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**HOUSE BILL 1091**

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**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 50.20.099, 50.22.130, 50.22.155, 50.22.140, 50.24.014,  
3 50.04.075, 50.20.130, 50.29.021, and 50.29.025; creating new sections;  
4 providing a contingent effective date; and declaring an emergency.

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

6 **PART I**

7 **Training Benefits**

8 **Sec. 1.** RCW 50.20.099 and 2000 c 2 s 10 are each amended to read  
9 as follows:

10 (1) To ensure that unemployment insurance benefits are paid in  
11 accordance with RCW 50.20.098, the employment security department shall  
12 verify that an individual is eligible to work in the United States  
13 before the individual receives training benefits under RCW 50.22.150 or  
14 50.22.155.

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

16 (a) Develop and implement an effective method for determining,  
17 where appropriate, eligibility to work in the United States for  
18 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. 2.** 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 ~~(2) ((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. 3.** 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

1 effective date on or after April 5, 2009~~((-))~~ and before January 15,  
2 2012:

3 ~~((+2))~~ (a) 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))~~ (i) 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))~~ (ii) For claims with an effective date on or after  
16 September 7, 2009, the individual:

17 ~~((+i))~~ (A) Earned an average hourly wage in the individual's base  
18 year that is less than one hundred thirty percent of the state minimum  
19 wage~~((-))~~ 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))~~ (B) 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))~~ (C) Is currently serving in the Washington national guard  
29 and, after assessment, is determined to need job-related training to  
30 find suitable employment in the individual's labor market; or

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

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

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

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

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

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

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

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

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

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

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

30       ~~((b))~~ (ii) "High-demand occupation" means an occupation with a  
31 substantial number of current or projected employment opportunities.

32       ~~((e))~~ (iii) "Training benefits" means additional benefits paid  
33 under this section.

34       ~~((d))~~ (iv) "Training program" means:

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

1       ~~((+ii))~~ (B) A vocational training program at an educational  
2 institution that:

3       ~~((+A))~~ (I) Is targeted to training for a high-demand occupation;

4       ~~((+B))~~ (II) Is likely to enhance the individual's marketable  
5 skills and earning power; and

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

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

15       ~~((+8))~~ (g) Benefits shall be paid as follows:

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

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

23       ~~((+c))~~ (iii) Training benefits shall be paid before any extended  
24 benefits but not before any similar 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       ~~((+9))~~ (h) The requirement under RCW 50.22.010(10) relating to  
28 exhausting regular benefits does not apply to an individual otherwise  
29 eligible for training benefits under this section when the individual's  
30 benefit year ends before his or her training benefits are exhausted and  
31 the individual is eligible for a new benefit year. These individuals  
32 will have the option of remaining on the original claim or filing a new  
33 claim.

34       ~~((+10))~~ (i) Individuals who receive training benefits under RCW  
35 50.22.150 or this section are not eligible for training benefits under  
36 this section for five years from the last receipt of training benefits.

37       ~~((+11))~~ (j) An individual eligible to receive a trade readjustment  
38 allowance under chapter 2, Title II of the trade act of 1974, as

1 amended, shall not be eligible to receive benefits under this section  
2 for each week the individual receives such trade readjustment  
3 allowance.

4 ~~((+12))~~ (k) An individual eligible to receive emergency  
5 unemployment compensation under any federal law shall not be eligible  
6 to receive benefits under this section for each week the individual  
7 receives such compensation.

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

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

16 ~~((+15))~~ (2) With respect to claims with an effective date on or  
17 after January 15, 2012:

18 (a) Training benefits are available for an individual who is  
19 eligible for or has exhausted entitlement to unemployment compensation  
20 benefits when:

21 (i) The individual is a dislocated worker as defined in RCW  
22 50.04.075 and, after assessment of the individual's labor market,  
23 occupation, or skills, is determined to need job-related training to  
24 find suitable employment in the individual's labor market. The  
25 assessment of demand for the individual's occupation or skill sets must  
26 be substantially based on declining occupation or skill sets and high-  
27 demand occupations identified in local labor market areas by the local  
28 workforce development councils in cooperation with the employment  
29 security department and its labor market information division; or

30 (ii) Subject to the availability of funds as specified in RCW  
31 50.22.140, the individual:

32 (A) Earned an average hourly wage in the individual's base year  
33 that is less than one hundred thirty percent of the state minimum wage  
34 and, after assessment, it is determined that the individual's earning  
35 potential will be enhanced through vocational training. The  
36 individual's average hourly wage is calculated by dividing the total  
37 wages paid by the total hours worked in the individual's base year;

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

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

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

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

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

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

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

30 (c) Except for an individual eligible under (a)(i) of this  
31 subsection, the individual must be enrolled in training approved under  
32 this section on a full-time basis as determined by the educational  
33 institution, except that less than full-time training may be approved  
34 when the individual has a physical, mental, or emotional disability  
35 that precludes enrollment on a full-time basis.

36 (d) The individual must make satisfactory progress in the training  
37 as defined by the commissioner and certified by the educational  
38 institution.

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

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

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

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

9 (i) "Educational institution" means an institution of higher  
10 education as defined in RCW 28B.10.016 or an educational institution as  
11 defined in RCW 28C.04.410, including equivalent educational  
12 institutions in other states.

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

15 (iii) "Training benefits" means additional benefits paid under this  
16 section.

17 (iv) "Training program" means:

18 (A) An education program determined to be necessary as a  
19 prerequisite to vocational training after counseling at the educational  
20 institution in which the individual enrolls under his or her approved  
21 training program; or

22 (B) A vocational training program at an educational institution  
23 that:

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

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

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

31 "Training program" does not include any course of education  
32 primarily intended to meet the requirements of a baccalaureate or  
33 higher degree, unless the training meets specific requirements for  
34 certification, licensing, or for specific skills necessary for the  
35 occupation.

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

37 (i) The total training benefit amount shall be fifty-two times the

1 individual's weekly benefit amount, reduced by the total amount of  
2 regular benefits paid, or deemed paid, with respect to the benefit  
3 year.

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

7 (iii) Training benefits shall be paid after any federally funded  
8 program.

9 (iv) Training benefits are not payable for weeks more than two  
10 years beyond the end of the benefit year of the regular claim.

11 (h) The requirement under RCW 50.22.010(10) relating to exhausting  
12 regular benefits does not apply to an individual otherwise eligible for  
13 training benefits under this section when the individual's benefit year  
14 ends before his or her training benefits are exhausted and the  
15 individual is eligible for a new benefit year. These individuals will  
16 have the option of remaining on the original claim or filing a new  
17 claim.

18 (i) Except for individuals eligible under (a)(i) of this  
19 subsection, individuals who receive training benefits under RCW  
20 50.22.150 or this section are not eligible for training benefits under  
21 this section for five years from the last receipt of training benefits.

22 (j) An individual eligible to receive a trade readjustment  
23 allowance under chapter 2, Title II of the trade act of 1974, as  
24 amended, shall not be eligible to receive benefits under this section  
25 for each week the individual receives such trade readjustment  
26 allowance.

27 (k) An individual eligible to receive emergency unemployment  
28 compensation under any federal law shall not be eligible to receive  
29 benefits under this section for each week the individual receives such  
30 compensation.

31 (l) All base year employers are interested parties to the approval  
32 of training and the granting of training benefits.

33 (m) Each local workforce development council, in cooperation with  
34 the employment security department and its labor market information  
35 division, must identify occupations and skill sets that are declining  
36 and high-demand occupations and skill sets. Each local workforce  
37 development council shall update this information annually or more  
38 frequently if needed.

1       (3) The commissioner shall adopt rules as necessary to implement  
2 this section.

3       **Sec. 4.** RCW 50.22.140 and 2002 c 149 s 1 are each amended to read  
4 as follows:

5       (1) The employment security department is authorized to pay  
6 training benefits under RCW 50.22.150 and 50.22.155, but may not  
7 obligate expenditures beyond the limits specified in this section or as  
8 otherwise set by the legislature. ~~((For the fiscal year ending June  
9 30, 2000, the commissioner may not obligate more than twenty million  
10 dollars for training benefits. For the two fiscal years ending June  
11 30, 2002, the commissioner may not obligate more than sixty million  
12 dollars for training benefits.))~~ Any funds not obligated in one fiscal  
13 year may be carried forward to the next fiscal year. ~~((For each fiscal  
14 year beginning after June 30, 2002,))~~ The commissioner may not obligate  
15 more than twenty million dollars annually in addition to any funds  
16 carried forward from previous fiscal years. ~~((The department shall  
17 develop a process to ensure that expenditures do not exceed available  
18 funds and to prioritize access to funds when again available.))~~

19       (2) ~~((After June 30, 2002, in addition to the amounts that may be  
20 obligated under subsection (1) of this section, the commissioner may  
21 obligate up to thirty four million dollars for training benefits under  
22 RCW 50.22.150 for individuals in the aerospace industry assigned the  
23 standard industrial classification code "372" or the North American  
24 industry classification system code "336411" whose claims are filed  
25 before January 5, 2003. The funds provided in this subsection must be  
26 fully obligated for training benefits for these individuals before the  
27 funds provided in subsection (1) of this section may be obligated for  
28 training benefits for these individuals. Any amount of the funds  
29 specified in this subsection that is not obligated as permitted may not  
30 be carried forward to any future period.))~~ If the amount available for  
31 training benefits at any time is equal to or less than five million  
32 dollars, funds will no longer be obligated for individuals in RCW  
33 50.22.155(2)(a)(ii). If funds are exhausted, training benefits will  
34 continue to be obligated to dislocated workers only under RCW  
35 50.22.155(2)(a)(i). The following year's obligation for training  
36 benefits will be reduced by a corresponding amount.

1       **Sec. 5.** RCW 50.24.014 and 2009 c 566 s 2 are each amended to read  
2 as follows:

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

15       (b) A separate and identifiable account is established in the  
16 administrative contingency fund for financing the employment security  
17 department's administrative costs under RCW 50.22.150 and 50.22.155 and  
18 the costs under RCW 50.22.150(11) and 50.22.155(~~((+14))~~) (1)(m) and  
19 (2)(m). All money in this account shall be expended solely for the  
20 purposes of this title and for no other purposes whatsoever.  
21 Contributions to this account shall accrue and become payable by each  
22 employer, except employers as described in RCW 50.44.010 and 50.44.030  
23 who have properly elected to make payments in lieu of contributions,  
24 taxable local government employers as described in RCW 50.44.035, those  
25 employers who are required to make payments in lieu of contributions,  
26 those employers described under RCW 50.29.025(~~((+1)(f)(ii))~~) (2)(d), and  
27 those qualified employers assigned rate class 20 or rate class 40, as  
28 applicable, under RCW 50.29.025, at a basic rate of one one-hundredth  
29 of one percent. The amount of wages subject to tax shall be determined  
30 under RCW 50.24.010. Any amount of contributions payable under this  
31 subsection (1)(b) that exceeds the amount that would have been  
32 collected at a rate of four one-thousandths of one percent must be  
33 deposited in the account created in (a) of this subsection.

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

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

4 (3) If the commissioner determines that federal funding has been  
5 increased to provide financing for the services specified in chapter  
6 50.62 RCW, the commissioner shall direct that collection of  
7 contributions under this section be terminated on the following January  
8 1st.

9 **Sec. 6.** RCW 50.04.075 and 1984 c 181 s 1 are each amended to read  
10 as follows:

11 (1) With respect to claims with an effective date prior to January  
12 15, 2012, "dislocated worker" means any individual who:

13 ~~((+1))~~ (a) Has been terminated or received a notice of termination  
14 from employment;

15 ~~((+2))~~ (b) Is eligible for or has exhausted entitlement to  
16 unemployment compensation benefits; and

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

20 (2) With respect to claims with an effective date on or after  
21 January 15, 2012, "dislocated worker" means any individual who:

22 (a) Has been involuntarily and indefinitely separated from  
23 employment as a result of a permanent reduction of operations at the  
24 individual's place of employment, or has separated from a declining  
25 occupation; and

26 (b) Is eligible for or has exhausted entitlement to unemployment  
27 compensation benefits.

28 **Sec. 7.** RCW 50.20.130 and 2010 c 8 s 13022 are each amended to  
29 read as follows:

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

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

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

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

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

13       **Sec. 8.** RCW 50.29.021 and 2010 c 25 s 1 are each amended to read  
14 as follows:

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

18       (2)(a) An experience rating account shall be established and  
19 maintained for each employer, except employers as described in RCW  
20 50.44.010, 50.44.030, and 50.50.030 who have properly elected to make  
21 payments in lieu of contributions, taxable local government employers  
22 as described in RCW 50.44.035, and those employers who are required to  
23 make payments in lieu of contributions, based on existing records of  
24 the employment security department.

25       (b) Benefits paid to an eligible individual shall be charged to the  
26 experience rating accounts of each of such individual's employers  
27 during the individual's base year in the same ratio that the wages paid  
28 by each employer to the individual during the base year bear to the  
29 wages paid by all employers to that individual during that base year,  
30 except as otherwise provided in this section.

31       (c) When the eligible individual's separating employer is a covered  
32 contribution paying base year employer, benefits paid to the eligible  
33 individual shall be charged to the experience rating account of only  
34 the individual's separating employer if the individual qualifies for  
35 benefits under:

36       (i) RCW 50.20.050 (1)(b)(i) or (2)(b)(i), as applicable, and became

1 unemployed after having worked and earned wages in the bona fide work;  
2 or

3 (ii) RCW 50.20.050 (1)(b) (v) through (x) or (2)(b) (v) through  
4 (x).

5 (3) The legislature finds that certain benefit payments, in whole  
6 or in part, should not be charged to the experience rating accounts of  
7 employers except those employers described in RCW 50.44.010, 50.44.030,  
8 and 50.50.030 who have properly elected to make payments in lieu of  
9 contributions, taxable local government employers described in RCW  
10 50.44.035, and those employers who are required to make payments in  
11 lieu of contributions, as follows:

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

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

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

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

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

36 (d) In the case of individuals who requalify for benefits under RCW  
37 50.20.050 or 50.20.060, benefits based on wage credits earned prior to

1 the disqualifying separation shall not be charged to the experience  
2 rating account of the contribution paying employer from whom that  
3 separation took place.

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

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

16 (g) The forty-five dollar increase paid as part of an individual's  
17 weekly benefit amount as provided in RCW 50.20.1201 shall not be  
18 charged to the experience rating account of any contribution paying  
19 employer.

20 (h) With respect to claims where the minimum amount payable weekly  
21 is increased to one hundred fifty-five dollars pursuant to RCW  
22 50.20.1201(3), benefits paid that exceed the benefits that would have  
23 been paid if the minimum amount payable weekly had been calculated  
24 pursuant to RCW 50.20.120 shall not be charged to the experience rating  
25 account of any contribution paying employer.

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

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

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

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

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

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

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

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

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

30 **PART II**  
31 **Social Tax**

32 **Sec. 9.** RCW 50.29.025 and 2010 c 72 s 1 are each amended to read  
33 as follows:

34 (1) For contributions assessed for rate years 2005 through 2009,  
35 the contribution rate for each employer subject to contributions under

1 RCW 50.24.010 shall be the sum of the array calculation factor rate and  
2 the graduated social cost factor rate determined under this subsection,  
3 and the solvency surcharge determined under RCW 50.29.041, if any.

4 (a) The array calculation factor rate shall be determined as  
5 follows:

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

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

	Benefit Ratio		Rate	Rate
	At least	Less than	Class	(percent)
17		0.000001	1	0.00
18		0.000001	2	0.13
19	0.000001	0.001250	3	0.25
20	0.001250	0.002500	4	0.38
21	0.002500	0.003750	5	0.50
22	0.003750	0.005000	6	0.63
23	0.005000	0.006250	7	0.75
24	0.006250	0.007500	8	0.88
25	0.007500	0.008750	9	1.00
26	0.008750	0.010000	10	1.15
27	0.010000	0.011250	11	1.30
28	0.011250	0.012500	12	1.45
29	0.012500	0.013750	13	1.60
30	0.013750	0.015000	14	1.75
31	0.015000	0.016250	15	1.90
32	0.016250	0.017500	16	2.05
33	0.017500	0.018750	17	2.20
34	0.018750	0.020000	18	2.35
35	0.020000	0.021250		
36				

1	0.021250	0.022500	19	2.50
2	0.022500	0.023750	20	2.65
3	0.023750	0.025000	21	2.80
4	0.025000	0.026250	22	2.95
5	0.026250	0.027500	23	3.10
6	0.027500	0.028750	24	3.25
7	0.028750	0.030000	25	3.40
8	0.030000	0.031250	26	3.55
9	0.031250	0.032500	27	3.70
10	0.032500	0.033750	28	3.85
11	0.033750	0.035000	29	4.00
12	0.035000	0.036250	30	4.15
13	0.036250	0.037500	31	4.30
14	0.037500	0.040000	32	4.45
15	0.040000	0.042500	33	4.60
16	0.042500	0.045000	34	4.75
17	0.045000	0.047500	35	4.90
18	0.047500	0.050000	36	5.05
19	0.050000	0.052500	37	5.20
20	0.052500	0.055000	38	5.30
21	0.055000	0.057500	39	5.35
22	0.057500		40	5.40

23 (b) The graduated social cost factor rate shall be determined as  
24 follows:

25 (i)(A) Except as provided in (b)(i)(B) and (C) of this subsection,  
26 the commissioner shall calculate the flat social cost factor for a rate  
27 year by dividing the total social cost by the total taxable payroll.  
28 The division shall be carried to the second decimal place with the  
29 remaining fraction disregarded unless it amounts to five hundredths or  
30 more, in which case the second decimal place shall be rounded to the  
31 next higher digit. The flat social cost factor shall be expressed as  
32 a percentage.

33 (B) If, on the cut-off date, the balance in the unemployment  
34 compensation fund is determined by the commissioner to be an amount  
35 that will provide more than ten months of unemployment benefits, the  
36 commissioner shall calculate the flat social cost factor for the rate  
37 year immediately following the cut-off date by reducing the total

1 social cost by the dollar amount that represents the number of months  
2 for which the balance in the unemployment compensation fund on the cut-  
3 off date will provide benefits above ten months and dividing the result  
4 by the total taxable payroll. However, the calculation under this  
5 subsection (1)(b)(i)(B) for a rate year may not result in a flat social  
6 cost factor that is more than four-tenths lower than the calculation  
7 under (b)(i)(A) of this subsection for that rate year.

8 For the purposes of this subsection, the commissioner shall  
9 determine the number of months of unemployment benefits in the  
10 unemployment compensation fund using the benefit cost rate for the  
11 average of the three highest calendar benefit cost rates in the twenty  
12 consecutive completed calendar years immediately preceding the cut-off  
13 date or a period of consecutive calendar years immediately preceding  
14 the cut-off date that includes three recessions, if longer.

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

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

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

25 (ii)(A) Except as provided in (b)(ii)(B) of this subsection, the  
26 graduated social cost factor rate for each employer in the array is the  
27 flat social cost factor multiplied by the percentage specified as  
28 follows for the rate class to which the employer has been assigned in  
29 (a)(ii) of this subsection, except that the sum of an employer's array  
30 calculation factor rate and the graduated social cost factor rate may  
31 not exceed six and five-tenths percent or, for employers whose North  
32 American industry classification system code is within "111," "112,"  
33 "1141," "115," "3114," "3117," "42448," or "49312," may not exceed six  
34 percent through rate year 2007 and may not exceed five and seven-tenths  
35 percent for rate years 2008 and 2009:

- 36 (I) Rate class 1 - 78 percent;
- 37 (II) Rate class 2 - 82 percent;
- 38 (III) Rate class 3 - 86 percent;

- 1 (IV) Rate class 4 - 90 percent;
- 2 (V) Rate class 5 - 94 percent;
- 3 (VI) Rate class 6 - 98 percent;
- 4 (VII) Rate class 7 - 102 percent;
- 5 (VIII) Rate class 8 - 106 percent;
- 6 (IX) Rate class 9 - 110 percent;
- 7 (X) Rate class 10 - 114 percent;
- 8 (XI) Rate class 11 - 118 percent; and
- 9 (XII) Rate classes 12 through 40 - 120 percent.

10 (B) For contributions assessed beginning July 1, 2005, through  
11 December 31, 2007, for employers whose North American industry  
12 classification system code is "111," "112," "1141," "115," "3114,"  
13 "3117," "42448," or "49312," the graduated social cost factor rate is  
14 zero.

15 (iii) For the purposes of this section:

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

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

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

1 (i) The array calculation factor rate shall be two-tenths higher  
2 than that in rate class 40, except employers who have an approved  
3 agency-deferred payment contract by September 30th of the previous rate  
4 year. If any employer with an approved agency-deferred payment  
5 contract fails to make any one of the succeeding deferred payments or  
6 fails to submit any succeeding tax report and payment in a timely  
7 manner, the employer's tax rate shall immediately revert to an array  
8 calculation factor rate two-tenths higher than that in rate class 40;  
9 and

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

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

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

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, plus fifteen percent of that amount; however, the rate  
17 may not be less than one percent or more than the array calculation  
18 factor rate in rate class 40; and

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, plus fifteen percent of that amount, but not more than  
22 the social cost factor rate assigned to rate class 40 under (b)(ii) of  
23 this subsection.

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

25 (A) The array calculation factor rate shall be a rate equal to the  
26 average industry array calculation factor rate as determined by the  
27 commissioner, multiplied by the history factor, but not less than one  
28 percent or more than the array calculation factor rate in rate class  
29 40;

30 (B) The social cost factor rate shall be a rate equal to the  
31 average industry social cost factor rate as determined by the  
32 commissioner, multiplied by the history factor, but not more than the  
33 social cost factor rate assigned to rate class 40 under (b)(ii) of this  
34 subsection; and

35 (C) The history factor shall be based on the total amounts of  
36 benefits charged and contributions paid in the three fiscal years  
37 ending prior to the computation date by employers not qualified to be  
38 in the array, other than employers in (c) of this subsection, who were

1 first subject to contributions in the calendar year ending three years  
 2 prior to the computation date. The commissioner shall calculate the  
 3 history ratio by dividing the total amount of benefits charged by the  
 4 total amount of contributions paid in this three-year period by these  
 5 employers. The division shall be carried to the second decimal place  
 6 with the remaining fraction disregarded unless it amounts to five  
 7 one-hundredths or more, in which case the second decimal place shall be  
 8 rounded to the next higher digit. The commissioner shall determine the  
 9 history factor according to the history ratio as follows:

10

	History		History
	Ratio		Factor
			(percent)
	At least	Less than	
11			
12			
13			
14			
15	(I)	.95	90
16	(II)	.95	100
17	(III)	1.05	115

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

23 (a) The array calculation factor rate shall be determined as  
 24 follows:

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

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

	Benefit Ratio		Rate	Rate
	At least	Less than	Class	(percent)
1		0.000001	1	0.00
2	0.000001	0.001250	2	0.11
3	0.001250	0.002500	3	0.22
4	0.002500	0.003750	4	0.33
5	0.003750	0.005000	5	0.43
6	0.005000	0.006250	6	0.54
7	0.006250	0.007500	7	0.65
8	0.007500	0.008750	8	0.76
9	0.008750	0.010000	9	0.88
10	0.010000	0.011250	10	1.01
11	0.011250	0.012500	11	1.14
12	0.012500	0.013750	12	1.28
13	0.013750	0.015000	13	1.41
14	0.015000	0.016250	14	1.54
15	0.016250	0.017500	15	1.67
16	0.017500	0.018750	16	1.80
17	0.018750	0.020000	17	1.94
18	0.020000	0.021250	18	2.07
19	0.021250	0.022500	19	2.20
20	0.022500	0.023750	20	2.38
21	0.023750	0.025000	21	2.50
22	0.025000	0.026250	22	2.63
23	0.026250	0.027500	23	2.75
24	0.027500	0.028750	24	2.88
25	0.028750	0.030000	25	3.00
26	0.030000	0.031250	26	3.13
27	0.031250	0.032500	27	3.25
28	0.032500	0.033750	28	3.38
29	0.033750	0.035000	29	3.50
30	0.035000	0.036250	30	3.63
31	0.036250	0.037500	31	3.75
32	0.037500	0.040000	32	4.00
33	0.040000	0.042500	33	4.25
34	0.042500	0.045000	34	4.50

1	0.045000	0.047500	35	4.75
2	0.047500	0.050000	36	5.00
3	0.050000	0.052500	37	5.15
4	0.052500	0.055000	38	5.25
5	0.055000	0.057500	39	5.30
6	0.057500		40	5.40

7 (b) The graduated social cost factor rate shall be determined as  
8 follows:

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

17 (B)(I) If, on the cut-off date, the balance in the unemployment  
18 compensation fund is determined by the commissioner to be an amount  
19 that will provide more than ten months of unemployment benefits, the  
20 commissioner shall calculate the flat social cost factor for the rate  
21 year immediately following the cut-off date by reducing the total  
22 social cost by the dollar amount that represents the number of months  
23 for which the balance in the unemployment compensation fund on the cut-  
24 off date will provide benefits above ten months and dividing the result  
25 by the total taxable payroll. However, the calculation under this  
26 subsection (2)(b)(i)(B) for a rate year may not result in a flat social  
27 cost factor that is more than four-tenths lower than the calculation  
28 under (b)(i)(A) of this subsection for that rate year. For rate year  
29 2011 and thereafter, the calculation may not result in a flat social  
30 cost factor that is more than one and twenty-two one-hundredths  
31 percent.

32 (II) If, on the cut-off date, the balance in the unemployment  
33 compensation fund is determined by the commissioner to be an amount  
34 that will provide ten months of unemployment benefits or less, the flat  
35 social cost factor for the rate year immediately following the cut-off  
36 date may not increase by more than fifty percent over the previous rate

1 year or may not exceed one and twenty-two one-hundredths percent,  
2 whichever is greater.

3 (III) For the purposes of this subsection, the commissioner shall  
4 determine the number of months of unemployment benefits in the  
5 unemployment compensation fund using the benefit cost rate for the  
6 average of the three highest calendar benefit cost rates in the twenty  
7 consecutive completed calendar years immediately preceding the cut-off  
8 date or a period of consecutive calendar years immediately preceding  
9 the cut-off date that includes three recessions, if longer.

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

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

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

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

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

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

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

31 (VII) At least eighteen months of unemployment benefits, the  
32 minimum shall be fifteen hundredths of one percent through rate year  
33 2011 and shall be zero thereafter.

34 (ii)(A) For rate years through 2010, the graduated social cost  
35 factor rate for each employer in the array is the flat social cost  
36 factor multiplied by the percentage specified as follows for the rate  
37 class to which the employer has been assigned in (a)(ii) of this  
38 subsection, except that the sum of an employer's array calculation

1 factor rate and the graduated social cost factor rate may not exceed  
2 six percent or, for employers whose North American industry  
3 classification system code is within "111," "112," "1141," "115,"  
4 "3114," "3117," "42448," or "49312," may not exceed five and four-  
5 tenths percent:

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

18 (B) For rate years 2011 and thereafter, the graduated social cost  
19 factor rate for each employer in the array is the flat social cost  
20 factor multiplied by the percentage specified as follows for the rate  
21 class to which the employer has been assigned in (a)(ii) of this  
22 subsection, except that the sum of an employer's array calculation  
23 factor rate and the graduated social cost factor rate may not exceed  
24 six percent or, for employers whose North American industry  
25 classification system code is within "111," "112," "1141," "115,"  
26 "3114," "3117," "42448," or "49312," may not exceed five and four-  
27 tenths percent:

- 28 (I) Rate class 1 - 40 percent;
- 29 (II) Rate class 2 - 44 percent;
- 30 (III) Rate class 3 - 48 percent;
- 31 (IV) Rate class 4 - 52 percent;
- 32 (V) Rate class 5 - 56 percent;
- 33 (VI) Rate class 6 - 60 percent;
- 34 (VII) Rate class 7 - 64 percent;
- 35 (VIII) Rate class 8 - 68 percent;
- 36 (IX) Rate class 9 - 72 percent;
- 37 (X) Rate class 10 - 76 percent;
- 38 (XI) Rate class 11 - 80 percent;

- 1       (XII) Rate class 12 - 84 percent;
- 2       (XIII) Rate class 13 - 88 percent;
- 3       (XIV) Rate class 14 - 92 percent;
- 4       (XV) Rate class 15 - 96 percent;
- 5       (XVI) Rate class 16 - 100 percent;
- 6       (XVII) Rate class 17 - 104 percent;
- 7       (XVIII) Rate class 18 - 108 percent;
- 8       (XIX) Rate class 19 - 112 percent;
- 9       (XX) Rate class 20 - 116 percent; and
- 10       (XXI) Rate classes 21 through 40 - 120 percent.

11       (iii) For the purposes of this section:

12       (A) "Total social cost" means the amount calculated by subtracting  
13 the array calculation factor contributions paid by all employers with  
14 respect to the four consecutive calendar quarters immediately preceding  
15 the computation date and paid to the employment security department by  
16 the cut-off date from the total unemployment benefits paid to claimants  
17 in the same four consecutive calendar quarters.

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

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

25       (i) For rate years through 2010:

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

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

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

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

25 **PART III**  
 26 **Miscellaneous**

27 NEW SECTION. **Sec. 10.** If any part of this act is found to be in  
 28 conflict with federal requirements that are a prescribed condition to  
 29 the allocation of federal funds to the state or the eligibility of  
 30 employers in this state for federal unemployment tax credits, the  
 31 conflicting part of this act is inoperative solely to the extent of the  
 32 conflict, and the finding or determination does not affect the  
 33 operation of the remainder of this act. Rules adopted under this act

1 must meet federal requirements that are a necessary condition to the  
2 receipt of federal funds by the state or the granting of federal  
3 unemployment tax credits to employers in this state.

4 NEW SECTION. **Sec. 11.** If any provision of this act or its  
5 application to any person or circumstance is held invalid, the  
6 remainder of the act or the application of the provision to other  
7 persons or circumstances is not affected.

8 NEW SECTION. **Sec. 12.** Sections 1 through 8 of this act take  
9 effect January 15, 2012, unless the United States department of labor  
10 determines within ninety days after final adjournment of the  
11 legislative session in which this act is enacted that this act does not  
12 meet the requirements of Sec. 2003 of the federal American recovery and  
13 reinvestment act of 2009 for unemployment insurance modernization  
14 incentive funding.

15 NEW SECTION. **Sec. 13.** The employment security department must  
16 provide notice of the effective date of sections 1 through 8 of this  
17 act to affected parties, the chief clerk of the house of  
18 representatives, the secretary of the senate, the office of the code  
19 reviser, and others as deemed appropriate by the department.

20 NEW SECTION. **Sec. 14.** Sections 9 through 11 of this act are  
21 necessary for the immediate preservation of the public peace, health,  
22 or safety, or support of the state government and its existing public  
23 institutions, and take effect immediately.

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