 reduced as the result of the application of a disqualification; or

16 (c) His or her benefit year having ended prior to such week, he or
17 she has insufficient wages or employment, or both, on the basis of
18 which he or she could establish in any state a new benefit year that
19 would include such week, or having established a new benefit year that
20 includes such week, he or she is precluded from receiving regular
21 benefits by reason of the provision in RCW 50.04.030 which meets the
22 requirement of section 3304(a)(7) of the Federal Unemployment Tax Act,
23 or the similar provision in any other state law; and

24 (d)(i) Has no right for such week to unemployment benefits or
25 allowances, as the case may be, under the Railroad Unemployment
26 Insurance Act, the Trade Expansion Act of 1962, and such other federal
27 laws as are specified in regulations issued by the United States
28 secretary of labor; and

29 (ii) Has not received and is not seeking for such week unemployment
30 benefits under the unemployment compensation law of Canada, unless the
31 appropriate agency finally determines that he or she is not entitled to
32 unemployment benefits under such law for such week.

33 (11) "State law" means the unemployment insurance law of any state,
34 approved by the United States secretary of labor under section 3304 of
35 the internal revenue code of 1954.

36 **Sec. 6.** RCW 50.22.155 and 2009 c 3 s 4 are each amended to read as
37 follows:

1 (1) This section applies to claims with an effective date on or
2 after April 5, 2009.

3 (2) Subject to availability of funds, training benefits are
4 available for an individual who is eligible for or has exhausted
5 entitlement to unemployment compensation benefits when:

6 (a) The individual is a dislocated worker as defined in RCW
7 50.04.075 and, after assessment of the individual's labor market,
8 occupation, or skills, is determined to need job-related training to
9 find suitable employment in the individual's labor market. The
10 assessment of demand for the individual's occupation or skill sets must
11 be substantially based on declining occupation or skill sets and high-
12 demand occupations identified in local labor market areas by the local
13 workforce development councils in cooperation with the employment
14 security department and its labor market information division; or

15 (b) For claims with an effective date on or after September 7,
16 2009, the individual:

17 (i) Earned an average hourly wage in the individual's base year
18 that is less than one hundred thirty percent of the state minimum
19 wage((7)) and, after assessment, it is determined that the individual's
20 earning potential will be enhanced through vocational training. The
21 individual's average hourly wage is calculated by dividing the total
22 wages paid by the total hours worked in the individual's base year;

23 (ii) Served in the United States military or the Washington
24 national guard during the twelve-month period prior to the application
25 date, was honorably discharged from military service or the Washington
26 national guard and, after assessment, is determined to need job-related
27 training to find suitable employment in the individual's labor market;

28 (iii) Is currently serving in the Washington national guard and,
29 after assessment, is determined to need job-related training to find
30 suitable employment in the individual's labor market; or

31 (iv) Is disabled due to an injury or illness and, after assessment,
32 is determined to be unable to return to his or her previous occupation
33 and to need job-related training to find suitable employment in the
34 individual's labor market.

35 (3)(a) The individual must develop an individual training program
36 that is submitted to the commissioner for approval within ninety days
37 after the individual is notified by the employment security department
38 of the requirements of this section;

1 (b) The individual must enter the approved training program by one
2 hundred twenty days after the date of the notification, unless the
3 employment security department determines that the training is not
4 available during the one hundred twenty days, in which case the
5 individual enters training as soon as it is available;

6 (c) The department may waive the deadlines established under this
7 subsection for reasons deemed by the commissioner to be good cause.

8 (4) The individual must be enrolled in training approved under this
9 section on a full-time basis as determined by the educational
10 institution, except that less than full-time training may be approved
11 when the individual has a physical, mental, or emotional disability
12 that precludes enrollment on a full-time basis.

13 (5) The individual must make satisfactory progress in the training
14 as defined by the commissioner and certified by the educational
15 institution.

16 (6) An individual is not eligible for training benefits under this
17 section if he or she:

18 (a) Is a standby claimant who expects recall to his or her regular
19 employer; or

20 (b) Has a definite recall date that is within six months of the
21 date he or she is laid off.

22 (7) The following definitions apply throughout this section unless
23 the context clearly requires otherwise.

24 (a) "Educational institution" means an institution of higher
25 education as defined in RCW 28B.10.016 or an educational institution as
26 defined in RCW 28C.04.410, including equivalent educational
27 institutions in other states.

28 (b) "High-demand occupation" means an occupation with a substantial
29 number of current or projected employment opportunities.

30 (c) "Training benefits" means additional benefits paid under this
31 section.

32 (d) "Training program" means:

33 (i) An education program determined to be necessary as a
34 prerequisite to vocational training after counseling at the educational
35 institution in which the individual enrolls under his or her approved
36 training program; or

37 (ii) A vocational training program at an educational institution
38 that:

1 (A) Is targeted to training for a high-demand occupation;

2 (B) Is likely to enhance the individual's marketable skills and
3 earning power; and

4 (C) Meets the criteria for performance developed by the workforce
5 training and education coordinating board for the purpose of
6 determining those training programs eligible for funding under Title I
7 of P.L. 105-220.

8 "Training program" does not include any course of education
9 primarily intended to meet the requirements of a baccalaureate or
10 higher degree, unless the training meets specific requirements for
11 certification, licensing, or for specific skills necessary for the
12 occupation.

13 (8) Benefits shall be paid as follows:

14 (a) The total training benefit amount shall be fifty-two times the
15 individual's weekly benefit amount, reduced by the total amount of
16 regular benefits and extended benefits paid, or deemed paid, with
17 respect to the benefit year.

18 (b) The weekly benefit amount shall be the same as the regular
19 weekly amount payable during the applicable benefit year and shall be
20 paid under the same terms and conditions as regular benefits.

21 (c) Training benefits shall be paid before any extended benefits
22 but not before any similar federally funded program. Effective July 3,
23 2011, training benefits shall be paid after any federally funded
24 program.

25 (d) Training benefits are not payable for weeks more than two years
26 beyond the end of the benefit year of the regular claim. However,
27 training benefits are not payable for weeks more than three years
28 beyond the end of the benefit year of the regular claim when
29 individuals are eligible for benefits in accordance with RCW 50.22.010
30 (2)(c) or (3)(c).

31 (9) The requirement under RCW 50.22.010(10) relating to exhausting
32 regular benefits does not apply to an individual otherwise eligible for
33 training benefits under this section when the individual's benefit year
34 ends before his or her training benefits are exhausted and the
35 individual is eligible for a new benefit year. These individuals will
36 have the option of remaining on the original claim or filing a new
37 claim.

1 (10) Individuals who receive training benefits under RCW 50.22.150
2 or this section are not eligible for training benefits under this
3 section for five years from the last receipt of training benefits.

4 (11) An individual eligible to receive a trade readjustment
5 allowance under chapter 2, Title II of the trade act of 1974, as
6 amended, shall not be eligible to receive benefits under this section
7 for each week the individual receives such trade readjustment
8 allowance.

9 (12) An individual eligible to receive emergency unemployment
10 compensation under any federal law shall not be eligible to receive
11 benefits under this section for each week the individual receives such
12 compensation.

13 (13) All base year employers are interested parties to the approval
14 of training and the granting of training benefits.

15 (14) Each local workforce development council, in cooperation with
16 the employment security department and its labor market information
17 division, must identify occupations and skill sets that are declining
18 and high-demand occupations and skill sets. Each local workforce
19 development council shall update this information annually or more
20 frequently if needed.

21 (15) The commissioner shall adopt rules as necessary to implement
22 this section.

23 PART III

24 Training Benefits

25 **Sec. 7.** RCW 50.20.099 and 2000 c 2 s 10 are each amended to read
26 as follows:

27 (1) To ensure that unemployment insurance benefits are paid in
28 accordance with RCW 50.20.098, the employment security department shall
29 verify that an individual is eligible to work in the United States
30 before the individual receives training benefits under RCW 50.22.150 or
31 50.22.155.

32 (2) By July 1, 2002, the employment security department shall:

33 (a) Develop and implement an effective method for determining,
34 where appropriate, eligibility to work in the United States for
35 individuals applying for unemployment benefits under this title;

1 (b) Review verification systems developed by federal agencies for
2 verifying a person's eligibility to receive unemployment benefits under
3 this title and evaluate the effectiveness of these systems for use in
4 this state; and

5 (c) Report its initial findings to the legislature by September 1,
6 2000, and its final report by July 1, 2002.

7 (3) Where federal law prohibits the conditioning of unemployment
8 benefits on a verification of an individual's status as a qualified or
9 authorized alien, the requirements of this section shall not apply.

10 **Sec. 8.** RCW 50.22.130 and 2009 c 353 s 3 are each amended to read
11 as follows:

12 It is the intent of the legislature that a training benefits
13 program be established to provide unemployment insurance benefits to
14 unemployed individuals who participate in training programs necessary
15 for their reemployment.

16 The legislature further intends that this program serve the
17 following goals:

18 (1) Retraining should be available for those unemployed individuals
19 whose skills are no longer in demand;

20 ~~((To be eligible for retraining, an individual must have a
21 long term attachment to the labor force;~~

22 ~~(3))~~ Training must enhance the individual's marketable skills and
23 earning power; and

24 ~~((4))~~ (3) Retraining must be targeted to high-demand occupations.

25 ~~((Individuals unemployed as a result of structural changes in the
26 economy and technological advances rendering their skills obsolete must
27 receive the highest priority for participation in this program. It is
28 the further intent of the legislature that individuals for whom
29 suitable employment is available are not eligible for additional
30 benefits while participating in training.))~~

31 The legislature further intends that funding for this program be
32 limited by a specified maximum amount each fiscal year.

33 **Sec. 9.** RCW 50.22.155 and 2009 c 3 s 4 are each amended to read as
34 follows:

35 (1) ~~((This section applies))~~ With respect to claims with an
36 effective date on or after April 5, 2009~~((-))~~, and before July 1, 2012:

1 ~~((2))~~ (a) Subject to availability of funds, training benefits are
2 available for an individual who is eligible for or has exhausted
3 entitlement to unemployment compensation benefits when:

4 ~~((a))~~ (i) The individual is a dislocated worker as defined in RCW
5 50.04.075 and, after assessment of the individual's labor market,
6 occupation, or skills, is determined to need job-related training to
7 find suitable employment in the individual's labor market. The
8 assessment of demand for the individual's occupation or skill sets must
9 be substantially based on declining occupation or skill sets and high-
10 demand occupations identified in local labor market areas by the local
11 workforce development councils in cooperation with the employment
12 security department and its labor market information division; or

13 ~~((b))~~ (ii) For claims with an effective date on or after
14 September 7, 2009, the individual:

15 ~~((i))~~ (A) Earned an average hourly wage in the individual's base
16 year that is less than one hundred thirty percent of the state minimum
17 wage~~((7))~~ and, after assessment, it is determined that the individual's
18 earning potential will be enhanced through vocational training. The
19 individual's average hourly wage is calculated by dividing the total
20 wages paid by the total hours worked in the individual's base year;

21 ~~((ii))~~ (B) Served in the United States military or the Washington
22 national guard during the twelve-month period prior to the application
23 date, was honorably discharged from military service or the Washington
24 national guard and, after assessment, is determined to need job-related
25 training to find suitable employment in the individual's labor market;

26 ~~((iii))~~ (C) Is currently serving in the Washington national guard
27 and, after assessment, is determined to need job-related training to
28 find suitable employment in the individual's labor market; or

29 ~~((iv))~~ (D) Is disabled due to an injury or illness and, after
30 assessment, is determined to be unable to return to his or her previous
31 occupation and to need job-related training to find suitable employment
32 in the individual's labor market.

33 ~~((3)(a))~~ (b)(i) The individual must develop an individual
34 training program that is submitted to the commissioner for approval
35 within ninety days after the individual is notified by the employment
36 security department of the requirements of this section;

37 ~~((b))~~ (ii) The individual must enter the approved training
38 program by one hundred twenty days after the date of the notification,

1 unless the employment security department determines that the training
2 is not available during the one hundred twenty days, in which case the
3 individual enters training as soon as it is available;

4 ((+e)) (iii) The department may waive the deadlines established
5 under this subsection for reasons deemed by the commissioner to be good
6 cause.

7 ((+4)) (c) The individual must be enrolled in training approved
8 under this section on a full-time basis as determined by the
9 educational institution, except that less than full-time training may
10 be approved when the individual has a physical, mental, or emotional
11 disability that precludes enrollment on a full-time basis.

12 ((+5)) (d) The individual must make satisfactory progress in the
13 training as defined by the commissioner and certified by the
14 educational institution.

15 ((+6)) (e) An individual is not eligible for training benefits
16 under this section if he or she:

17 ((+a)) (i) Is a standby claimant who expects recall to his or her
18 regular employer; or

19 ((+b)) (ii) Has a definite recall date that is within six months
20 of the date he or she is laid off.

21 ((+7)) (f) The following definitions apply throughout this
22 ~~(section)~~ subsection (1) unless the context clearly requires
23 otherwise.

24 ((+a)) (i) "Educational institution" means an institution of
25 higher education as defined in RCW 28B.10.016 or an educational
26 institution as defined in RCW 28C.04.410, including equivalent
27 educational institutions in other states.

28 ((+b)) (ii) "High-demand occupation" means an occupation with a
29 substantial number of current or projected employment opportunities.

30 ((+e)) (iii) "Training benefits" means additional benefits paid
31 under this section.

32 ((+d)) (iv) "Training program" means:

33 ((+i)) (A) An education program determined to be necessary as a
34 prerequisite to vocational training after counseling at the educational
35 institution in which the individual enrolls under his or her approved
36 training program; or

37 ((+ii)) (B) A vocational training program at an educational
38 institution that:

1 (~~(A)~~) (I) Is targeted to training for a high-demand occupation;
2 (~~(B)~~) (II) Is likely to enhance the individual's marketable
3 skills and earning power; and
4 (~~(C)~~) (III) Meets the criteria for performance developed by the
5 workforce training and education coordinating board for the purpose of
6 determining those training programs eligible for funding under Title I
7 of P.L. 105-220.

8 "Training program" does not include any course of education
9 primarily intended to meet the requirements of a baccalaureate or
10 higher degree, unless the training meets specific requirements for
11 certification, licensing, or for specific skills necessary for the
12 occupation.

13 (~~(8)~~) (g) Benefits shall be paid as follows:
14 (~~(a)~~) (i) The total training benefit amount shall be fifty-two
15 times the individual's weekly benefit amount, reduced by the total
16 amount of regular benefits and extended benefits paid, or deemed paid,
17 with respect to the benefit year.

18 (~~(b)~~) (ii) The weekly benefit amount shall be the same as the
19 regular weekly amount payable during the applicable benefit year and
20 shall be paid under the same terms and conditions as regular benefits.

21 (~~(c)~~) (iii) Training benefits shall be paid before any extended
22 benefits but not before any similar federally funded program.
23 Effective July 3, 2011, training benefits shall be paid after any
24 federally funded program.

25 (~~(d)~~) (iv) Training benefits are not payable for weeks more than
26 two years beyond the end of the benefit year of the regular claim.
27 However, training benefits are not payable for weeks more than three
28 years beyond the end of the benefit year of the regular claim when
29 individuals are eligible for benefits in accordance with RCW 50.22.010
30 (2)(c) or (3)(c).

31 (~~(9)~~) (h) The requirement under RCW 50.22.010(10) relating to
32 exhausting regular benefits does not apply to an individual otherwise
33 eligible for training benefits under this section when the individual's
34 benefit year ends before his or her training benefits are exhausted and
35 the individual is eligible for a new benefit year. These individuals
36 will have the option of remaining on the original claim or filing a new
37 claim.

1 ~~((10))~~ (i) Individuals who receive training benefits under RCW
2 50.22.150 or this section are not eligible for training benefits under
3 this section for five years from the last receipt of training benefits.

4 ~~((11))~~ (j) An individual eligible to receive a trade readjustment
5 allowance under chapter 2, Title II of the trade act of 1974, as
6 amended, shall not be eligible to receive benefits under this section
7 for each week the individual receives such trade readjustment
8 allowance.

9 ~~((12))~~ (k) An individual eligible to receive emergency
10 unemployment compensation under any federal law shall not be eligible
11 to receive benefits under this section for each week the individual
12 receives such compensation.

13 ~~((13))~~ (l) All base year employers are interested parties to the
14 approval of training and the granting of training benefits.

15 ~~((14))~~ (m) Each local workforce development council, in
16 cooperation with the employment security department and its labor
17 market information division, must identify occupations and skill sets
18 that are declining and high-demand occupations and skill sets. Each
19 local workforce development council shall update this information
20 annually or more frequently if needed.

21 ~~((15))~~ (2) With respect to claims with an effective date on or
22 after July 1, 2012:

23 (a) Training benefits are available for an individual who is
24 eligible for or has exhausted entitlement to unemployment compensation
25 benefits when:

26 (i) The individual is a dislocated worker as defined in RCW
27 50.04.075 and, after assessment of the individual's labor market,
28 occupation, or skills, is determined to need job-related training to
29 find suitable employment in the individual's labor market. The
30 assessment of demand for the individual's occupation or skill sets must
31 be substantially based on declining occupation or skill sets and high-
32 demand occupations identified in local labor market areas by the local
33 workforce development councils in cooperation with the employment
34 security department and its labor market information division; or

35 (ii) Subject to the availability of funds as specified in RCW
36 50.22.140, the individual:

37 (A) Earned an average hourly wage in the individual's base year
38 that is less than one hundred thirty percent of the state minimum wage

1 and, after assessment, it is determined that the individual's earning
2 potential will be enhanced through vocational training. The
3 individual's average hourly wage is calculated by dividing the total
4 wages paid by the total hours worked in the individual's base year;

5 (B) Served in the United States military or the Washington national
6 guard during the twelve-month period prior to the application date, was
7 honorably discharged from military service or the Washington national
8 guard and, after assessment, is determined to need job-related training
9 to find suitable employment in the individual's labor market;

10 (C) Is currently serving in the Washington national guard and,
11 after assessment, is determined to need job-related training to find
12 suitable employment in the individual's labor market; or

13 (D) Is disabled due to an injury or illness and, after assessment,
14 is determined to be unable to return to his or her previous occupation
15 and to need job-related training to find suitable employment in the
16 individual's labor market.

17 (b)(i) Except for an individual eligible under (a)(i) of this
18 subsection, the individual must develop an individual training plan
19 that is submitted to the commissioner for approval within ninety days
20 after the individual is notified by the employment security department
21 of the requirements of this section;

22 (ii) Except for an individual eligible under (a)(i) of this
23 subsection, the individual must enroll in the approved training program
24 by one hundred twenty days after the date of the notification, unless
25 the employment security department determines that the training is not
26 available during the one hundred twenty days, in which case the
27 individual enters training as soon as it is available;

28 (iii) An individual eligible under (a)(i) of this subsection must
29 submit an individual training plan and enroll in the approved training
30 program prior to the end of the individual's benefit year;

31 (iv) The department may waive the deadlines established under
32 (b)(i) and (ii) of this subsection for reasons deemed by the
33 commissioner to be good cause.

34 (c) Except for an individual eligible under (a)(i) of this
35 subsection, the individual must be enrolled in training approved under
36 this section on a full-time basis as determined by the educational
37 institution, except that less than full-time training may be approved

1 when the individual has a physical, mental, or emotional disability
2 that precludes enrollment on a full-time basis.

3 (d) The individual must make satisfactory progress in the training
4 as defined by the commissioner and certified by the educational
5 institution.

6 (e) An individual is not eligible for training benefits under this
7 section if he or she:

8 (i) Is a standby claimant who expects recall to his or her regular
9 employer; or

10 (ii) Has a definite recall date that is within six months of the
11 date he or she is laid off.

12 (f) The following definitions apply throughout this subsection (2)
13 unless the context clearly requires otherwise:

14 (i) "Educational institution" means an institution of higher
15 education as defined in RCW 28B.10.016 or an educational institution as
16 defined in RCW 28C.04.410, including equivalent educational
17 institutions in other states.

18 (ii) "High-demand occupation" means an occupation with a
19 substantial number of current or projected employment opportunities.

20 (iii) "Training benefits" means additional benefits paid under this
21 section.

22 (iv) "Training program" means:

23 (A) An education program determined to be necessary as a
24 prerequisite to vocational training after counseling at the educational
25 institution in which the individual enrolls under his or her approved
26 training program; or

27 (B) A vocational training program at an educational institution
28 that:

29 (I) Is targeted to training for a high-demand occupation;

30 (II) Is likely to enhance the individual's marketable skills and
31 earning power; and

32 (III) Meets the criteria for performance developed by the workforce
33 training and education coordinating board for the purpose of
34 determining those training programs eligible for funding under Title I
35 of P.L. 105-220.

36 "Training program" does not include any course of education
37 primarily intended to meet the requirements of a baccalaureate or

1 higher degree, unless the training meets specific requirements for
2 certification, licensing, or for specific skills necessary for the
3 occupation.

4 (g) Available benefits shall be paid as follows:

5 (i) The total training benefit amount shall be fifty-two times the
6 individual's weekly benefit amount, reduced by the total amount of
7 regular benefits paid, or deemed paid, with respect to the benefit
8 year.

9 (ii) The weekly benefit amount shall be the same as the regular
10 weekly amount payable during the applicable benefit year and shall be
11 paid under the same terms and conditions as regular benefits.

12 (iii) Training benefits shall be paid after any federally funded
13 program.

14 (iv) Training benefits are not payable for weeks more than two
15 years beyond the end of the benefit year of the regular claim.
16 However, training benefits are not payable for weeks more than three
17 years beyond the end of the benefit year of the regular claim when
18 individuals are eligible for benefits in accordance with RCW 50.22.010
19 (2)(c) or (3)(c).

20 (h) The requirement under RCW 50.22.010(10) relating to exhausting
21 regular benefits does not apply to an individual otherwise eligible for
22 training benefits under this section when the individual's benefit year
23 ends before his or her training benefits are exhausted and the
24 individual is eligible for a new benefit year. These individuals will
25 have the option of remaining on the original claim or filing a new
26 claim.

27 (i) Except for individuals eligible under (a)(i) of this
28 subsection, individuals who receive training benefits under RCW
29 50.22.150 or this section are not eligible for training benefits under
30 this section for five years from the last receipt of training benefits.

31 (j) An individual eligible to receive a trade readjustment
32 allowance under chapter 2, Title II of the trade act of 1974, as
33 amended, shall not be eligible to receive benefits under this section
34 for each week the individual receives such trade readjustment
35 allowance.

36 (k) An individual eligible to receive emergency unemployment
37 compensation under any federal law shall not be eligible to receive

1 benefits under this section for each week the individual receives such
2 compensation.

3 (1) All base year employers are interested parties to the approval
4 of training and the granting of training benefits.

5 (m) Each local workforce development council, in cooperation with
6 the employment security department and its labor market information
7 division, must identify occupations and skill sets that are declining
8 and high-demand occupations and skill sets. Each local workforce
9 development council shall update this information annually or more
10 frequently if needed.

11 (3) The commissioner shall adopt rules as necessary to implement
12 this section.

13 **Sec. 10.** RCW 50.22.140 and 2002 c 149 s 1 are each amended to read
14 as follows:

15 (1) The employment security department is authorized to pay
16 training benefits under RCW 50.22.150 and 50.22.155, but may not
17 obligate expenditures beyond the limits specified in this section or as
18 otherwise set by the legislature. ~~((For the fiscal year ending June~~
19 ~~30, 2000, the commissioner may not obligate more than twenty million~~
20 ~~dollars for training benefits. For the two fiscal years ending June~~
21 ~~30, 2002, the commissioner may not obligate more than sixty million~~
22 ~~dollars for training benefits.)) Any funds not obligated in one fiscal~~
23 ~~year may be carried forward to the next fiscal year. ((For each fiscal~~
24 ~~year beginning after June 30, 2002,)) The commissioner may not obligate~~
25 ~~more than twenty million dollars annually in addition to any funds~~
26 ~~carried forward from previous fiscal years. ((The department shall~~
27 ~~develop a process to ensure that expenditures do not exceed available~~
28 ~~funds and to prioritize access to funds when again available.))~~

29 (2) ~~((After June 30, 2002, in addition to the amounts that may be~~
30 ~~obligated under subsection (1) of this section, the commissioner may~~
31 ~~obligate up to thirty four million dollars for training benefits under~~
32 ~~RCW 50.22.150 for individuals in the aerospace industry assigned the~~
33 ~~standard industrial classification code "372" or the North American~~
34 ~~industry classification system code "336411" whose claims are filed~~
35 ~~before January 5, 2003. The funds provided in this subsection must be~~
36 ~~fully obligated for training benefits for these individuals before the~~
37 ~~funds provided in subsection (1) of this section may be obligated for~~

1 ~~training benefits for these individuals. Any amount of the funds~~
2 ~~specified in this subsection that is not obligated as permitted may not~~
3 ~~be carried forward to any future period.))~~ If the amount available for
4 training benefits at any time is equal to or less than five million
5 dollars, funds will no longer be obligated for individuals in RCW
6 50.22.155(2)(a)(ii). If funds are exhausted, training benefits will
7 continue to be obligated to dislocated workers only under RCW
8 50.22.155(2)(a)(i). The following year's obligation for training
9 benefits will be reduced by a corresponding amount.

10 **Sec. 11.** RCW 50.24.014 and 2009 c 566 s 2 are each amended to read
11 as follows:

12 (1)(a) A separate and identifiable account to provide for the
13 financing of special programs to assist the unemployed is established
14 in the administrative contingency fund. All money in this account
15 shall be expended solely for the purposes of this title and for no
16 other purposes whatsoever. Contributions to this account shall accrue
17 and become payable by each employer, except employers as described in
18 RCW 50.44.010 and 50.44.030 who have properly elected to make payments
19 in lieu of contributions, taxable local government employers as
20 described in RCW 50.44.035, and those employers who are required to
21 make payments in lieu of contributions, at a basic rate of two one-
22 hundredths of one percent. The amount of wages subject to tax shall be
23 determined under RCW 50.24.010.

24 (b) A separate and identifiable account is established in the
25 administrative contingency fund for financing the employment security
26 department's administrative costs under RCW 50.22.150 and 50.22.155 and
27 the costs under RCW 50.22.150(11) and 50.22.155(~~(14)~~) (1)(m) and
28 (2)(m). All money in this account shall be expended solely for the
29 purposes of this title and for no other purposes whatsoever.
30 Contributions to this account shall accrue and become payable by each
31 employer, except employers as described in RCW 50.44.010 and 50.44.030
32 who have properly elected to make payments in lieu of contributions,
33 taxable local government employers as described in RCW 50.44.035, those
34 employers who are required to make payments in lieu of contributions,
35 those employers described under RCW 50.29.025(~~(1)(f)(ii)~~) (2)(d), and
36 those qualified employers assigned rate class 20 or rate class 40, as
37 applicable, under RCW 50.29.025, at a basic rate of one one-hundredth

1 of one percent. The amount of wages subject to tax shall be determined
2 under RCW 50.24.010. Any amount of contributions payable under this
3 subsection (1)(b) that exceeds the amount that would have been
4 collected at a rate of four one-thousandths of one percent must be
5 deposited in the account created in (a) of this subsection.

6 (2)(a) Contributions under this section shall become due and be
7 paid by each employer under rules as the commissioner may prescribe,
8 and shall not be deducted, in whole or in part, from the remuneration
9 of individuals in the employ of the employer. Any deduction in
10 violation of this section is unlawful.

11 (b) In the payment of any contributions under this section, a
12 fractional part of a cent shall be disregarded unless it amounts to
13 one-half cent or more, in which case it shall be increased to one cent.

14 (3) If the commissioner determines that federal funding has been
15 increased to provide financing for the services specified in chapter
16 50.62 RCW, the commissioner shall direct that collection of
17 contributions under this section be terminated on the following January
18 1st.

19 **Sec. 12.** RCW 50.04.075 and 1984 c 181 s 1 are each amended to read
20 as follows:

21 (1) With respect to claims with an effective date prior to July 1,
22 2012, "dislocated worker" means any individual who:

23 ~~((1))~~ (a) Has been terminated or received a notice of termination
24 from employment;

25 ~~((2))~~ (b) Is eligible for or has exhausted entitlement to
26 unemployment compensation benefits; and

27 ~~((3))~~ (c) Is unlikely to return to employment in the individual's
28 principal occupation or previous industry because of a diminishing
29 demand for their skills in that occupation or industry.

30 (2) With respect to claims with an effective date on or after July
31 1, 2012, "dislocated worker" means any individual who:

32 (a) Has been involuntarily and indefinitely separated from
33 employment as a result of a permanent reduction of operations at the
34 individual's place of employment, or has separated from a declining
35 occupation; and

36 (b) Is eligible for or has exhausted entitlement to unemployment
37 compensation benefits.

1 **Sec. 13.** RCW 50.20.130 and 2010 c 8 s 13022 are each amended to
2 read as follows:

3 (1) If an eligible individual is available for work for less than
4 a full week, he or she shall be paid his or her weekly benefit amount
5 reduced by one-seventh of such amount for each day that he or she is
6 unavailable for work: PROVIDED, That if he or she is unavailable for
7 work for three days or more of a week, he or she shall be considered
8 unavailable for the entire week.

9 (2) Each eligible individual who is unemployed in any week shall be
10 paid with respect to such week a benefit in an amount equal to his or
11 her weekly benefit amount less:

12 (a) Seventy-five percent of that part of the remuneration (if any)
13 payable to him or her with respect to such week which is in excess of
14 five dollars; or

15 (b) For any weeks in which the individual is receiving training
16 benefits as provided in RCW 50.22.155(2), half of that part of the
17 remuneration (if any) payable to him or her with respect to such week
18 which is in excess of five dollars. ((Such benefit))

19 (3) The benefits in this section, if not a multiple of one dollar,
20 shall be reduced to the next lower multiple of one dollar.

21 **Sec. 14.** RCW 50.29.021 and 2010 c 25 s 1 are each amended to read
22 as follows:

23 (1) This section applies to benefits charged to the experience
24 rating accounts of employers for claims that have an effective date on
25 or after January 4, 2004.

26 (2)(a) An experience rating account shall be established and
27 maintained for each employer, except employers as described in RCW
28 50.44.010, 50.44.030, and 50.50.030 who have properly elected to make
29 payments in lieu of contributions, taxable local government employers
30 as described in RCW 50.44.035, and those employers who are required to
31 make payments in lieu of contributions, based on existing records of
32 the employment security department.

33 (b) Benefits paid to an eligible individual shall be charged to the
34 experience rating accounts of each of such individual's employers
35 during the individual's base year in the same ratio that the wages paid
36 by each employer to the individual during the base year bear to the

1 wages paid by all employers to that individual during that base year,
2 except as otherwise provided in this section.

3 (c) When the eligible individual's separating employer is a covered
4 contribution paying base year employer, benefits paid to the eligible
5 individual shall be charged to the experience rating account of only
6 the individual's separating employer if the individual qualifies for
7 benefits under:

8 (i) RCW 50.20.050 (1)(b)(i) or (2)(b)(i), as applicable, and became
9 unemployed after having worked and earned wages in the bona fide work;
10 or

11 (ii) RCW 50.20.050 (1)(b) (v) through (x) or (2)(b) (v) through
12 (x).

13 (3) The legislature finds that certain benefit payments, in whole
14 or in part, should not be charged to the experience rating accounts of
15 employers except those employers described in RCW 50.44.010, 50.44.030,
16 and 50.50.030 who have properly elected to make payments in lieu of
17 contributions, taxable local government employers described in RCW
18 50.44.035, and those employers who are required to make payments in
19 lieu of contributions, as follows:

20 (a) Benefits paid to any individual later determined to be
21 ineligible shall not be charged to the experience rating account of any
22 contribution paying employer. However, when a benefit claim becomes
23 invalid due to an amendment or adjustment of a report where the
24 employer failed to report or inaccurately reported hours worked or
25 remuneration paid, or both, all benefits paid will be charged to the
26 experience rating account of the contribution paying employer or
27 employers that originally filed the incomplete or inaccurate report or
28 reports. An employer who reimburses the trust fund for benefits paid
29 to workers and who fails to report or inaccurately reported hours
30 worked or remuneration paid, or both, shall reimburse the trust fund
31 for all benefits paid that are based on the originally filed incomplete
32 or inaccurate report or reports.

33 (b) Benefits paid to an individual filing under the provisions of
34 chapter 50.06 RCW shall not be charged to the experience rating account
35 of any contribution paying employer only if:

36 (i) The individual files under RCW 50.06.020(1) after receiving
37 crime victims' compensation for a disability resulting from a nonwork-
38 related occurrence; or

1 (ii) The individual files under RCW 50.06.020(2).

2 (c) Benefits paid which represent the state's share of benefits
3 payable as extended benefits defined under RCW 50.22.010(6) shall not
4 be charged to the experience rating account of any contribution paying
5 employer.

6 (d) In the case of individuals who requalify for benefits under RCW
7 50.20.050 or 50.20.060, benefits based on wage credits earned prior to
8 the disqualifying separation shall not be charged to the experience
9 rating account of the contribution paying employer from whom that
10 separation took place.

11 (e) Benefits paid to an individual who qualifies for benefits under
12 RCW 50.20.050 (1)(b) (iv) or (xi) or (2)(b) (iv) or (xi), as
13 applicable, shall not be charged to the experience rating account of
14 any contribution paying employer.

15 (f) With respect to claims with an effective date on or after the
16 first Sunday following April 22, 2005, benefits paid that exceed the
17 benefits that would have been paid if the weekly benefit amount for the
18 claim had been determined as one percent of the total wages paid in the
19 individual's base year shall not be charged to the experience rating
20 account of any contribution paying employer. This subsection (3)(f)
21 does not apply to the calculation of contribution rates under RCW
22 50.29.025 for rate year 2010 and thereafter.

23 (g) The forty-five dollar increase paid as part of an individual's
24 weekly benefit amount as provided in RCW 50.20.1201 and the twenty-five
25 dollar increase paid as part of an individual's weekly benefit amount
26 as provided in section 1 of this act shall not be charged to the
27 experience rating account of any contribution paying employer.

28 (h) With respect to claims where the minimum amount payable weekly
29 is increased to one hundred fifty-five dollars pursuant to RCW
30 50.20.1201(3), benefits paid that exceed the benefits that would have
31 been paid if the minimum amount payable weekly had been calculated
32 pursuant to RCW 50.20.120 shall not be charged to the experience rating
33 account of any contribution paying employer.

34 (i) Upon approval of an individual's training benefits plan
35 submitted in accordance with RCW 50.22.155(2), an individual is
36 considered enrolled in training, and regular benefits beginning with
37 the week of approval shall not be charged to the experience rating
38 account of any contribution paying employer.

1 (j) Training benefits paid to an individual under RCW 50.22.155
2 shall not be charged to the experience rating account of any
3 contribution paying employer.

4 (4)(a) A contribution paying base year employer, not otherwise
5 eligible for relief of charges for benefits under this section, may
6 receive such relief if the benefit charges result from payment to an
7 individual who:

8 (i) Last left the employ of such employer voluntarily for reasons
9 not attributable to the employer;

10 (ii) Was discharged for misconduct or gross misconduct connected
11 with his or her work not a result of inability to meet the minimum job
12 requirements;

13 (iii) Is unemployed as a result of closure or severe curtailment of
14 operation at the employer's plant, building, worksite, or other
15 facility. This closure must be for reasons directly attributable to a
16 catastrophic occurrence such as fire, flood, or other natural disaster;

17 (iv) Continues to be employed on a regularly scheduled permanent
18 part-time basis by a base year employer and who at some time during the
19 base year was concurrently employed and subsequently separated from at
20 least one other base year employer. Benefit charge relief ceases when
21 the employment relationship between the employer requesting relief and
22 the claimant is terminated. This subsection does not apply to shared
23 work employers under chapter 50.06 RCW; or

24 (v) Was hired to replace an employee who is a member of the
25 military reserves or National Guard and was called to federal active
26 military service by the president of the United States and is
27 subsequently laid off when that employee is reemployed by their
28 employer upon release from active duty within the time provided for
29 reemployment in RCW 73.16.035.

30 (b) The employer requesting relief of charges under this subsection
31 must request relief in writing within thirty days following mailing to
32 the last known address of the notification of the valid initial
33 determination of such claim, stating the date and reason for the
34 separation or the circumstances of continued employment. The
35 commissioner, upon investigation of the request, shall determine
36 whether relief should be granted.

1 **Sec. 15.** RCW 50.22.157 and 2009 c 3 s 6 are each amended to read
2 as follows:

3 (1) The employment security department shall report to the
4 appropriate committees of the legislature by December 1, 2009, and
5 every year thereafter, on the status of the training benefits program
6 and the resulting outcomes. The report shall include a survey based
7 assessment of the employment outcomes for program participants within
8 the previous three years. The department shall also include in its
9 report:

10 ~~((1))~~ (a) A demographic analysis of participants in the training
11 benefits program under this section including the number of claimants
12 per North American industry classification system code and the gender,
13 race, age, and geographic representation of participants;

14 ~~((2))~~ (b) The duration of training benefits claimed per claimant;

15 ~~((3))~~ (c) An analysis of the training provided to participants
16 including the occupational category supported by the training, whether
17 the training received would lead to employment in a high demand
18 occupation, whether a degree or certificate is required in that
19 occupational category to obtain employment, those participants who
20 complete training in relationship to those that do not, the number of
21 participants who take courses in basic language, reading, or writing
22 skills to improve their employability, and the reasons for
23 noncompletion of approved training programs;

24 ~~((4))~~ (d) The employment and wage history of participants,
25 including the pretraining and posttraining wage, the type of work
26 participants were engaged in prior to unemployment, and whether those
27 participating in training return to their previous employer (~~after~~
28 training terminates)) within two years of receiving training, or are
29 employed in a field for which they were retrained; (~~and~~

30 ~~(5))~~ (e) An identification and analysis of administrative costs at
31 both the local and state level for administering this program;

32 (f) A projection of program costs for the next fiscal year; and

33 (g) The total funds obligated for training benefits, and the net
34 balance remaining to be obligated subject to the restrictions of RCW
35 50.22.140.

36 (2) The joint legislative audit and review committee is directed to
37 conduct a thorough review and evaluation of the training benefits
38 program on the following schedule:

1 (a) Three years after the implementation of the training benefits
2 portion of this act and every five years thereafter; and

3 (b) In any year in which the employment security department is
4 required to suspend obligation of training benefits funds pursuant to
5 RCW 50.22.140(2), or total expenditures exceed twenty-five million
6 dollars.

7 (3) As part of the review conducted under subsection (2) of this
8 section, the joint legislative audit and review committee shall:

9 (a) Assess whether the program is complying with legislative
10 intent;

11 (b) Assess whether the program is effective;

12 (c) Assess whether the program is operating in an efficient and
13 economical manner which results in optimum performance; and

14 (d) Make recommendations on how to improve the training benefits
15 program.

16 (4) After a review of the training benefits program has been
17 completed by the joint legislative audit and review committee, the
18 appropriate committees of the legislature must hold a public hearing on
19 the review and consider potential changes to improve the program.

20 **PART IV**
21 **Social Tax**

22 **Sec. 16.** RCW 50.29.025 and 2010 c 72 s 1 are each amended to read
23 as follows:

24 (1) For contributions assessed for rate years 2005 through 2009,
25 the contribution rate for each employer subject to contributions under
26 RCW 50.24.010 shall be the sum of the array calculation factor rate and
27 the graduated social cost factor rate determined under this subsection,
28 and the solvency surcharge determined under RCW 50.29.041, if any.

29 (a) The array calculation factor rate shall be determined as
30 follows:

31 (i) An array shall be prepared, listing all qualified employers in
32 ascending order of their benefit ratios. The array shall show for each
33 qualified employer: (A) Identification number; (B) benefit ratio; and
34 (C) taxable payrolls for the four consecutive calendar quarters
35 immediately preceding the computation date and reported to the
36 employment security department by the cut-off date.

1 (ii) Each employer in the array shall be assigned to one of forty
 2 rate classes according to his or her benefit ratio as follows, and,
 3 except as provided in RCW 50.29.026, the array calculation factor rate
 4 for each employer in the array shall be the rate specified in the rate
 5 class to which the employer has been assigned:

	Benefit Ratio		Rate	Rate
	At least	Less than	Class	(percent)
6		0.000001	1	0.00
7				
8		0.001250	2	0.13
9	0.000001			
10	0.001250	0.002500	3	0.25
11	0.002500	0.003750	4	0.38
12	0.003750	0.005000	5	0.50
13	0.005000	0.006250	6	0.63
14	0.006250	0.007500	7	0.75
15	0.007500	0.008750	8	0.88
16	0.008750	0.010000	9	1.00
17	0.010000	0.011250	10	1.15
18	0.011250	0.012500	11	1.30
19	0.012500	0.013750	12	1.45
20	0.013750	0.015000	13	1.60
21	0.015000	0.016250	14	1.75
22	0.016250	0.017500	15	1.90
23	0.017500	0.018750	16	2.05
24	0.018750	0.020000	17	2.20
25	0.020000	0.021250	18	2.35
26	0.021250	0.022500	19	2.50
27	0.022500	0.023750	20	2.65
28	0.023750	0.025000	21	2.80
29	0.025000	0.026250	22	2.95
30	0.026250	0.027500	23	3.10
31	0.027500	0.028750	24	3.25
32	0.028750	0.030000	25	3.40
33	0.030000	0.031250	26	3.55
34	0.031250	0.032500	27	3.70
35	0.032500	0.033750	28	3.85
36	0.033750	0.035000	29	4.00

1	0.035000	0.036250	30	4.15
2	0.036250	0.037500	31	4.30
3	0.037500	0.040000	32	4.45
4	0.040000	0.042500	33	4.60
5	0.042500	0.045000	34	4.75
6	0.045000	0.047500	35	4.90
7	0.047500	0.050000	36	5.05
8	0.050000	0.052500	37	5.20
9	0.052500	0.055000	38	5.30
10	0.055000	0.057500	39	5.35
11	0.057500		40	5.40

12 (b) The graduated social cost factor rate shall be determined as
13 follows:

14 (i)(A) Except as provided in (b)(i)(B) and (C) of this subsection,
15 the commissioner shall calculate the flat social cost factor for a rate
16 year by dividing the total social cost by the total taxable payroll.
17 The division shall be carried to the second decimal place with the
18 remaining fraction disregarded unless it amounts to five hundredths or
19 more, in which case the second decimal place shall be rounded to the
20 next higher digit. The flat social cost factor shall be expressed as
21 a percentage.

22 (B) If, on the cut-off date, the balance in the unemployment
23 compensation fund is determined by the commissioner to be an amount
24 that will provide more than ten months of unemployment benefits, the
25 commissioner shall calculate the flat social cost factor for the rate
26 year immediately following the cut-off date by reducing the total
27 social cost by the dollar amount that represents the number of months
28 for which the balance in the unemployment compensation fund on the cut-
29 off date will provide benefits above ten months and dividing the result
30 by the total taxable payroll. However, the calculation under this
31 subsection (1)(b)(i)(B) for a rate year may not result in a flat social
32 cost factor that is more than four-tenths lower than the calculation
33 under (b)(i)(A) of this subsection for that rate year.

34 For the purposes of this subsection, the commissioner shall
35 determine the number of months of unemployment benefits in the
36 unemployment compensation fund using the benefit cost rate for the
37 average of the three highest calendar benefit cost rates in the twenty

1 consecutive completed calendar years immediately preceding the cut-off
2 date or a period of consecutive calendar years immediately preceding
3 the cut-off date that includes three recessions, if longer.

4 (C) The minimum flat social cost factor calculated under this
5 subsection (1)(b) shall be six-tenths of one percent, except that if
6 the balance in the unemployment compensation fund is determined by the
7 commissioner to be an amount that will provide:

8 (I) At least twelve months but less than fourteen months of
9 unemployment benefits, the minimum shall be five-tenths of one percent;
10 or

11 (II) At least fourteen months of unemployment benefits, the minimum
12 shall be five-tenths of one percent, except that, for employers in rate
13 class 1, the minimum shall be forty-five hundredths of one percent.

14 (ii)(A) Except as provided in (b)(ii)(B) of this subsection, the
15 graduated social cost factor rate for each employer in the array is the
16 flat social cost factor multiplied by the percentage specified as
17 follows for the rate class to which the employer has been assigned in
18 (a)(ii) of this subsection, except that the sum of an employer's array
19 calculation factor rate and the graduated social cost factor rate may
20 not exceed six and five-tenths percent or, for employers whose North
21 American industry classification system code is within "111," "112,"
22 "1141," "115," "3114," "3117," "42448," or "49312," may not exceed six
23 percent through rate year 2007 and may not exceed five and seven-tenths
24 percent for rate years 2008 and 2009:

25 (I) Rate class 1 - 78 percent;

26 (II) Rate class 2 - 82 percent;

27 (III) Rate class 3 - 86 percent;

28 (IV) Rate class 4 - 90 percent;

29 (V) Rate class 5 - 94 percent;

30 (VI) Rate class 6 - 98 percent;

31 (VII) Rate class 7 - 102 percent;

32 (VIII) Rate class 8 - 106 percent;

33 (IX) Rate class 9 - 110 percent;

34 (X) Rate class 10 - 114 percent;

35 (XI) Rate class 11 - 118 percent; and

36 (XII) Rate classes 12 through 40 - 120 percent.

37 (B) For contributions assessed beginning July 1, 2005, through
38 December 31, 2007, for employers whose North American industry

1 classification system code is "111," "112," "1141," "115," "3114,"
2 "3117," "42448," or "49312," the graduated social cost factor rate is
3 zero.

4 (iii) For the purposes of this section:

5 (A) "Total social cost" means the amount calculated by subtracting
6 the array calculation factor contributions paid by all employers with
7 respect to the four consecutive calendar quarters immediately preceding
8 the computation date and paid to the employment security department by
9 the cut-off date from the total unemployment benefits paid to claimants
10 in the same four consecutive calendar quarters. To calculate the flat
11 social cost factor for rate year 2005, the commissioner shall calculate
12 the total social cost using the array calculation factor contributions
13 that would have been required to be paid by all employers in the
14 calculation period if (a) of this subsection had been in effect for the
15 relevant period. To calculate the flat social cost factor for rate
16 years 2010 and 2011, the forty-five dollar increase paid as part of an
17 individual's weekly benefit amount as provided in RCW 50.20.1201 shall
18 not be considered for purposes of calculating the total unemployment
19 benefits paid to claimants in the four consecutive calendar quarters
20 immediately preceding the computation date.

21 (B) "Total taxable payroll" means the total amount of wages subject
22 to tax, as determined under RCW 50.24.010, for all employers in the
23 four consecutive calendar quarters immediately preceding the
24 computation date and reported to the employment security department by
25 the cut-off date.

26 (c) For employers who do not meet the definition of "qualified
27 employer" by reason of failure to pay contributions when due:

28 (i) The array calculation factor rate shall be two-tenths higher
29 than that in rate class 40, except employers who have an approved
30 agency-deferred payment contract by September 30th of the previous rate
31 year. If any employer with an approved agency-deferred payment
32 contract fails to make any one of the succeeding deferred payments or
33 fails to submit any succeeding tax report and payment in a timely
34 manner, the employer's tax rate shall immediately revert to an array
35 calculation factor rate two-tenths higher than that in rate class 40;
36 and

37 (ii) The social cost factor rate shall be the social cost factor
38 rate assigned to rate class 40 under (b)(ii) of this subsection.

1 (d) For all other employers not qualified to be in the array:

2 (i) For rate years 2005, 2006, and 2007:

3 (A) The array calculation factor rate shall be a rate equal to the
4 average industry array calculation factor rate as determined by the
5 commissioner, plus fifteen percent of that amount; however, the rate
6 may not be less than one percent or more than the array calculation
7 factor rate in rate class 40; and

8 (B) The social cost factor rate shall be a rate equal to the
9 average industry social cost factor rate as determined by the
10 commissioner, plus fifteen percent of that amount, but not more than
11 the social cost factor rate assigned to rate class 40 under (b)(ii) of
12 this subsection.

13 (ii) For contributions assessed for rate years 2008 and 2009:

14 (A) The array calculation factor rate shall be a rate equal to the
15 average industry array calculation factor rate as determined by the
16 commissioner, multiplied by the history factor, but not less than one
17 percent or more than the array calculation factor rate in rate class
18 40;

19 (B) The social cost factor rate shall be a rate equal to the
20 average industry social cost factor rate as determined by the
21 commissioner, multiplied by the history factor, but not more than the
22 social cost factor rate assigned to rate class 40 under (b)(ii) of this
23 subsection; and

24 (C) The history factor shall be based on the total amounts of
25 benefits charged and contributions paid in the three fiscal years
26 ending prior to the computation date by employers not qualified to be
27 in the array, other than employers in (c) of this subsection, who were
28 first subject to contributions in the calendar year ending three years
29 prior to the computation date. The commissioner shall calculate the
30 history ratio by dividing the total amount of benefits charged by the
31 total amount of contributions paid in this three-year period by these
32 employers. The division shall be carried to the second decimal place
33 with the remaining fraction disregarded unless it amounts to five
34 one-hundredths or more, in which case the second decimal place shall be
35 rounded to the next higher digit. The commissioner shall determine the
36 history factor according to the history ratio as follows:

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	History Ratio		History Factor (percent)
	At least	Less than	
(I)		.95	90
(II)	.95	1.05	100
(III)	1.05		115

9 (2) For contributions assessed in rate year 2010 and thereafter,
10 the contribution rate for each employer subject to contributions under
11 RCW 50.24.010 shall be the sum of the array calculation factor rate and
12 the graduated social cost factor rate determined under this subsection,
13 and the solvency surcharge determined under RCW 50.29.041, if any.

14 (a) The array calculation factor rate shall be determined as
15 follows:

16 (i) An array shall be prepared, listing all qualified employers in
17 ascending order of their benefit ratios. The array shall show for each
18 qualified employer: (A) Identification number; (B) benefit ratio; and
19 (C) taxable payrolls for the four consecutive calendar quarters
20 immediately preceding the computation date and reported to the
21 employment security department by the cut-off date.

22 (ii) Each employer in the array shall be assigned to one of forty
23 rate classes according to his or her benefit ratio as follows, and,
24 except as provided in RCW 50.29.026, the array calculation factor rate
25 for each employer in the array shall be the rate specified in the rate
26 class to which the employer has been assigned:

	Benefit Ratio		Rate Class	Rate (percent)
	At least	Less than		
		0.000001	1	0.00
	0.000001	0.001250	2	0.11
	0.001250	0.002500	3	0.22
	0.002500	0.003750	4	0.33
	0.003750	0.005000	5	0.43

27
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1	0.005000	0.006250	6	0.54
2	0.006250	0.007500	7	0.65
3	0.007500	0.008750	8	0.76
4	0.008750	0.010000	9	0.88
5	0.010000	0.011250	10	1.01
6	0.011250	0.012500	11	1.14
7	0.012500	0.013750	12	1.28
8	0.013750	0.015000	13	1.41
9	0.015000	0.016250	14	1.54
10	0.016250	0.017500	15	1.67
11	0.017500	0.018750	16	1.80
12	0.018750	0.020000	17	1.94
13	0.020000	0.021250	18	2.07
14	0.021250	0.022500	19	2.20
15	0.022500	0.023750	20	2.38
16	0.023750	0.025000	21	2.50
17	0.025000	0.026250	22	2.63
18	0.026250	0.027500	23	2.75
19	0.027500	0.028750	24	2.88
20	0.028750	0.030000	25	3.00
21	0.030000	0.031250	26	3.13
22	0.031250	0.032500	27	3.25
23	0.032500	0.033750	28	3.38
24	0.033750	0.035000	29	3.50
25	0.035000	0.036250	30	3.63
26	0.036250	0.037500	31	3.75
27	0.037500	0.040000	32	4.00
28	0.040000	0.042500	33	4.25
29	0.042500	0.045000	34	4.50
30	0.045000	0.047500	35	4.75
31	0.047500	0.050000	36	5.00
32	0.050000	0.052500	37	5.15
33	0.052500	0.055000	38	5.25
34	0.055000	0.057500	39	5.30
35	0.057500		40	5.40

36 (b) The graduated social cost factor rate shall be determined as
37 follows:

1 (i)(A) Except as provided in (b)(i)(B) and (C) of this subsection,
2 the commissioner shall calculate the flat social cost factor for a rate
3 year by dividing the total social cost by the total taxable payroll.
4 The division shall be carried to the second decimal place with the
5 remaining fraction disregarded unless it amounts to five hundredths or
6 more, in which case the second decimal place shall be rounded to the
7 next higher digit. The flat social cost factor shall be expressed as
8 a percentage.

9 (B)(I) If, on the cut-off date, the balance in the unemployment
10 compensation fund is determined by the commissioner to be an amount
11 that will provide more than ten months of unemployment benefits, the
12 commissioner shall calculate the flat social cost factor for the rate
13 year immediately following the cut-off date by reducing the total
14 social cost by the dollar amount that represents the number of months
15 for which the balance in the unemployment compensation fund on the cut-
16 off date will provide benefits above ten months and dividing the result
17 by the total taxable payroll. However, the calculation under this
18 subsection (2)(b)(i)(B) for a rate year may not result in a flat social
19 cost factor that is more than four-tenths lower than the calculation
20 under (b)(i)(A) of this subsection for that rate year. For rate year
21 2011 and thereafter, the calculation may not result in a flat social
22 cost factor that is more than one and twenty-two one-hundredths
23 percent.

24 (II) If, on the cut-off date, the balance in the unemployment
25 compensation fund is determined by the commissioner to be an amount
26 that will provide ten months of unemployment benefits or less, the flat
27 social cost factor for the rate year immediately following the cut-off
28 date may not increase by more than fifty percent over the previous rate
29 year or may not exceed one and twenty-two one-hundredths percent,
30 whichever is greater.

31 (III) For the purposes of this subsection (2)(b), the commissioner
32 shall determine the number of months of unemployment benefits in the
33 unemployment compensation fund using the benefit cost rate for the
34 average of the three highest calendar benefit cost rates in the twenty
35 consecutive completed calendar years immediately preceding the cut-off
36 date or a period of consecutive calendar years immediately preceding
37 the cut-off date that includes three recessions, if longer. The
38 twenty-five dollar increase paid as part of an individual's weekly

1 benefit amount as provided in section 1 of this act shall not be
2 considered in calculating the benefit cost rate when determining the
3 number of months of unemployment benefits in the unemployment
4 compensation fund.

5 (C) The minimum flat social cost factor calculated under this
6 subsection (2)(b) shall be six-tenths of one percent, except that if
7 the balance in the unemployment compensation fund is determined by the
8 commissioner to be an amount that will provide:

9 (I) At least ten months but less than eleven months of unemployment
10 benefits, the minimum shall be five-tenths of one percent; or

11 (II) At least eleven months but less than twelve months of
12 unemployment benefits, the minimum shall be forty-five hundredths of
13 one percent; or

14 (III) At least twelve months but less than thirteen months of
15 unemployment benefits, the minimum shall be four-tenths of one percent;
16 or

17 (IV) At least thirteen months but less than fifteen months of
18 unemployment benefits, the minimum shall be thirty-five hundredths of
19 one percent; or

20 (V) At least fifteen months but less than seventeen months of
21 unemployment benefits, the minimum shall be twenty-five hundredths of
22 one percent; or

23 (VI) At least seventeen months but less than eighteen months of
24 unemployment benefits, the minimum shall be fifteen hundredths of one
25 percent; or

26 (VII) At least eighteen months of unemployment benefits, the
27 minimum shall be fifteen hundredths of one percent through rate year
28 2011 and shall be zero thereafter.

29 (ii)(A) For rate years through 2010, the graduated social cost
30 factor rate for each employer in the array is the flat social cost
31 factor multiplied by the percentage specified as follows for the rate
32 class to which the employer has been assigned in (a)(ii) of this
33 subsection, except that the sum of an employer's array calculation
34 factor rate and the graduated social cost factor rate may not exceed
35 six percent or, for employers whose North American industry
36 classification system code is within "111," "112," "1141," "115,"
37 "3114," "3117," "42448," or "49312," may not exceed five and four-
38 tenths percent:

- 1 ~~((A))~~ (I) Rate class 1 - 78 percent;
- 2 ~~((B))~~ (II) Rate class 2 - 82 percent;
- 3 ~~((C))~~ (III) Rate class 3 - 86 percent;
- 4 ~~((D))~~ (IV) Rate class 4 - 90 percent;
- 5 ~~((E))~~ (V) Rate class 5 - 94 percent;
- 6 ~~((F))~~ (VI) Rate class 6 - 98 percent;
- 7 ~~((G))~~ (VII) Rate class 7 - 102 percent;
- 8 ~~((H))~~ (VIII) Rate class 8 - 106 percent;
- 9 ~~((I))~~ (IX) Rate class 9 - 110 percent;
- 10 ~~((J))~~ (X) Rate class 10 - 114 percent;
- 11 ~~((K))~~ (XI) Rate class 11 - 118 percent; and
- 12 ~~((L))~~ (XII) Rate classes 12 through 40 - 120 percent.

13 (B) For rate years 2011 and thereafter, the graduated social cost
14 factor rate for each employer in the array is the flat social cost
15 factor multiplied by the percentage specified as follows for the rate
16 class to which the employer has been assigned in (a)(ii) of this
17 subsection, except that the sum of an employer's array calculation
18 factor rate and the graduated social cost factor rate may not exceed
19 six percent or, for employers whose North American industry
20 classification system code is within "111," "112," "1141," "115,"
21 "3114," "3117," "42448," or "49312," may not exceed five and four-
22 tenths percent:

- 23 (I) Rate class 1 - 40 percent;
- 24 (II) Rate class 2 - 44 percent;
- 25 (III) Rate class 3 - 48 percent;
- 26 (IV) Rate class 4 - 52 percent;
- 27 (V) Rate class 5 - 56 percent;
- 28 (VI) Rate class 6 - 60 percent;
- 29 (VII) Rate class 7 - 64 percent;
- 30 (VIII) Rate class 8 - 68 percent;
- 31 (IX) Rate class 9 - 72 percent;
- 32 (X) Rate class 10 - 76 percent;
- 33 (XI) Rate class 11 - 80 percent;
- 34 (XII) Rate class 12 - 84 percent;
- 35 (XIII) Rate class 13 - 88 percent;
- 36 (XIV) Rate class 14 - 92 percent;
- 37 (XV) Rate class 15 - 96 percent;
- 38 (XVI) Rate class 16 - 100 percent;

1 (XVII) Rate class 17 - 104 percent;

2 (XVIII) Rate class 18 - 108 percent;

3 (XIX) Rate class 19 - 112 percent;

4 (XX) Rate class 20 - 116 percent; and

5 (XXI) Rate classes 21 through 40 - 120 percent.

6 (iii) For the purposes of this section:

7 (A) "Total social cost" means the amount calculated by subtracting
8 the array calculation factor contributions paid by all employers with
9 respect to the four consecutive calendar quarters immediately preceding
10 the computation date and paid to the employment security department by
11 the cut-off date from the total unemployment benefits paid to claimants
12 in the same four consecutive calendar quarters. To calculate the flat
13 social cost factor for rate years 2012 and 2013, the twenty-five dollar
14 increase paid as part of an individual's weekly benefit amount as
15 provided in section 1 of this act shall not be considered for purposes
16 of calculating the total unemployment benefits paid to claimants in the
17 four consecutive calendar quarters immediately preceding the
18 computation date.

19 (B) "Total taxable payroll" means the total amount of wages subject
20 to tax, as determined under RCW 50.24.010, for all employers in the
21 four consecutive calendar quarters immediately preceding the
22 computation date and reported to the employment security department by
23 the cut-off date.

24 (c) For employers who do not meet the definition of "qualified
25 employer" by reason of failure to pay contributions when due:

26 (i) For rate years through 2010:

27 (A) The array calculation factor rate shall be two-tenths higher
28 than that in rate class 40, except employers who have an approved
29 agency-deferred payment contract by September 30th of the previous rate
30 year. If any employer with an approved agency-deferred payment
31 contract fails to make any one of the succeeding deferred payments or
32 fails to submit any succeeding tax report and payment in a timely
33 manner, the employer's tax rate shall immediately revert to an array
34 calculation factor rate two-tenths higher than that in rate class 40;
35 and

36 (B) The social cost factor rate shall be the social cost factor
37 rate assigned to rate class 40 under (b)(ii)(A) of this subsection.

38 (ii) For rate years 2011 and thereafter:

1 (A)(I) For an employer who does not enter into an approved agency-
2 deferred payment contract as described in (c)(ii)(A)(II) or (III) of
3 this subsection, the array calculation factor rate shall be the rate it
4 would have been if the employer had not been delinquent in payment plus
5 an additional one percent or, if the employer is delinquent in payment
6 for a second or more consecutive year, an additional two percent;

7 (II) For an employer who enters an approved agency-deferred payment
8 contract by September 30th of the previous rate year, the array
9 calculation factor rate shall be the rate it would have been if the
10 employer had not been delinquent in payment;

11 (III) For an employer who enters an approved agency-deferred
12 payment contract after September 30th of the previous rate year, but
13 within thirty days of the date the department sent its first tax rate
14 notice, the array calculation factor rate shall be the rate it would
15 have been had the employer not been delinquent in payment plus an
16 additional one-half of one percent or, if the employer is delinquent in
17 payment for a second or more consecutive year, an additional one and
18 one-half percent;

19 (IV) For an employer who enters an approved agency-deferred payment
20 contract as described in (c)(ii)(A)(II) or (III) of this subsection,
21 but who fails to make any one of the succeeding deferred payments or
22 fails to submit any succeeding tax report and payment in a timely
23 manner, the array calculation factor rate shall immediately revert to
24 the applicable array calculation factor rate under (c)(ii)(A)(I) of
25 this subsection; and

26 (B) The social cost factor rate shall be the social cost factor
27 rate assigned to rate class 40 under (b)(ii)(B) of this subsection.

28 (d) For all other employers not qualified to be in the array:

29 (i) The array calculation factor rate shall be a rate equal to the
30 average industry array calculation factor rate as determined by the
31 commissioner, multiplied by the history factor, but not less than one
32 percent or more than the array calculation factor rate in rate class
33 40;

34 (ii) The social cost factor rate shall be a rate equal to the
35 average industry social cost factor rate as determined by the
36 commissioner, multiplied by the history factor, but not more than the
37 social cost factor rate assigned to rate class 40 for the relevant year
38 under (b)(ii) (A) or (B) of this subsection; and

1 (iii) The history factor shall be based on the total amounts of
 2 benefits charged and contributions paid in the three fiscal years
 3 ending prior to the computation date by employers not qualified to be
 4 in the array, other than employers in (c) of this subsection, who were
 5 first subject to contributions in the calendar year ending three years
 6 prior to the computation date. The commissioner shall calculate the
 7 history ratio by dividing the total amount of benefits charged by the
 8 total amount of contributions paid in this three-year period by these
 9 employers. The division shall be carried to the second decimal place
 10 with the remaining fraction disregarded unless it amounts to five
 11 one-hundredths or more, in which case the second decimal place shall be
 12 rounded to the next higher digit. The commissioner shall determine the
 13 history factor according to the history ratio as follows:

14				
15		History		History
16		Ratio		Factor
17				(percent)
18		At least	Less than	
19	(A)		.95	90
20	(B)	.95	1.05	100
21	(C)	1.05		115

22 (3) Assignment of employers by the commissioner to industrial
 23 classification, for purposes of this section, shall be in accordance
 24 with established classification practices found in the North American
 25 industry classification system code.

26 **PART V**
 27 **Miscellaneous**

28 NEW SECTION. **Sec. 17.** A new section is added to chapter 43.215
 29 RCW to read as follows:

30 For the working connections child care program, the department
 31 shall not count the twenty-five dollar increase paid as part of an
 32 individual's weekly benefit amount as provided in section 1 of this act
 33 when determining a consumer's income eligibility and copayment.

1 application to any person or circumstance is held invalid, the
2 remainder of the act or the application of the provision to other
3 persons or circumstances is not affected.

4 NEW SECTION. **Sec. 23.** Sections 3 and 6 of this act expire July 1,
5 2012, unless the United States department of labor determines by
6 October 1, 2011, that this act does not meet the requirements of
7 section 2003 of the federal American recovery and reinvestment act of
8 2009 for unemployment insurance modernization incentive funding.

9 NEW SECTION. **Sec. 24.** Sections 7 through 15 of this act take
10 effect July 1, 2012, unless the United States department of labor
11 determines by October 1, 2011, that this act does not meet the
12 requirements of section 2003 of the federal American recovery and
13 reinvestment act of 2009 for unemployment insurance modernization
14 incentive funding.

15 NEW SECTION. **Sec. 25.** The employment security department must
16 provide notice of the expiration date of sections 3 and 6 of this act
17 and the effective date of sections 7 through 15 of this act to affected
18 parties, the chief clerk of the house of representatives, the secretary
19 of the senate, the office of the code reviser, and others as deemed
20 appropriate by the department.

21 NEW SECTION. **Sec. 26.** Sections 1 through 6 and 16 through 21 of
22 this act are necessary for the immediate preservation of the public
23 peace, health, or safety, or support of the state government and its
24 existing public institutions, and take effect immediately.

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