

SSB 5061 - S AMD 6

By Senators Keiser, King

ADOPTED 01/27/2021

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

3 "NEW SECTION. **Sec. 1.** Amid an unprecedented and ongoing need
4 for benefits and stresses on our unemployment insurance trust fund
5 during the COVID-19 public health emergency, the legislature intends
6 to continue assessing the funding levels of the unemployment
7 insurance trust fund and the unemployment insurance premium rates
8 authorized under this act. The legislature will continue to consider
9 recommendations from the employment security department's
10 unemployment insurance advisory committee and other impacted
11 Washingtonians to ensure a healthy unemployment insurance trust fund
12 that can maintain critical economic support to Washington workers and
13 businesses while bolstering the state's economy.

14 **Sec. 2.** RCW 28B.50.030 and 2015 c 55 s 226 are each amended to
15 read as follows:

16 The definitions in this section apply throughout this chapter
17 unless the context clearly requires otherwise.

18 (1) "Adult education" means all education or instruction,
19 including academic, vocational education or training, basic skills
20 and literacy training, and "occupational education" provided by
21 public educational institutions, including common school districts
22 for persons who are eighteen years of age and over or who hold a high
23 school diploma or certificate. However, "adult education" shall not
24 include academic education or instruction for persons under twenty-
25 one years of age who do not hold a high school degree or diploma and
26 who are attending a public high school for the sole purpose of
27 obtaining a high school diploma or certificate, nor shall "adult
28 education" include education or instruction provided by any four-year
29 public institution of higher education.

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

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

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

10 (3) "Board" means the workforce training and education
11 coordinating board.

12 (4) "Board of trustees" means the local community and technical
13 college board of trustees established for each college district
14 within the state.

15 (5) "Center of excellence" means a community or technical college
16 designated by the college board as a statewide leader in
17 industry-specific, community and technical college workforce
18 education and training.

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

21 (7) "Common school board" means a public school district board of
22 directors.

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

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

27 (10) "Dislocated forest product worker" means a forest products
28 worker who: (a)(i) Has been terminated or received notice of
29 termination from employment and is unlikely to return to employment
30 in the individual's principal occupation or previous industry because
31 of a diminishing demand for his or her skills in that occupation or
32 industry; or (ii) is self-employed and has been displaced from his or
33 her business because of the diminishing demand for the business'
34 services or goods; and (b) at the time of last separation from
35 employment, resided in or was employed in a rural natural resources
36 impact area.

37 (11) "Dislocated salmon fishing worker" means a finfish products
38 worker who: (a)(i) Has been terminated or received notice of
39 termination from employment and is unlikely to return to employment
40 in the individual's principal occupation or previous industry because

1 of a diminishing demand for his or her skills in that occupation or
2 industry; or (ii) is self-employed and has been displaced from his or
3 her business because of the diminishing demand for the business's
4 services or goods; and (b) at the time of last separation from
5 employment, resided in or was employed in a rural natural resources
6 impact area.

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

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

22 (14) "High employer demand program of study" means an
23 apprenticeship, or an undergraduate or graduate certificate or degree
24 program in which the number of students prepared for employment per
25 year from in-state institutions is substantially less than the number
26 of projected job openings per year in that field, statewide or in a
27 substate region.

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

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

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

36 (a) Washington public community and technical colleges;

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

1 (c) Washington state apprenticeship and training council-approved
2 apprenticeship programs.

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

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

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

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

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

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

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

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

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

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

36 (20) "Salmon fishing worker" means a worker in the finfish
37 industry affected by 1994 or future salmon disasters. The workers
38 included within this definition shall be determined by the employment
39 security department, but shall include workers employed in the
40 industries involved in the commercial and recreational harvesting of

1 finfish including buying and processing finfish. The commissioner may
2 adopt rules further interpreting these definitions.

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

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

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

16 "Public health emergency" means a declaration or order that
17 covers the jurisdiction where the unemployed individual was working
18 on the date the individual became unemployed concerning any
19 dangerous, contagious, or infectious diseases, including a pandemic,
20 and is issued as follows:

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

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

25 (3) The governor or state executive of another state where the
26 unemployed individual was working at the time of the declaration
27 declared a state of emergency.

28 NEW SECTION. **Sec. 4.** A new section is added to chapter 50.04
29 RCW to read as follows:

30 "Department" means the employment security department, unless the
31 context clearly indicates otherwise.

32 **Sec. 5.** RCW 50.04.323 and 1993 c 483 s 2 are each amended to
33 read as follows:

34 (1) The amount of benefits payable to an individual for any week
35 (~~which begins after October 3, 1980, and~~) which begins in a period
36 with respect to which such individual is receiving a governmental or
37 other pension, retirement or retired pay, annuity, or any other

1 similar periodic payment which is based on the previous work of such
2 individual shall be reduced (but not below zero) by an amount equal
3 to the amount of such pension, retirement or retired pay, annuity, or
4 other payment, which is reasonably attributable to such week.
5 However:

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

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

12 (ii) In the case of such a payment not made under the Social
13 Security Act or the Railroad Retirement Act of 1974 (or corresponding
14 provisions of prior law), services performed for such employer by the
15 individual after the beginning of the base period (or remuneration
16 for such services) affect eligibility for, or increase the amount of,
17 such pension, retirement or retired pay, annuity, or similar payment;

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

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

26 (2) In the event that a retroactive pension or retirement payment
27 covers a period in which an individual received benefits under the
28 provisions of this title, the amount in excess of the amount to which
29 such individual would have been entitled had such retirement or
30 pension payment been considered as provided in this section shall be
31 recoverable under RCW 50.20.190.

32 (3) A lump sum payment accumulated in a plan described in this
33 section paid to an individual eligible for such payment shall (~~be~~
34 ~~prorated over the life expectancy of the individual computed in~~
35 ~~accordance with the commissioner's regulation~~) not be deducted from
36 the amount of benefits payable to an individual for any given week.

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

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

4 NEW SECTION. **Sec. 6.** A new section is added to chapter 50.12
5 RCW to read as follows:

6 (1) By December 1, 2021, and annually thereafter until December
7 1, 2025, and in compliance with RCW 43.01.036, the department must
8 report to the governor and the appropriate committees of the
9 legislature on the following:

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

12 (b) An analysis of the impact of the minimum weekly benefit
13 amount increase, including comparing wages earned and benefits
14 claimed for those individuals receiving the minimum weekly benefit
15 amount and the average claim duration for those individuals.

16 (2) By December 1, 2021, and in compliance with RCW 43.01.036,
17 the department must report to the governor and the appropriate
18 committees of the legislature a review of the amount of wages subject
19 to tax. This review shall include an analysis of the equitable
20 treatment of employers based on the amount of wages subject to tax,
21 including a comparison of the percentage of wages subject to tax for
22 small, medium, and large businesses and examples of how changes to
23 the amount of wages subject to tax would impact trust fund balances
24 and employer contributions.

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

33 (4) This section expires January 31, 2026.

34 **Sec. 7.** RCW 50.16.030 and 2011 c 4 s 4 are each amended to read
35 as follows:

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

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

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

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

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

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

38 ~~(i) First, from the moneys credited to this state's account in~~
39 ~~the unemployment trust fund pursuant to section 903 of the social~~
40 ~~security act, as amended in section 2003 of the American recovery and~~

1 ~~reinvestment act of 2009 (42 U.S.C. Sec. 1103(f)), a total amount~~
2 ~~during the two-year period consisting of fiscal years 2012 and 2013~~
3 ~~that is equal to the total amount of temporary benefit increases~~
4 ~~under RCW 50.20.1202. This subsection shall not be construed as~~
5 ~~requiring that the total amount be requisitioned in each of these~~
6 ~~fiscal years; and~~

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

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

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

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

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

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

39 (c) Limits the amount which may be obligated during a twelve-
40 month period beginning on July 1st and ending on the next June 30th

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

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

32 (6) Money requisitioned as provided in subsections (4) through
33 (6) of this section for the payment of expenses of administration
34 shall be deposited in the unemployment compensation fund, but until
35 expended, shall remain a part of the unemployment compensation fund.
36 The commissioner shall maintain a separate record of the deposit,
37 obligation, expenditure and return of funds so deposited. Any money
38 so deposited which either will not be obligated within the period
39 specified by the appropriation law or remains unobligated at the end
40 of the period, and any money which has been obligated within the

1 period but will not be expended, shall be returned promptly to the
2 account of this state in the unemployment trust fund.

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

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

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

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

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

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

30 (ii) Until June 30, 2021, an individual under quarantine or
31 isolation, as defined by the department of health, as directed by a
32 public health official during the novel coronavirus outbreak pursuant
33 to the gubernatorial declaration of emergency of February 29, 2020,
34 will meet the requirements of this subsection (1)(c) if the
35 individual is able to perform, available to perform, and actively
36 seeking work which can be performed while under quarantine or
37 isolation.

38 (iii) For the purposes of this subsection, "customary trade
39 practices" includes compliance with an electrical apprenticeship

1 training program that includes a recognized referral system under
2 apprenticeship program standards approved by the Washington state
3 apprenticeship and training council;

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

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

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

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

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

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

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

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

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

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

35 (b) The unemployed individual or another individual residing with
36 the unemployed individual is at higher risk of severe illness or
37 death from the disease that is the subject of the public health
38 emergency because the higher risk individual:

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

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

2 (B) The department of health; or

3 (C) The equivalent agency in the state where the individual
4 resides; or

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

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

9 (B) The department of health; or

10 (C) The equivalent agency in the state where the individual
11 resides.

12 **Sec. 9.** RCW 50.20.020 and 2010 c 8 s 13021 are each amended to
13 read as follows:

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

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

26 **Sec. 10.** RCW 50.20.050 and 2009 c 493 s 3 and 2009 c 247 s 1 are
27 each reenacted and amended to read as follows:

28 (1) With respect to (~~claims that have an effective date on or~~
29 ~~after January 4, 2004, and for separations that occur before~~
30 ~~September 6, 2009)~~ separations that occur on or after September 6,
31 2009, and for separations that occur before April 4, 2021:

32 (a) (~~An individual~~) A claimant shall be disqualified from
33 benefits beginning with the first day of the calendar week in which
34 (~~he or she has~~) the claimant left work voluntarily without good
35 cause and thereafter for seven calendar weeks and until (~~he or she~~
36 ~~has obtained~~) the claimant obtains bona fide work in employment
37 covered by this title and earned wages in that employment equal to
38 seven times (~~his or her~~) the claimant's weekly benefit amount. Good

1 cause reasons to leave work are limited to reasons listed in (b) of
2 this subsection.

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

7 (i) The duration of the work;

8 (ii) The extent of direction and control by the employer over the
9 work; and

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

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

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

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

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

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

31 ~~((A) With respect to claims that have an effective date
32 before July 2, 2006, he or she: (I))~~ The claimant: (A) Left work to
33 relocate for the ((spouse's)) employment ((that, due to a mandatory
34 military transfer: (1) Is outside the existing labor market area; and
35 (2) is in Washington or another state that, pursuant to statute, does
36 not consider such an individual to have left work voluntarily without
37 good cause; and (II) remained employed as long as was reasonable
38 prior to the move;

39 ~~((B) With respect to claims that have an effective date on or
40 after July 2, 2006, he or she: (I) Left work to relocate for the~~

1 ~~spouse's employment that, due to a mandatory military transfer, is~~
2 ~~outside the existing labor market area; and (II) remained employed as~~
3 ~~long as was reasonable prior to the move) of a spouse or domestic~~
4 partner that is outside the existing labor market area; and (B)
5 remained employed as long as was reasonable prior to the move;

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

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

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

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

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

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

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

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

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

37 (a) ~~((An individual))~~ A claimant shall be disqualified from
38 benefits beginning with the first day of the calendar week in which
39 ~~((he or she))~~ the claimant has left work voluntarily without good
40 cause and thereafter for seven calendar weeks and until ~~((he or she))~~

1 the claimant has obtained bona fide work in employment covered by
2 this title and earned wages in that employment equal to seven times
3 (~~his or her~~) the claimant's weekly benefit amount. Good cause
4 reasons to leave work are limited to reasons listed in (b) of this
5 subsection.

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

- 10 (i) The duration of the work;
- 11 (ii) The extent of direction and control by the employer over the
12 work; and
- 13 (iii) The level of skill required for the work in light of the
14 (~~individual's~~) claimant's training and experience.

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

- 18 (i) (~~He or she~~) The claimant has left work to accept a bona
19 fide offer of bona fide work as described in (a) of this subsection;
- 20 (ii) The separation was necessary because of the illness or
21 disability of the claimant or the death, illness, or disability of a
22 member of the claimant's immediate family if:

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

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

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

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

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

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

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

13 (viii) The ~~((individual's))~~ claimant's worksite safety
14 deteriorated, the ~~((individual))~~ claimant reported such safety
15 deterioration to the employer, and the employer failed to correct the
16 hazards within a reasonable period of time;

17 (ix) The ~~((individual))~~ claimant left work because of illegal
18 activities in the ~~((individual's))~~ claimant's worksite, the
19 ~~((individual))~~ claimant reported such activities to the employer, and
20 the employer failed to end such activities within a reasonable period
21 of time;

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

25 (xi) The ~~((individual))~~ claimant left work to enter an
26 apprenticeship program approved by the Washington state
27 apprenticeship training council. Benefits are payable beginning
28 Sunday of the week prior to the week in which the ~~((individual))~~
29 claimant begins active participation in the apprenticeship program;
30 or

31 (xii) During a public health emergency:

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

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

37 (C) The claimant or another individual residing with the claimant
38 is at higher risk of severe illness or death from the disease that is
39 the subject of the public health emergency because the higher risk
40 individual:

1 (I) Was in an age category that is defined as high risk for the
2 disease that is the subject of the public health emergency by the
3 federal centers for disease control and prevention, the department of
4 health, or the equivalent agency in the state where the individual
5 resides; or

6 (II) Has an underlying health condition, verified as required by
7 the department by rule, that is identified as a risk factor for the
8 disease that is the subject of the public health emergency by the
9 federal centers for disease control and prevention, the department of
10 health, or the equivalent agency in the state where the individual
11 resides.

12 (3) Notwithstanding subsection ~~((2))~~ (1) of this section, ~~((for~~
13 ~~separations occurring on or after July 26, 2009, an individual))~~ a
14 claimant who was simultaneously employed in full-time employment and
15 part-time employment and is otherwise eligible for benefits from the
16 loss of the full-time employment shall not be disqualified from
17 benefits because the ~~((individual))~~ claimant:

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

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

22 **Sec. 11.** RCW 50.20.100 and 2006 c 13 s 14 are each amended to
23 read as follows:

24 (1) Suitable work for an individual is employment in an
25 occupation in keeping with the individual's prior work experience,
26 education, or training and if the individual has no prior work
27 experience, special education, or training for employment available
28 in the general area, then employment which the individual would have
29 the physical and mental ability to perform. In determining whether
30 work is suitable for an individual, the commissioner shall also
31 consider the degree of risk involved to the individual's health,
32 safety, and morals, the degree of risk to the health of those
33 residing with the individual during a public health emergency, the
34 individual's physical fitness, the individual's length of
35 unemployment and prospects for securing local work in the
36 individual's customary occupation, the distance of the available work
37 from the individual's residence, and such other factors as the
38 commissioner may deem pertinent, including state and national
39 emergencies.

1 (2) For individuals with base year work experience in
2 agricultural labor, any agricultural labor available from any
3 employer shall be deemed suitable unless it meets conditions in RCW
4 50.20.110 or the commissioner finds elements of specific work
5 opportunity unsuitable for a particular individual.

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

9 (4) For individuals who have qualified for unemployment
10 compensation benefits under RCW 50.20.050 (1)(b)(iv) or (2)(b)(iv),
11 as applicable, an evaluation of the suitability of the work must
12 consider the individual's need to address the physical,
13 psychological, legal, and other effects of domestic violence or
14 stalking.

15 **Sec. 12.** RCW 50.20.118 and 1982 1st ex.s. c 18 s 7 are each
16 amended to read as follows:

17 ~~(1) ((Notwithstanding any other provision of this chapter, an
18 otherwise eligible individual shall not be denied benefits for any
19 week because he or she is in training approved under section
20 236(a)(1) of the Trade Act of 1974, P.L. 93-618, nor may that
21 individual be denied benefits for any such week by reason of leaving
22 work which is not suitable employment to enter such training, or for
23 failure to meet any requirement of federal or state law for any such
24 week which relates to the individual's availability for work, active
25 search for work, or refusal to accept work.~~

26 ~~(2) For the purposes of this section, "suitable employment"
27 means, with respect to an individual, work of a substantially equal
28 or higher skill level than the individual's past adversely affected
29 employment (as described for the purposes of the Trade Act of 1974,
30 P.L. 93-618), if the wages for such work are not less than eighty
31 percent of the individual's average weekly wage as determined for the
32 purposes of the Trade Act of 1974, P.L. 93-618.)) For purposes of
33 this section, "adversely affected worker," "approved training," "on-
34 the-job training," and "suitable employment" have the same definition
35 as in 20 C.F.R. Part 618.~~

36 (2) An adversely affected worker may not be denied benefits
37 because:

38 (a) Such worker is enrolled in or participating in approved
39 training;

1 (b) Such worker refuses work to which the department referred
2 such worker because such work either would require discontinuation of
3 approved training or interfere with successful participation in
4 approved training;

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

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

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

15 **Sec. 13.** RCW 50.20.120 and 2011 c 4 s 2 are each amended to read
16 as follows:

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

19 (1) ~~((For claims with an effective date on or after April 4,~~
20 ~~2004, benefits))~~ Benefits shall be payable to any eligible individual
21 during the individual's benefit year in a maximum amount equal to the
22 lesser of twenty-six times the weekly benefit amount, as determined
23 in subsection (2) of this section, or one-third of the individual's
24 base year wages under this title.

25 (2) ~~((For claims with an effective date on or after April 24,~~
26 ~~2005, an))~~ An individual's weekly benefit amount shall be an amount
27 equal to three and eighty-five one-hundredths percent of the average
28 quarterly wages of the individual's total wages during the two
29 quarters of the individual's base year in which such total wages were
30 highest.

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

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

38 (b) ~~((The))~~ (i) For claims with an effective date of June 30,
39 2021, or before, the minimum amount payable weekly shall be fifteen

1 percent of the "average weekly wage" for the calendar year preceding
2 such June 30th.

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

6 (c) Notwithstanding the provisions of (a) and (b) of this
7 subsection, an individual may not receive a weekly benefit amount
8 that exceeds the individual's weekly wage. For purposes of this
9 subsection, the "individual's weekly wage" means the individual's
10 annualized total wages divided by 52. For purposes of this
11 subsection, the "individual's annualized total wages" means the
12 average quarterly wages of the individual's total wages during the
13 two quarters of the individual's base year in which such total wages
14 were highest, multiplied by four. This subsection applies to claims
15 with an effective date on or after January 2, 2022, or such
16 subsequent date as may be provided by the department by rule to
17 continue eligibility of claimants in this state for federal
18 unemployment benefits or receipt of federal funds under the
19 coronavirus aid, relief, and economic security act (P.L. 116-136),
20 the continued assistance for unemployed workers act of 2020 (P.L.
21 116-260), or other act extending such benefits or funds.

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

25 **Sec. 14.** RCW 50.20.140 and 1998 c 161 s 2 are each amended to
26 read as follows:

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

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

4 (3) The term "claim for waiting period" shall mean a
5 certification, after the close of a given week, that the requirements
6 stated herein for eligibility for waiting period have been met. If
7 RCW 50.20.010(1)(d) is waived, the term "claim for waiting period" is
8 not applicable.

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

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

24 **Sec. 15.** RCW 50.24.014 and 2016 sp.s. c 36 s 941 are each
25 amended to read as follows:

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

38 (b) A separate and identifiable account is established in the
39 administrative contingency fund for financing the employment security

1 department's administrative costs under RCW 50.22.150 and 50.22.155
2 and the costs under RCW 50.22.150(11) and 50.22.155 (1)(m) and
3 (2)(m). All money in this account shall be expended solely for the
4 purposes of this title and for no other purposes whatsoever.
5 Contributions to this account shall accrue and become payable by each
6 employer, except employers as described in RCW 50.44.010 and
7 50.44.030 who have properly elected to make payments in lieu of
8 contributions, taxable local government employers as described in RCW
9 50.44.035, those employers who are required to make payments in lieu
10 of contributions, those employers described under RCW
11 50.29.025(~~((2))~~) (1)(d), and those qualified employers assigned rate
12 class 20 or rate class 40, as applicable, under RCW 50.29.025, at a
13 basic rate of one one-hundredth of one percent. The amount of wages
14 subject to tax shall be determined under RCW 50.24.010. Any amount of
15 contributions payable under this subsection (1)(b) that exceeds the
16 amount that would have been collected at a rate of four one-
17 thousandths of one percent must be deposited in the account created
18 in (a) of this subsection.

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

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

28 (3) If the commissioner determines that federal funding has been
29 increased to provide financing for the services specified in chapter
30 50.62 RCW, the commissioner shall direct that collection of
31 contributions under this section be terminated on the following
32 January 1st.

33 (~~((4) During the 2015-2017 fiscal biennium, the legislature may
34 transfer into the unrestricted administrative contingency fund and
35 into the state general fund from the account in subsection (1)(b) of
36 this section such amounts as reflect the excess fund balance of the
37 account.))~~)

38 **Sec. 16.** RCW 50.29.021 and 2020 c 86 s 3 are each amended to
39 read as follows:

1 (1)(a) An experience rating account shall be established and
2 maintained for each employer, except employers as described in RCW
3 50.44.010, 50.44.030, and 50.50.030 who have properly elected to make
4 payments in lieu of contributions, taxable local government employers
5 as described in RCW 50.44.035, and those employers who are required
6 to make payments in lieu of contributions, based on existing records
7 of the employment security department.

8 (b) Benefits paid to an eligible individual shall be charged to
9 the experience rating accounts of each of such individual's employers
10 during the individual's base year in the same ratio that the wages
11 paid by each employer to the individual during the base year bear to
12 the wages paid by all employers to that individual during that base
13 year, except as otherwise provided in this section.

14 (c) When the eligible individual's separating employer is a
15 covered contribution paying base year employer, benefits paid to the
16 eligible individual shall be charged to the experience rating account
17 of only the individual's separating employer if the individual
18 qualifies for benefits under:

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

22 (ii) RCW 50.20.050 (1)(b)(v) through (x) or (2)(b)(v) through
23 (x).

24 (2) The legislature finds that certain benefit payments, in whole
25 or in part, should not be charged to the experience rating accounts
26 of employers except those employers described in RCW 50.44.010,
27 50.44.030, and 50.50.030 who have properly elected to make payments
28 in lieu of contributions, taxable local government employers
29 described in RCW 50.44.035, and those employers who are required to
30 make payments in lieu of contributions, as follows:

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

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

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

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

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

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

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

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

24 ~~((The forty-five dollar increase paid as part of an
25 individual's weekly benefit amount as provided in RCW 50.20.1201 and
26 the twenty-five dollar increase paid as part of an individual's
27 weekly benefit amount as provided in RCW 50.20.1202 shall not be
28 charged to the experience rating account of any contribution paying
29 employer.~~

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

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

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

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

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

13 (j) Benefits paid for all weeks starting with the week ending
14 March 28, 2020, and ending with the week ending May 30, 2020, shall
15 not be charged to the experience rating account of any contribution
16 paying employer.

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

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

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

27 (iii) Is unemployed as a result of closure or severe curtailment
28 of operation at the employer's plant, building, worksite, or other
29 facility. This closure must be for reasons directly attributable to a
30 catastrophic occurrence such as fire, flood, or other natural
31 disaster, or to the presence of any dangerous, contagious, or
32 infectious disease that is the subject of a public health emergency
33 at the employer's plant, building, worksite, or other facility;

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

1 (v) Continues to be employed on a regularly scheduled permanent
2 part-time basis by a base year employer and who qualified for two
3 consecutive unemployment claims where wages were attributable to at
4 least one employer who employed the individual in both base years.
5 Benefit charge relief ceases when the employment relationship between
6 the employer requesting relief and the claimant is terminated. This
7 subsection does not apply to shared work employers under chapter
8 50.60 RCW;

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

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

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

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

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

1 are based on the originally filed incomplete or inaccurate report or
2 reports.

3 (5) An employer's experience rating account may not be relieved
4 of charges for a benefit payment and an employer who reimburses the
5 trust fund for benefit payments may not be credited for a benefit
6 payment if a benefit payment was made because the employer or
7 employer's agent failed to respond timely or adequately to a written
8 request of the department for information relating to the claim or
9 claims without establishing good cause for the failure and the
10 employer or employer's agent has a pattern of such failures. The
11 commissioner has the authority to determine whether the employer has
12 good cause under this subsection.

13 (a) For the purposes of this subsection, "adequately" means
14 providing accurate information of sufficient quantity and quality
15 that would allow a reasonable person to determine eligibility for
16 benefits.

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

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

24 (B) Twenty percent of the total current claims against the
25 employer.

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

29 **Sec. 17.** RCW 50.29.025 and 2011 c 4 s 16 and 2011 c 3 s 3 are
30 each reenacted and amended to read as follows:

31 ~~(1) ((For contributions assessed for rate years 2005 through~~
32 ~~2009, the contribution rate for each employer subject to~~
33 ~~contributions under RCW 50.24.010 shall be the sum of the array~~
34 ~~calculation factor rate and the graduated social cost factor rate~~
35 ~~determined under this subsection, and the solvency surcharge~~
36 ~~determined under RCW 50.29.041, if any.~~

37 ~~(a) The array calculation factor rate shall be determined as~~
38 ~~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 Class	Rate (percent)
At least	Less than		
	0.000001	1	0.00
0.000001	0.001250	2	0.13
0.001250	0.002500	3	0.25
0.002500	0.003750	4	0.38
0.003750	0.005000	5	0.50
0.005000	0.006250	6	0.63
0.006250	0.007500	7	0.75
0.007500	0.008750	8	0.88
0.008750	0.010000	9	1.00
0.010000	0.011250	10	1.15
0.011250	0.012500	11	1.30
0.012500	0.013750	12	1.45
0.013750	0.015000	13	1.60
0.015000	0.016250	14	1.75
0.016250	0.017500	15	1.90
0.017500	0.018750	16	2.05
0.018750	0.020000	17	2.20
0.020000	0.021250	18	2.35
0.021250	0.022500	19	2.50
0.022500	0.023750	20	2.65

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

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

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

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

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

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

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

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

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

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

37 (I) Rate class 1 - 78 percent;

38 (II) Rate class 2 - 82 percent;

39 (III) Rate class 3 - 86 percent;

40 (IV) Rate class 4 - 90 percent;

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

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

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

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

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

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

~~(i) The array calculation factor rate shall be two-tenths higher than that in rate class 40, except employers who have an approved~~

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

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

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

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

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

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

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

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

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

33 ~~(C) The history factor shall be based on the total amounts of~~
34 ~~benefits charged and contributions paid in the three fiscal years~~
35 ~~ending prior to the computation date by employers not qualified to be~~
36 ~~in the array, other than employers in (c) of this subsection, who~~
37 ~~were first subject to contributions in the calendar year ending three~~
38 ~~years prior to the computation date. The commissioner shall calculate~~
39 ~~the history ratio by dividing the total amount of benefits charged by~~
40 ~~the total amount of contributions paid in this three-year period by~~

~~these employers. The division shall be carried to the second decimal place with the remaining fraction disregarded unless it amounts to five one-hundredths or more, in which case the second decimal place shall be rounded to the next higher digit. The commissioner shall determine the history factor according to the history ratio as follows:~~

	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)) 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
			Class	(percent)
	At least	Less than		
		0.000001	1	0.00
	0.000001	0.001250	2	0.11

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

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

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

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

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

1 for rate year 2025 the calculation may not result in a flat social
2 cost factor that is more than nine-tenths percent.

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

10 (III) For the purposes of this subsection (~~((2))~~) (1)(b), the
11 commissioner shall determine the number of months of unemployment
12 benefits in the unemployment compensation fund using the benefit cost
13 rate for the average of the three highest calendar benefit cost rates
14 in the twenty consecutive completed calendar years immediately
15 preceding the cut-off date or a period of consecutive calendar years
16 immediately preceding the cut-off date that includes three
17 recessions, if longer. (~~(The twenty-five dollar increase paid as part~~
18 ~~of an individual's weekly benefit amount as provided in RCW~~
19 ~~50.20.1202 shall not be considered in calculating the benefit cost~~
20 ~~rate when determining the number of months of unemployment benefits~~
21 ~~in the unemployment compensation fund.)~~)

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

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

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

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

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

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

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

4 (VII) At least eighteen months of unemployment benefits, the
5 minimum shall be fifteen hundredths of one percent through rate year
6 2011 and shall be zero thereafter.

7 (ii) ~~((A) For rate years through 2010, the graduated social cost~~
8 ~~factor rate for each employer in the array is the flat social cost~~
9 ~~factor multiplied by the percentage specified as follows for the rate~~
10 ~~class to which the employer has been assigned in (a) (ii) of this~~
11 ~~subsection, except that the sum of an employer's array calculation~~
12 ~~factor rate and the graduated social cost factor rate may not exceed~~
13 ~~six percent or, for employers whose North American industry~~
14 ~~classification system code is within "111," "112," "1141," "115,"~~
15 ~~"3114," "3117," "42448," or "49312," may not exceed five and four-~~
16 ~~tenths percent:~~

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

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

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

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

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

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

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

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

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

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

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

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

29 ~~(B) For rate years 2011 and thereafter, the)~~ The graduated
30 social cost factor rate for each employer in the array is the flat
31 social cost factor multiplied by the percentage specified as follows
32 for the rate class to which the employer has been assigned in (a) (ii)
33 of this subsection, except that the sum of an employer's array
34 calculation factor rate and the graduated social cost factor rate may
35 not exceed six percent or, for employers whose North American
36 industry classification system code is within "111," "112," "1141,"
37 "115," "3114," "3117," "42448," or "49312," may not exceed five and
38 four-tenths percent:

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

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

- 1 ~~((III))~~ (C) Rate class 3 - 48 percent;
- 2 ~~((IV))~~ (D) Rate class 4 - 52 percent;
- 3 ~~((V))~~ (E) Rate class 5 - 56 percent;
- 4 ~~((VI))~~ (F) Rate class 6 - 60 percent;
- 5 ~~((VII))~~ (G) Rate class 7 - 64 percent;
- 6 ~~((VIII))~~ (H) Rate class 8 - 68 percent;
- 7 ~~((IX))~~ (I) Rate class 9 - 72 percent;
- 8 ~~((X))~~ (J) Rate class 10 - 76 percent;
- 9 ~~((XI))~~ (K) Rate class 11 - 80 percent;
- 10 ~~((XII))~~ (L) Rate class 12 - 84 percent;
- 11 ~~((XIII))~~ (M) Rate class 13 - 88 percent;
- 12 ~~((XIV))~~ (N) Rate class 14 - 92 percent;
- 13 ~~((XV))~~ (O) Rate class 15 - 96 percent;
- 14 ~~((XVI))~~ (P) Rate class 16 - 100 percent;
- 15 ~~((XVII))~~ (Q) Rate class 17 - 104 percent;
- 16 ~~((XVIII))~~ (R) Rate class 18 - 108 percent;
- 17 ~~((XIX))~~ (S) Rate class 19 - 112 percent;
- 18 ~~((XX))~~ (T) Rate class 20 - 116 percent; and
- 19 ~~((XXI))~~ (U) Rate classes 21 through 40 - 120 percent.

20 (iii) For the purposes of this section:

21 (A) "Total social cost" means the amount calculated by
22 subtracting the array calculation factor contributions paid by all
23 employers with respect to the four consecutive calendar quarters
24 immediately preceding the computation date and paid to the employment
25 security department by the cut-off date from the total unemployment
26 benefits paid to claimants in the same four consecutive calendar
27 quarters. ~~((To calculate the flat social cost factor for rate years
28 2012 and 2013, the twenty-five dollar increase paid as part of an
29 individual's weekly benefit amount as provided in RCW 50.20.1202
30 shall not be considered for purposes of calculating the total
31 unemployment benefits paid to claimants in the four consecutive
32 calendar quarters immediately preceding the computation date.))~~

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

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

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

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

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

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

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

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

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

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

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

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

5 (i) The array calculation factor rate shall be a rate equal to
6 the average industry array calculation factor rate as determined by
7 the commissioner, multiplied by the history factor, but not less than
8 one percent or more than the array calculation factor rate in rate
9 class 40;

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

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

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

36 (~~(3)~~) (2) Assignment of employers by the commissioner to
37 industrial classification, for purposes of this section, shall be in

1 accordance with established classification practices found in the
2 North American industry classification system code.

3 **Sec. 18.** RCW 50.29.026 and 2003 2nd sp.s. c 4 s 17 are each
4 amended to read as follows:

5 (1) (~~Beginning with contributions assessed for rate year 1996,~~)
6 Except as provided in subsection (3) of this section, a qualified
7 employer's contribution rate (~~applicable for rate years beginning~~
8 ~~before January 1, 2005,~~) or array calculation factor rate
9 (~~applicable for rate years beginning on or after January 1, 2005,~~)
10 determined under RCW 50.29.025 may be modified as follows:

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

31 (b) Payment of a voluntary contribution is considered timely if
32 received by the department during the period beginning on the date of
33 mailing to the employer the notice of contribution rate (~~applicable~~
34 ~~for rate years beginning before January 1, 2005, or notice of array~~
35 ~~calculation factor rate applicable for rate years beginning on or~~
36 ~~after January 1, 2005,~~) required under this title for the rate year
37 for which the employer is seeking a modification of (~~his or her~~)
38 the employer's rate and ending on February 15th of that rate year

1 (~~or, for voluntary contributions for rate year 2000, ending on March~~
2 ~~31, 2000~~)).

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

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

10 (3) From the effective date of this section and until May 31,
11 2026, the following applies:

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

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

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

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

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

25 ~~((Beginning with contributions assessed for rate year 2005))~~
26 Except for contributions assessed for rate years 2021, 2022, 2023,
27 2024, and 2025, the contribution rate of each employer subject to
28 contributions under RCW 50.24.010 shall include a solvency surcharge
29 determined as follows:

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

35 (2) The solvency surcharge shall be the lowest rate necessary, as
36 determined by the commissioner, but not more than two-tenths of one
37 percent, to provide revenue during the applicable rate year that will
38 fund unemployment benefits for the number of months that is the
39 difference between nine months and the number of months for which the

1 balance in the unemployment compensation fund on the cut-off date
2 will provide benefits.

3 (3) The basis for determining the number of months of
4 unemployment benefits shall be the same basis used in RCW
5 50.29.025(~~((2))~~) (1)(b)(i)(B).

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

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

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

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

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

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

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

25 (B) Any experience assigned to the predecessor involved in the
26 transfer. If only a portion of the business was transferred, then the
27 experience attributable to the acquired portion is assigned to the
28 successor.

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

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

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

35 ~~(I) The contribution rate of the rate class assigned to the~~
36 ~~predecessor employer at the time of the transfer for the remainder of~~
37 ~~that rate year. Any experience relating to the assignment of that~~
38 ~~rate class attributable to the predecessor is transferred to the~~
39 ~~successor. Beginning with the January 1st following the transfer, the~~

1 ~~successor's contribution rate shall be based on a combination of the~~
2 ~~transferred experience of the acquired business and the successor's~~
3 ~~experience after the transfer; or~~

4 ~~(II) The contribution rate equal to the average industry rate as~~
5 ~~determined by the commissioner, but not less than one percent, and~~
6 ~~continuing until the successor qualifies for a different rate in its~~
7 ~~own right. Assignment of employers by the commissioner to industrial~~
8 ~~classification, for purposes of this subsection, must be in~~
9 ~~accordance with established classification practices found in the~~
10 ~~North American industry classification system issued by the federal~~
11 ~~office of management and budget to the fourth digit provided in the~~
12 ~~North American industry classification system.~~

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

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

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

23 ~~((I))~~ (A) At the contribution rate assigned to the predecessor
24 employer at the time of the transfer for the remainder of that rate
25 year. Any experience attributable to the predecessor relating to the
26 assignment of the predecessor's rate class is transferred to the
27 successor.

28 ~~((II))~~ (B) Beginning January 1st following the transfer, the
29 successor's contribution rate for each rate year shall be based on an
30 array calculation factor rate that is a combination of the following:
31 The successor's experience with payrolls and benefits; and any
32 experience assigned to the predecessor involved in the transfer. If
33 only a portion of the business was transferred, then the experience
34 attributable to the acquired portion is assigned to the successor if
35 qualified under RCW 50.29.010 by including the transferred
36 experience. If not qualified under RCW 50.29.010, the contribution
37 rate shall equal the sum of the rates determined by the commissioner
38 under RCW 50.29.025 (1)(d) ~~((ii) or (2)(d))~~ and 50.29.041, if
39 applicable, and continuing until the successor qualifies for a
40 different rate, including the transferred experience.

1 (~~(B)~~) (ii) If there is a substantial continuity of ownership,
2 control, or management by the successor of the business of the
3 predecessor, the successor shall pay contributions at the
4 contribution rate determined for the predecessor employer at the time
5 of the transfer for the remainder of that rate year. Any experience
6 attributable to the predecessor relating to the assignment of the
7 predecessor's rate class is transferred to the successor. Beginning
8 January 1st following the transfer, the successor's array calculation
9 factor rate shall be based on a combination of the transferred
10 experience of the acquired business and the successor's experience
11 after the transfer.

12 (~~(C)~~) (iii) If the successor simultaneously acquires the
13 business or a portion of the business of two or more employers with
14 different contribution rates, the successor's rate, from the date the
15 transfer occurred until the end of that rate year and until it
16 qualifies in its own right for a new rate, shall be the sum of the
17 rates determined by the commissioner under RCW 50.29.025 (1) (a) and
18 (b) (~~or (2) (a) and (b),~~) and 50.29.041, applicable at the time of
19 the acquisition, to the predecessor employer who, among the parties
20 to the acquisition, had the largest total payroll in the completed
21 calendar quarter immediately preceding the date of transfer, but not
22 less than the sum of the rates determined by the commissioner under
23 RCW 50.29.025 (1) (d) (~~(ii) or (2) (d)~~) and 50.29.041, if applicable.

24 (c) With respect to predecessor employers:

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

28 (ii) In all cases, beginning January 1st following the transfer,
29 the predecessor's contribution rate or the predecessor's array
30 calculation factor for each rate year shall be based on its
31 experience with payrolls and benefits as of the regular computation
32 date for that rate year excluding the experience of the transferred
33 business or transferred portion of business as that experience has
34 transferred to the successor: PROVIDED, That if all of the
35 predecessor's business is transferred to a successor or successors,
36 the predecessor shall not be a qualified employer until it satisfies
37 the requirements of a "qualified employer" as set forth in RCW
38 50.29.010.

39 (3) A predecessor-successor relationship does not exist for
40 purposes of subsection (2) of this section when a significant purpose

1 of the transfer of a business or its operating assets is for the
2 employer to move or expand an existing business, or for an employer
3 to establish a substantially similar business under common ownership,
4 management, and control. However, if an employer transfers its
5 business to another employer, and both employers are at the time of
6 transfer under substantially common ownership, management, or
7 control, then the unemployment experience attributable to the
8 transferred business shall also be transferred to, and combined with
9 the unemployment experience attributable to, the employer to whom
10 such business is so transferred as specified in subsection (2)(a) of
11 this section.

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

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

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

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

24 (b) If the successor was not an employer at the time of the
25 transfer, then the experience rating account of the acquired business
26 must not be transferred and, instead, the sum of the rate determined
27 by the commissioner under RCW 50.29.025 (1)(d) (~~((ii) or (2)(d))~~) and
28 50.29.041, if applicable, shall be assigned.

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

34 (a) The commissioner shall, for the rate year in which the
35 commissioner makes the determination under this subsection and for
36 each of the three consecutive rate years following that rate year,
37 assign to the employer or business the total rate, which is the sum
38 of the recalculated array calculation factor rate and a civil penalty
39 assessment rate, calculated as follows:

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

4 (ii) Calculate a civil penalty assessment rate in an amount that,
5 when added to the array calculation factor rate determined under
6 (a)(i) of this subsection for the applicable rate year, results in a
7 total rate equal to the maximum array calculation factor rate under
8 RCW 50.29.025 plus two percent, which total rate is not limited by
9 any maximum array calculation factor rate established in RCW
10 50.29.025 (1)(b)(ii) (~~or (2)(b)(ii)~~);

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

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

16 (3) If the person knowingly evading the successorship provisions,
17 or knowingly attempting to evade these provisions, or knowingly
18 promoting the evasion of these provisions, is not an employer, the
19 person is subject to a civil penalty assessment of five thousand
20 dollars per occurrence. In addition, the person is subject to the
21 penalties prescribed in RCW 50.36.020 as if the person were an
22 employer. The person must also pay for the employment security
23 department's reasonable expenses of auditing his or her books and
24 collecting the civil penalty assessment.

25 (4) For purposes of this section:

26 (a) "Knowingly" means having actual knowledge of or acting with
27 deliberate ignorance or reckless disregard for the prohibition
28 involved and includes, but is not limited to, intent to evade,
29 misrepresentation, or willful nondisclosure.

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

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

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

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

1 (7) The commissioner shall engage in prevention, detection, and
2 collection activities related to evasion of the successorship
3 provisions of RCW 50.29.062 and this section, and establish
4 procedures to enforce this section.

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

7 Benefits paid to employees of "nonprofit organizations" shall be
8 financed in accordance with the provisions of this section. For the
9 purpose of this section and RCW 50.44.070, the term "nonprofit
10 organization" is limited to those organizations described in RCW
11 50.44.010, and joint accounts composed exclusively of such
12 organizations.

13 (1) Any nonprofit organization which is, or becomes subject to
14 this title (~~(on or after January 1, 1972)~~), shall pay contributions
15 under the provisions of RCW 50.24.010 and chapter 50.29 RCW, unless
16 it elects, in accordance with this subsection, to pay to the
17 commissioner for the unemployment compensation fund an amount equal
18 to the full amount of regular and additional benefits and one-half of
19 the amount of extended benefits paid to individuals for weeks of
20 unemployment that are based upon wages paid or payable during the
21 effective period of such election to the extent that such payments
22 are attributable to service in the employ of such nonprofit
23 organization.

24 (a) Any nonprofit organization which becomes subject to this
25 title (~~(after January 1, 1972,~~) may elect to become liable for
26 payments in lieu of contributions for a period of not less than
27 twelve months beginning with the date on which such subjectivity
28 begins by filing a written notice of its election with the
29 commissioner not later than thirty days immediately following the
30 date of the determination of such subjectivity.

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

37 (c) Any nonprofit organization which has been paying
38 contributions under this title (~~(for a period subsequent to January~~
39 ~~1, 1972,~~) may change to a reimbursable basis by filing with the

1 commissioner not later than thirty days prior to the beginning of any
2 taxable year a written notice of election to become liable for
3 payments in lieu of contributions. Such election shall not be
4 terminable by the organization for that and the next year.

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

9 (e) The commissioner, in accordance with such regulations as the
10 commissioner may prescribe, shall notify each nonprofit organization
11 of any determination which the commissioner may make of its status as
12 an employer and of the effective date of any election which it makes
13 and of any termination of such election. Any nonprofit organization
14 subject to such determination and dissatisfied with such
15 determination may file a request for review and redetermination with
16 the commissioner within thirty days of the mailing of the
17 determination to the organization. Should such request for review and
18 redetermination be denied, the organization may, within ten days of
19 the mailing of such notice of denial, file with the appeal tribunal a
20 petition for hearing which shall be heard in the same manner as a
21 petition for denial of refund. The appellate procedure prescribed by
22 this title for further appeal shall apply to all denials of review
23 and redetermination under this paragraph.

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

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

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

37 (ii) At the end of each calendar quarter, or at the end of such
38 other period as determined by the commissioner, the commissioner
39 shall bill each nonprofit organization for an amount representing one
40 of the following:

1 (A) The percentage of its total payroll for the immediately
2 preceding calendar year as the commissioner shall determine. Such
3 determination shall be based each year on the average benefit costs
4 attributable to service in the employ of nonprofit organizations
5 during the preceding calendar year.

6 (B) For any organization which did not pay wages throughout the
7 four calendar quarters of the preceding calendar year, such
8 percentage of its payroll during such year as the commissioner shall
9 determine.

10 (iii) At the end of each taxable year, the commissioner may
11 modify the quarterly percentage of payroll thereafter payable by the
12 nonprofit organization in order to minimize excess or insufficient
13 payments.

14 (iv) At the end of each taxable year, the commissioner shall
15 determine whether the total of payments for such year made by a
16 nonprofit organization is less than, or in excess of, the total
17 amount of regular and additional benefits plus one-half of the amount
18 of extended benefits paid to individuals during such taxable year
19 based on wages attributable to service in the employ of such
20 organization. Each nonprofit organization whose total payments for
21 such year are less than the amount so determined shall be liable for
22 payment of the unpaid balance to the fund in accordance with (c) of
23 this subsection. If the total payments exceed the amount so
24 determined for the taxable year, all of the excess payments will be
25 retained in the fund as part of the payments which may be required
26 for the next taxable year, or a part of the excess may, at the
27 discretion of the commissioner, be refunded from the fund or retained
28 in the fund as part of the payments which may be required for the
29 next taxable year.

30 (c) Payment of any bill rendered under (a) or (b) of this
31 subsection shall be made not later than thirty days after such bill
32 was mailed to the last known address of the nonprofit organization or
33 was otherwise delivered to it, and if not paid within such thirty
34 days, the reimbursement payments itemized in the bill shall be deemed
35 to be delinquent and the whole or part thereof remaining unpaid shall
36 bear interest and penalties from and after the end of such thirty
37 days at the rate and in the manner set forth in RCW 50.12.220 and
38 50.24.040.

39 (d) Payments made by any nonprofit organization under the
40 provisions of this section shall not be deducted or deductible, in

1 whole or in part, from the remuneration of individuals in the employ
2 of the organization. Any deduction in violation of the provisions of
3 this paragraph shall be unlawful.

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

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

11 (3) Each employer that is liable for payments in lieu of
12 contributions shall pay to the commissioner for the fund the total
13 amount of regular and additional benefits plus the amount of one-half
14 of extended benefits paid that are attributable to service in the
15 employ of such employer. If benefits paid to an individual are based
16 on wages paid by more than one employer and one or more of such
17 employers are liable for payments in lieu of contributions, the
18 amount payable to the fund by each employer that is liable for such
19 payments shall be determined in accordance with the provisions of (a)
20 and (b) of this subsection.

21 (a) If benefits paid to an individual are based on wages paid by
22 one or more employers that are liable for payments in lieu of
23 contributions and on wages paid by one or more employers who are
24 liable for contributions, the amount of benefits payable by each
25 employer that is liable for payments in lieu of contributions shall
26 be an amount which bears the same ratio to the total benefits paid to
27 the individual as the total base-period wages paid to the individual
28 by such employer bear to the total base-period wages paid to the
29 individual by all of his or her base-period employers.

30 (b) If benefits paid to an individual are based on wages paid by
31 two or more employers that are liable for payments in lieu of
32 contributions, the amount of benefits payable by each such employer
33 shall be an amount which bears the same ratio to the total benefits
34 paid to the individual as the total base-period wages paid to the
35 individual by such employer bear to the total base-period wages paid
36 to the individual by all of his or her base-period employers.

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

1 Unless the context clearly requires otherwise, the definitions in
2 this section apply throughout this chapter.

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

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

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

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

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

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

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

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

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

33 (2) ~~((For weeks of benefits paid between July 1, 2012, and June~~
34 ~~28, 2015, any))~~ Any amount of shared work benefits that is paid or
35 reimbursed by the federal government is not charged to experience
36 rating accounts of employers or to employers who are liable for
37 payments in lieu of contributions. The employment security department
38 shall remove charges for any amount of shared work benefits that is

1 paid or reimbursed by the federal government (~~(between July 1, 2012,~~
2 ~~and the week prior to July 28, 2013)~~).

3 NEW SECTION. **Sec. 25.** A new section is added to chapter 50.60
4 RCW to read as follows:

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

9 NEW SECTION. **Sec. 26.** If any part of this act is found to be in
10 conflict with federal requirements that are a prescribed condition to
11 the allocation of federal funds to the state or the eligibility of
12 employers in this state for federal unemployment tax credits, the
13 conflicting part of this act is inoperative solely to the extent of
14 the conflict, and the finding or determination does not affect the
15 operation of the remainder of this act. Rules adopted under this act
16 must meet federal requirements that are a necessary condition to the
17 receipt of federal funds by the state or the granting of federal
18 unemployment tax credits to employers in this state.

19 NEW SECTION. **Sec. 27.** The following acts or parts of acts are
20 each repealed:

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

24 (2) RCW 50.20.1202 (Additional temporary benefit increase) and
25 2011 c 4 s 1.

26 NEW SECTION. **Sec. 28.** This act is necessary for the immediate
27 preservation of the public peace, health, or safety, or support of
28 the state government and its existing public institutions, and takes
29 effect immediately."

SSB 5061 - S AMD 6
By Senators Keiser, King

ADOPTED 01/27/2021

1 On page 1, line 1 of the title, after "insurance;" strike the
2 remainder of the title and insert "amending RCW 28B.50.030,
3 50.04.323, 50.16.030, 50.20.010, 50.20.020, 50.20.100, 50.20.118,
4 50.20.120, 50.20.140, 50.24.014, 50.29.021, 50.29.026, 50.29.041,
5 50.29.062, 50.29.063, 50.44.060, 50.60.020, and 50.60.110; reenacting
6 and amending RCW 50.20.050 and 50.29.025; adding new sections to
7 chapter 50.04 RCW; adding a new section to chapter 50.12 RCW; adding
8 a new section to chapter 50.60 RCW; creating new sections; repealing
9 RCW 50.20.1201 and 50.20.1202; providing an expiration date; and
10 declaring an emergency."

EFFECT: Provides legislative intent. Makes the provision capping the weekly benefit amount to the individual's weekly wage apply to claims with an effective date on or after January 2, 2022, or such subsequent date by ESD rule to continue eligibility of claimants in this state for federal unemployment benefits or receipt of federal funds under the CARES Act, the Continued Assistance for Unemployed Workers Act, or other act extending such benefits or funds. Removes the provisions changing the period for calculating the experience rate taxes.

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