

CERTIFICATION OF ENROLLMENT

ENGROSSED HOUSE BILL 2255

59th Legislature
2005 Regular Session

Passed by the House April 18, 2005
Yeas 57 Nays 38

Speaker of the House of Representatives

Passed by the Senate April 15, 2005
Yeas 25 Nays 20

President of the Senate

Approved

Governor of the State of Washington

CERTIFICATE

I, Richard Nafziger, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **ENGROSSED HOUSE BILL 2255** as passed by the House of Representatives and the Senate on the dates hereon set forth.

Chief Clerk

FILED

**Secretary of State
State of Washington**

ENGROSSED HOUSE BILL 2255

AS AMENDED BY THE SENATE

Passed Legislature - 2005 Regular Session

State of Washington 59th Legislature 2005 Regular Session

By Representatives Conway, Simpson and Wood

Read first time 03/01/2005. Referred to Committee on Commerce & Labor.

1 AN ACT Relating to making adjustments to improve benefit equity in
2 the unemployment insurance system; amending RCW 50.01.010, 50.20.120,
3 50.29.021, 50.29.025, and 50.16.030; adding a new section to chapter
4 50.29 RCW; creating new sections; providing expiration dates; and
5 declaring an emergency.

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

7 NEW SECTION. **Sec. 1.** The legislature finds that the unemployment
8 insurance system was created to set aside unemployment reserves to be
9 used for the benefit of persons who are unemployed through no fault of
10 their own and to maintain purchasing power and limit the social
11 consequences of unemployment. The legislature further finds that the
12 system is falling short of these goals by failing to recognize the
13 importance of applying liberal construction for the purpose of reducing
14 involuntary unemployment, and the suffering caused by it, to the
15 minimum, and by failing to provide equitable benefits to unemployed
16 workers. The legislature also recognizes the desirability of managing
17 the system to take into account the goal of reducing costs to foster a
18 competitive business climate. The legislature intends to adjust the
19 balance between these goals by reinstating the requirement for liberal

1 construction and making other adjustments in the system that will allow
2 reasonable improvements in benefit equity, including reinstating a
3 weekly benefit calculation based on the wages in the two quarters of
4 the claimant's base year in which wages were the highest. The
5 legislature finds that these adjustments are critical to the health and
6 welfare of unemployed workers, and to the purchasing power essential to
7 the economic health and welfare of communities and the state, and
8 should be implemented as soon as feasible.

9 **Sec. 2.** RCW 50.01.010 and 2003 2nd sp.s. c 4 s 1 are each amended
10 to read as follows:

11 Whereas, economic insecurity due to unemployment is a serious
12 menace to the health, morals and welfare of the people of this state;
13 involuntary unemployment is, therefore, a subject of general interest
14 and concern which requires appropriate action by the legislature to
15 prevent its spread and to lighten its burden which now so often falls
16 with crushing force upon the unemployed worker and his family. Social
17 security requires protection against this greatest hazard of our
18 economic life. This can be provided only by application of the
19 insurance principle of sharing the risks, and by the systematic
20 accumulation of funds during periods of employment to provide benefits
21 for periods of unemployment, thus maintaining purchasing powers and
22 limiting the serious social consequences of relief assistance. The
23 state of Washington, therefore, exercising herein its police and
24 sovereign power endeavors by this title to remedy any widespread
25 unemployment situation which may occur and to set up safeguards to
26 prevent its recurrence in the years to come. The legislature,
27 therefore, declares that in its considered judgment the public good,
28 and the general welfare of the citizens of this state require the
29 enactment of this measure, under the police powers of the state, for
30 the compulsory setting aside of unemployment reserves to be used for
31 the benefit of persons unemployed through no fault of their own, and
32 that this title shall be liberally construed for the purpose of
33 reducing involuntary unemployment and the suffering caused thereby to
34 the minimum.

35 **Sec. 3.** RCW 50.20.120 and 2003 2nd sp.s. c 4 s 11 are each amended
36 to read as follows:

1 (1)(a) Subject to the other provisions of this title, benefits
2 shall be payable to any eligible individual during the individual's
3 benefit year in a maximum amount equal to the lesser of thirty times
4 the weekly benefit amount, as determined in subsection (2) of this
5 section, or one-third of the individual's base year wages under this
6 title: PROVIDED, That as to any week which falls in an extended
7 benefit period as defined in RCW 50.22.010(1), an individual's
8 eligibility for maximum benefits in excess of twenty-six times his or
9 her weekly benefit amount will be subject to the terms and conditions
10 set forth in RCW 50.22.020.

11 (b) With respect to claims that have an effective date on or after
12 the first Sunday of the calendar month immediately following the month
13 in which the commissioner finds that the state unemployment rate is six
14 and eight-tenths percent or less, benefits shall be payable to any
15 eligible individual during the individual's benefit year in a maximum
16 amount equal to the lesser of twenty-six times the weekly benefit
17 amount, as determined in subsection (2) of this section, or one-third
18 of the individual's base year wages under this title.

19 (2)(a) For claims with an effective date before January 4, 2004, an
20 individual's weekly benefit amount shall be an amount equal to one
21 twenty-fifth of the average quarterly wages of the individual's total
22 wages during the two quarters of the individual's base year in which
23 such total wages were highest.

24 (b) With respect to claims with an effective date on or after
25 January 4, 2004, and before January 2, 2005, an individual's weekly
26 benefit amount shall be an amount equal to one twenty-fifth of the
27 average quarterly wages of the individual's total wages during the
28 three quarters of the individual's base year in which such total wages
29 were highest.

30 (c)(i) With respect to claims with an effective date on or after
31 January 2, 2005, except as provided in (c)(ii) of this subsection, an
32 individual's weekly benefit amount shall be an amount equal to one
33 percent of the total wages paid in the individual's base year.

34 (ii) With respect to claims with an effective date on or after the
35 first Sunday following the day on which the governor signs this act,
36 and before July 1, 2007, an individual's weekly benefit amount shall be
37 an amount equal to three and eighty-five one-hundredths percent of the

1 average quarterly wages of the individual's total wages during the two
2 quarters of the individual's base year in which such total wages were
3 highest.

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

7 (a)(i) With respect to claims that have an effective date before
8 January 4, 2004, the maximum amount payable weekly shall be seventy
9 percent of the "average weekly wage" for the calendar year preceding
10 such June 30th.

11 (ii) With respect to claims that have an effective date on or after
12 January 4, 2004, the maximum amount payable weekly shall be either four
13 hundred ninety-six dollars or sixty-three percent of the "average
14 weekly wage" for the calendar year preceding such June 30th, whichever
15 is greater.

16 (b) The minimum amount payable weekly shall be fifteen percent of
17 the "average weekly wage" for the calendar year preceding such June
18 30th.

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

22 **Sec. 4.** RCW 50.29.021 and 2003 2nd sp.s. c 4 s 21 are each amended
23 to read as follows:

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

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

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

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

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

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

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

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

19 (a) Benefits paid to any individual later determined to be
20 ineligible shall not be charged to the experience rating account of any
21 contribution paying employer.

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

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

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

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

33 (d) In the case of individuals who requalify for benefits under RCW
34 50.20.050 or 50.20.060, benefits based on wage credits earned prior to
35 the disqualifying separation shall not be charged to the experience
36 rating account of the contribution paying employer from whom that
37 separation took place.

1 (e) Individuals who qualify for benefits under RCW
2 50.20.050(2)(b)(iv), as applicable, shall not have their benefits
3 charged to the experience rating account of any contribution paying
4 employer.

5 (f) With respect to claims with an effective date on or after the
6 first Sunday following the day on which the governor signs this act,
7 and before July 1, 2007, benefits paid that exceed the benefits that
8 would have been paid if the weekly benefit amount for the claim had
9 been determined as one percent of the total wages paid in the
10 individual's base year shall not be charged to the experience rating
11 account of any contribution paying employer.

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

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

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

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

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

33 (b) The employer requesting relief of charges under this subsection
34 must request relief in writing within thirty days following mailing to
35 the last known address of the notification of the valid initial
36 determination of such claim, stating the date and reason for the
37 separation or the circumstances of continued employment. The

1 commissioner, upon investigation of the request, shall determine
2 whether relief should be granted.

3 **Sec. 5.** RCW 50.29.025 and 2003 2nd sp.s. c 4 s 14 are each amended
4 to read as follows:

5 (1) Except as provided in subsection (2) of this section, the
6 contribution rate for each employer subject to contributions under RCW
7 50.24.010 shall be determined under this subsection.

8 (a) A fund balance ratio shall be determined by dividing the
9 balance in the unemployment compensation fund as of the September 30th
10 immediately preceding the rate year by the total remuneration paid by
11 all employers subject to contributions during the second calendar year
12 preceding the rate year and reported to the department by the following
13 March 31st. The division shall be carried to the fourth decimal place
14 with the remaining fraction, if any, disregarded. The fund balance
15 ratio shall be expressed as a percentage.

16 (b) The interval of the fund balance ratio, expressed as a
17 percentage, shall determine which tax schedule in (e) of this
18 subsection shall be in effect for assigning tax rates for the rate
19 year. The intervals for determining the effective tax schedule shall
20 be:

21	Interval of the	
22	Fund Balance Ratio	Effective
23	Expressed as a Percentage	Tax Schedule
24	2.90 and above	AA
25	2.10 to 2.89	A
26	1.70 to 2.09	B
27	1.40 to 1.69	C
28	1.00 to 1.39	D
29	0.70 to 0.99	E
30	Less than 0.70	F

31 (c) An array shall be prepared, listing all qualified employers in
32 ascending order of their benefit ratios. The array shall show for each
33 qualified employer: (i) Identification number; (ii) benefit ratio;
34 (iii) taxable payrolls for the four calendar quarters immediately
35 preceding the computation date and reported to the department by the

1 cut-off date; (iv) a cumulative total of taxable payrolls consisting of
 2 the employer's taxable payroll plus the taxable payrolls of all other
 3 employers preceding him or her in the array; and (v) the percentage
 4 equivalent of the cumulative total of taxable payrolls.

5 (d) Each employer in the array shall be assigned to one of twenty
 6 rate classes according to the percentage intervals of cumulative
 7 taxable payrolls set forth in (e) of this subsection: PROVIDED, That
 8 if an employer's taxable payroll falls within two or more rate classes,
 9 the employer and any other employer with the same benefit ratio shall
 10 be assigned to the lowest rate class which includes any portion of the
 11 employer's taxable payroll.

12 (e) Except as provided in RCW 50.29.026, the contribution rate for
 13 each employer in the array shall be the rate specified in the following
 14 tables for the rate class to which he or she has been assigned, as
 15 determined under (d) of this subsection, within the tax schedule which
 16 is to be in effect during the rate year:

		Percent of		Schedules of Contributions Rates							
		Cumulative		for Effective Tax Schedule							
		Taxable Payrolls									
		Rate									
From	To	Class	AA	A	B	C	D	E	F		
0.00	5.00	1	0.47	0.47	0.57	0.97	1.47	1.87	2.47		
5.01	10.00	2	0.47	0.47	0.77	1.17	1.67	2.07	2.67		
10.01	15.00	3	0.57	0.57	0.97	1.37	1.77	2.27	2.87		
15.01	20.00	4	0.57	0.73	1.11	1.51	1.90	2.40	2.98		
20.01	25.00	5	0.72	0.92	1.30	1.70	2.09	2.59	3.08		
25.01	30.00	6	0.91	1.11	1.49	1.89	2.29	2.69	3.18		
30.01	35.00	7	1.00	1.29	1.69	2.08	2.48	2.88	3.27		
35.01	40.00	8	1.19	1.48	1.88	2.27	2.67	3.07	3.47		
40.01	45.00	9	1.37	1.67	2.07	2.47	2.87	3.27	3.66		
45.01	50.00	10	1.56	1.86	2.26	2.66	3.06	3.46	3.86		
50.01	55.00	11	1.84	2.14	2.45	2.85	3.25	3.66	3.95		
55.01	60.00	12	2.03	2.33	2.64	3.04	3.44	3.85	4.15		
60.01	65.00	13	2.22	2.52	2.83	3.23	3.64	4.04	4.34		
65.01	70.00	14	2.40	2.71	3.02	3.43	3.83	4.24	4.54		
70.01	75.00	15	2.68	2.90	3.21	3.62	4.02	4.43	4.63		
75.01	80.00	16	2.87	3.09	3.42	3.81	4.22	4.53	4.73		
80.01	85.00	17	3.27	3.47	3.77	4.17	4.57	4.87	4.97		

1	85.01	90.00	18	3.67	3.87	4.17	4.57	4.87	4.97	5.17
2	90.01	95.00	19	4.07	4.27	4.57	4.97	5.07	5.17	5.37
3	95.01	100.00	20	5.40	5.40	5.40	5.40	5.40	5.40	5.40

(f) The contribution rate for each employer not qualified to be in the array shall be as follows:

(i) Employers who do not meet the definition of "qualified employer" by reason of failure to pay contributions when due shall be assigned a contribution rate two-tenths higher than that in rate class 20 for the applicable rate year, except employers who have an approved agency-deferred payment contract by September 30 of the previous rate year. If any employer with an approved agency-deferred payment contract fails to make any one of the succeeding deferred payments or fails to submit any succeeding tax report and payment in a timely manner, the employer's tax rate shall immediately revert to a contribution rate two-tenths higher than that in rate class 20 for the applicable rate year; and

(ii) For all other employers not qualified to be in the array, the contribution rate shall be a rate equal to the average industry rate as determined by the commissioner; however, the rate may not be less than one percent.

(2) Beginning with contributions assessed for rate year 2005, the contribution rate for each employer subject to contributions under RCW 50.24.010 shall be the sum of the array calculation factor rate and the graduated social cost factor rate determined under this subsection, and the solvency surcharge determined under RCW 50.29.041, if any.

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

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

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

	Benefit Ratio		Rate	Rate
	At least	Less than	Class	(percent)
3		0.000001	1	0.00
4	0.000001	0.001250	2	0.13
5	0.001250	0.002500	3	0.25
6	0.002500	0.003750	4	0.38
7	0.003750	0.005000	5	0.50
8	0.005000	0.006250	6	0.63
9	0.006250	0.007500	7	0.75
10	0.007500	0.008750	8	0.88
11	0.008750	0.010000	9	1.00
12	0.010000	0.011250	10	1.15
13	0.011250	0.012500	11	1.30
14	0.012500	0.013750	12	1.45
15	0.013750	0.015000	13	1.60
16	0.015000	0.016250	14	1.75
17	0.016250	0.017500	15	1.90
18	0.017500	0.018750	16	2.05
19	0.018750	0.020000	17	2.20
20	0.020000	0.021250	18	2.35
21	0.021250	0.022500	19	2.50
22	0.022500	0.023750	20	2.65
23	0.023750	0.025000	21	2.80
24	0.025000	0.026250	22	2.95
25	0.026250	0.027500	23	3.10
26	0.027500	0.028750	24	3.25
27	0.028750	0.030000	25	3.40
28	0.030000	0.031250	26	3.55
29	0.031250	0.032500	27	3.70
30	0.032500	0.033750	28	3.85
31	0.033750	0.035000	29	4.00
32	0.035000	0.036250	30	4.15
33	0.036250	0.037500	31	4.30
34	0.037500	0.040000	32	4.45
35	0.040000	0.042500	33	4.60
36	0.042500	0.045000	34	4.75

1	0.045000	0.047500	35	4.90
2	0.047500	0.050000	36	5.05
3	0.050000	0.052500	37	5.20
4	0.052500	0.055000	38	5.30
5	0.055000	0.057500	39	5.35
6	0.057500		40	5.40

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

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

17 (B) If, on the cut-off date, the balance in the unemployment
18 compensation fund is determined by the commissioner to be an amount
19 that will provide more than ten months of unemployment benefits, the
20 commissioner shall calculate the flat social cost factor for the rate
21 year immediately following the cut-off date by reducing the total
22 social cost by the dollar amount that represents the number of months
23 for which the balance in the unemployment compensation fund on the cut-
24 off date will provide benefits above ten months and dividing the result
25 by the total taxable payroll. However, the calculation under this
26 subsection (2)(b)(i)(B) for a rate year may not result in a flat social
27 cost factor that is more than two-tenths lower than the calculation
28 under (b)(i)(A) of this subsection for that rate year. For the
29 purposes of this subsection, the commissioner shall determine the
30 number of months of unemployment benefits in the unemployment
31 compensation fund using the benefit cost rate for the average of the
32 three highest calendar benefit cost rates in the twenty consecutive
33 completed calendar years immediately preceding the cut-off date or a
34 period of consecutive calendar years immediately preceding the cut-off
35 date that includes three recessions, if longer.

36 (C) The minimum flat social cost factor calculated under this
37 subsection (2)(b) shall be six-tenths of one percent.

1 (D) With respect to rate year 2007, the flat social cost factor
2 shall be the lesser of:

3 (I) The flat social cost factor determined under (b)(i)(A) through
4 (C) of this subsection; or

5 (II) The flat social cost factor that would be determined under
6 (b)(i)(A) through (C) of this subsection if RCW 50.20.120(2)(c)(i) had
7 been in effect during the immediately preceding rate year.

8 (ii)(A) Except as provided in (b)(ii)(B) of this subsection, the
9 graduated social cost factor rate for each employer in the array is the
10 flat social cost factor multiplied by the percentage specified as
11 follows for the rate class to which the employer has been assigned in
12 (a)(ii) of this subsection, except that the sum of an employer's array
13 calculation factor rate and the graduated social cost factor rate may
14 not exceed six and five-tenths percent or, for employers whose
15 ((standard industrial classification)) North American industry
16 classification system code is within ((major group "01," "02," "07,"
17 "091," "203," "209," or "5148," or the equivalent code in the North
18 American industry classification system code,)) "111," "112," "1141,"
19 "115," "3114," "3117," or "42448," may not exceed six percent:

20 ((A)) (I) Rate class 1 - 78 percent;

21 ((B)) (II) Rate class 2 - 82 percent;

22 ((C)) (III) Rate class 3 - 86 percent;

23 ((D)) (IV) Rate class 4 - 90 percent;

24 ((E)) (V) Rate class 5 - 94 percent;

25 ((F)) (VI) Rate class 6 - 98 percent;

26 ((G)) (VII) Rate class 7 - 102 percent;

27 ((H)) (VIII) Rate class 8 - 106 percent;

28 ((I)) (IX) Rate class 9 - 110 percent;

29 ((J)) (X) Rate class 10 - 114 percent;

30 ((K)) (XI) Rate class 11 - 118 percent; and

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

32 (B) For contributions assessed beginning July 1, 2005, through June
33 30, 2007, for employers whose North American industry classification
34 system code is "111," "112," "1141," "115," "3114," "3117," "42448," or
35 "49312," the graduated social cost factor rate is zero.

36 (iii) For the purposes of this section:

37 (A) "Total social cost" means:

1 (I) Except as provided in (b)(iii)(A)(II) of this subsection, the
2 amount calculated by subtracting the array calculation factor
3 contributions paid by all employers with respect to the four
4 consecutive calendar quarters immediately preceding the computation
5 date and paid to the employment security department by the cut-off date
6 from the total unemployment benefits paid to claimants in the same four
7 consecutive calendar quarters. To calculate the flat social cost
8 factor for rate year 2005, the commissioner shall calculate the total
9 social cost using the array calculation factor contributions that would
10 have been required to be paid by all employers in the calculation
11 period if (a) of this subsection had been in effect for the relevant
12 period.

13 (II) For rate year 2007, the amount calculated under (b)(iii)(A)(I)
14 of this subsection reduced by the amount of benefits charged that
15 exceed the contributions paid in the four consecutive calendar quarters
16 immediately preceding the applicable computation date because, as
17 applicable, specified employers are subject to the social cost
18 contributions under (b)(ii)(B) of this subsection, and/or because the
19 social cost factor contributions are paid under (b)(i)(D)(II) of this
20 subsection.

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

26 (c) The array calculation factor rate for each employer not
27 qualified to be in the array shall be as follows:

28 (i) Employers who do not meet the definition of "qualified
29 employer" by reason of failure to pay contributions when due shall be
30 assigned an array calculation factor rate two-tenths higher than that
31 in rate class 40, except employers who have an approved agency-deferred
32 payment contract by September 30th of the previous rate year. If any
33 employer with an approved agency-deferred payment contract fails to
34 make any one of the succeeding deferred payments or fails to submit any
35 succeeding tax report and payment in a timely manner, the employer's
36 tax rate shall immediately revert to an array calculation factor rate
37 two-tenths higher than that in rate class 40; and

1 (ii) For all other employers not qualified to be in the array, the
2 array calculation factor rate shall be a rate equal to the average
3 industry array calculation factor rate as determined by the
4 commissioner, plus fifteen percent of that amount; however, the rate
5 may not be less than one percent or more than the array calculation
6 factor rate in rate class 40.

7 (d) The graduated social cost factor rate for each employer not
8 qualified to be in the array shall be as follows:

9 (i) For employers whose array calculation factor rate is determined
10 under (c)(i) of this subsection, the social cost factor rate shall be
11 the social cost factor rate assigned to rate class 40 under (b)(ii) of
12 this subsection.

13 (ii) For employers whose array calculation factor rate is
14 determined under (c)(ii) of this subsection, the social cost factor
15 rate shall be a rate equal to the average industry social cost factor
16 rate as determined by the commissioner, plus fifteen percent of that
17 amount, but not more than the social cost factor rate assigned to rate
18 class 40 under (b)(ii) of this subsection.

19 (3) Assignment of employers by the commissioner to industrial
20 classification, for purposes of this section, shall be in accordance
21 with established classification practices found in the "Standard
22 Industrial Classification Manual" issued by the federal office of
23 management and budget to the third digit provided in the standard
24 industrial classification code, or in the North American industry
25 classification system code.

26 **Sec. 6.** RCW 50.16.030 and 1999 c 36 s 1 are each amended to read
27 as follows:

28 (1)(a) Except as provided in (b) and (c) of this subsection, moneys
29 shall be requisitioned from this state's account in the unemployment
30 trust fund solely for the payment of benefits and repayment of loans
31 from the federal government to guarantee solvency of the unemployment
32 compensation fund in accordance with regulations prescribed by the
33 commissioner, except that money credited to this state's account
34 pursuant to section 903 of the social security act, as amended, shall
35 be used exclusively as provided in RCW 50.16.030(5). The commissioner
36 shall from time to time requisition from the unemployment trust fund
37 such amounts, not exceeding the amounts standing to its account

1 therein, as he or she deems necessary for the payment of benefits for
2 a reasonable future period. Upon receipt thereof the treasurer shall
3 deposit such moneys in the benefit account and shall issue his or her
4 warrants for the payment of benefits solely from such benefits account.

5 (b) Moneys for the payment of regular benefits as defined in RCW
6 50.22.010 shall be requisitioned during fiscal years 2006 and 2007 in
7 the following order:

8 (i) First, from the moneys credited to this state's account in the
9 unemployment trust fund pursuant to section 903 of the social security
10 act, as amended in section 209 of the temporary extended unemployment
11 compensation act of 2002 (42 U.S.C. Sec. 1103(d)), the amount equal to
12 the amount of benefits charged that exceed the contributions paid in
13 the four consecutive calendar quarters ending on June 30, 2006, for the
14 fiscal year 2006 calculation, and ending on June 30, 2007, for the
15 fiscal year 2007 calculation, because the social cost factor
16 contributions that employers are subject to under RCW
17 50.29.025(2)(b)(ii)(B) are less than the social cost factor
18 contributions that these employers would have been subject to if RCW
19 50.29.025(2)(b)(ii)(A) had applied to these employers; and

20 (ii) Second, after the requisitioning required under (b)(i) of this
21 subsection in the respective fiscal year, from all other moneys
22 credited to this state's account in the unemployment trust fund.

23 (c) After the requisitioning required under (b) of this subsection,
24 if applicable, moneys for the payment of regular benefits as defined in
25 RCW 50.22.010 shall be requisitioned during calendar year 2007 in the
26 following order:

27 (i) First, from the moneys credited to this state's account in the
28 unemployment trust fund pursuant to section 903 of the social security
29 act, as amended in section 209 of the temporary extended unemployment
30 compensation act of 2002 (42 U.S.C. Sec. 1103(d)), the amount equal to
31 the amount of benefits paid under RCW 50.20.120(2)(c)(ii) beginning on
32 the first Sunday following the day on which the governor signs this act
33 and ending on June 30, 2007, that exceed the amount of benefits that
34 would have been paid if the weekly benefit amount had been determined
35 as one percent of the total wages paid in the individual's base year;
36 and

37 (ii) Second, after the requisitioning required under (c)(i) of this

1 subsection in the respective calendar year, from all other moneys
2 credited to this state's account in the unemployment trust fund.

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

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

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

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

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

32 (c) Limits the amount which may be obligated during a twelve-month
33 period beginning on July 1st and ending on the next June 30th to an
34 amount which does not exceed the amount by which (i) the aggregate of
35 the amounts credited to the account of this state pursuant to section
36 903 of the social security act, as amended, during the same twelve-
37 month period and the thirty-four preceding twelve-month periods,
38 exceeds (ii) the aggregate of the amounts obligated pursuant to RCW

1 50.16.030 (4), (5) and (6) and charged against the amounts credited to
2 the account of this state during any of such thirty-five twelve-month
3 periods. For the purposes of RCW 50.16.030 (4), (5) and (6), amounts
4 obligated during any such twelve-month period shall be charged against
5 equivalent amounts which were first credited and which are not already
6 so charged; except that no amount obligated for administration during
7 any such twelve-month period may be charged against any amount credited
8 during such a twelve-month period earlier than the thirty-fourth
9 twelve-month period preceding such period: PROVIDED, That any amount
10 credited to this state's account under section 903 of the social
11 security act, as amended, which has been appropriated for expenses of
12 administration, whether or not withdrawn from the trust fund shall be
13 excluded from the unemployment compensation fund balance for the
14 purpose of experience rating credit determination.

15 (5) Money credited to the account of this state pursuant to section
16 903 of the social security act, as amended, may not be withdrawn or
17 used except for the payment of benefits and for the payment of expenses
18 of administration and of public employment offices pursuant to RCW
19 50.16.030 (4), (5) and (6). However, moneys credited because of excess
20 amounts in federal accounts in federal fiscal years 1999, 2000, and
21 2001 shall be used solely for the administration of the unemployment
22 compensation program and are not subject to appropriation by the
23 legislature for any other purpose.

24 (6) Money requisitioned as provided in RCW 50.16.030 (4), (5) and
25 (6) for the payment of expenses of administration shall be deposited in
26 the unemployment compensation fund, but until expended, shall remain a
27 part of the unemployment compensation fund. The commissioner shall
28 maintain a separate record of the deposit, obligation, expenditure and
29 return of funds so deposited. Any money so deposited which either will
30 not be obligated within the period specified by the appropriation law
31 or remains unobligated at the end of the period, and any money which
32 has been obligated within the period but will not be expended, shall be
33 returned promptly to the account of this state in the unemployment
34 trust fund.

35 NEW SECTION. **Sec. 7.** A new section is added to chapter 50.29 RCW
36 to read as follows:

37 (1) By October 1, 2006, and October 1, 2007, the employment

1 security department must report to the appropriate committees of the
2 legislature on the impact, or projected impact, of sections 2 and 3,
3 chapter ..., Laws of 2005 (sections 2 and 3 of this act) on the
4 unemployment trust fund in the three consecutive fiscal years beginning
5 with the year before the report date.

6 (2) This section expires January 1, 2008.

7 NEW SECTION. **Sec. 8.** To establish additional capacity within the
8 employment security department, the department is authorized to add two
9 full-time equivalent employees to develop economic models for
10 estimating the impacts of policy changes on the unemployment insurance
11 system and the unemployment trust fund.

12 NEW SECTION. **Sec. 9.** (1)(a) The joint legislative task force on
13 unemployment insurance benefit equity is established. The joint
14 legislative task force shall consist of the following members:

15 (i) The chair and ranking minority member of the senate labor,
16 commerce, research and development committee;

17 (ii) The chair and ranking minority member of the house commerce
18 and labor committee;

19 (iii) Four members representing business, selected from nominations
20 submitted by statewide business organizations representing a cross-
21 section of industries and appointed jointly by the president of the
22 senate and the speaker of the house of representatives; and

23 (iv) Four members representing labor, selected from nominations
24 submitted by statewide labor organizations representing a cross-section
25 of industries and appointed jointly by the president of the senate and
26 the speaker of the house of representatives.

27 (b) In addition, the employment security department shall cooperate
28 with the task force and maintain a liaison representative, who shall be
29 a nonvoting member. The department shall cooperate with the task force
30 and provide information as the task force may reasonably request.

31 (2) The task force shall review the unemployment insurance system,
32 including, but not limited to, whether the benefit structure provides
33 for equitable benefits, whether the structure fairly accounts for
34 changes in the work force and industry work patterns, including
35 seasonality, and for claimants' annual work patterns, whether the tax

1 structure provides for an equitable distribution of taxes, and whether
2 the trust fund is adequate in the long term.

3 (3)(a) The task force shall use legislative facilities, and staff
4 support shall be provided by senate committee services and the house of
5 representatives office of program research. The task force may hire
6 additional staff with specific technical expertise if such expertise is
7 necessary to carry out the mandates of this study.

8 (b) Legislative members of the task force shall be reimbursed for
9 travel expenses in accordance with RCW 44.04.120. Nonlegislative
10 members, except those representing an employer or organization, are
11 entitled to be reimbursed for travel expenses in accordance with RCW
12 43.03.050 and 43.03.060.

13 (c) The expenses of the task force shall be paid jointly by the
14 senate and the house of representatives.

15 (5) The task force shall report its findings and recommendations to
16 the legislature by January 1, 2006.

17 (6) This section expires July 1, 2006.

18 NEW SECTION. **Sec. 10.** (1) Section 2 of this act expires June 30,
19 2007.

20 (2) It is the intent of the legislature that the expiration of
21 sections or subsections of this act results in those sections of law
22 being returned to the law in effect immediately before the effective
23 date of this act.

24 NEW SECTION. **Sec. 11.** If any part of this act is found to be in
25 conflict with federal requirements that are a prescribed condition to
26 the allocation of federal funds to the state or the eligibility of
27 employers in this state for federal unemployment tax credits, the
28 conflicting part of this act is inoperative solely to the extent of the
29 conflict, and the finding or determination does not affect the
30 operation of the remainder of this act. Rules adopted under this act
31 must meet federal requirements that are a necessary condition to the
32 receipt of federal funds by the state or the granting of federal
33 unemployment tax credits to employers in this state.

34 NEW SECTION. **Sec. 12.** This act is necessary for the immediate

1 preservation of the public peace, health, or safety, or support of the
2 state government and its existing public institutions, and takes effect
3 immediately.

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