

**HB 1091 - H AMD 14**

By Representatives Sells, Springer

**ADOPTED AS AMENDED 02/09/2011**

1 Strike everything after the enacting clause and insert the  
2 following:

3 "NEW SECTION. **Sec. 1.** The legislature finds that the state of  
4 Washington has run one of the most effective, efficient, and  
5 responsible unemployment insurance tax and benefit systems in the  
6 nation. The result is a trust fund that is the healthiest of all  
7 unemployment insurance trust funds in the nation, resulting in  
8 Washington being one of the minority of states that has not been  
9 required to borrow from the federal government for the trust fund. The  
10 legislature also finds that there is an urgent need for a temporary  
11 stimulus to help Washington employers and workers weather some of the  
12 most severe economic conditions in the state's history. The state of  
13 Washington is uniquely positioned to draw down the balance of the  
14 unemployment insurance trust fund to encourage employers to create  
15 jobs, stimulate economic activities, and provide needed assistance to  
16 unemployed workers, all without jeopardizing the solvency of the trust  
17 fund. It is the intent of the legislature to use surplus funds in the  
18 unemployment insurance trust fund that are not derived from experience-  
19 based charges in order to provide this needed temporary stimulus.

20 **PART I**

21 **Temporary Benefit Increase**

22 NEW SECTION. **Sec. 2.** A new section is added to chapter 50.20 RCW  
23 to read as follows:

24 (1) Except as provided for in subsection (3) of this section, for  
25 claims with an effective date on or after March 6, 2011, and before  
26 January 1, 2012, an individual's weekly benefit amount shall be the  
27 amount established under RCW 50.20.120 plus an additional temporary

1 benefit increase of twenty-five dollars. The weekly benefit amount  
2 under this section:

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

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

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

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

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

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

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

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

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

31 Except as provided in RCW 50.20.1201 and section 2 of this act,  
32 benefits shall be payable as provided in this section.

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

1 (2) of this section, or one-third of the individual's base year wages  
2 under this title.

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

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

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

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

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

20 **Sec. 4.** RCW 50.29.021 and 2010 c 25 s 1 are each amended to read  
21 as follows:

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

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

32 (b) Benefits paid to an eligible individual shall be charged to the  
33 experience rating accounts of each of such individual's employers  
34 during the individual's base year in the same ratio that the wages paid  
35 by each employer to the individual during the base year bear to the  
36 wages paid by all employers to that individual during that base year,  
37 except as otherwise provided in this section.

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

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

9 (ii) RCW 50.20.050 (1)(b) (v) through (x) or (2)(b) (v) through  
10 (x).

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

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

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

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

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

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

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

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

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

22 (g) The forty-five dollar increase paid as part of an individual's  
23 weekly benefit amount as provided in RCW 50.20.1201 and the twenty-five  
24 dollar increase paid as part of an individual's weekly benefit amount  
25 as provided in section 2 of this act shall not be charged to the  
26 experience rating account of any contribution paying employer.

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

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

36 (4)(a) A contribution paying base year employer, not otherwise  
37 eligible for relief of charges for benefits under this section, may

1 receive such relief if the benefit charges result from payment to an  
2 individual who:

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

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

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

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

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

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

32 **PART II**  
33 **Extended Benefits**

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

1 As used in this chapter, unless the context clearly indicates  
2 otherwise:

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

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

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

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

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

20 (b) For benefits for weeks of unemployment beginning after March 6,  
21 1993:

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

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

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

1       (i) The average rate of insured unemployment, not seasonally  
2 adjusted, equaled or exceeded one hundred twenty percent of the average  
3 of such rates for the corresponding thirteen-week period ending in all  
4 of the preceding three calendar years and equaled or exceeded five  
5 percent; or

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

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

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

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

25       (b) The average rate of total unemployment in the state, seasonally  
26 adjusted, as determined by the United States secretary of labor, for  
27 the three-month period referred to in (a) of this subsection, equals or  
28 exceeds one hundred ten percent of the average for either or both of  
29 the corresponding three-month periods ending in the two preceding  
30 calendar years.

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

36       (i) The average rate of total unemployment, seasonally adjusted, as  
37 determined by the United States secretary of labor, for the period



1 consisting of the most recent three months for which data for all  
2 states are published before the close of the week equals or exceeds  
3 eight percent; and

4 (ii) The average rate of total unemployment in the state,  
5 seasonally adjusted, as determined by the United States secretary of  
6 labor, for the three-month period referred to in (a) of this  
7 subsection, equals or exceeds one hundred ten percent of the average  
8 for any of the corresponding three-month periods ending in the three  
9 preceding calendar years.

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

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

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

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

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

27 (a) The period consisting of the weeks in his or her benefit year  
28 which begin in an extended benefit period that is in effect in this  
29 state and, if his or her benefit year ends within such extended benefit  
30 period, any weeks thereafter which begin in such period; or

31 (b) For an individual who is eligible for emergency unemployment  
32 compensation during the extended benefit period beginning February 15,  
33 2009, the period consisting of the week ending February 28, 2009,  
34 ((through the week ending May 29, 2010)) and applies as provided under  
35 the tax relief, unemployment insurance reauthorization, and job  
36 creation act of 2010 (P.L. 111-312) as it existed on December 17, 2010,  
37 or such subsequent date as may be provided by the department by rule,  
38 consistent with the purposes of this subsection.

1 (9) "Additional benefit eligibility period" of an individual means  
2 the period consisting of the weeks in his or her benefit year which  
3 begin in an additional benefit period that is in effect and, if his or  
4 her benefit year ends within such additional benefit period, any weeks  
5 thereafter which begin in such period.

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

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

13 (b) Has received, prior to such week, all of the regular benefits  
14 that were available to him or her under this title or any other state  
15 law (including dependents' allowances and regular benefits available to  
16 federal civilian employees and ex-servicemen under 5 U.S.C. chapter 85)  
17 in his or her current benefit year that includes such week, after the  
18 cancellation of some or all of his or her wage credits or the total or  
19 partial reduction of his or her rights to regular benefits: PROVIDED,  
20 That, for the purposes of (a) and (b), an individual shall be deemed to  
21 have received in his or her current benefit year all of the regular  
22 benefits that were payable to him or her, or available to him or her,  
23 as the case may be, even though:

24 (i) As a result of a pending appeal with respect to wages or  
25 employment, or both, that were not included in the original monetary  
26 determination with respect to his or her current benefit year, he or  
27 she may subsequently be determined to be entitled to more regular  
28 benefits; or

29 (ii) By reason of the seasonal provisions of another state law, he  
30 or she is not entitled to regular benefits with respect to such week of  
31 unemployment (although he or she may be entitled to regular benefits  
32 with respect to future weeks of unemployment in the next season, as the  
33 case may be, in his or her current benefit year), and he or she is  
34 otherwise an exhaustee within the meaning of this section with respect  
35 to his or her right to regular benefits under such state law seasonal  
36 provisions during the season or off season in which that week of  
37 unemployment occurs; or

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

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

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

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

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

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

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

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

32 (a) The individual is a dislocated worker as defined in RCW  
33 50.04.075 and, after assessment of the individual's labor market,  
34 occupation, or skills, is determined to need job-related training to  
35 find suitable employment in the individual's labor market. The  
36 assessment of demand for the individual's occupation or skill sets must  
37 be substantially based on declining occupation or skill sets and high-

1 demand occupations identified in local labor market areas by the local  
2 workforce development councils in cooperation with the employment  
3 security department and its labor market information division; or

4 (b) For claims with an effective date on or after September 7,  
5 2009, the individual:

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

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

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

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

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

28 (b) The individual must enter the approved training program by one  
29 hundred twenty days after the date of the notification, unless the  
30 employment security department determines that the training is not  
31 available during the one hundred twenty days, in which case the  
32 individual enters training as soon as it is available;

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

35 (4) The individual must be enrolled in training approved under this  
36 section on a full-time basis as determined by the educational  
37 institution, except that less than full-time training may be approved

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

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

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

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

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

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

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

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

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

22 (d) "Training program" means:

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

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

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

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

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

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

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

4 (8) Benefits shall be paid as follows:

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

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

12 (c) Training benefits shall be paid before any extended benefits  
13 but not before any similar federally funded program. Effective July 3,  
14 2011, training benefits shall be paid after any federally funded  
15 program.

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

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

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

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

37 (12) An individual eligible to receive emergency unemployment

1 compensation under any federal law shall not be eligible to receive  
2 benefits under this section for each week the individual receives such  
3 compensation.

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

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

12 (15) The commissioner shall adopt rules as necessary to implement  
13 this section.

### 14 PART III

### 15 Training Benefits

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

18 (1) To ensure that unemployment insurance benefits are paid in  
19 accordance with RCW 50.20.098, the employment security department shall  
20 verify that an individual is eligible to work in the United States  
21 before the individual receives training benefits under RCW 50.22.150 or  
22 50.22.155.

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

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

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

31 (c) Report its initial findings to the legislature by September 1,  
32 2000, and its final report by July 1, 2002.

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

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

3           It is the intent of the legislature that a training benefits  
4 program be established to provide unemployment insurance benefits to  
5 unemployed individuals who participate in training programs necessary  
6 for their reemployment.

7           The legislature further intends that this program serve the  
8 following goals:

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

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

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

15           ~~((4))~~ (3) Retraining must be targeted to high-demand occupations.

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

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

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

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

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

31           ~~((a))~~ (i) The individual is a dislocated worker as defined in RCW  
32 50.04.075 and, after assessment of the individual's labor market,  
33 occupation, or skills, is determined to need job-related training to  
34 find suitable employment in the individual's labor market. The  
35 assessment of demand for the individual's occupation or skill sets must  
36 be substantially based on declining occupation or skill sets and high-



1 demand occupations identified in local labor market areas by the local  
2 workforce development councils in cooperation with the employment  
3 security department and its labor market information division; or

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

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

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

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

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

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

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

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

36 ~~((4))~~ (c) The individual must be enrolled in training approved  
37 under this section on a full-time basis as determined by the

1 educational institution, except that less than full-time training may  
2 be approved when the individual has a physical, mental, or emotional  
3 disability that precludes enrollment on a full-time basis.

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

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

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

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

13 ~~((+7))~~ (f) The following definitions apply throughout this  
14 ~~((section))~~ subsection (1) unless the context clearly requires  
15 otherwise.

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

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

22 ~~((+c))~~ (iii) "Training benefits" means additional benefits paid  
23 under this section.

24 ~~((+d))~~ (iv) "Training program" means:

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

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

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

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

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

1 "Training program" does not include any course of education  
2 primarily intended to meet the requirements of a baccalaureate or  
3 higher degree, unless the training meets specific requirements for  
4 certification, licensing, or for specific skills necessary for the  
5 occupation.

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

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

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

14 ~~((+e))~~ (iii) Training benefits shall be paid before any extended  
15 benefits but not before any similar federally funded program.  
16 Effective July 3, 2011, training benefits shall be paid after any  
17 federally funded program.

18 ~~((+d))~~ (iv) Training benefits are not payable for weeks more than  
19 two years beyond the end of the benefit year of the regular claim.  
20 However, training benefits are not payable for weeks more than three  
21 years beyond the end of the benefit year of the regular claim when  
22 individuals are eligible for benefits in accordance with RCW 50.22.010  
23 (2)(c) or (3)(c).

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

31 ~~((+10))~~ (i) Individuals who receive training benefits under RCW  
32 50.22.150 or this section are not eligible for training benefits under  
33 this section for five years from the last receipt of training benefits.

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

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

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

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

13        ~~((15))~~ (2) With respect to claims with an effective date on or  
14 after July 1, 2012:

15        (a) Training benefits are available for an individual who is  
16 eligible for or has exhausted entitlement to unemployment compensation  
17 benefits when:

18        (i) The individual is a dislocated worker as defined in RCW  
19 50.04.075 and, after assessment of the individual's labor market,  
20 occupation, or skills, is determined to need job-related training to  
21 find suitable employment in the individual's labor market. The  
22 assessment of demand for the individual's occupation or skill sets must  
23 be substantially based on declining occupation or skill sets and high-  
24 demand occupations identified in local labor market areas by the local  
25 workforce development councils in cooperation with the employment  
26 security department and its labor market information division; or

27        (ii) Subject to the availability of funds as specified in RCW  
28 50.22.140, the individual:

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

35        (B) Served in the United States military or the Washington national  
36 guard during the twelve-month period prior to the application date, was  
37 honorably discharged from military service or the Washington national

1 guard and, after assessment, is determined to need job-related training  
2 to find suitable employment in the individual's labor market;

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

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

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

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

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

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

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

33 (d) The individual must make satisfactory progress in the training  
34 as defined by the commissioner and certified by the educational  
35 institution.

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

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

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

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

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

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

13 (iii) "Training benefits" means additional benefits paid under this  
14 section.

15 (iv) "Training program" means:

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

20 (B) A vocational training program at an educational institution  
21 that:

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

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

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

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

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

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

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

4       (iii) Training benefits shall be paid after any federally funded  
5 program.

6       (iv) Training benefits are not payable for weeks more than two  
7 years beyond the end of the benefit year of the regular claim.  
8 However, training benefits are not payable for weeks more than three  
9 years beyond the end of the benefit year of the regular claim when  
10 individuals are eligible for benefits in accordance with RCW 50.22.010  
11 (2)(c) or (3)(c).

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

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

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

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

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

34       (m) Each local workforce development council, in cooperation with  
35 the employment security department and its labor market information  
36 division, must identify occupations and skill sets that are declining  
37 and high-demand occupations and skill sets. Each local workforce

1 development council shall update this information annually or more  
2 frequently if needed.

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

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

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

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



1 50.22.155(2)(a)(i). The following year's obligation for training  
2 benefits will be reduced by a corresponding amount.

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

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

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

36 (2)(a) Contributions under this section shall become due and be  
37 paid by each employer under rules as the commissioner may prescribe,

1 and shall not be deducted, in whole or in part, from the remuneration  
2 of individuals in the employ of the employer. Any deduction in  
3 violation of this section is unlawful.

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

7 (3) If the commissioner determines that federal funding has been  
8 increased to provide financing for the services specified in chapter  
9 50.62 RCW, the commissioner shall direct that collection of  
10 contributions under this section be terminated on the following January  
11 1st.

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

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

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

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

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

23 (2) With respect to claims with an effective date on or after July  
24 1, 2012, "dislocated worker" means any individual who:

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

29 (b) Is eligible for or has exhausted entitlement to unemployment  
30 compensation benefits.

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

33 (1) If an eligible individual is available for work for less than  
34 a full week, he or she shall be paid his or her weekly benefit amount  
35 reduced by one-seventh of such amount for each day that he or she is

1 unavailable for work: PROVIDED, That if he or she is unavailable for  
2 work for three days or more of a week, he or she shall be considered  
3 unavailable for the entire week.

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

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

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

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

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

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

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

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

34 (c) When the eligible individual's separating employer is a covered  
35 contribution paying base year employer, benefits paid to the eligible  
36 individual shall be charged to the experience rating account of only

1 the individual's separating employer if the individual qualifies for  
2 benefits under:

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

6 (ii) RCW 50.20.050 (1)(b) (v) through (x) or (2)(b) (v) through  
7 (x).

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

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

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 account  
30 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 nonwork-  
33 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 paying  
38 employer.

1 (d) In the case of individuals who requalify for benefits under RCW  
2 50.20.050 or 50.20.060, benefits based on wage credits earned prior to  
3 the disqualifying separation shall not be charged to the experience  
4 rating account of the contribution paying employer from whom that  
5 separation took place.

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

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

18 (g) The forty-five dollar increase paid as part of an individual's  
19 weekly benefit amount as provided in RCW 50.20.1201 and the twenty-five  
20 dollar increase paid as part of an individual's weekly benefit amount  
21 as provided in section 2 of this act shall not be charged to the  
22 experience rating account of any contribution paying employer.

23 (h) With respect to claims where the minimum amount payable weekly  
24 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 rating  
28 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) Training benefits paid to an individual under RCW 50.22.155  
35 shall not be charged to the experience rating account of any  
36 contribution paying employer.

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

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

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

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

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

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

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

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

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

35 (1) The employment security department shall report to the  
36 appropriate committees of the legislature by December 1, 2009, and  
37 every year thereafter, on the status of the training benefits program

1 and the resulting outcomes. The report shall include a survey based  
2 assessment of the employment outcomes for program participants within  
3 the previous three years. The department shall also include in its  
4 report:

5 ((+1)) (a) A demographic analysis of participants in the training  
6 benefits program under this section including the number of claimants  
7 per North American industry classification system code and the gender,  
8 race, age, and geographic representation of participants;

9 ((+2)) (b) The duration of training benefits claimed per claimant;

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

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

25 +5)) (e) An identification and analysis of administrative costs at  
26 both the local and state level for administering this program;

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

28 (g) The total funds obligated for training benefits, and the net  
29 balance remaining to be obligated subject to the restrictions of RCW  
30 50.22.140.

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

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

36 (b) In any year in which the employment security department is  
37 required to suspend obligation of training benefits funds pursuant to

1 RCW 50.22.140(2), or total expenditures exceed twenty-five million  
2 dollars.

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

5 (a) Assess whether the program is complying with legislative  
6 intent;

7 (b) Assess whether the program is effective;

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

10 (d) Make recommendations on how to improve the training benefits  
11 program.

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

16 **PART IV**  
17 **Social Tax**

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

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

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

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

33 (ii) Each employer in the array shall be assigned to one of forty  
34 rate classes according to his or her benefit ratio as follows, and,  
35 except as provided in RCW 50.29.026, the array calculation factor rate



1 for each employer in the array shall be the rate specified in the rate  
2 class to which the employer has been assigned:

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

1	0.040000	0.042500	33	4.60
2	0.042500	0.045000	34	4.75
3	0.045000	0.047500	35	4.90
4	0.047500	0.050000	36	5.05
5	0.050000	0.052500	37	5.20
6	0.052500	0.055000	38	5.30
7	0.055000	0.057500	39	5.35
8	0.057500		40	5.40

9 (b) The graduated social cost factor rate shall be determined as  
10 follows:

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

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

31 For the purposes of this subsection, the commissioner shall  
32 determine the number of months of unemployment benefits in the  
33 unemployment compensation fund using the benefit cost rate for the  
34 average of the three highest calendar benefit cost rates in the twenty  
35 consecutive completed calendar years immediately preceding the cut-off  
36 date or a period of consecutive calendar years immediately preceding  
37 the cut-off date that includes three recessions, if longer.

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

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

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

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

22 (I) Rate class 1 - 78 percent;

23 (II) Rate class 2 - 82 percent;

24 (III) Rate class 3 - 86 percent;

25 (IV) Rate class 4 - 90 percent;

26 (V) Rate class 5 - 94 percent;

27 (VI) Rate class 6 - 98 percent;

28 (VII) Rate class 7 - 102 percent;

29 (VIII) Rate class 8 - 106 percent;

30 (IX) Rate class 9 - 110 percent;

31 (X) Rate class 10 - 114 percent;

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

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

34 (B) For contributions assessed beginning July 1, 2005, through  
35 December 31, 2007, for employers whose North American industry  
36 classification system code is "111," "112," "1141," "115," "3114,"  
37 "3117," "42448," or "49312," the graduated social cost factor rate is  
38 zero.

1 (iii) For the purposes of this section:

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

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

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

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

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

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

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

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

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

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

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

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

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

35

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

(2) For contributions assessed in rate year 2010 and thereafter, 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)
		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
33	0.057500		40	5.40

34 (b) The graduated social cost factor rate shall be determined as  
35 follows:

36 (i)(A) Except as provided in (b)(i)(B) and (C) of this subsection,  
37 the commissioner shall calculate the flat social cost factor for a rate

1 year by dividing the total social cost by the total taxable payroll.  
2 The division shall be carried to the second decimal place with the  
3 remaining fraction disregarded unless it amounts to five hundredths or  
4 more, in which case the second decimal place shall be rounded to the  
5 next higher digit. The flat social cost factor shall be expressed as  
6 a percentage.

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

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

29 (III) For the purposes of this subsection (2)(b), the commissioner  
30 shall determine the number of months of unemployment benefits in the  
31 unemployment compensation fund using the benefit cost rate for the  
32 average of the three highest calendar benefit cost rates in the twenty  
33 consecutive completed calendar years immediately preceding the cut-off  
34 date or a period of consecutive calendar years immediately preceding  
35 the cut-off date that includes three recessions, if longer. The  
36 twenty-five dollar increase paid as part of an individual's weekly  
37 benefit amount as provided in section 2 of this act shall not be



1 considered in calculating the benefit cost rate when determining the  
2 number of months of unemployment benefits in the unemployment  
3 compensation fund.

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

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

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

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

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

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

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

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

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

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



1 (XVIII) Rate class 18 - 108 percent;

2 (XIX) Rate class 19 - 112 percent;

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

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

5 (iii) For the purposes of this section:

6 (A) "Total social cost" means the amount calculated by subtracting  
7 the array calculation factor contributions paid by all employers with  
8 respect to the four consecutive calendar quarters immediately preceding  
9 the computation date and paid to the employment security department by  
10 the cut-off date from the total unemployment benefits paid to claimants  
11 in the same four consecutive calendar quarters. To calculate the flat  
12 social cost factor for rate years 2012 and 2013, the twenty-five dollar  
13 increase paid as part of an individual's weekly benefit amount as  
14 provided in section 2 of this act shall not be considered for purposes  
15 of calculating the total unemployment benefits paid to claimants in the  
16 four consecutive calendar quarters immediately preceding the  
17 computation date.

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

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

25 (i) For rate years through 2010:

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

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

37 (ii) For rate years 2011 and thereafter:

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

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

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

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

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

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

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

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

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

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

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

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

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

30 For the working connections child care program, the department  
 31 shall not count the twenty-five dollar increase paid as part of an  
 32 individual's weekly benefit amount as provided in section 2 of this act  
 33 when determining a consumer's income eligibility and copayment.

1        NEW SECTION.    **Sec. 18.**    A new section is added to chapter 70.47 RCW  
2 to read as follows:

3        The administrator shall not count the twenty-five dollar increase  
4 paid as part of an individual's weekly benefit amount as provided in  
5 section 2 of this act when determining an individual's gross family  
6 income, eligibility, and premium share.

7        NEW SECTION.    **Sec. 19.**    A new section is added to chapter 74.09 RCW  
8 to read as follows:

9        For apple health for kids, the department shall not count the  
10 twenty-five dollar increase paid as part of an individual's weekly  
11 benefit amount as provided in section 2 of this act when determining  
12 family income, eligibility, and payment levels.

13        NEW SECTION.    **Sec. 20.**    If any part of this act is found to be in  
14 conflict with federal requirements that are a prescribed condition to  
15 the allocation of federal funds to the state or the eligibility of  
16 employers in this state for federal unemployment tax credits, the  
17 conflicting part of this act is inoperative solely to the extent of the  
18 conflict, and the finding or determination does not affect the  
19 operation of the remainder of this act. Rules adopted under this act  
20 must meet federal requirements that are a necessary condition to the  
21 receipt of federal funds by the state or the granting of federal  
22 unemployment tax credits to employers in this state.

23        NEW SECTION.    **Sec. 21.**    In determining under section 20 of this act  
24 which if any part of this act is in conflict with federal requirements  
25 that are a prescribed condition to the allocation of federal funds to  
26 the state or the eligibility of employers in the state for federal  
27 unemployment tax credits, the commissioner of the Washington state  
28 employment security department shall have full and complete authority  
29 and discretion to determine the extent of the conflict and to determine  
30 which provisions of this act shall be inoperative and which shall  
31 remain in effect in order to remedy the conflict with federal  
32 requirements.

33        NEW SECTION.    **Sec. 22.**    If any provision of this act or its

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

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

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

15 NEW SECTION. **Sec. 25.** The employment security department must  
16 provide notice of the expiration date of sections 4 and 6 of this act  
17 and the effective date of sections 7 through 15 of this act to affected  
18 parties, the chief clerk of the house of representatives, the secretary  
19 of the senate, the office of the code reviser, and others as deemed  
20 appropriate by the department.

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

25 Correct the title.

EFFECT: (1) Findings and intent. Adds statement expressing legislative findings and intent to use surplus funds in the Trust Fund that are not derived from experience-based charges to provide temporary stimulus.

(2) Temporary benefit increase. Adds \$25 to an individual's weekly benefit amount. Makes corresponding increases to the maximum amount of

regular benefits payable (maximum duration), the maximum amount payable weekly, and the minimum amount payable weekly. Makes changes applicable to claims with an effective date on or after March 6, 2011, and before January 1, 2012. Specifies that, except for individuals receiving extended unemployment compensation or extended benefits, the temporary benefit increase is not added in any week after the total amount of temporary benefit increases for all weeks equals \$90 million. Specifies that weeks of emergency unemployment compensation and extended benefits are not considered in calculating the total amount. Provides for noncharging of the additional \$25, and specifies that the additional \$25 is not considered when calculating the flat social cost factor rate.

(3) Extended benefits. Same as sections 1 and 2 of House Bill 1090, which make changes to the extended benefits program for 2011, including a three-year lookback period.

(4) Training benefits. Same as part I of House Bill 1091, which expands the definition of "dislocated worker," eliminates certain deadlines and requirements for dislocated workers, and modifies the funding cap for training benefits, except as follows:

(a) Makes changes to training benefits applicable beginning July 1, 2012.

(b) Requires the Employment Security Department to include the following in annual program reports: Assessments of employment outcomes; an analysis of whether training leads to employment in high-demand occupations, whether degrees or certificates are required to obtain employment, and the number of participants who take courses in basic language, reading, or writing skills; an analysis of the type of work participants were engaged in prior to unemployment, and whether they return to their previous employer within 2 years, or are employed in a field for which they were retrained; a projection of program costs for the next fiscal year; and an analysis of the total funds obligated for training benefits and the net balance remaining to be obligated.

(c) Directs the Joint Legislative Audit and Review Committee (JLARC) to review and evaluate the training benefits program in 3 years and every 5 years thereafter, as well as in any year in which the ESD suspends obligation of training benefit funds or total expenditures exceed \$25 million. Requires the JLARC: To assess whether the program complies with legislative intent, is effective, and operates in a manner which results in optimum performance; and to make recommendations on program improvements. Also requires, after a JLARC review is completed, that legislative committees hold public hearings and consider changes.

(5) Social tax. Same as part II of House Bill 1091, which establishes caps on the flat social rate and reduces the multipliers used for certain graduated social rates for rate year 2011 and thereafter, except as follows: Provides for noncharging of the temporary benefit increase, and specifies that the temporary benefit increase is not considered when calculating the flat social cost factor rate.

(6) Severability. Gives the Commissioner of the Employment Security Department authority and discretion to make determinations to remedy any conflict with federal requirements.

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