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**SENATE BILL 5061**

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**State of Washington**

**67th Legislature**

**2021 Regular Session**

**By** Senators Keiser and Conway; by request of Office of the Governor

Prefiled 01/05/21.

1 AN ACT Relating to unemployment insurance; amending RCW  
2 28B.50.030, 50.04.323, 50.16.030, 50.20.010, 50.20.020, 50.20.100,  
3 50.20.118, 50.20.120, 50.20.140, 50.24.014, 50.29.021, 50.29.026,  
4 50.29.027, 50.29.041, 50.29.062, 50.29.063, 50.44.060, 50.60.020, and  
5 50.60.110; reenacting and amending RCW 50.20.050 and 50.29.025;  
6 adding new sections to chapter 50.04 RCW; adding a new section to  
7 chapter 50.12 RCW; adding a new section to chapter 50.60 RCW;  
8 creating a new section; repealing RCW 50.20.1201 and 50.20.1202;  
9 providing an expiration date; and declaring an emergency.

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

11 **Sec. 1.** RCW 28B.50.030 and 2015 c 55 s 226 are each amended to  
12 read as follows:

13 The definitions in this section apply throughout this chapter  
14 unless the context clearly requires otherwise.

15 (1) "Adult education" means all education or instruction,  
16 including academic, vocational education or training, basic skills  
17 and literacy training, and "occupational education" provided by  
18 public educational institutions, including common school districts  
19 for persons who are eighteen years of age and over or who hold a high  
20 school diploma or certificate. However, "adult education" shall not  
21 include academic education or instruction for persons under twenty-

1 one years of age who do not hold a high school degree or diploma and  
2 who are attending a public high school for the sole purpose of  
3 obtaining a high school diploma or certificate, nor shall "adult  
4 education" include education or instruction provided by any four-year  
5 public institution of higher education.

6 (2) "Applied baccalaureate degree" means a baccalaureate degree  
7 awarded by a college under RCW 28B.50.810 for successful completion  
8 of a program of study that is:

9 (a) Specifically designed for individuals who hold an associate  
10 of applied science degree, or its equivalent, in order to maximize  
11 application of their technical course credits toward the  
12 baccalaureate degree; and

13 (b) Based on a curriculum that incorporates both theoretical and  
14 applied knowledge and skills in a specific technical field.

15 (3) "Board" means the workforce training and education  
16 coordinating board.

17 (4) "Board of trustees" means the local community and technical  
18 college board of trustees established for each college district  
19 within the state.

20 (5) "Center of excellence" means a community or technical college  
21 designated by the college board as a statewide leader in  
22 industry-specific, community and technical college workforce  
23 education and training.

24 (6) "College board" means the state board for community and  
25 technical colleges created by this chapter.

26 (7) "Common school board" means a public school district board of  
27 directors.

28 (8) "Community college" includes those higher education  
29 institutions that conduct education programs under RCW 28B.50.020.

30 (9) "Director" means the administrative director for the state  
31 system of community and technical colleges.

32 (10) "Dislocated forest product worker" means a forest products  
33 worker who: (a)(i) Has been terminated or received notice of  
34 termination from employment and is unlikely to return to employment  
35 in the individual's principal occupation or previous industry because  
36 of a diminishing demand for his or her skills in that occupation or  
37 industry; or (ii) is self-employed and has been displaced from his or  
38 her business because of the diminishing demand for the business'  
39 services or goods; and (b) at the time of last separation from

1 employment, resided in or was employed in a rural natural resources  
2 impact area.

3 (11) "Dislocated salmon fishing worker" means a finfish products  
4 worker who: (a)(i) Has been terminated or received notice of  
5 termination from employment and is unlikely to return to employment  
6 in the individual's principal occupation or previous industry because  
7 of a diminishing demand for his or her skills in that occupation or  
8 industry; or (ii) is self-employed and has been displaced from his or  
9 her business because of the diminishing demand for the business's  
10 services or goods; and (b) at the time of last separation from  
11 employment, resided in or was employed in a rural natural resources  
12 impact area.

13 (12) "District" means any one of the community and technical  
14 college districts created by this chapter.

15 (13) "Forest products worker" means a worker in the forest  
16 products industries affected by the reduction of forest fiber  
17 enhancement, transportation, or production. The workers included  
18 within this definition shall be determined by the employment security  
19 department, but shall include workers employed in the industries  
20 assigned the major group standard industrial classification codes  
21 "24" and "26" and the industries involved in the harvesting and  
22 management of logs, transportation of logs and wood products,  
23 processing of wood products, and the manufacturing and distribution  
24 of wood processing and logging equipment. The commissioner may adopt  
25 rules further interpreting these definitions. ~~((For the purposes of  
26 this subsection, "standard industrial classification code" means the  
27 code identified in RCW 50.29.025(3).))~~

28 (14) "High employer demand program of study" means an  
29 apprenticeship, or an undergraduate or graduate certificate or degree  
30 program in which the number of students prepared for employment per  
31 year from in-state institutions is substantially less than the number  
32 of projected job openings per year in that field, statewide or in a  
33 substate region.

34 (15) "K-12 system" means the public school program including  
35 kindergarten through the twelfth grade.

36 (16) "Occupational education" means education or training that  
37 will prepare a student for employment that does not require a  
38 baccalaureate degree, and education and training that will prepare a  
39 student for transfer to bachelor's degrees in professional fields,  
40 subject to rules adopted by the college board.

1 (17) "Qualified institutions of higher education" means:

2 (a) Washington public community and technical colleges;

3 (b) Private career schools that are members of an accrediting  
4 association recognized by rule of the student achievement council for  
5 the purposes of chapter 28B.92 RCW; and

6 (c) Washington state apprenticeship and training council-approved  
7 apprenticeship programs.

8 (18) "Rural natural resources impact area" means:

9 (a) A nonmetropolitan county, as defined by the 1990 decennial  
10 census, that meets three of the five criteria set forth in subsection  
11 (19) of this section;

12 (b) A nonmetropolitan county with a population of less than forty  
13 thousand in the 1990 decennial census, that meets two of the five  
14 criteria as set forth in subsection (19) of this section; or

15 (c) A nonurbanized area, as defined by the 1990 decennial census,  
16 that is located in a metropolitan county that meets three of the five  
17 criteria set forth in subsection (19) of this section.

18 (19) For the purposes of designating rural natural resources  
19 impact areas, the following criteria shall be considered:

20 (a) A lumber and wood products employment location quotient at or  
21 above the state average;

22 (b) A commercial salmon fishing employment location quotient at  
23 or above the state average;

24 (c) Projected or actual direct lumber and wood products job  
25 losses of one hundred positions or more;

26 (d) Projected or actual direct commercial salmon fishing job  
27 losses of one hundred positions or more; and

28 (e) An unemployment rate twenty percent or more above the state  
29 average. The counties that meet these criteria shall be determined by  
30 the employment security department for the most recent year for which  
31 data is available. For the purposes of administration of programs  
32 under this chapter, the United States post office five-digit zip code  
33 delivery areas will be used to determine residence status for  
34 eligibility purposes. For the purpose of this definition, a zip code  
35 delivery area of which any part is ten miles or more from an  
36 urbanized area is considered nonurbanized. A zip code totally  
37 surrounded by zip codes qualifying as nonurbanized under this  
38 definition is also considered nonurbanized. The office of financial  
39 management shall make available a zip code listing of the areas to  
40 all agencies and organizations providing services under this chapter.

1 (20) "Salmon fishing worker" means a worker in the finfish  
2 industry affected by 1994 or future salmon disasters. The workers  
3 included within this definition shall be determined by the employment  
4 security department, but shall include workers employed in the  
5 industries involved in the commercial and recreational harvesting of  
6 finfish including buying and processing finfish. The commissioner may  
7 adopt rules further interpreting these definitions.

8 (21) "System" means the state system of community and technical  
9 colleges, which shall be a system of higher education.

10 (22) "Technical college" includes those higher education  
11 institutions with the mission of conducting occupational education,  
12 basic skills, literacy programs, and offering on short notice, when  
13 appropriate, programs that meet specific industry needs. For purposes  
14 of this chapter, technical colleges shall include the following  
15 college districts as created in RCW 28B.50.040: The twenty-fifth  
16 college district, the twenty-sixth college district, the twenty-  
17 seventh college district, the twenty-eighth college district, and the  
18 twenty-ninth college district.

19 NEW SECTION. **Sec. 2.** A new section is added to chapter 50.04  
20 RCW to read as follows:

21 "Public health emergency" means a declaration or order that  
22 covers the jurisdiction where the unemployed individual was working  
23 on the date the individual became unemployed concerning any  
24 dangerous, contagious, or infectious diseases, including a pandemic,  
25 and is issued as follows:

26 (1) The president of the United States has declared a national or  
27 regional emergency;

28 (2) The governor of Washington declared a state of emergency  
29 under RCW 43.06.010(12); or

30 (3) The governor or state executive of another state where the  
31 unemployed individual was working at the time of the declaration  
32 declared a state of emergency.

33 NEW SECTION. **Sec. 3.** A new section is added to chapter 50.04  
34 RCW to read as follows:

35 "Department" means the employment security department, unless the  
36 context clearly indicates otherwise.

1           **Sec. 4.** RCW 50.04.323 and 1993 c 483 s 2 are each amended to  
2 read as follows:

3           (1) The amount of benefits payable to an individual for any week  
4 (~~which begins after October 3, 1980, and~~) which begins in a period  
5 with respect to which such individual is receiving a governmental or  
6 other pension, retirement or retired pay, annuity, or any other  
7 similar periodic payment which is based on the previous work of such  
8 individual shall be reduced (but not below zero) by an amount equal  
9 to the amount of such pension, retirement or retired pay, annuity, or  
10 other payment, which is reasonably attributable to such week.  
11 However:

12           (a) The requirements of this subsection shall apply to any  
13 pension, retirement or retired pay, annuity, or other similar  
14 periodic payment only if—

15           (i) Such pension, retirement or retired pay, annuity, or similar  
16 payment is under a plan maintained (or contributed to) by a base  
17 period employer; and

18           (ii) In the case of such a payment not made under the Social  
19 Security Act or the Railroad Retirement Act of 1974 (or corresponding  
20 provisions of prior law), services performed for such employer by the  
21 individual after the beginning of the base period (or remuneration  
22 for such services) affect eligibility for, or increase the amount of,  
23 such pension, retirement or retired pay, annuity, or similar payment;

24           (b) The amount of any such a reduction shall take into account  
25 contributions made by the individual for the pension, retirement or  
26 retired pay, annuity, or other similar periodic payment, in  
27 accordance with regulations prescribed by the commissioner; and

28           (c) No deduction shall be made from the amount of benefits  
29 payable for a week for individuals receiving federal social security  
30 pensions to take into account the individuals' contributions to the  
31 pension program.

32           (2) In the event that a retroactive pension or retirement payment  
33 covers a period in which an individual received benefits under the  
34 provisions of this title, the amount in excess of the amount to which  
35 such individual would have been entitled had such retirement or  
36 pension payment been considered as provided in this section shall be  
37 recoverable under RCW 50.20.190.

38           (3) A lump sum payment accumulated in a plan described in this  
39 section paid to an individual eligible for such payment shall (~~be~~  
40 ~~prorated over the life expectancy of the individual computed in~~

1 ~~accordance with the commissioner's regulation)) not be deducted from~~  
2 ~~the amount of benefits payable to an individual for any given week.~~

3 (4) The resulting weekly benefit amount payable after reduction  
4 under this section, if not a multiple of one dollar, shall be reduced  
5 to the next lower multiple of one dollar.

6 (5) Any ambiguity in subsection (1) of this section should be  
7 construed in a manner consistent with 26 U.S.C. Sec. 3304 (a)(15)  
8 (~~as last amended by P.L. 96-364~~).

9 NEW SECTION. **Sec. 5.** A new section is added to chapter 50.12  
10 RCW to read as follows:

11 (1) By December 1, 2021, and annually thereafter until December  
12 1, 2025, and in compliance with RCW 43.01.036, the department must  
13 report to the governor and the appropriate committees of the  
14 legislature on the following:

15 (a) Status of the unemployment trust fund, including any federal  
16 advances required for trust fund solvency;

17 (b) A review of the amount of wages subject to tax. This review  
18 shall include an analysis of the equitable treatment of employers  
19 based on the amount of wages subject to tax, including a comparison  
20 of the percentage of wages subject to tax for small, medium, and  
21 large businesses and examples of how changes to the amount of wages  
22 subject to tax would impact trust fund balances and employer  
23 contributions;

24 (c) An analysis of the impact of the minimum weekly benefit  
25 amount increase, including comparing wages earned and benefits  
26 claimed for those individuals receiving the minimum weekly benefit  
27 amount and the average claim duration for those individuals.

28 (2) The department must use an existing unemployment insurance  
29 advisory committee comprising of members of business and members of  
30 labor to consult in the development of this report, including any  
31 evidentiary assumptions underlying the report. The report must be  
32 specifically discussed in a minimum of two meetings of the committee  
33 each year prior to submitting the report. The report must also  
34 include a section for committee members to respond directly to the  
35 contents of the report.

36 (3) This section expires January 31, 2026.

37 **Sec. 6.** RCW 50.16.030 and 2011 c 4 s 4 are each amended to read  
38 as follows:

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

17           ~~((b) During fiscal year 2006, moneys for the payment of regular~~  
18 ~~benefits as defined in RCW 50.22.010 shall be requisitioned in the~~  
19 ~~following order:~~

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

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

34           ~~(c) During fiscal years 2012 and 2013, if moneys are credited to~~  
35 ~~this state's account in the unemployment trust fund pursuant to~~  
36 ~~section 903(f)(3) of the social security act, as amended in section~~  
37 ~~2003 of the American recovery and reinvestment act of 2009 (42 U.S.C.~~  
38 ~~Sec. 1103(f)(3)), moneys for the payment of regular benefits as~~  
39 ~~defined in RCW 50.22.010 shall be requisitioned in the following~~  
40 ~~order:~~



1       ~~(i) First, from the moneys credited to this state's account in~~  
2 ~~the unemployment trust fund pursuant to section 903 of the social~~  
3 ~~security act, as amended in section 2003 of the American recovery and~~  
4 ~~reinvestment act of 2009 (42 U.S.C. Sec. 1103(f)), a total amount~~  
5 ~~during the two-year period consisting of fiscal years 2012 and 2013~~  
6 ~~that is equal to the total amount of temporary benefit increases~~  
7 ~~under RCW 50.20.1202. This subsection shall not be construed as~~  
8 ~~requiring that the total amount be requisitioned in each of these~~  
9 ~~fiscal years; and~~

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

13       (2) Expenditures of such moneys in the benefit account and  
14 refunds from the clearing account shall not be subject to any  
15 provisions of law requiring specific appropriations or other formal  
16 release by state officers of money in their custody, and RCW  
17 43.01.050, as amended, shall not apply. All warrants issued by the  
18 treasurer for the payment of benefits and refunds shall bear the  
19 signature of the treasurer and the countersignature of the  
20 commissioner, or his or her duly authorized agent for that purpose.

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

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

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

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

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

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

37 (6) Money requisitioned as provided in subsections (4) through  
38 (6) of this section for the payment of expenses of administration  
39 shall be deposited in the unemployment compensation fund, but until  
40 expended, shall remain a part of the unemployment compensation fund.

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

8 **Sec. 7.** RCW 50.20.010 and 2020 c 7 s 8 are each amended to read  
9 as follows:

10 (1) An unemployed individual shall be eligible to receive waiting  
11 period credits or benefits with respect to any week in his or her  
12 eligibility period only if the commissioner finds that:

13 (a) (~~He or she~~) The individual has registered for work at, and  
14 thereafter has continued to report at, an employment office in  
15 accordance with such regulation as the commissioner may prescribe,  
16 except that the commissioner may by regulation waive or alter either  
17 or both of the requirements of this subdivision as to individuals  
18 attached to regular jobs and as to such other types of cases or  
19 situations with respect to which the commissioner finds that the  
20 compliance with such requirements would be oppressive, or would be  
21 inconsistent with the purposes of this title;

22 (b) (~~He or she~~) The individual has filed an application for an  
23 initial determination and made a claim for waiting period credit or  
24 for benefits in accordance with the provisions of this title;

25 (c) (~~He or she~~) The individual is able to work, and is  
26 available for work in any trade, occupation, profession, or business  
27 for which (~~he or she~~) the individual is reasonably fitted.

28 (i) To be available for work, an individual must be ready, able,  
29 and willing, immediately to accept any suitable work which may be  
30 offered to him or her and must be actively seeking work pursuant to  
31 customary trade practices and through other methods when so directed  
32 by the commissioner or the commissioner's agents. If a labor  
33 agreement or dispatch rules apply, customary trade practices must be  
34 in accordance with the applicable agreement or rules.

35 (ii) Until June 30, 2021, an individual under quarantine or  
36 isolation, as defined by the department of health, as directed by a  
37 public health official during the novel coronavirus outbreak pursuant  
38 to the gubernatorial declaration of emergency of February 29, 2020,  
39 will meet the requirements of this subsection (1)(c) if the

1 individual is able to perform, available to perform, and actively  
2 seeking work which can be performed while under quarantine or  
3 isolation.

4 (iii) For the purposes of this subsection, "customary trade  
5 practices" includes compliance with an electrical apprenticeship  
6 training program that includes a recognized referral system under  
7 apprenticeship program standards approved by the Washington state  
8 apprenticeship and training council;

9 (d) (~~He or she~~) The individual has been unemployed for a  
10 waiting period of one week;

11 (e) (~~He or she~~) The individual participates in reemployment  
12 services if the individual has been referred to reemployment services  
13 pursuant to the profiling system established by the commissioner  
14 under RCW 50.20.011, unless the commissioner determines that:

15 (i) The individual has completed such services; or

16 (ii) There is justifiable cause for the claimant's failure to  
17 participate in such services; and

18 (f) As to weeks (~~beginning after March 31, 1981,~~) which fall  
19 within an extended benefit period as defined in RCW 50.22.010, the  
20 individual meets the terms and conditions of RCW 50.22.020 with  
21 respect to benefits claimed in excess of twenty-six times the  
22 individual's weekly benefit amount.

23 (2) An individual's eligibility period for regular benefits shall  
24 be coincident to his or her established benefit year. An individual's  
25 eligibility period for additional or extended benefits shall be the  
26 periods prescribed elsewhere in this title for such benefits.

27 (3) (a) For any weeks of unemployment insurance benefits when the  
28 one week waiting period is fully paid or fully reimbursed by the  
29 federal government, subsection (1) (d) of this section is waived.

30 (b) For any weeks of unemployment insurance benefits when the one  
31 week waiting period is partially paid or partially reimbursed by the  
32 federal government, the department may, by rule, elect to waive  
33 subsection (1) (d) of this section.

34 (4) During the weeks of a public health emergency, an unemployed  
35 individual may also meet the requirements of subsection (1) (c) of  
36 this section if:

37 (a) The unemployed individual is able to perform, available to  
38 perform, and actively seeking suitable work which can be performed  
39 for an employer from the individual's home; and

1 (b) The unemployed individual or another individual residing with  
2 the unemployed individual is at higher risk of severe illness or  
3 death from the disease that is the subject of the public health  
4 emergency because the higher risk individual:

5 (i) Was in an age category that is defined as high risk for the  
6 disease that is the subject of the public health emergency by:

7 (A) The federal centers for disease control and prevention;

8 (B) The department of health; or

9 (C) The equivalent agency in the state where the individual  
10 resides; or

11 (ii) Has an underlying health condition, verified as required by  
12 the department by rule, that is identified as a risk factor for the  
13 disease that is the subject of the public health emergency by:

14 (A) The federal centers for disease control and prevention;

15 (B) The department of health; or

16 (C) The equivalent agency in the state where the individual  
17 resides.

18 **Sec. 8.** RCW 50.20.020 and 2010 c 8 s 13021 are each amended to  
19 read as follows:

20 (1) No week shall be counted as a waiting period week (~~(~~  
21 ~~1) if benefits have been paid with respect thereto, and~~  
22 ~~(2) unless the individual was otherwise eligible for benefits~~  
23 ~~with respect thereto, and~~  
24 ~~(3) unless it occurs within the benefit year which includes the~~  
25 ~~week with respect to which he or she claims payment of benefits))~~ if  
26 benefits have been paid for that week, the individual was otherwise  
27 eligible for benefits, and it occurs within the benefit year which  
28 includes the week with respect to which the individual claims payment  
29 of benefits.

30 (2) If RCW 50.20.010(1)(d) is waived, subsection (1) of this  
31 section is waived.

32 **Sec. 9.** RCW 50.20.050 and 2009 c 493 s 3 and 2009 c 247 s 1 are  
33 each reenacted and amended to read as follows:

34 (1) With respect to (~~claims that have an effective date on or~~  
35 ~~after January 4, 2004, and for separations that occur before~~  
36 ~~September 6, 2009))~~ separations that occur on or after September 6,  
37 2009, and for separations that occur before April 4, 2021:

1 (a) (~~An individual~~) A claimant shall be disqualified from  
2 benefits beginning with the first day of the calendar week in which  
3 (~~he or she has~~) the claimant left work voluntarily without good  
4 cause and thereafter for seven calendar weeks and until (~~he or she~~  
5 ~~has obtained~~) the claimant obtains bona fide work in employment  
6 covered by this title and earned wages in that employment equal to  
7 seven times (~~his or her~~) the claimant's weekly benefit amount. Good  
8 cause reasons to leave work are limited to reasons listed in (b) of  
9 this subsection.

10 The disqualification shall continue if the work obtained is a  
11 mere sham to qualify for benefits and is not bona fide work. In  
12 determining whether work is of a bona fide nature, the commissioner  
13 shall consider factors including but not limited to the following:

14 (i) The duration of the work;

15 (ii) The extent of direction and control by the employer over the  
16 work; and

17 (iii) The level of skill required for the work in light of the  
18 (~~individual's~~) the claimant's training and experience.

19 (b) (~~An individual~~) A claimant has good cause and is not  
20 disqualified from benefits under (a) of this subsection (~~when~~) only  
21 under the following circumstances:

22 (i) (~~He or she~~) The claimant has left work to accept a bona  
23 fide offer of bona fide work as described in (a) of this subsection;

24 (ii) The separation was necessary because of the illness or  
25 disability of the claimant or the death, illness, or disability of a  
26 member of the claimant's immediate family if:

27 (A) The claimant pursued all reasonable alternatives to preserve  
28 (~~his or her~~) the claimant's employment status by requesting a leave  
29 of absence, by having promptly notified the employer of the reason  
30 for the absence, and by having promptly requested reemployment when  
31 again able to assume employment. These alternatives need not be  
32 pursued, however, when they would have been a futile act, including  
33 those instances when the futility of the act was a result of a  
34 recognized labor/management dispatch system; and

35 (B) The claimant terminated (~~his or her~~) the claimant's  
36 employment status, and is not entitled to be reinstated to the same  
37 position or a comparable or similar position;

38 (iii) (~~(A) With respect to claims that have an effective date~~  
39 ~~before July 2, 2006, he or she: (I))~~ The claimant: (A) Left work to  
40 relocate for the (~~spouse's~~) employment (~~that, due to a mandatory~~

1 ~~military transfer: (1) Is outside the existing labor market area; and~~  
2 ~~(2) is in Washington or another state that, pursuant to statute, does~~  
3 ~~not consider such an individual to have left work voluntarily without~~  
4 ~~good cause; and (II) remained employed as long as was reasonable~~  
5 ~~prior to the move;~~

6 ~~(B) With respect to claims that have an effective date on or~~  
7 ~~after July 2, 2006, he or she: (I) Left work to relocate for the~~  
8 ~~spouse's employment that, due to a mandatory military transfer, is~~  
9 ~~outside the existing labor market area; and (II) remained employed as~~  
10 ~~long as was reasonable prior to the move)) of a spouse or domestic~~  
11 ~~partner that is outside the existing labor market area; and (B)~~  
12 ~~remained employed as long as was reasonable prior to the move;~~

13 (iv) The separation was necessary to protect the claimant or the  
14 claimant's immediate family members from domestic violence, as  
15 defined in RCW 26.50.010, or stalking, as defined in RCW 9A.46.110;

16 (v) The ~~((individual's))~~ claimant's usual compensation was  
17 reduced by twenty-five percent or more;

18 (vi) The ~~((individual's))~~ claimant's usual hours were reduced by  
19 twenty-five percent or more;

20 (vii) The ~~((individual's))~~ claimant's worksite changed, such  
21 change caused a material increase in distance or difficulty of  
22 travel, and, after the change, the commute was greater than is  
23 customary for workers in the ~~((individual's))~~ claimant's job  
24 classification and labor market;

25 (viii) The ~~((individual's))~~ claimant's worksite safety  
26 deteriorated, the ~~((individual))~~ claimant reported such safety  
27 deterioration to the employer, and the employer failed to correct the  
28 hazards within a reasonable period of time;

29 (ix) The ~~((individual))~~ claimant left work because of illegal  
30 activities in the ~~((individual's))~~ claimant's worksite, the  
31 ~~((individual))~~ claimant reported such activities to the employer, and  
32 the employer failed to end such activities within a reasonable period  
33 of time;

34 (x) The ~~((individual's))~~ claimant's usual work was changed to  
35 work that violates the ~~((individual's))~~ claimant's religious  
36 convictions or sincere moral beliefs; or

37 (xi) The ~~((individual))~~ claimant left work to enter an  
38 apprenticeship program approved by the Washington state  
39 apprenticeship training council. Benefits are payable beginning

1 Sunday of the week prior to the week in which the (~~individual~~)  
2 claimant begins active participation in the apprenticeship program.

3 (2) With respect to separations that occur on or after  
4 (~~September 6, 2009~~) April 4, 2021:

5 (a) (~~An individual~~) A claimant shall be disqualified from  
6 benefits beginning with the first day of the calendar week in which  
7 (~~he or she~~) the claimant has left work voluntarily without good  
8 cause and thereafter for seven calendar weeks and until (~~he or she~~)  
9 the claimant has obtained bona fide work in employment covered by  
10 this title and earned wages in that employment equal to seven times  
11 (~~his or her~~) the claimant's weekly benefit amount. Good cause  
12 reasons to leave work are limited to reasons listed in (b) of this  
13 subsection.

14 The disqualification shall continue if the work obtained is a  
15 mere sham to qualify for benefits and is not bona fide work. In  
16 determining whether work is of a bona fide nature, the commissioner  
17 shall consider factors including but not limited to the following:

18 (i) The duration of the work;

19 (ii) The extent of direction and control by the employer over the  
20 work; and

21 (iii) The level of skill required for the work in light of the  
22 (~~individual's~~) claimant's training and experience.

23 (b) (~~An individual~~) A claimant has good cause and is not  
24 disqualified from benefits under (a) of this subsection only under  
25 the following circumstances:

26 (i) (~~He or she~~) The claimant has left work to accept a bona  
27 fide offer of bona fide work as described in (a) of this subsection;

28 (ii) The separation was necessary because of the illness or  
29 disability of the claimant or the death, illness, or disability of a  
30 member of the claimant's immediate family if:

31 (A) The claimant (~~pursued all reasonable alternatives~~) made  
32 reasonable efforts to preserve (~~his or her~~) the claimant's  
33 employment status by requesting a leave of absence, by having  
34 promptly notified the employer of the reason for the absence, and by  
35 having promptly requested reemployment when again able to assume  
36 employment. These alternatives need not be pursued, however, when  
37 they would have been a futile act, including those instances when the  
38 futility of the act was a result of a recognized labor/management  
39 dispatch system; and



1 (B) The claimant terminated (~~his or her~~) the claimant's  
2 employment status, and is not entitled to be reinstated to the same  
3 position or a comparable or similar position;

4 (iii) The claimant: (A) Left work to relocate for the employment  
5 of a spouse or domestic partner that is outside the existing labor  
6 market area; and (B) remained employed as long as was reasonable  
7 prior to the move;

8 (iv) The separation was necessary to protect the claimant or the  
9 claimant's immediate family members from domestic violence, as  
10 defined in RCW 26.50.010, or stalking, as defined in RCW 9A.46.110;

11 (v) The (~~individual's~~) claimant's usual compensation was  
12 reduced by twenty-five percent or more;

13 (vi) The (~~individual's~~) claimant's usual hours were reduced by  
14 twenty-five percent or more;

15 (vii) The (~~individual's~~) claimant's worksite changed, such  
16 change caused a material increase in distance or difficulty of  
17 travel, and, after the change, the commute was greater than is  
18 customary for workers in the individual's job classification and  
19 labor market;

20 (viii) The (~~individual's~~) claimant's worksite safety  
21 deteriorated, the (~~individual~~) claimant reported such safety  
22 deterioration to the employer, and the employer failed to correct the  
23 hazards within a reasonable period of time;

24 (ix) The (~~individual~~) claimant left work because of illegal  
25 activities in the (~~individual's~~) claimant's worksite, the  
26 (~~individual~~) claimant reported such activities to the employer, and  
27 the employer failed to end such activities within a reasonable period  
28 of time;

29 (x) The (~~individual's~~) claimant's usual work was changed to  
30 work that violates the (~~individual's~~) claimant's religious  
31 convictions or sincere moral beliefs; (~~or~~)

32 (xi) The (~~individual~~) claimant left work to enter an  
33 apprenticeship program approved by the Washington state  
34 apprenticeship training council. Benefits are payable beginning  
35 Sunday of the week prior to the week in which the (~~individual~~)  
36 claimant begins active participation in the apprenticeship program;  
37 or

38 (xii) During a public health emergency:

39 (A) The claimant was unable to perform the claimant's work for  
40 the employer from the claimant's home;

1 (B) The claimant is able to perform, available to perform, and  
2 can actively seek suitable work which can be performed for an  
3 employer from the claimant's home; and

4 (C) The claimant or another individual residing with the claimant  
5 is at higher risk of severe illness or death from the disease that is  
6 the subject of the public health emergency because the higher risk  
7 individual:

8 (I) Was in an age category that is defined as high risk for the  
9 disease that is the subject of the public health emergency by the  
10 federal centers for disease control and prevention, the department of  
11 health, or the equivalent agency in the state where the individual  
12 resides; or

13 (II) Has an underlying health condition, verified as required by  
14 the department by rule, that is identified as a risk factor for the  
15 disease that is the subject of the public health emergency by the  
16 federal centers for disease control and prevention, the department of  
17 health, or the equivalent agency in the state where the individual  
18 resides.

19 (3) Notwithstanding subsection ~~((+2))~~ (1) of this section, ~~((for~~  
20 ~~separations occurring on or after July 26, 2009, an individual))~~ a  
21 claimant who was simultaneously employed in full-time employment and  
22 part-time employment and is otherwise eligible for benefits from the  
23 loss of the full-time employment shall not be disqualified from  
24 benefits because the ~~((individual))~~ claimant:

25 (a) Voluntarily quit the part-time employment before the loss of  
26 the full-time employment; and

27 (b) Did not have prior knowledge that ~~((he or she))~~ the claimant  
28 would be separated from full-time employment.

29 **Sec. 10.** RCW 50.20.100 and 2006 c 13 s 14 are each amended to  
30 read as follows:

31 (1) Suitable work for an individual is employment in an  
32 occupation in keeping with the individual's prior work experience,  
33 education, or training and if the individual has no prior work  
34 experience, special education, or training for employment available  
35 in the general area, then employment which the individual would have  
36 the physical and mental ability to perform. In determining whether  
37 work is suitable for an individual, the commissioner shall also  
38 consider the degree of risk involved to the individual's health,  
39 safety, and morals, the degree of risk to the health of those

1 residing with the individual during a public health emergency, the  
2 individual's physical fitness, the individual's length of  
3 unemployment and prospects for securing local work in the  
4 individual's customary occupation, the distance of the available work  
5 from the individual's residence, and such other factors as the  
6 commissioner may deem pertinent, including state and national  
7 emergencies.

8 (2) For individuals with base year work experience in  
9 agricultural labor, any agricultural labor available from any  
10 employer shall be deemed suitable unless it meets conditions in RCW  
11 50.20.110 or the commissioner finds elements of specific work  
12 opportunity unsuitable for a particular individual.

13 (3) For part-time workers as defined in RCW 50.20.119, suitable  
14 work includes suitable work under subsection (1) of this section that  
15 is for seventeen or fewer hours per week.

16 (4) For individuals who have qualified for unemployment  
17 compensation benefits under RCW 50.20.050 (1)(b)(iv) or (2)(b)(iv),  
18 as applicable, an evaluation of the suitability of the work must  
19 consider the individual's need to address the physical,  
20 psychological, legal, and other effects of domestic violence or  
21 stalking.

22 **Sec. 11.** RCW 50.20.118 and 1982 1st ex.s. c 18 s 7 are each  
23 amended to read as follows:

24 ~~(1) ((Notwithstanding any other provision of this chapter, an  
25 otherwise eligible individual shall not be denied benefits for any  
26 week because he or she is in training approved under section  
27 236(a)(1) of the Trade Act of 1974, P.L. 93-618, nor may that  
28 individual be denied benefits for any such week by reason of leaving  
29 work which is not suitable employment to enter such training, or for  
30 failure to meet any requirement of federal or state law for any such  
31 week which relates to the individual's availability for work, active  
32 search for work, or refusal to accept work.~~

33 ~~(2) For the purposes of this section, "suitable employment"  
34 means, with respect to an individual, work of a substantially equal  
35 or higher skill level than the individual's past adversely affected  
36 employment (as described for the purposes of the Trade Act of 1974,  
37 P.L. 93-618), if the wages for such work are not less than eighty  
38 percent of the individual's average weekly wage as determined for the  
39 purposes of the Trade Act of 1974, P.L. 93-618.)~~ For purposes of

1 this section, "adversely affected worker," "approved training," "on-  
2 the-job training," and "suitable employment" have the same definition  
3 as in 20 C.F.R. Part 618.

4 (2) An adversely affected worker may not be denied benefits  
5 because:

6 (a) Such worker is enrolled in or participating in approved  
7 training;

8 (b) Such worker refuses work to which the department referred  
9 such worker because such work either would require discontinuation of  
10 approved training or interfere with successful participation in  
11 approved training;

12 (c) Such worker quits work that was not suitable employment and  
13 it was reasonable and necessary to quit in order to begin or continue  
14 approved training. This includes temporary employment the worker may  
15 have engaged in during a break in training;

16 (d) Such worker continues full-time or part-time employment while  
17 participating in approved training; or

18 (e) Such worker leaves on-the-job training within the first 30  
19 days because the on-the-job training is not meeting the requirements  
20 of section 236(c)(1)(B) of the trade act of 1974, P.L. 96-618, as  
21 amended.

22 **Sec. 12.** RCW 50.20.120 and 2011 c 4 s 2 are each amended to read  
23 as follows:

24 ~~((Except as provided in RCW 50.20.1201 and 50.20.1202, benefits~~  
25 ~~shall be payable as provided in this section.))~~

26 (1) ~~((For claims with an effective date on or after April 4,~~  
27 ~~2004, benefits))~~ Benefits shall be payable to any eligible individual  
28 during the individual's benefit year in a maximum amount equal to the  
29 lesser of twenty-six times the weekly benefit amount, as determined  
30 in subsection (2) of this section, or one-third of the individual's  
31 base year wages under this title.

32 (2) ~~((For claims with an effective date on or after April 24,~~  
33 ~~2005, an))~~ An individual's weekly benefit amount shall be an amount  
34 equal to three and eighty-five one-hundredths percent of the average  
35 quarterly wages of the individual's total wages during the two  
36 quarters of the individual's base year in which such total wages were  
37 highest.

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

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

8 (b) ~~((The))~~ (i) For claims with an effective date of June 30,  
9 2021, or before, the minimum amount payable weekly shall be fifteen  
10 percent of the "average weekly wage" for the calendar year preceding  
11 such June 30th.

12 (ii) For claims with an effective date of July 1, 2021, or after,  
13 the minimum amount payable weekly shall be 20 percent of the "average  
14 weekly wage" for the calendar year preceding such June 30th.

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

18 **Sec. 13.** RCW 50.20.140 and 1998 c 161 s 2 are each amended to  
19 read as follows:

20 (1) An application for initial determination, a claim for waiting  
21 period, or a claim for benefits shall be filed in accordance with  
22 such rules as the commissioner may prescribe. An application for an  
23 initial determination may be made by any individual whether  
24 unemployed or not. Each employer shall post and maintain printed  
25 statements of such rules in places readily accessible to individuals  
26 in his or her employment and shall make available to each such  
27 individual at the time he or she becomes unemployed, a printed  
28 statement of such rules and such notices, instructions, and other  
29 material as the commissioner may by rule prescribe. Such printed  
30 material shall be supplied by the commissioner to each employer  
31 without cost to the employer.

32 (2) The term "application for initial determination" shall mean a  
33 request in writing, or by other means as determined by the  
34 commissioner, for an initial determination.

35 (3) The term "claim for waiting period" shall mean a  
36 certification, after the close of a given week, that the requirements  
37 stated herein for eligibility for waiting period have been met. If  
38 RCW 50.20.010(1)(d) is waived, the term "claim for waiting period" is  
39 not applicable.

1       (4) The term "claim for benefits" shall mean a certification,  
2 after the close of a given week, that the requirements stated herein  
3 for eligibility for receipt of benefits have been met.

4       (5) A representative designated by the commissioner shall take  
5 the application for initial determination and for the claim for  
6 waiting period credits or for benefits. When an application for  
7 initial determination has been made, the employment security  
8 department shall promptly make an initial determination which shall  
9 be a statement of the applicant's base year wages, ~~((his or her))~~  
10 weekly benefit amount, ~~((his or her))~~ maximum amount of benefits  
11 potentially payable, and ~~((his or her))~~ benefit year. Such  
12 determination shall fix the general conditions under which waiting  
13 period credit shall be granted and under which benefits shall be paid  
14 during any period of unemployment occurring within the benefit year  
15 fixed by such determination.

16       **Sec. 14.** RCW 50.24.014 and 2016 sp.s. c 36 s 941 are each  
17 amended to read as follows:

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

30       (b) A separate and identifiable account is established in the  
31 administrative contingency fund for financing the employment security  
32 department's administrative costs under RCW 50.22.150 and 50.22.155  
33 and the costs under RCW 50.22.150(11) and 50.22.155 (1)(m) and  
34 (2)(m). All money in this account shall be expended solely for the  
35 purposes of this title and for no other purposes whatsoever.  
36 Contributions to this account shall accrue and become payable by each  
37 employer, except employers as described in RCW 50.44.010 and  
38 50.44.030 who have properly elected to make payments in lieu of  
39 contributions, taxable local government employers as described in RCW

1 50.44.035, those employers who are required to make payments in lieu  
2 of contributions, those employers described under RCW  
3 50.29.025(~~((2))~~) (1)(d), and those qualified employers assigned rate  
4 class 20 or rate class 40, as applicable, under RCW 50.29.025, at a  
5 basic rate of one one-hundredth of one percent. The amount of wages  
6 subject to tax shall be determined under RCW 50.24.010. Any amount of  
7 contributions payable under this subsection (1)(b) that exceeds the  
8 amount that would have been collected at a rate of four one-  
9 thousandths of one percent must be deposited in the account created  
10 in (a) of this subsection.

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

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

20 (3) If the commissioner determines that federal funding has been  
21 increased to provide financing for the services specified in chapter  
22 50.62 RCW, the commissioner shall direct that collection of  
23 contributions under this section be terminated on the following  
24 January 1st.

25 ~~((4) During the 2015-2017 fiscal biennium, the legislature may  
26 transfer into the unrestricted administrative contingency fund and  
27 into the state general fund from the account in subsection (1)(b) of  
28 this section such amounts as reflect the excess fund balance of the  
29 account.))~~

30 **Sec. 15.** RCW 50.29.021 and 2020 c 86 s 3 are each amended to  
31 read as follows:

32 (1)(a) An experience rating account shall be established and  
33 maintained for each employer, except employers as described in RCW  
34 50.44.010, 50.44.030, and 50.50.030 who have properly elected to make  
35 payments in lieu of contributions, taxable local government employers  
36 as described in RCW 50.44.035, and those employers who are required  
37 to make payments in lieu of contributions, based on existing records  
38 of the employment security department.

1 (b) Benefits paid to an eligible individual shall be charged to  
2 the experience rating accounts of each of such individual's employers  
3 during the individual's base year in the same ratio that the wages  
4 paid by each employer to the individual during the base year bear to  
5 the wages paid by all employers to that individual during that base  
6 year, except as otherwise provided in this section.

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

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

15 (ii) RCW 50.20.050 (1)(b)(v) through (x) or (2)(b)(v) through  
16 (x).

17 (2) The legislature finds that certain benefit payments, in whole  
18 or in part, should not be charged to the experience rating accounts  
19 of employers except those employers described in RCW 50.44.010,  
20 50.44.030, and 50.50.030 who have properly elected to make payments  
21 in lieu of contributions, taxable local government employers  
22 described in RCW 50.44.035, and those employers who are required to  
23 make payments in lieu of contributions, as follows:

24 (a) Benefits paid to any individual later determined to be  
25 ineligible shall not be charged to the experience rating account of  
26 any contribution paying employer, except as provided in subsection  
27 (4) of this section.

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

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

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

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

39 (d) In the case of individuals who requalify for benefits under  
40 RCW 50.20.050 or 50.20.060, benefits based on wage credits earned



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

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

8 ~~((With respect to claims with an effective date on or after  
9 the first Sunday following April 22, 2005, benefits))~~ Benefits paid  
10 that exceed the benefits that would have been paid if the weekly  
11 benefit amount for the claim had been determined as one percent of  
12 the total wages paid in the individual's base year shall not be  
13 charged to the experience rating account of any contribution paying  
14 employer. This subsection (2)(f) does not apply to the calculation of  
15 contribution rates under RCW 50.29.025 for rate year 2010 and  
16 thereafter.

17 ~~((The forty-five dollar increase paid as part of an  
18 individual's weekly benefit amount as provided in RCW 50.20.1201 and  
19 the twenty-five dollar increase paid as part of an individual's  
20 weekly benefit amount as provided in RCW 50.20.1202 shall not be  
21 charged to the experience rating account of any contribution paying  
22 employer.~~

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

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

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

37 (i)(i) Benefits paid during the one week waiting period when the  
38 one week waiting period is fully paid or fully reimbursed by the  
39 federal government shall not be charged to the experience rating  
40 account of any contribution paying employer.

1       (ii) In the event the one week waiting period is partially paid  
2 or partially reimbursed by the federal government, the department  
3 may, by rule, elect to not charge, in full or in part, benefits paid  
4 during the one week waiting period to the experience rating account  
5 of any contribution paying employer.

6       (j) Benefits paid for all weeks starting with the week ending  
7 March 28, 2020, and ending with the week ending May 2, 2020, shall  
8 not be charged to the experience rating account of any contribution  
9 paying employer.

10       (3) (a) A contribution paying base year employer, except employers  
11 as provided in subsection (5) of this section, not otherwise eligible  
12 for relief of charges for benefits under this section, may receive  
13 such relief if the benefit charges result from payment to an  
14 individual who:

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

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

20       (iii) Is unemployed as a result of closure or severe curtailment  
21 of operation at the employer's plant, building, worksite, or other  
22 facility. This closure must be for reasons directly attributable to a  
23 catastrophic occurrence such as fire, flood, or other natural  
24 disaster, or to the presence of any dangerous, contagious, or  
25 infectious disease that is the subject of a public health emergency  
26 at the employer's plant, building, worksite, or other facility;

27       (iv) Continues to be employed on a regularly scheduled permanent  
28 part-time basis by a base year employer and who at some time during  
29 the base year was concurrently employed and subsequently separated  
30 from at least one other base year employer. Benefit charge relief  
31 ceases when the employment relationship between the employer  
32 requesting relief and the claimant is terminated. This subsection  
33 does not apply to shared work employers under chapter 50.60 RCW;

34       (v) Continues to be employed on a regularly scheduled permanent  
35 part-time basis by a base year employer and who qualified for two  
36 consecutive unemployment claims where wages were attributable to at  
37 least one employer who employed the individual in both base years.  
38 Benefit charge relief ceases when the employment relationship between  
39 the employer requesting relief and the claimant is terminated. This

1 subsection does not apply to shared work employers under chapter  
2 50.60 RCW;

3 (vi) Was hired to replace an employee who is a member of the  
4 military reserves or National Guard and was called to federal active  
5 military service by the president of the United States and is  
6 subsequently laid off when that employee is reemployed by their  
7 employer upon release from active duty within the time provided for  
8 reemployment in RCW 73.16.035;

9 (vii) Worked for an employer for twenty weeks or less, and was  
10 laid off at the end of temporary employment when that employee  
11 temporarily replaced a permanent employee receiving family or medical  
12 leave benefits under Title 50A RCW, and the layoff is due to the  
13 return of that permanent employee. This subsection (3)(a)(vii)  
14 applies to claims with an effective date on or after January 1, 2020;  
15 or

16 (viii) Was discharged because the individual was unable to  
17 satisfy a job prerequisite required by law or administrative rule.

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

25 (4) When a benefit claim becomes invalid due to an amendment or  
26 adjustment of a report where the employer failed to report or  
27 inaccurately reported hours worked or remuneration paid, or both, all  
28 benefits paid will be charged to the experience rating account of the  
29 contribution paying employer or employers that originally filed the  
30 incomplete or inaccurate report or reports. An employer who  
31 reimburses the trust fund for benefits paid to workers and who fails  
32 to report or inaccurately reported hours worked or remuneration paid,  
33 or both, shall reimburse the trust fund for all benefits paid that  
34 are based on the originally filed incomplete or inaccurate report or  
35 reports.

36 (5) An employer's experience rating account may not be relieved  
37 of charges for a benefit payment and an employer who reimburses the  
38 trust fund for benefit payments may not be credited for a benefit  
39 payment if a benefit payment was made because the employer or  
40 employer's agent failed to respond timely or adequately to a written

1 request of the department for information relating to the claim or  
2 claims without establishing good cause for the failure and the  
3 employer or employer's agent has a pattern of such failures. The  
4 commissioner has the authority to determine whether the employer has  
5 good cause under this subsection.

6 (a) For the purposes of this subsection, "adequately" means  
7 providing accurate information of sufficient quantity and quality  
8 that would allow a reasonable person to determine eligibility for  
9 benefits.

10 (b) (i) For the purposes of this subsection, "pattern" means a  
11 benefit payment was made because the employer or employer's agent  
12 failed to respond timely or adequately to a written request of the  
13 department for information relating to a claim or claims without  
14 establishing good cause for the failure, if the greater of the  
15 following calculations for an employer is met:

16 (A) At least three times in the previous two years; or

17 (B) Twenty percent of the total current claims against the  
18 employer.

19 (ii) If an employer's agent is utilized, a pattern is established  
20 based on each individual client employer that the employer's agent  
21 represents.

22 **Sec. 16.** RCW 50.29.025 and 2011 c 4 s 16 and 2011 c 3 s 3 are  
23 each reenacted and amended to read as follows:

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

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

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

38 ~~(ii) Each employer in the array shall be assigned to one of forty~~  
39 ~~rate classes according to his or her benefit ratio as follows, and,~~

1 ~~except as provided in RCW 50.29.026, the array calculation factor~~  
 2 ~~rate for each employer in the array shall be the rate specified in~~  
 3 ~~the rate class to which the employer has been assigned:~~

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

1	0.032500	0.033750	28	3.85
2	0.033750	0.035000	29	4.00
3	0.035000	0.036250	30	4.15
4	0.036250	0.037500	31	4.30
5	0.037500	0.040000	32	4.45
6	0.040000	0.042500	33	4.60
7	0.042500	0.045000	34	4.75
8	0.045000	0.047500	35	4.90
9	0.047500	0.050000	36	5.05
10	0.050000	0.052500	37	5.20
11	0.052500	0.055000	38	5.30
12	0.055000	0.057500	39	5.35
13	0.057500		40	5.40

14 ~~(b) The graduated social cost factor rate shall be determined as~~  
15 ~~follows:~~

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

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

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

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

12       ~~(I) At least twelve months but less than fourteen months of~~  
13 ~~unemployment benefits, the minimum shall be five-tenths of one~~  
14 ~~percent; or~~

15       ~~(II) At least fourteen months of unemployment benefits, the~~  
16 ~~minimum shall be five-tenths of one percent, except that, for~~  
17 ~~employers in rate class 1, the minimum shall be forty-five hundredths~~  
18 ~~of one percent.~~

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

30       ~~(I) Rate class 1 - 78 percent;~~

31       ~~(II) Rate class 2 - 82 percent;~~

32       ~~(III) Rate class 3 - 86 percent;~~

33       ~~(IV) Rate class 4 - 90 percent;~~

34       ~~(V) Rate class 5 - 94 percent;~~

35       ~~(VI) Rate class 6 - 98 percent;~~

36       ~~(VII) Rate class 7 - 102 percent;~~

37       ~~(VIII) Rate class 8 - 106 percent;~~

38       ~~(IX) Rate class 9 - 110 percent;~~

39       ~~(X) Rate class 10 - 114 percent;~~

40       ~~(XI) Rate class 11 - 118 percent; and~~

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

2 ~~(B) For contributions assessed beginning July 1, 2005, through~~  
3 ~~December 31, 2007, for employers whose North American industry~~  
4 ~~classification system code is "111," "112," "1141," "115," "3114,"~~  
5 ~~"3117," "42448," or "49312," the graduated social cost factor rate is~~  
6 ~~zero.~~

7 ~~(iii) For the purposes of this section:~~

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

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

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

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



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

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

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

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

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

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

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

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

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

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

8 ~~(2) For contributions assessed in rate year 2010 and thereafter,~~  
9 ~~the))~~ The contribution rate for each employer subject to  
10 contributions under RCW 50.24.010 shall be the sum of the array  
11 calculation factor rate and the graduated social cost factor rate  
12 determined under this subsection, and the solvency surcharge  
13 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  
17 in ascending order of their benefit ratios. The array shall show for  
18 each qualified employer: (A) Identification number; (B) benefit  
19 ratio; and (C) taxable payrolls for the four consecutive calendar  
20 quarters immediately preceding the computation date and reported to  
21 the 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  
25 rate for each employer in the array shall be the rate specified in  
26 the rate 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
	0.005000	0.006250	6	0.54
	0.006250	0.007500	7	0.65

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

2 (b) The graduated social cost factor rate shall be determined as  
3 follows:

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

12 (B) (I) If, on the cut-off date, the balance in the unemployment  
13 compensation fund is determined by the commissioner to be an amount  
14 that will provide more than ten months of unemployment benefits, the  
15 commissioner shall calculate the flat social cost factor for the rate  
16 year immediately following the cut-off date by reducing the total  
17 social cost by the dollar amount that represents the number of months  
18 for which the balance in the unemployment compensation fund on the  
19 cut-off date will provide benefits above ten months and dividing the  
20 result by the total taxable payroll. However, the calculation under  
21 this subsection (~~((+2))~~) (1)(b)(i)(B) for a rate year may not result  
22 in a flat social cost factor that is more than four-tenths lower than  
23 the calculation under (b) (i) (A) of this subsection for that rate  
24 year. For rate year 2011 and thereafter, the calculation may not  
25 result in a flat social cost factor that is more than one and twenty-  
26 two one-hundredths percent except for rate year 2021 the calculation  
27 may not result in a flat social cost factor that is more than five-  
28 tenths percent, for rate year 2022 the calculation may not result in  
29 a flat social cost factor that is more than seventy-five one-  
30 hundredths percent, for rate year 2023 the calculation may not result  
31 in a flat social cost factor that is more than eight-tenths percent,  
32 for rate year 2024 the calculation may not result in a flat social  
33 cost factor that is more than eighty-five one-hundredths percent, and  
34 for rate year 2025 the calculation may not result in a flat social  
35 cost factor that is more than nine-tenths percent.

36 (II) If, on the cut-off date, the balance in the unemployment  
37 compensation fund is determined by the commissioner to be an amount  
38 that will provide ten months of unemployment benefits or less, the  
39 flat social cost factor for the rate year immediately following the

1 cut-off date may not increase by more than fifty percent over the  
2 previous rate year or may not exceed one and twenty-two one-  
3 hundredths percent, whichever is greater.

4 (III) For the purposes of this subsection (~~((2))~~) (1)(b), the  
5 commissioner shall determine the number of months of unemployment  
6 benefits in the unemployment compensation fund using the benefit cost  
7 rate for the average of the three highest calendar benefit cost rates  
8 in the twenty consecutive completed calendar years immediately  
9 preceding the cut-off date or a period of consecutive calendar years  
10 immediately preceding the cut-off date that includes three  
11 recessions, if longer. (~~The twenty-five dollar increase paid as part  
12 of an individual's weekly benefit amount as provided in RCW  
13 50.20.1202 shall not be considered in calculating the benefit cost  
14 rate when determining the number of months of unemployment benefits  
15 in the unemployment compensation fund.~~)

16 (C) The minimum flat social cost factor calculated under this  
17 subsection (~~((2))~~) (1)(b) shall be six-tenths of one percent, except  
18 that if the balance in the unemployment compensation fund is  
19 determined by the commissioner to be an amount that will provide:

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

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

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

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

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

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

38 (VII) At least eighteen months of unemployment benefits, the  
39 minimum shall be fifteen hundredths of one percent through rate year  
40 2011 and shall be zero thereafter.

1       (ii) ~~((A) For rate years through 2010, the graduated social cost~~  
2 ~~factor rate for each employer in the array is the flat social cost~~  
3 ~~factor multiplied by the percentage specified as follows for the rate~~  
4 ~~class to which the employer has been assigned in (a) (ii) of this~~  
5 ~~subsection, except that the sum of an employer's array calculation~~  
6 ~~factor rate and the graduated social cost factor rate may not exceed~~  
7 ~~six percent or, for employers whose North American industry~~  
8 ~~classification system code is within "111," "112," "1141," "115,"~~  
9 ~~"3114," "3117," "42448," or "49312," may not exceed five and four-~~  
10 ~~tenths percent:~~

11       ~~(I) Rate class 1 - 78 percent;~~

12       ~~(II) Rate class 2 - 82 percent;~~

13       ~~(III) Rate class 3 - 86 percent;~~

14       ~~(IV) Rate class 4 - 90 percent;~~

15       ~~(V) Rate class 5 - 94 percent;~~

16       ~~(VI) Rate class 6 - 98 percent;~~

17       ~~(VII) Rate class 7 - 102 percent;~~

18       ~~(VIII) Rate class 8 - 106 percent;~~

19       ~~(IX) Rate class 9 - 110 percent;~~

20       ~~(X) Rate class 10 - 114 percent;~~

21       ~~(XI) Rate class 11 - 118 percent; and~~

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

23       ~~(B) For rate years 2011 and thereafter, the)~~ The graduated  
24 social cost factor rate for each employer in the array is the flat  
25 social cost factor multiplied by the percentage specified as follows  
26 for the rate class to which the employer has been assigned in (a) (ii)  
27 of this subsection, except that the sum of an employer's array  
28 calculation factor rate and the graduated social cost factor rate may  
29 not exceed six percent or, for employers whose North American  
30 industry classification system code is within "111," "112," "1141,"  
31 "115," "3114," "3117," "42448," or "49312," may not exceed five and  
32 four-tenths percent:

33       ~~((I))~~ (A) Rate class 1 - 40 percent;

34       ~~((II))~~ (B) Rate class 2 - 44 percent;

35       ~~((III))~~ (C) Rate class 3 - 48 percent;

36       ~~((IV))~~ (D) Rate class 4 - 52 percent;

37       ~~((V))~~ (E) Rate class 5 - 56 percent;

38       ~~((VI))~~ (F) Rate class 6 - 60 percent;

39       ~~((VII))~~ (G) Rate class 7 - 64 percent;

40       ~~((VIII))~~ (H) Rate class 8 - 68 percent;

- 1       ~~((IX))~~ (I) Rate class 9 - 72 percent;  
2       ~~((X))~~ (J) Rate class 10 - 76 percent;  
3       ~~((XI))~~ (K) Rate class 11 - 80 percent;  
4       ~~((XII))~~ (L) Rate class 12 - 84 percent;  
5       ~~((XIII))~~ (M) Rate class 13 - 88 percent;  
6       ~~((XIV))~~ (N) Rate class 14 - 92 percent;  
7       ~~((XV))~~ (O) Rate class 15 - 96 percent;  
8       ~~((XVI))~~ (P) Rate class 16 - 100 percent;  
9       ~~((XVII))~~ (Q) Rate class 17 - 104 percent;  
10       ~~((XVIII))~~ (R) Rate class 18 - 108 percent;  
11       ~~((XIX))~~ (S) Rate class 19 - 112 percent;  
12       ~~((XX))~~ (T) Rate class 20 - 116 percent; and  
13       ~~((XXI))~~ (U) Rate classes 21 through 40 - 120 percent.

14       (iii) For the purposes of this section:

15       (A) "Total social cost" means the amount calculated by  
16       subtracting the array calculation factor contributions paid by all  
17       employers with respect to the four consecutive calendar quarters  
18       immediately preceding the computation date and paid to the employment  
19       security department by the cut-off date from the total unemployment  
20       benefits paid to claimants in the same four consecutive calendar  
21       quarters. ~~((To calculate the flat social cost factor for rate years  
22       2012 and 2013, the twenty-five dollar increase paid as part of an  
23       individual's weekly benefit amount as provided in RCW 50.20.1202  
24       shall not be considered for purposes of calculating the total  
25       unemployment benefits paid to claimants in the four consecutive  
26       calendar quarters immediately preceding the computation date.))~~

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

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

34       (i) ~~((For rate years through 2010:~~

35       ~~(A) The array calculation factor rate shall be two-tenths higher  
36       than that in rate class 40, except employers who have an approved  
37       agency-deferred payment contract by September 30th of the previous  
38       rate year. If any employer with an approved agency-deferred payment  
39       contract fails to make any one of the succeeding deferred payments or  
40       fails to submit any succeeding tax report and payment in a timely~~

1 manner, the employer's tax rate shall immediately revert to an array  
2 calculation factor rate two-tenths higher than that in rate class 40;  
3 and

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

6 ~~(ii) For rate years 2011 and thereafter:))~~

7 (A) ~~((I))~~ For an employer who does not enter into an approved  
8 agency-deferred payment contract as described in (c) ~~((ii) (A) (II) or~~  
9 ~~(III))~~ (i) (B) or (C) of this subsection, the array calculation  
10 factor rate shall be the rate it would have been if the employer had  
11 not been delinquent in payment plus an additional one percent or, if  
12 the employer is delinquent in payment for a second or more  
13 consecutive year, an additional two percent;

14 ~~((II))~~ (B) For an employer who enters an approved agency-  
15 deferred payment contract by September 30th of the previous rate  
16 year, the array calculation factor rate shall be the rate it would  
17 have been if the employer had not been delinquent in payment;

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

26 ~~((IV))~~ (D) For an employer who enters an approved agency-  
27 deferred payment contract as described in (c) ~~((ii) (A) (II) or (III))~~  
28 (i) (B) or (C) of this subsection, but who fails to make any one of  
29 the succeeding deferred payments or fails to submit any succeeding  
30 tax report and payment in a timely manner, the array calculation  
31 factor rate shall immediately revert to the applicable array  
32 calculation factor rate under (c) ~~((ii) (A) (I))~~ (i) (A) of this  
33 subsection; and

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

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

38 (i) The array calculation factor rate shall be a rate equal to  
39 the average industry array calculation factor rate as determined by  
40 the commissioner, multiplied by the history factor, but not less than



1 one percent or more than the array calculation factor rate in rate  
2 class 40;

3 (ii) The social cost factor rate shall be a rate equal to the  
4 average industry social cost factor rate as determined by the  
5 commissioner, multiplied by the history factor, but not more than the  
6 social cost factor rate assigned to rate class 40 (~~for the relevant~~  
7 ~~year~~) under (b) (ii) (~~(A) or (B)~~) of this subsection; and

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

	History		History
	Ratio		Factor
			(percent)
	At least	Less than	
26	(A)	.95	90
27	(B)	.95	100
28	(C)	1.05	115

29 (~~(3)~~) (2) Assignment of employers by the commissioner to  
30 industrial classification, for purposes of this section, shall be in  
31 accordance with established classification practices found in the  
32 North American industry classification system code.

33 **Sec. 17.** RCW 50.29.026 and 2003 2nd sp.s. c 4 s 17 are each  
34 amended to read as follows:

35 (1) (~~Beginning with contributions assessed for rate year 1996,~~)  
36 Except as provided in subsection (3) of this section, a qualified  
37 employer's contribution rate (~~applicable for rate years beginning~~

1 ~~before January 1, 2005,~~) or array calculation factor rate  
2 (~~applicable for rate years beginning on or after January 1, 2005,~~)  
3 determined under RCW 50.29.025 may be modified as follows:

4 (a) Subject to the limitations of this subsection, an employer  
5 may make a voluntary contribution of an amount equal to part or all  
6 of the benefits charged to the employer's account during the two  
7 years most recently ended on June 30th that were used for the purpose  
8 of computing the employer's contribution rate (~~applicable for rate~~  
9 ~~years beginning before January 1, 2005,~~) or array calculation factor  
10 rate (~~applicable for rate years beginning on or after January 1,~~  
11 ~~2005~~). On receiving timely payment of a voluntary contribution, plus  
12 a surcharge of ten percent of the amount of the voluntary  
13 contribution, the commissioner shall cancel the benefits equal to the  
14 amount of the voluntary contribution, excluding the surcharge, and  
15 compute a new benefit ratio for the employer. The employer shall then  
16 be assigned the contribution rate applicable for rate years beginning  
17 before January 1, 2005, or array calculation factor rate applicable  
18 for rate years beginning on or after January 1, 2005, applicable to  
19 the rate class within which the recomputed benefit ratio is included.  
20 The minimum amount of a voluntary contribution, excluding the  
21 surcharge, must be an amount that will result in a recomputed benefit  
22 ratio that is in a rate class at least four rate classes lower than  
23 the rate class that included the employer's original benefit ratio.

24 (b) Payment of a voluntary contribution is considered timely if  
25 received by the department during the period beginning on the date of  
26 mailing to the employer the notice of contribution rate (~~applicable~~  
27 ~~for rate years beginning before January 1, 2005, or notice of array~~  
28 ~~calculation factor rate applicable for rate years beginning on or~~  
29 ~~after January 1, 2005,~~) required under this title for the rate year  
30 for which the employer is seeking a modification of (~~his or her~~)  
31 the employer's rate and ending on February 15th of that rate year  
32 (~~or, for voluntary contributions for rate year 2000, ending on March~~  
33 ~~31, 2000~~).

34 (c) A benefit ratio may not be recomputed nor a rate be reduced  
35 under this section as a result of a voluntary contribution received  
36 after the payment period prescribed in (b) of this subsection.

37 (2) (~~This~~) Except as provided in subsection (3) of this  
38 section, this section does not apply to any employer who has not had  
39 an increase of at least twelve rate classes from the previous tax  
40 rate year.

1 (3) From the effective date of this section and until May 31,  
2 2026, the following applies:

3 (a) The surcharge in subsection (1)(a) of this section will not  
4 be charged or used in the calculations;

5 (b) The ending payment date in subsection (1)(b) of this section  
6 is March 31st;

7 (c) The minimum amount of a voluntary contribution must be an  
8 amount that will result in a recomputed benefit ratio that is in a  
9 rate class at least two rate classes lower than the rate class that  
10 included the employer's original benefit ratio; and

11 (d) This section does not apply to any employer who has not had  
12 an increase of at least eight rate classes from the previous tax rate  
13 year.

14 **Sec. 18.** RCW 50.29.027 and 1984 c 205 s 4 are each amended to  
15 read as follows:

16 (1) For the rate year beginning 1985 ((and each rate year  
17 thereafter)) until rate year 2021, a benefit ratio shall be computed  
18 for each qualified employer by dividing the total amount of benefits  
19 charged to the account of the employer during the forty-eight  
20 consecutive months immediately preceding the computation date by the  
21 taxable payrolls of the employer for the same forty-eight month  
22 period as reported to the department by the cut-off dates. The  
23 division shall be carried to the sixth decimal place with the  
24 remaining fraction, if any, disregarded.

25 (2) For the rate year 2022 and each rate year thereafter, a  
26 benefit ratio shall be computed for each qualified employer by  
27 dividing the total amount of benefits charged to the account of the  
28 employer during the 60 consecutive months immediately preceding the  
29 computation date by the taxable payrolls of the employer for the same  
30 60-month period as reported to the department by the cut-off dates.  
31 The division shall be carried to the sixth decimal place with the  
32 remaining fraction, if any, disregarded.

33 **Sec. 19.** RCW 50.29.041 and 2006 c 13 s 5 are each amended to  
34 read as follows:

35 ((Beginning with contributions assessed for rate year 2005))  
36 Except for contributions assessed for rate years 2021, 2022, 2023,  
37 2024, and 2025, the contribution rate of each employer subject to

1 contributions under RCW 50.24.010 shall include a solvency surcharge  
2 determined as follows:

3 (1) This section shall apply to employers' contributions for a  
4 rate year immediately following a cut-off date only if, on the cut-  
5 off date, the balance in the unemployment compensation fund is  
6 determined by the commissioner to be an amount that will provide  
7 fewer than seven months of unemployment benefits.

8 (2) The solvency surcharge shall be the lowest rate necessary, as  
9 determined by the commissioner, but not more than two-tenths of one  
10 percent, to provide revenue during the applicable rate year that will  
11 fund unemployment benefits for the number of months that is the  
12 difference between nine months and the number of months for which the  
13 balance in the unemployment compensation fund on the cut-off date  
14 will provide benefits.

15 (3) The basis for determining the number of months of  
16 unemployment benefits shall be the same basis used in RCW  
17 50.29.025(~~((+2))~~) (1)(b)(i)(B).

18 **Sec. 20.** RCW 50.29.062 and 2012 1st sp.s. c 2 s 1 are each  
19 amended to read as follows:

20 (1) If the department finds that a significant purpose of the  
21 transfer of the business is to obtain a reduced array calculation  
22 factor rate, contribution rates shall be computed and penalties and  
23 other sanctions shall apply as specified in RCW 50.29.063.

24 (2) If subsection (1) of this section and RCW 50.29.063 do not  
25 apply and if the department finds that an employer is a successor, or  
26 partial successor, to a predecessor business, predecessor and  
27 successor employer contribution rates shall be computed in the  
28 following manner:

29 (a) If the successor is an employer, as defined in RCW 50.04.080,  
30 at the time of the transfer of a business, the following applies:

31 (i) The successor's contribution rate shall remain unchanged for  
32 the remainder of the rate year in which the transfer occurs.

33 (ii) Beginning January 1st following the transfer, the  
34 successor's contribution rate for each rate year shall be based on a  
35 combination of the following:

36 (A) The successor's experience with payrolls and benefits; and

37 (B) Any experience assigned to the predecessor involved in the  
38 transfer. If only a portion of the business was transferred, then the

1 experience attributable to the acquired portion is assigned to the  
2 successor.

3 (b) If the successor is not an employer at the time of the  
4 transfer, the following applies:

5 ~~(i) ((For transfers before January 1, 2005:~~

6 ~~(A) Except as provided in (b) (i) (B) of this subsection (2), the~~  
7 ~~successor shall pay contributions at the lowest rate determined under~~  
8 ~~either of the following:~~

9 ~~(I) The contribution rate of the rate class assigned to the~~  
10 ~~predecessor employer at the time of the transfer for the remainder of~~  
11 ~~that rate year. Any experience relating to the assignment of that~~  
12 ~~rate class attributable to the predecessor is transferred to the~~  
13 ~~successor. Beginning with the January 1st following the transfer, the~~  
14 ~~successor's contribution rate shall be based on a combination of the~~  
15 ~~transferred experience of the acquired business and the successor's~~  
16 ~~experience after the transfer; or~~

17 ~~(II) The contribution rate equal to the average industry rate as~~  
18 ~~determined by the commissioner, but not less than one percent, and~~  
19 ~~continuing until the successor qualifies for a different rate in its~~  
20 ~~own right. Assignment of employers by the commissioner to industrial~~  
21 ~~classification, for purposes of this subsection, must be in~~  
22 ~~accordance with established classification practices found in the~~  
23 ~~North American industry classification system issued by the federal~~  
24 ~~office of management and budget to the fourth digit provided in the~~  
25 ~~North American industry classification system.~~

26 ~~(B) If the successor simultaneously acquires the business or a~~  
27 ~~portion of the business of two or more employers in different rate~~  
28 ~~classes, its rate, from the date the transfer occurred until the end~~  
29 ~~of that rate year and until it qualifies in its own right for a new~~  
30 ~~rate, shall be the rate of the highest rate class applicable at the~~  
31 ~~time of the acquisition to any predecessor employer who is a party to~~  
32 ~~the acquisition, but not less than one percent.~~

33 ~~(ii) For transfers on or after January 1, 2005:~~

34 ~~(A)) Except as provided in (b) (ii) ((B)) and ((C)) (iii) of~~  
35 ~~this subsection (2), the successor shall pay contributions:~~

36 ~~((I)) (A) At the contribution rate assigned to the predecessor~~  
37 ~~employer at the time of the transfer for the remainder of that rate~~  
38 ~~year. Any experience attributable to the predecessor relating to the~~  
39 ~~assignment of the predecessor's rate class is transferred to the~~  
40 ~~successor.~~

1       (~~(H)~~) (B) Beginning January 1st following the transfer, the  
2 successor's contribution rate for each rate year shall be based on an  
3 array calculation factor rate that is a combination of the following:  
4 The successor's experience with payrolls and benefits; and any  
5 experience assigned to the predecessor involved in the transfer. If  
6 only a portion of the business was transferred, then the experience  
7 attributable to the acquired portion is assigned to the successor if  
8 qualified under RCW 50.29.010 by including the transferred  
9 experience. If not qualified under RCW 50.29.010, the contribution  
10 rate shall equal the sum of the rates determined by the commissioner  
11 under RCW 50.29.025 (1) (d) (~~(i) or (2) (d)~~) and 50.29.041, if  
12 applicable, and continuing until the successor qualifies for a  
13 different rate, including the transferred experience.

14       (~~(B)~~) (ii) If there is a substantial continuity of ownership,  
15 control, or management by the successor of the business of the  
16 predecessor, the successor shall pay contributions at the  
17 contribution rate determined for the predecessor employer at the time  
18 of the transfer for the remainder of that rate year. Any experience  
19 attributable to the predecessor relating to the assignment of the  
20 predecessor's rate class is transferred to the successor. Beginning  
21 January 1st following the transfer, the successor's array calculation  
22 factor rate shall be based on a combination of the transferred  
23 experience of the acquired business and the successor's experience  
24 after the transfer.

25       (~~(C)~~) (iii) If the successor simultaneously acquires the  
26 business or a portion of the business of two or more employers with  
27 different contribution rates, the successor's rate, from the date the  
28 transfer occurred until the end of that rate year and until it  
29 qualifies in its own right for a new rate, shall be the sum of the  
30 rates determined by the commissioner under RCW 50.29.025 (1) (a) and  
31 (b) (~~or (2) (a) and (b),~~) and 50.29.041, applicable at the time of  
32 the acquisition, to the predecessor employer who, among the parties  
33 to the acquisition, had the largest total payroll in the completed  
34 calendar quarter immediately preceding the date of transfer, but not  
35 less than the sum of the rates determined by the commissioner under  
36 RCW 50.29.025 (1) (d) (~~(i) or (2) (d)~~) and 50.29.041, if applicable.

37       (c) With respect to predecessor employers:

38       (i) The contribution rate on any payroll retained by a  
39 predecessor employer shall remain unchanged for the remainder of the  
40 rate year in which the transfer occurs.

1 (ii) In all cases, beginning January 1st following the transfer,  
2 the predecessor's contribution rate or the predecessor's array  
3 calculation factor for each rate year shall be based on its  
4 experience with payrolls and benefits as of the regular computation  
5 date for that rate year excluding the experience of the transferred  
6 business or transferred portion of business as that experience has  
7 transferred to the successor: PROVIDED, That if all of the  
8 predecessor's business is transferred to a successor or successors,  
9 the predecessor shall not be a qualified employer until it satisfies  
10 the requirements of a "qualified employer" as set forth in RCW  
11 50.29.010.

12 (3) A predecessor-successor relationship does not exist for  
13 purposes of subsection (2) of this section when a significant purpose  
14 of the transfer of a business or its operating assets is for the  
15 employer to move or expand an existing business, or for an employer  
16 to establish a substantially similar business under common ownership,  
17 management, and control. However, if an employer transfers its  
18 business to another employer, and both employers are at the time of  
19 transfer under substantially common ownership, management, or  
20 control, then the unemployment experience attributable to the  
21 transferred business shall also be transferred to, and combined with  
22 the unemployment experience attributable to, the employer to whom  
23 such business is so transferred as specified in subsection (2)(a) of  
24 this section.

25 (4) For purposes of this section, "transfer of a business" means  
26 the same as RCW 50.29.063(4)(c).

27 **Sec. 21.** RCW 50.29.063 and 2010 c 25 s 3 are each amended to  
28 read as follows:

29 (1) If it is found that a significant purpose of the transfer of  
30 a business was to obtain a reduced array calculation factor rate,  
31 then the following applies:

32 (a) If the successor was an employer at the time of the transfer,  
33 then the experience rating accounts of the employers involved shall  
34 be combined into a single account and the employers assigned the  
35 higher of the predecessor or successor array calculation factor rate  
36 to take effect as of the date of the transfer.

37 (b) If the successor was not an employer at the time of the  
38 transfer, then the experience rating account of the acquired business  
39 must not be transferred and, instead, the sum of the rate determined

1 by the commissioner under RCW 50.29.025 (1) (d) (~~((ii) or (2) (d))~~) and  
2 50.29.041, if applicable, shall be assigned.

3 (2) If any part of a delinquency for which an assessment is made  
4 under this title is due to an intent to knowingly evade the  
5 successorship provisions of RCW 50.29.062 and this section, then with  
6 respect to the employer, and to any business found to be knowingly  
7 promoting the evasion of such provisions:

8 (a) The commissioner shall, for the rate year in which the  
9 commissioner makes the determination under this subsection and for  
10 each of the three consecutive rate years following that rate year,  
11 assign to the employer or business the total rate, which is the sum  
12 of the recalculated array calculation factor rate and a civil penalty  
13 assessment rate, calculated as follows:

14 (i) Recalculate the array calculation factor rate as the array  
15 calculation factor rate that should have applied to the employer or  
16 business under RCW 50.29.025 and 50.29.062; and

17 (ii) Calculate a civil penalty assessment rate in an amount that,  
18 when added to the array calculation factor rate determined under  
19 (a)(i) of this subsection for the applicable rate year, results in a  
20 total rate equal to the maximum array calculation factor rate under  
21 RCW 50.29.025 plus two percent, which total rate is not limited by  
22 any maximum array calculation factor rate established in RCW  
23 50.29.025 (1) (b) (ii) (~~(or (2) (b) (ii))~~);

24 (b) The employer or business may be prosecuted under the  
25 penalties prescribed in RCW 50.36.020; and

26 (c) The employer or business must pay for the employment security  
27 department's reasonable expenses of auditing the employer's or  
28 business's books and collecting the civil penalty assessment.

29 (3) If the person knowingly evading the successorship provisions,  
30 or knowingly attempting to evade these provisions, or knowingly  
31 promoting the evasion of these provisions, is not an employer, the  
32 person is subject to a civil penalty assessment of five thousand  
33 dollars per occurrence. In addition, the person is subject to the  
34 penalties prescribed in RCW 50.36.020 as if the person were an  
35 employer. The person must also pay for the employment security  
36 department's reasonable expenses of auditing his or her books and  
37 collecting the civil penalty assessment.

38 (4) For purposes of this section:

39 (a) "Knowingly" means having actual knowledge of or acting with  
40 deliberate ignorance or reckless disregard for the prohibition



1 involved and includes, but is not limited to, intent to evade,  
2 misrepresentation, or willful nondisclosure.

3 (b) "Person" means and includes an individual, a trust, estate,  
4 partnership, association, company, or corporation.

5 (c) "Transfer of a business" includes the transfer or acquisition  
6 of substantially all or a portion of the operating assets, which may  
7 include the employer's workforce.

8 (5) Any decision to assess a penalty under this section shall be  
9 made by the chief administrative officer of the tax branch or his or  
10 her designee.

11 (6) Nothing in this section shall be construed to deny an  
12 employer the right to appeal the assessment of a penalty in the  
13 manner provided in RCW 50.32.030.

14 (7) The commissioner shall engage in prevention, detection, and  
15 collection activities related to evasion of the successorship  
16 provisions of RCW 50.29.062 and this section, and establish  
17 procedures to enforce this section.

18 **Sec. 22.** RCW 50.44.060 and 2010 c 8 s 13043 are each amended to  
19 read as follows:

20 Benefits paid to employees of "nonprofit organizations" shall be  
21 financed in accordance with the provisions of this section. For the  
22 purpose of this section and RCW 50.44.070, the term "nonprofit  
23 organization" is limited to those organizations described in RCW  
24 50.44.010, and joint accounts composed exclusively of such  
25 organizations.

26 (1) Any nonprofit organization which is, or becomes subject to  
27 this title (~~(on or after January 1, 1972)~~), shall pay contributions  
28 under the provisions of RCW 50.24.010 and chapter 50.29 RCW, unless  
29 it elects, in accordance with this subsection, to pay to the  
30 commissioner for the unemployment compensation fund an amount equal  
31 to the full amount of regular and additional benefits and one-half of  
32 the amount of extended benefits paid to individuals for weeks of  
33 unemployment that are based upon wages paid or payable during the  
34 effective period of such election to the extent that such payments  
35 are attributable to service in the employ of such nonprofit  
36 organization.

37 (a) Any nonprofit organization which becomes subject to this  
38 title (~~(after January 1, 1972,)~~) may elect to become liable for  
39 payments in lieu of contributions for a period of not less than

1 twelve months beginning with the date on which such subjectivity  
2 begins by filing a written notice of its election with the  
3 commissioner not later than thirty days immediately following the  
4 date of the determination of such subjectivity.

5 (b) Any nonprofit organization which makes an election in  
6 accordance with (a) of this subsection will continue to be liable for  
7 payments in lieu of contributions until it files with the  
8 commissioner a written notice terminating its election not later than  
9 thirty days prior to the beginning of the taxable year for which such  
10 termination shall first be effective.

11 (c) Any nonprofit organization which has been paying  
12 contributions under this title (~~(for a period subsequent to January~~  
13 ~~1, 1972,)~~) may change to a reimbursable basis by filing with the  
14 commissioner not later than thirty days prior to the beginning of any  
15 taxable year a written notice of election to become liable for  
16 payments in lieu of contributions. Such election shall not be  
17 terminable by the organization for that and the next year.

18 (d) The commissioner may for good cause extend the period within  
19 which a notice of election, or a notice of termination, must be filed  
20 and may permit an election to be retroactive (~~(but not any earlier~~  
21 ~~than with respect to benefits paid after December 31, 1969)~~).

22 (e) The commissioner, in accordance with such regulations as the  
23 commissioner may prescribe, shall notify each nonprofit organization  
24 of any determination which the commissioner may make of its status as  
25 an employer and of the effective date of any election which it makes  
26 and of any termination of such election. Any nonprofit organization  
27 subject to such determination and dissatisfied with such  
28 determination may file a request for review and redetermination with  
29 the commissioner within thirty days of the mailing of the  
30 determination to the organization. Should such request for review and  
31 redetermination be denied, the organization may, within ten days of  
32 the mailing of such notice of denial, file with the appeal tribunal a  
33 petition for hearing which shall be heard in the same manner as a  
34 petition for denial of refund. The appellate procedure prescribed by  
35 this title for further appeal shall apply to all denials of review  
36 and redetermination under this paragraph.

37 (2) Payments in lieu of contributions shall be made in accordance  
38 with the provisions of this section including either (a) or (b) of  
39 this subsection.

1 (a) At the end of each calendar quarter, the commissioner shall  
2 bill each nonprofit organization or group of such organizations which  
3 has elected to make payments in lieu of contributions for an amount  
4 equal to the full amount of regular and additional benefits plus one-  
5 half of the amount of extended benefits paid during such quarter that  
6 is attributable to service in the employ of such organization.

7 (b) (i) Each nonprofit organization that has elected payments in  
8 lieu of contributions may request permission to make such payments as  
9 provided in this paragraph. Such method of payment shall become  
10 effective upon approval by the commissioner.

11 (ii) At the end of each calendar quarter, or at the end of such  
12 other period as determined by the commissioner, the commissioner  
13 shall bill each nonprofit organization for an amount representing one  
14 of the following:

15 (A) The percentage of its total payroll for the immediately  
16 preceding calendar year as the commissioner shall determine. Such  
17 determination shall be based each year on the average benefit costs  
18 attributable to service in the employ of nonprofit organizations  
19 during the preceding calendar year.

20 (B) For any organization which did not pay wages throughout the  
21 four calendar quarters of the preceding calendar year, such  
22 percentage of its payroll during such year as the commissioner shall  
23 determine.

24 (iii) At the end of each taxable year, the commissioner may  
25 modify the quarterly percentage of payroll thereafter payable by the  
26 nonprofit organization in order to minimize excess or insufficient  
27 payments.

28 (iv) At the end of each taxable year, the commissioner shall  
29 determine whether the total of payments for such year made by a  
30 nonprofit organization is less than, or in excess of, the total  
31 amount of regular and additional benefits plus one-half of the amount  
32 of extended benefits paid to individuals during such taxable year  
33 based on wages attributable to service in the employ of such  
34 organization. Each nonprofit organization whose total payments for  
35 such year are less than the amount so determined shall be liable for  
36 payment of the unpaid balance to the fund in accordance with (c) of  
37 this subsection. If the total payments exceed the amount so  
38 determined for the taxable year, all of the excess payments will be  
39 retained in the fund as part of the payments which may be required  
40 for the next taxable year, or a part of the excess may, at the

1 discretion of the commissioner, be refunded from the fund or retained  
2 in the fund as part of the payments which may be required for the  
3 next taxable year.

4 (c) Payment of any bill rendered under (a) or (b) of this  
5 subsection shall be made not later than thirty days after such bill  
6 was mailed to the last known address of the nonprofit organization or  
7 was otherwise delivered to it, and if not paid within such thirty  
8 days, the reimbursement payments itemized in the bill shall be deemed  
9 to be delinquent and the whole or part thereof remaining unpaid shall  
10 bear interest and penalties from and after the end of such thirty  
11 days at the rate and in the manner set forth in RCW 50.12.220 and  
12 50.24.040.

13 (d) Payments made by any nonprofit organization under the  
14 provisions of this section shall not be deducted or deductible, in  
15 whole or in part, from the remuneration of individuals in the employ  
16 of the organization. Any deduction in violation of the provisions of  
17 this paragraph shall be unlawful.

18 (e) (i) Benefits paid during the one week waiting period when the  
19 one week waiting period is paid or reimbursed by the federal  
20 government shall not be billed.

21 (ii) In the event the one week waiting period is partially paid  
22 or partially reimbursed by the federal government, the department  
23 may, by rule, elect to not bill, in full or in part, benefits paid  
24 during the one week waiting period.

25 (3) Each employer that is liable for payments in lieu of  
26 contributions shall pay to the commissioner for the fund the total  
27 amount of regular and additional benefits plus the amount of one-half  
28 of extended benefits paid that are attributable to service in the  
29 employ of such employer. If benefits paid to an individual are based  
30 on wages paid by more than one employer and one or more of such  
31 employers are liable for payments in lieu of contributions, the  
32 amount payable to the fund by each employer that is liable for such  
33 payments shall be determined in accordance with the provisions of (a)  
34 and (b) of this subsection.

35 (a) If benefits paid to an individual are based on wages paid by  
36 one or more employers that are liable for payments in lieu of  
37 contributions and on wages paid by one or more employers who are  
38 liable for contributions, the amount of benefits payable by each  
39 employer that is liable for payments in lieu of contributions shall  
40 be an amount which bears the same ratio to the total benefits paid to

1 the individual as the total base-period wages paid to the individual  
2 by such employer bear to the total base-period wages paid to the  
3 individual by all of his or her base-period employers.

4 (b) If benefits paid to an individual are based on wages paid by  
5 two or more employers that are liable for payments in lieu of  
6 contributions, the amount of benefits payable by each such employer  
7 shall be an amount which bears the same ratio to the total benefits  
8 paid to the individual as the total base-period wages paid to the  
9 individual by such employer bear to the total base-period wages paid  
10 to the individual by all of his or her base-period employers.

11 **Sec. 23.** RCW 50.60.020 and 2013 c 79 s 1 are each amended to  
12 read as follows:

13 Unless the context clearly requires otherwise, the definitions in  
14 this section apply throughout this chapter.

15 (1) "Affected employee" means a specified employee, hired on a  
16 permanent basis, to which an approved shared work compensation plan  
17 applies.

18 (2) "Employers' association" means an association which is a  
19 party to a collective bargaining agreement under which there is a  
20 shared work compensation plan.

21 (3) "Shared work benefits" means the benefits payable to an  
22 affected employee under an approved shared work compensation plan as  
23 distinguished from the benefits otherwise payable under this title.

24 (4) "Shared work compensation plan" means a plan of an employer,  
25 or of an employers' association, under which there is a reduction in  
26 the number of hours worked by employees rather than layoffs.

27 (5) "Shared work employer" means an employer, who has at least  
28 two employees, and at least ~~((one employee is))~~ two employees are  
29 covered by a shared work compensation plan.

30 (6) "Unemployment compensation" means the benefits payable under  
31 this title other than shared work benefits and includes any amounts  
32 payable pursuant to an agreement under federal law providing for  
33 compensation, assistance, or allowances with respect to unemployment.

34 (7) "Usual weekly hours of work" means the regular number of  
35 hours of work before the hours were reduced, not to exceed forty  
36 hours and not including overtime.

37 **Sec. 24.** RCW 50.60.110 and 2013 c 79 s 4 are each amended to  
38 read as follows:

1 (1) Except as provided in subsection (2) of this section, shared  
2 work benefits shall be charged to employers' experience rating  
3 accounts in the same manner as other benefits under this title are  
4 charged. Employers liable for payments in lieu of contributions shall  
5 have shared work benefits attributed to their accounts in the same  
6 manner as other benefits under this title are attributed.

7 (2) (~~For weeks of benefits paid between July 1, 2012, and June~~  
8 ~~28, 2015, any~~) Any amount of shared work benefits that is paid or  
9 reimbursed by the federal government is not charged to experience  
10 rating accounts of employers or to employers who are liable for  
11 payments in lieu of contributions. The employment security department  
12 shall remove charges for any amount of shared work benefits that is  
13 paid or reimbursed by the federal government (~~between July 1, 2012,~~  
14 ~~and the week prior to July 28, 2013~~).

15 NEW SECTION. Sec. 25. A new section is added to chapter 50.60  
16 RCW to read as follows:

17 Affected employees may participate, as appropriate, in training,  
18 including employer-sponsored training or training funded under the  
19 workforce innovation and opportunity act, to enhance job skills if  
20 such program has been approved by the employment security department.

21 NEW SECTION. Sec. 26. If any part of this act is found to be in  
22 conflict with federal requirements that are a prescribed condition to  
23 the allocation of federal funds to the state or the eligibility of  
24 employers in this state for federal unemployment tax credits, the  
25 conflicting part of this act is inoperative solely to the extent of  
26 the conflict, and the finding or determination does not affect the  
27 operation of the remainder of this act. Rules adopted under this act  
28 must meet federal requirements that are a necessary condition to the  
29 receipt of federal funds by the state or the granting of federal  
30 unemployment tax credits to employers in this state.

31 NEW SECTION. Sec. 27. The following acts or parts of acts are  
32 each repealed:

33 (1) RCW 50.20.1201 (Amount of benefits—Applicable May 3, 2009,  
34 for claims effective before, on, or after May 3, 2009, through  
35 January 2, 2010) and 2009 c 3 s 2; and

36 (2) RCW 50.20.1202 (Additional temporary benefit increase) and  
37 2011 c 4 s 1.

1        NEW SECTION.    **Sec. 28.**    This act is necessary for the immediate  
2    preservation of the public peace, health, or safety, or support of  
3    the state government and its existing public institutions, and takes  
4    effect immediately.

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