

CERTIFICATION OF ENROLLMENT

ENGROSSED SUBSTITUTE SENATE BILL 5061

Chapter 2, Laws of 2021

67th Legislature
2021 Regular Session

UNEMPLOYMENT INSURANCE

EFFECTIVE DATE: February 8, 2021

Passed by the Senate January 27, 2021
Yeas 42 Nays 7

DENNY HECK

President of the Senate

Passed by the House January 29, 2021
Yeas 89 Nays 8

Laurie Jinkins

**Speaker of the House of
Representatives**

Approved February 8, 2021 11:41 AM

JAY INSLEE

Governor of the State of Washington

CERTIFICATE

I, Brad Hendrickson, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **ENGROSSED SUBSTITUTE SENATE BILL 5061** as passed by the Senate and the House of Representatives on the dates hereon set forth.

BRAD HENDRICKSON

Secretary

FILED

February 8, 2021

**Secretary of State
State of Washington**

ENGROSSED SUBSTITUTE SENATE BILL 5061

Passed Legislature - 2021 Regular Session

State of Washington 67th Legislature 2021 Regular Session

By Senate Labor, Commerce & Tribal Affairs (originally sponsored by Senators Keiser, Conway, Billig, Dhingra, King, Nguyen, Saldaña, Stanford, and Wilson, C.; by request of Office of the Governor)

READ FIRST TIME 01/19/21.

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

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

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

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

3 The definitions in this section apply throughout this chapter
4 unless the context clearly requires otherwise.

5 (1) "Adult education" means all education or instruction,
6 including academic, vocational education or training, basic skills
7 and literacy training, and "occupational education" provided by
8 public educational institutions, including common school districts
9 for persons who are eighteen years of age and over or who hold a high
10 school diploma or certificate. However, "adult education" shall not
11 include academic education or instruction for persons under twenty-
12 one years of age who do not hold a high school degree or diploma and
13 who are attending a public high school for the sole purpose of
14 obtaining a high school diploma or certificate, nor shall "adult
15 education" include education or instruction provided by any four-year
16 public institution of higher education.

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

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

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

26 (3) "Board" means the workforce training and education
27 coordinating board.

28 (4) "Board of trustees" means the local community and technical
29 college board of trustees established for each college district
30 within the state.

31 (5) "Center of excellence" means a community or technical college
32 designated by the college board as a statewide leader in
33 industry-specific, community and technical college workforce
34 education and training.

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

37 (7) "Common school board" means a public school district board of
38 directors.

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

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

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

13 (11) "Dislocated salmon fishing worker" means a finfish products
14 worker who: (a)(i) Has been terminated or received notice of
15 termination from employment and is unlikely to return to employment
16 in the individual's principal occupation or previous industry because
17 of a diminishing demand for his or her skills in that occupation or
18 industry; or (ii) is self-employed and has been displaced from his or
19 her business because of the diminishing demand for the business's
20 services or goods; and (b) at the time of last separation from
21 employment, resided in or was employed in a rural natural resources
22 impact area.

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

25 (13) "Forest products worker" means a worker in the forest
26 products industries affected by the reduction of forest fiber
27 enhancement, transportation, or production. The workers included
28 within this definition shall be determined by the employment security
29 department, but shall include workers employed in the industries
30 assigned the major group standard industrial classification codes
31 "24" and "26" and the industries involved in the harvesting and
32 management of logs, transportation of logs and wood products,
33 processing of wood products, and the manufacturing and distribution
34 of wood processing and logging equipment. The commissioner may adopt
35 rules further interpreting these definitions. (~~For the purposes of~~
36 ~~this subsection, "standard industrial classification code" means the~~
37 ~~code identified in RCW 50.29.025(3).~~)

38 (14) "High employer demand program of study" means an
39 apprenticeship, or an undergraduate or graduate certificate or degree
40 program in which the number of students prepared for employment per

1 year from in-state institutions is substantially less than the number
2 of projected job openings per year in that field, statewide or in a
3 substate region.

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

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

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

12 (a) Washington public community and technical colleges;

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

16 (c) Washington state apprenticeship and training council-approved
17 apprenticeship programs.

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

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

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

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

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

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

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

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

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

38 (e) An unemployment rate twenty percent or more above the state
39 average. The counties that meet these criteria shall be determined by
40 the employment security department for the most recent year for which

1 data is available. For the purposes of administration of programs
2 under this chapter, the United States post office five-digit zip code
3 delivery areas will be used to determine residence status for
4 eligibility purposes. For the purpose of this definition, a zip code
5 delivery area of which any part is ten miles or more from an
6 urbanized area is considered nonurbanized. A zip code totally
7 surrounded by zip codes qualifying as nonurbanized under this
8 definition is also considered nonurbanized. The office of financial
9 management shall make available a zip code listing of the areas to
10 all agencies and organizations providing services under this chapter.

11 (20) "Salmon fishing worker" means a worker in the finfish
12 industry affected by 1994 or future salmon disasters. The workers
13 included within this definition shall be determined by the employment
14 security department, but shall include workers employed in the
15 industries involved in the commercial and recreational harvesting of
16 finfish including buying and processing finfish. The commissioner may
17 adopt rules further interpreting these definitions.

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

20 (22) "Technical college" includes those higher education
21 institutions with the mission of conducting occupational education,
22 basic skills, literacy programs, and offering on short notice, when
23 appropriate, programs that meet specific industry needs. For purposes
24 of this chapter, technical colleges shall include the following
25 college districts as created in RCW 28B.50.040: The twenty-fifth
26 college district, the twenty-sixth college district, the twenty-
27 seventh college district, the twenty-eighth college district, and the
28 twenty-ninth college district.

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

31 "Public health emergency" means a declaration or order that
32 covers the jurisdiction where the unemployed individual was working
33 on the date the individual became unemployed concerning any
34 dangerous, contagious, or infectious diseases, including a pandemic,
35 and is issued as follows:

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

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

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

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

6 "Department" means the employment security department, unless the
7 context clearly indicates otherwise.

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

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

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

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

25 (ii) In the case of such a payment not made under the Social
26 Security Act or the Railroad Retirement Act of 1974 (or corresponding
27 provisions of prior law), services performed for such employer by the
28 individual after the beginning of the base period (or remuneration
29 for such services) affect eligibility for, or increase the amount of,
30 such pension, retirement or retired pay, annuity, or similar payment;

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

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

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

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

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

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

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

20 (1) By December 1, 2021, and annually thereafter until December
21 1, 2025, and in compliance with RCW 43.01.036, the department must
22 report to the governor and the appropriate committees of the
23 legislature on the following:

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

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

30 (2) By December 1, 2021, and in compliance with RCW 43.01.036,
31 the department must report to the governor and the appropriate
32 committees of the legislature a review of the amount of wages subject
33 to tax. This review shall include an analysis of the equitable
34 treatment of employers based on the amount of wages subject to tax,
35 including a comparison of the percentage of wages subject to tax for
36 small, medium, and large businesses and examples of how changes to
37 the amount of wages subject to tax would impact trust fund balances
38 and employer contributions.

1 (3) The department must use an existing unemployment insurance
2 advisory committee comprising of members of business and members of
3 labor to consult in the development of this report, including any
4 evidentiary assumptions underlying the report. The report must be
5 specifically discussed in a minimum of two meetings of the committee
6 each year prior to submitting the report. The report must also
7 include a section for committee members to respond directly to the
8 contents of the report.

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

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

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

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

31 ~~(i) First, from the moneys credited to this state's account in~~
32 ~~the unemployment trust fund pursuant to section 903 of the social~~
33 ~~security act, as amended in section 209 of the temporary extended~~
34 ~~unemployment compensation act of 2002 (42 U.S.C. Sec. 1103(d)), the~~
35 ~~amount equal to the amount of benefits charged that exceed the~~
36 ~~contributions paid in the four consecutive calendar quarters ending~~
37 ~~on June 30, 2006, because the social cost factor contributions that~~
38 ~~employers are subject to under RCW 50.29.025(2)(b)(ii)(B) are less~~
39 ~~than the social cost factor contributions that these employers would~~

1 ~~have been subject to if RCW 50.29.025(2)(b)(ii)(A) had applied to~~
2 ~~these employers; and~~

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

6 ~~(c) During fiscal years 2012 and 2013, if moneys are credited to~~
7 ~~this state's account in the unemployment trust fund pursuant to~~
8 ~~section 903(f)(3) of the social security act, as amended in section~~
9 ~~2003 of the American recovery and reinvestment act of 2009 (42 U.S.C.~~
10 ~~Sec. 1103(f)(3)), moneys for the payment of regular benefits as~~
11 ~~defined in RCW 50.22.010 shall be requisitioned in the following~~
12 ~~order:~~

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

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

25 (2) Expenditures of such moneys in the benefit account and
26 refunds from the clearing account shall not be subject to any
27 provisions of law requiring specific appropriations or other formal
28 release by state officers of money in their custody, and RCW
29 43.01.050, as amended, shall not apply. All warrants issued by the
30 treasurer for the payment of benefits and refunds shall bear the
31 signature of the treasurer and the countersignature of the
32 commissioner, or his or her duly authorized agent for that purpose.

33 (3) Any balance of moneys requisitioned from the unemployment
34 trust fund which remains unclaimed or unpaid in the benefit account
35 after the expiration of the period for which sums were requisitioned
36 shall either be deducted from estimates for, and may be utilized for
37 the payment of, benefits during succeeding periods, or in the
38 discretion of the commissioner, shall be redeposited with the
39 secretary of the treasury of the United States of America to the
40 credit of this state's account in the unemployment trust fund.

1 (4) Money credited to the account of this state in the
2 unemployment trust fund by the secretary of the treasury of the
3 United States of America pursuant to section 903 of the social
4 security act, as amended, may be requisitioned and used for the
5 payment of expenses incurred for the administration of this title
6 pursuant to a specific appropriation by the legislature, provided
7 that the expenses are incurred and the money is requisitioned after
8 the enactment of an appropriation law which:

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

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

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

37 (5) Money credited to the account of this state pursuant to
38 section 903 of the social security act, as amended, may not be
39 withdrawn or used except for the payment of benefits and for the
40 payment of expenses of administration and of public employment

1 offices pursuant to subsections (4) through (6) of this section.
2 (~~However, moneys credited because of excess amounts in federal~~
3 ~~accounts in federal fiscal years 1999, 2000, and 2001 shall be used~~
4 ~~solely for the administration of the unemployment compensation~~
5 ~~program and are not subject to appropriation by the legislature for~~
6 ~~any other purpose.~~)

7 (6) Money requisitioned as provided in subsections (4) through
8 (6) of this section for the payment of expenses of administration
9 shall be deposited in the unemployment compensation fund, but until
10 expended, shall remain a part of the unemployment compensation fund.
11 The commissioner shall maintain a separate record of the deposit,
12 obligation, expenditure and return of funds so deposited. Any money
13 so deposited which either will not be obligated within the period
14 specified by the appropriation law or remains unobligated at the end
15 of the period, and any money which has been obligated within the
16 period but will not be expended, shall be returned promptly to the
17 account of this state in the unemployment trust fund.

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

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

23 (a) (~~He or she~~) The individual has registered for work at, and
24 thereafter has continued to report at, an employment office in
25 accordance with such regulation as the commissioner may prescribe,
26 except that the commissioner may by regulation waive or alter either
27 or both of the requirements of this subdivision as to individuals
28 attached to regular jobs and as to such other types of cases or
29 situations with respect to which the commissioner finds that the
30 compliance with such requirements would be oppressive, or would be
31 inconsistent with the purposes of this title;

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

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

38 (i) To be available for work, an individual must be ready, able,
39 and willing, immediately to accept any suitable work which may be

1 offered to him or her and must be actively seeking work pursuant to
2 customary trade practices and through other methods when so directed
3 by the commissioner or the commissioner's agents. If a labor
4 agreement or dispatch rules apply, customary trade practices must be
5 in accordance with the applicable agreement or rules.

6 (ii) Until June 30, 2021, an individual under quarantine or
7 isolation, as defined by the department of health, as directed by a
8 public health official during the novel coronavirus outbreak pursuant
9 to the gubernatorial declaration of emergency of February 29, 2020,
10 will meet the requirements of this subsection (1)(c) if the
11 individual is able to perform, available to perform, and actively
12 seeking work which can be performed while under quarantine or
13 isolation.

14 (iii) For the purposes of this subsection, "customary trade
15 practices" includes compliance with an electrical apprenticeship
16 training program that includes a recognized referral system under
17 apprenticeship program standards approved by the Washington state
18 apprenticeship and training council;

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

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

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

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

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

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

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

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

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

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

11 (b) The unemployed individual or another individual residing with
12 the unemployed individual is at higher risk of severe illness or
13 death from the disease that is the subject of the public health
14 emergency because the higher risk individual:

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

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

18 (B) The department of health; or

19 (C) The equivalent agency in the state where the individual
20 resides; or

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

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

25 (B) The department of health; or

26 (C) The equivalent agency in the state where the individual
27 resides.

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

30 (1) No week shall be counted as a waiting period week (~~(~~
31 ~~1) if benefits have been paid with respect thereto, and~~
32 ~~(2) unless the individual was otherwise eligible for benefits~~
33 ~~with respect thereto, and~~

34 ~~(3) unless it occurs within the benefit year which includes the~~
35 ~~week with respect to which he or she claims payment of benefits)) if~~
36 benefits have been paid for that week, the individual was otherwise
37 eligible for benefits, and it occurs within the benefit year which
38 includes the week with respect to which the individual claims payment
39 of benefits.

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

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

5 (1) With respect to ~~((claims that have an effective date on or~~
6 ~~after January 4, 2004, and for separations that occur before~~
7 September 6, 2009)) separations that occur on or after September 6,
8 2009, and for separations that occur before April 4, 2021:

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

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

22 (i) The duration of the work;

23 (ii) The extent of direction and control by the employer over the
24 work; and

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

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

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

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

35 (A) The claimant pursued all reasonable alternatives to preserve
36 ~~((his or her))~~ the claimant's employment status by requesting a leave
37 of absence, by having promptly notified the employer of the reason
38 for the absence, and by having promptly requested reemployment when
39 again able to assume employment. These alternatives need not be

1 pursued, however, when they would have been a futile act, including
2 those instances when the futility of the act was a result of a
3 recognized labor/management dispatch system; and

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

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

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

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

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

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

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

34 (viii) The (~~(individual's)~~) claimant's worksite safety
35 deteriorated, the (~~(individual)~~) claimant reported such safety
36 deterioration to the employer, and the employer failed to correct the
37 hazards within a reasonable period of time;

38 (ix) The (~~(individual)~~) claimant left work because of illegal
39 activities in the (~~(individual's)~~) claimant's worksite, the
40 (~~(individual)~~) claimant reported such activities to the employer, and

1 the employer failed to end such activities within a reasonable period
2 of time;

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

6 (xi) The (~~individual~~) claimant left work to enter an
7 apprenticeship program approved by the Washington state
8 apprenticeship training council. Benefits are payable beginning
9 Sunday of the week prior to the week in which the (~~individual~~)
10 claimant begins active participation in the apprenticeship program.

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

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

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

- 26 (i) The duration of the work;
27 (ii) The extent of direction and control by the employer over the
28 work; and
29 (iii) The level of skill required for the work in light of the
30 (~~individual's~~) claimant's training and experience.

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

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

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

39 (A) The claimant (~~pursued all reasonable alternatives~~) made
40 reasonable efforts to preserve (~~his or her~~) the claimant's

1 employment status by requesting a leave of absence, by having
2 promptly notified the employer of the reason for the absence, and by
3 having promptly requested reemployment when again able to assume
4 employment. These alternatives need not be pursued, however, when
5 they would have been a futile act, including those instances when the
6 futility of the act was a result of a recognized labor/management
7 dispatch system; and

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

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

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

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

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

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

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

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

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

39 (xi) The (~~individual~~) claimant left work to enter an
40 apprenticeship program approved by the Washington state

1 apprenticeship training council. Benefits are payable beginning
2 Sunday of the week prior to the week in which the (~~individual~~)
3 claimant begins active participation in the apprenticeship program;
4 or

5 (xii) During a public health emergency:

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

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

11 (C) The claimant or another individual residing with the claimant
12 is at higher risk of severe illness or death from the disease that is
13 the subject of the public health emergency because the higher risk
14 individual:

15 (I) Was in an age category that is defined as high risk for the
16 disease that is the subject of the public health emergency by the
17 federal centers for disease control and prevention, the department of
18 health, or the equivalent agency in the state where the individual
19 resides; or

20 (II) Has an underlying health condition, verified as required by
21 the department by rule, that is identified as a risk factor for the
22 disease that is the subject of the public health emergency by the
23 federal centers for disease control and prevention, the department of
24 health, or the equivalent agency in the state where the individual
25 resides.

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

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

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

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

38 (1) Suitable work for an individual is employment in an
39 occupation in keeping with the individual's prior work experience,

1 education, or training and if the individual has no prior work
2 experience, special education, or training for employment available
3 in the general area, then employment which the individual would have
4 the physical and mental ability to perform. In determining whether
5 work is suitable for an individual, the commissioner shall also
6 consider the degree of risk involved to the individual's health,
7 safety, and morals, the degree of risk to the health of those
8 residing with the individual during a public health emergency, the
9 individual's physical fitness, the individual's length of
10 unemployment and prospects for securing local work in the
11 individual's customary occupation, the distance of the available work
12 from the individual's residence, and such other factors as the
13 commissioner may deem pertinent, including state and national
14 emergencies.

15 (2) For individuals with base year work experience in
16 agricultural labor, any agricultural labor available from any
17 employer shall be deemed suitable unless it meets conditions in RCW
18 50.20.110 or the commissioner finds elements of specific work
19 opportunity unsuitable for a particular individual.

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

23 (4) For individuals who have qualified for unemployment
24 compensation benefits under RCW 50.20.050 (1)(b)(iv) or (2)(b)(iv),
25 as applicable, an evaluation of the suitability of the work must
26 consider the individual's need to address the physical,
27 psychological, legal, and other effects of domestic violence or
28 stalking.

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

31 ~~(1) ((Notwithstanding any other provision of this chapter, an~~
32 ~~otherwise eligible individual shall not be denied benefits for any~~
33 ~~week because he or she is in training approved under section~~
34 ~~236(a)(1) of the Trade Act of 1974, P.L. 93-618, nor may that~~
35 ~~individual be denied benefits for any such week by reason of leaving~~
36 ~~work which is not suitable employment to enter such training, or for~~
37 ~~failure to meet any requirement of federal or state law for any such~~
38 ~~week which relates to the individual's availability for work, active~~
39 ~~search for work, or refusal to accept work.~~

1 ~~(2) For the purposes of this section, "suitable employment"~~
2 ~~means, with respect to an individual, work of a substantially equal~~
3 ~~or higher skill level than the individual's past adversely affected~~
4 ~~employment (as described for the purposes of the Trade Act of 1974,~~
5 ~~P.L. 93-618), if the wages for such work are not less than eighty~~
6 ~~percent of the individual's average weekly wage as determined for the~~
7 ~~purposes of the Trade Act of 1974, P.L. 93-618.)~~ For purposes of
8 this section, "adversely affected worker," "approved training," "on-
9 the-job training," and "suitable employment" have the same definition
10 as in 20 C.F.R. Part 618.

11 (2) An adversely affected worker may not be denied benefits
12 because:

13 (a) Such worker is enrolled in or participating in approved
14 training;

15 (b) Such worker refuses work to which the department referred
16 such worker because such work either would require discontinuation of
17 approved training or interfere with successful participation in
18 approved training;

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

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

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

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

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

33 (1) ~~((For claims with an effective date on or after April 4,~~
34 ~~2004, benefits))~~ Benefits shall be payable to any eligible individual
35 during the individual's benefit year in a maximum amount equal to the
36 lesser of twenty-six times the weekly benefit amount, as determined
37 in subsection (2) of this section, or one-third of the individual's
38 base year wages under this title.

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

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

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

14 (b) (~~The~~) (i) For claims with an effective date of June 30,
15 2021, or before, the minimum amount payable weekly shall be fifteen
16 percent of the "average weekly wage" for the calendar year preceding
17 such June 30th.

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

21 (c) Notwithstanding the provisions of (a) and (b) of this
22 subsection, an individual may not receive a weekly benefit amount
23 that exceeds the individual's weekly wage. For purposes of this
24 subsection, the "individual's weekly wage" means the individual's
25 annualized total wages divided by 52. For purposes of this
26 subsection, the "individual's annualized total wages" means the
27 average quarterly wages of the individual's total wages during the
28 two quarters of the individual's base year in which such total wages
29 were highest, multiplied by four. This subsection applies to claims
30 with an effective date on or after January 2, 2022, or such
31 subsequent date as may be provided by the department by rule to
32 continue eligibility of claimants in this state for federal
33 unemployment benefits or receipt of federal funds under the
34 coronavirus aid, relief, and economic security act (P.L. 116-136),
35 the continued assistance for unemployed workers act of 2020 (P.L.
36 116-260), or other act extending such benefits or funds.

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

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

3 (1) An application for initial determination, a claim for waiting
4 period, or a claim for benefits shall be filed in accordance with
5 such rules as the commissioner may prescribe. An application for an
6 initial determination may be made by any individual whether
7 unemployed or not. Each employer shall post and maintain printed
8 statements of such rules in places readily accessible to individuals
9 in his or her employment and shall make available to each such
10 individual at the time he or she becomes unemployed, a printed
11 statement of such rules and such notices, instructions, and other
12 material as the commissioner may by rule prescribe. Such printed
13 material shall be supplied by the commissioner to each employer
14 without cost to the employer.

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

18 (3) The term "claim for waiting period" shall mean a
19 certification, after the close of a given week, that the requirements
20 stated herein for eligibility for waiting period have been met. If
21 RCW 50.20.010(1)(d) is waived, the term "claim for waiting period" is
22 not applicable.

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

26 (5) A representative designated by the commissioner shall take
27 the application for initial determination and for the claim for
28 waiting period credits or for benefits. When an application for
29 initial determination has been made, the employment security
30 department shall promptly make an initial determination which shall
31 be a statement of the applicant's base year wages, (~~his or her~~)
32 weekly benefit amount, (~~his or her~~) maximum amount of benefits
33 potentially payable, and (~~his or her~~) benefit year. Such
34 determination shall fix the general conditions under which waiting
35 period credit shall be granted and under which benefits shall be paid
36 during any period of unemployment occurring within the benefit year
37 fixed by such determination.

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

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

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

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

38 (b) In the payment of any contributions under this section, a
39 fractional part of a cent shall be disregarded unless it amounts to

1 one-half cent or more, in which case it shall be increased to one
2 cent.

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

8 ~~((4) During the 2015-2017 fiscal biennium, the legislature may
9 transfer into the unrestricted administrative contingency fund and
10 into the state general fund from the account in subsection (1)(b) of
11 this section such amounts as reflect the excess fund balance of the
12 account.))~~

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

15 (1)(a) An experience rating account shall be established and
16 maintained for each employer, except employers as described in RCW
17 50.44.010, 50.44.030, and 50.50.030 who have properly elected to make
18 payments in lieu of contributions, taxable local government employers
19 as described in RCW 50.44.035, and those employers who are required
20 to make payments in lieu of contributions, based on existing records
21 of the employment security department.

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

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

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

36 (ii) RCW 50.20.050 (1)(b)(v) through (x) or (2)(b)(v) through
37 (x).

38 (2) The legislature finds that certain benefit payments, in whole
39 or in part, should not be charged to the experience rating accounts

1 of employers except those employers described in RCW 50.44.010,
2 50.44.030, and 50.50.030 who have properly elected to make payments
3 in lieu of contributions, taxable local government employers
4 described in RCW 50.44.035, and those employers who are required to
5 make payments in lieu of contributions, as follows:

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

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

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

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

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

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

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

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

39 ~~((The forty-five dollar increase paid as part of an
40 individual's weekly benefit amount as provided in RCW 50.20.1201 and~~

1 ~~the twenty-five dollar increase paid as part of an individual's~~
2 ~~weekly benefit amount as provided in RCW 50.20.1202 shall not be~~
3 ~~charged to the experience rating account of any contribution paying~~
4 ~~employer.~~

5 ~~(h) With respect to claims where the minimum amount payable~~
6 ~~weekly is increased to one hundred fifty-five dollars pursuant to RCW~~
7 ~~50.20.1201(3), benefits paid that exceed the benefits that would have~~
8 ~~been paid if the minimum amount payable weekly had been calculated~~
9 ~~pursuant to RCW 50.20.120 shall not be charged to the experience~~
10 ~~rating account of any contribution paying employer.~~

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

16 ~~((j))~~ (h) Training benefits paid to an individual under RCW
17 50.22.155 shall not be charged to the experience rating account of
18 any contribution paying employer.

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

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

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

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

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

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

4 (iii) Is unemployed as a result of closure or severe curtailment
5 of operation at the employer's plant, building, worksite, or other
6 facility. This closure must be for reasons directly attributable to a
7 catastrophic occurrence such as fire, flood, or other natural
8 disaster, or to the presence of any dangerous, contagious, or
9 infectious disease that is the subject of a public health emergency
10 at the employer's plant, building, worksite, or other facility;

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

18 (v) Continues to be employed on a regularly scheduled permanent
19 part-time basis by a base year employer and who qualified for two
20 consecutive unemployment claims where wages were attributable to at
21 least one employer who employed the individual in both base years.
22 Benefit charge relief ceases when the employment relationship between
23 the employer requesting relief and the claimant is terminated. This
24 subsection does not apply to shared work employers under chapter
25 50.60 RCW;

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

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

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

1 (b) The employer requesting relief of charges under this
2 subsection must request relief in writing within thirty days
3 following mailing to the last known address of the notification of
4 the valid initial determination of such claim, stating the date and
5 reason for the separation or the circumstances of continued
6 employment. The commissioner, upon investigation of the request,
7 shall determine whether relief should be granted.

8 (4) When a benefit claim becomes invalid due to an amendment or
9 adjustment of a report where the employer failed to report or
10 inaccurately reported hours worked or remuneration paid, or both, all
11 benefits paid will be charged to the experience rating account of the
12 contribution paying employer or employers that originally filed the
13 incomplete or inaccurate report or reports. An employer who
14 reimburses the trust fund for benefits paid to workers and who fails
15 to report or inaccurately reported hours worked or remuneration paid,
16 or both, shall reimburse the trust fund for all benefits paid that
17 are based on the originally filed incomplete or inaccurate report or
18 reports.

19 (5) An employer's experience rating account may not be relieved
20 of charges for a benefit payment and an employer who reimburses the
21 trust fund for benefit payments may not be credited for a benefit
22 payment if a benefit payment was made because the employer or
23 employer's agent failed to respond timely or adequately to a written
24 request of the department for information relating to the claim or
25 claims without establishing good cause for the failure and the
26 employer or employer's agent has a pattern of such failures. The
27 commissioner has the authority to determine whether the employer has
28 good cause under this subsection.

29 (a) For the purposes of this subsection, "adequately" means
30 providing accurate information of sufficient quantity and quality
31 that would allow a reasonable person to determine eligibility for
32 benefits.

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

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

1 (B) Twenty percent of the total current claims against the
2 employer.

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

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

8 (1) ~~((For contributions assessed for rate years 2005 through~~
9 ~~2009, the contribution rate for each employer subject to~~
10 ~~contributions under RCW 50.24.010 shall be the sum of the array~~
11 ~~calculation factor rate and the graduated social cost factor rate~~
12 ~~determined under this subsection, and the solvency surcharge~~
13 ~~determined under RCW 50.29.041, if any.~~

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

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

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

	Benefit Ratio		Rate	Rate
			Class	(percent)
27				
28				
29	At least	Less than		
30		0.000001	1	0.00
31	0.000001	0.001250	2	0.13
32	0.001250	0.002500	3	0.25
33	0.002500	0.003750	4	0.38
34	0.003750	0.005000	5	0.50
35	0.005000	0.006250	6	0.63
36	0.006250	0.007500	7	0.75

1	0.007500	0.008750	8	0.88
2	0.008750	0.010000	9	1.00
3	0.010000	0.011250	10	1.15
4	0.011250	0.012500	11	1.30
5	0.012500	0.013750	12	1.45
6	0.013750	0.015000	13	1.60
7	0.015000	0.016250	14	1.75
8	0.016250	0.017500	15	1.90
9	0.017500	0.018750	16	2.05
10	0.018750	0.020000	17	2.20
11	0.020000	0.021250	18	2.35
12	0.021250	0.022500	19	2.50
13	0.022500	0.023750	20	2.65
14	0.023750	0.025000	21	2.80
15	0.025000	0.026250	22	2.95
16	0.026250	0.027500	23	3.10
17	0.027500	0.028750	24	3.25
18	0.028750	0.030000	25	3.40
19	0.030000	0.031250	26	3.55
20	0.031250	0.032500	27	3.70
21	0.032500	0.033750	28	3.85
22	0.033750	0.035000	29	4.00
23	0.035000	0.036250	30	4.15
24	0.036250	0.037500	31	4.30
25	0.037500	0.040000	32	4.45
26	0.040000	0.042500	33	4.60
27	0.042500	0.045000	34	4.75
28	0.045000	0.047500	35	4.90
29	0.047500	0.050000	36	5.05
30	0.050000	0.052500	37	5.20
31	0.052500	0.055000	38	5.30
32	0.055000	0.057500	39	5.35

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

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

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

24 ~~For the purposes of this subsection, the commissioner shall~~
25 ~~determine the number of months of unemployment benefits in the~~
26 ~~unemployment compensation fund using the benefit cost rate for the~~
27 ~~average of the three highest calendar benefit cost rates in the~~
28 ~~twenty consecutive completed calendar years immediately preceding the~~
29 ~~cut-off date or a period of consecutive calendar years immediately~~
30 ~~preceding the cut-off date that includes three recessions, if longer.~~

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

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

38 ~~(II) At least fourteen months of unemployment benefits, the~~
39 ~~minimum shall be five-tenths of one percent, except that, for~~

1 ~~employers in rate class 1, the minimum shall be forty-five hundredths~~
2 ~~of one percent.~~

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

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

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

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

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

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

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

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

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

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

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

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

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

26 ~~(B) For contributions assessed beginning July 1, 2005, through~~
27 ~~December 31, 2007, for employers whose North American industry~~
28 ~~classification system code is "111," "112," "1141," "115," "3114,"~~
29 ~~"3117," "42448," or "49312," the graduated social cost factor rate is~~
30 ~~zero.~~

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

32 ~~(A) "Total social cost" means the amount calculated by~~
33 ~~subtracting the array calculation factor contributions paid by all~~
34 ~~employers with respect to the four consecutive calendar quarters~~
35 ~~immediately preceding the computation date and paid to the employment~~
36 ~~security department by the cut-off date from the total unemployment~~
37 ~~benefits paid to claimants in the same four consecutive calendar~~
38 ~~quarters. To calculate the flat social cost factor for rate year~~
39 ~~2005, the commissioner shall calculate the total social cost using~~
40 ~~the array calculation factor contributions that would have been~~

1 required to be paid by all employers in the calculation period if (a)
2 of this subsection had been in effect for the relevant period. To
3 calculate the flat social cost factor for rate years 2010 and 2011,
4 the forty-five dollar increase paid as part of an individual's weekly
5 benefit amount as provided in RCW 50.20.1201 shall not be considered
6 for purposes of calculating the total unemployment benefits paid to
7 claimants in the four consecutive calendar quarters immediately
8 preceding the computation date.

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

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

16 (i) ~~The array calculation factor rate shall be two-tenths higher~~
17 ~~than that in rate class 40, except employers who have an approved~~
18 ~~agency-deferred payment contract by September 30th of the previous~~
19 ~~rate year. If any employer with an approved agency-deferred payment~~
20 ~~contract fails to make any one of the succeeding deferred payments or~~
21 ~~fails to submit any succeeding tax report and payment in a timely~~
22 ~~manner, the employer's tax rate shall immediately revert to an array~~
23 ~~calculation factor rate two-tenths higher than that in rate class 40;~~
24 ~~and~~

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

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

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

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

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

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

1 ~~(A) The array calculation factor rate shall be a rate equal to~~
2 ~~the average industry array calculation factor rate as determined by~~
3 ~~the commissioner, multiplied by the history factor, but not less than~~
4 ~~one percent or more than the array calculation factor rate in rate~~
5 ~~class 40;~~

6 ~~(B) The social cost factor rate shall be a rate equal to the~~
7 ~~average industry social cost factor rate as determined by the~~
8 ~~commissioner, multiplied by the history factor, but not more than the~~
9 ~~social cost factor rate assigned to rate class 40 under (b) (ii) of~~
10 ~~this subsection; and~~

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

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

32 ~~(2) For contributions assessed in rate year 2010 and thereafter,~~
33 ~~the)) The contribution rate for each employer subject to~~
34 ~~contributions under RCW 50.24.010 shall be the sum of the array~~
35 ~~calculation factor rate and the graduated social cost factor rate~~
36 ~~determined under this subsection, and the solvency surcharge~~
37 ~~determined under RCW 50.29.041, if any.~~

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

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

9 (ii) Each employer in the array shall be assigned to one of forty
10 rate classes according to his or her benefit ratio as follows, and,
11 except as provided in RCW 50.29.026, the array calculation factor
12 rate for each employer in the array shall be the rate specified in
13 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
0.001250	0.002500	3	0.22
0.002500	0.003750	4	0.33
0.003750	0.005000	5	0.43
0.005000	0.006250	6	0.54
0.006250	0.007500	7	0.65
0.007500	0.008750	8	0.76
0.008750	0.010000	9	0.88
0.010000	0.011250	10	1.01
0.011250	0.012500	11	1.14
0.012500	0.013750	12	1.28
0.013750	0.015000	13	1.41
0.015000	0.016250	14	1.54
0.016250	0.017500	15	1.67
0.017500	0.018750	16	1.80
0.018750	0.020000	17	1.94
0.020000	0.021250	18	2.07
0.021250	0.022500	19	2.20

1	0.022500	0.023750	20	2.38
2	0.023750	0.025000	21	2.50
3	0.025000	0.026250	22	2.63
4	0.026250	0.027500	23	2.75
5	0.027500	0.028750	24	2.88
6	0.028750	0.030000	25	3.00
7	0.030000	0.031250	26	3.13
8	0.031250	0.032500	27	3.25
9	0.032500	0.033750	28	3.38
10	0.033750	0.035000	29	3.50
11	0.035000	0.036250	30	3.63
12	0.036250	0.037500	31	3.75
13	0.037500	0.040000	32	4.00
14	0.040000	0.042500	33	4.25
15	0.042500	0.045000	34	4.50
16	0.045000	0.047500	35	4.75
17	0.047500	0.050000	36	5.00
18	0.050000	0.052500	37	5.15
19	0.052500	0.055000	38	5.25
20	0.055000	0.057500	39	5.30
21	0.057500		40	5.40

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

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

32 (B) (I) If, on the cut-off date, the balance in the unemployment
33 compensation fund is determined by the commissioner to be an amount
34 that will provide more than ten months of unemployment benefits, the

1 commissioner shall calculate the flat social cost factor for the rate
2 year immediately following the cut-off date by reducing the total
3 social cost by the dollar amount that represents the number of months
4 for which the balance in the unemployment compensation fund on the
5 cut-off date will provide benefits above ten months and dividing the
6 result by the total taxable payroll. However, the calculation under
7 this subsection (~~((2))~~) (1)(b)(i)(B) for a rate year may not result
8 in a flat social cost factor that is more than four-tenths lower than
9 the calculation under (b)(i)(A) of this subsection for that rate
10 year. For rate year 2011 and thereafter, the calculation may not
11 result in a flat social cost factor that is more than one and twenty-
12 two one-hundredths percent except for rate year 2021 the calculation
13 may not result in a flat social cost factor that is more than five-
14 tenths percent, for rate year 2022 the calculation may not result in
15 a flat social cost factor that is more than seventy-five one-
16 hundredths percent, for rate year 2023 the calculation may not result
17 in a flat social cost factor that is more than eight-tenths percent,
18 for rate year 2024 the calculation may not result in a flat social
19 cost factor that is more than eighty-five one-hundredths percent, and
20 for rate year 2025 the calculation may not result in a flat social
21 cost factor that is more than nine-tenths percent.

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

29 (III) For the purposes of this subsection (~~((2))~~) (1)(b), the
30 commissioner shall determine the number of months of unemployment
31 benefits in the unemployment compensation fund using the benefit cost
32 rate for the average of the three highest calendar benefit cost rates
33 in the twenty consecutive completed calendar years immediately
34 preceding the cut-off date or a period of consecutive calendar years
35 immediately preceding the cut-off date that includes three
36 recessions, if longer. (~~(The twenty-five dollar increase paid as part~~
37 ~~of an individual's weekly benefit amount as provided in RCW~~
38 ~~50.20.1202 shall not be considered in calculating the benefit cost~~
39 ~~rate when determining the number of months of unemployment benefits~~
40 ~~in the unemployment compensation fund.))~~)

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 ~~(VI) Rate class 6 - 98 percent;~~
2 ~~(VII) Rate class 7 - 102 percent;~~
3 ~~(VIII) Rate class 8 - 106 percent;~~
4 ~~(IX) Rate class 9 - 110 percent;~~
5 ~~(X) Rate class 10 - 114 percent;~~
6 ~~(XI) Rate class 11 - 118 percent; and~~
7 ~~(XII) Rate classes 12 through 40 - 120 percent.~~
8 ~~(B) For rate years 2011 and thereafter, the))~~ The graduated
9 social cost factor rate for each employer in the array is the flat
10 social cost factor multiplied by the percentage specified as follows
11 for the rate class to which the employer has been assigned in (a) (ii)
12 of this subsection, except that the sum of an employer's array
13 calculation factor rate and the graduated social cost factor rate may
14 not exceed six percent or, for employers whose North American
15 industry classification system code is within "111," "112," "1141,"
16 "115," "3114," "3117," "42448," or "49312," may not exceed five and
17 four-tenths percent:
18 ((~~I~~)) (A) Rate class 1 - 40 percent;
19 ((~~II~~)) (B) Rate class 2 - 44 percent;
20 ((~~III~~)) (C) Rate class 3 - 48 percent;
21 ((~~IV~~)) (D) Rate class 4 - 52 percent;
22 ((~~V~~)) (E) Rate class 5 - 56 percent;
23 ((~~VI~~)) (F) Rate class 6 - 60 percent;
24 ((~~VII~~)) (G) Rate class 7 - 64 percent;
25 ((~~VIII~~)) (H) Rate class 8 - 68 percent;
26 ((~~IX~~)) (I) Rate class 9 - 72 percent;
27 ((~~X~~)) (J) Rate class 10 - 76 percent;
28 ((~~XI~~)) (K) Rate class 11 - 80 percent;
29 ((~~XII~~)) (L) Rate class 12 - 84 percent;
30 ((~~XIII~~)) (M) Rate class 13 - 88 percent;
31 ((~~XIV~~)) (N) Rate class 14 - 92 percent;
32 ((~~XV~~)) (O) Rate class 15 - 96 percent;
33 ((~~XVI~~)) (P) Rate class 16 - 100 percent;
34 ((~~XVII~~)) (Q) Rate class 17 - 104 percent;
35 ((~~XVIII~~)) (R) Rate class 18 - 108 percent;
36 ((~~XIX~~)) (S) Rate class 19 - 112 percent;
37 ((~~XX~~)) (T) Rate class 20 - 116 percent; and
38 ((~~XXI~~)) (U) Rate classes 21 through 40 - 120 percent.
39 (iii) For the purposes of this section:

1 (A) "Total social cost" means the amount calculated by
2 subtracting the array calculation factor contributions paid by all
3 employers with respect to the four consecutive calendar quarters
4 immediately preceding the computation date and paid to the employment
5 security department by the cut-off date from the total unemployment
6 benefits paid to claimants in the same four consecutive calendar
7 quarters. ~~((To calculate the flat social cost factor for rate years
8 2012 and 2013, the twenty-five dollar increase paid as part of an
9 individual's weekly benefit amount as provided in RCW 50.20.1202
10 shall not be considered for purposes of calculating the total
11 unemployment benefits paid to claimants in the four consecutive
12 calendar quarters immediately preceding the computation date.))~~

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

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

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

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

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

32 ~~-(ii) For rate years 2011 and thereafter:))~~

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

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

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

13 (~~(IV)~~) (D) For an employer who enters an approved agency-
14 deferred payment contract as described in (c) (~~(ii)(A)(II) or (III)~~)
15 (i)(B) or (C) of this subsection, but who fails to make any one of
16 the succeeding deferred payments or fails to submit any succeeding
17 tax report and payment in a timely manner, the array calculation
18 factor rate shall immediately revert to the applicable array
19 calculation factor rate under (c) (~~(ii)(A)(I)~~) (i)(A) of this
20 subsection; and

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

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

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

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

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

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

	History	History
	Ratio	Factor
		(percent)
	At least	Less than
9		
10		
11		
12		
13	(A)	.95 90
14	(B)	.95 1.05 100
15	(C)	1.05 115

16 ~~((3))~~ (2) Assignment of employers by the commissioner to
 17 industrial classification, for purposes of this section, shall be in
 18 accordance with established classification practices found in the
 19 North American industry classification system code.

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

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

28 (a) Subject to the limitations of this subsection, an employer
 29 may make a voluntary contribution of an amount equal to part or all
 30 of the benefits charged to the employer's account during the two
 31 years most recently ended on June 30th that were used for the purpose
 32 of computing the employer's contribution rate ~~((applicable for rate~~
 33 ~~years beginning before January 1, 2005,))~~ or array calculation factor
 34 rate ~~((applicable for rate years beginning on or after January 1,~~
 35 ~~2005)).~~ On receiving timely payment of a voluntary contribution, plus
 36 a surcharge of ten percent of the amount of the voluntary
 37 contribution, the commissioner shall cancel the benefits equal to the

1 amount of the voluntary contribution, excluding the surcharge, and
2 compute a new benefit ratio for the employer. The employer shall then
3 be assigned the contribution rate applicable for rate years beginning
4 before January 1, 2005, or array calculation factor rate applicable
5 for rate years beginning on or after January 1, 2005, applicable to
6 the rate class within which the recomputed benefit ratio is included.
7 The minimum amount of a voluntary contribution, excluding the
8 surcharge, must be an amount that will result in a recomputed benefit
9 ratio that is in a rate class at least four rate classes lower than
10 the rate class that included the employer's original benefit ratio.

11 (b) Payment of a voluntary contribution is considered timely if
12 received by the department during the period beginning on the date of
13 mailing to the employer the notice of contribution rate (~~(applicable~~
14 ~~for rate years beginning before January 1, 2005, or notice of array~~
15 ~~calculation factor rate applicable for rate years beginning on or~~
16 ~~after January 1, 2005,)) required under this title for the rate year
17 for which the employer is seeking a modification of ~~((his or her))~~
18 the employer's rate and ending on February 15th of that rate year
19 (~~(or, for voluntary contributions for rate year 2000, ending on March~~
20 ~~31, 2000))~~).~~

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

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

28 (3) From the effective date of this section and until May 31,
29 2026, the following applies:

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

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

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

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

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

3 (~~Beginning with contributions assessed for rate year 2005~~)
4 Except for contributions assessed for rate years 2021, 2022, 2023,
5 2024, and 2025, the contribution rate of each employer subject to
6 contributions under RCW 50.24.010 shall include a solvency surcharge
7 determined as follows:

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

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

20 (3) The basis for determining the number of months of
21 unemployment benefits shall be the same basis used in RCW
22 50.29.025(~~(+2)~~) (1) (b) (i) (B).

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

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

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

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

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

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

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

5 (B) Any experience assigned to the predecessor involved in the
6 transfer. If only a portion of the business was transferred, then the
7 experience attributable to the acquired portion is assigned to the
8 successor.

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

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

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

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

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

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

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

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

3 ~~((I))~~ (A) At the contribution rate assigned to the predecessor
4 employer at the time of the transfer for the remainder of that rate
5 year. Any experience attributable to the predecessor relating to the
6 assignment of the predecessor's rate class is transferred to the
7 successor.

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

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

32 ~~((C))~~ (iii) If the successor simultaneously acquires the
33 business or a portion of the business of two or more employers with
34 different contribution rates, the successor's rate, from the date the
35 transfer occurred until the end of that rate year and until it
36 qualifies in its own right for a new rate, shall be the sum of the
37 rates determined by the commissioner under RCW 50.29.025 (1) (a) and
38 (b) ~~((or (2) (a) and (b)),)~~ and 50.29.041, applicable at the time of
39 the acquisition, to the predecessor employer who, among the parties
40 to the acquisition, had the largest total payroll in the completed

1 calendar quarter immediately preceding the date of transfer, but not
2 less than the sum of the rates determined by the commissioner under
3 RCW 50.29.025 (1) (d) (~~(i) or (2) (d)~~) and 50.29.041, if applicable.

4 (c) With respect to predecessor employers:

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

8 (ii) In all cases, beginning January 1st following the transfer,
9 the predecessor's contribution rate or the predecessor's array
10 calculation factor for each rate year shall be based on its
11 experience with payrolls and benefits as of the regular computation
12 date for that rate year excluding the experience of the transferred
13 business or transferred portion of business as that experience has
14 transferred to the successor: PROVIDED, That if all of the
15 predecessor's business is transferred to a successor or successors,
16 the predecessor shall not be a qualified employer until it satisfies
17 the requirements of a "qualified employer" as set forth in RCW
18 50.29.010.

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

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

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

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

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

6 (b) If the successor was not an employer at the time of the
7 transfer, then the experience rating account of the acquired business
8 must not be transferred and, instead, the sum of the rate determined
9 by the commissioner under RCW 50.29.025 (1) (d) (~~((ii) or (2) (d))~~) and
10 50.29.041, if applicable, shall be assigned.

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

16 (a) The commissioner shall, for the rate year in which the
17 commissioner makes the determination under this subsection and for
18 each of the three consecutive rate years following that rate year,
19 assign to the employer or business the total rate, which is the sum
20 of the recalculated array calculation factor rate and a civil penalty
21 assessment rate, calculated as follows:

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

25 (ii) Calculate a civil penalty assessment rate in an amount that,
26 when added to the array calculation factor rate determined under
27 (a)(i) of this subsection for the applicable rate year, results in a
28 total rate equal to the maximum array calculation factor rate under
29 RCW 50.29.025 plus two percent, which total rate is not limited by
30 any maximum array calculation factor rate established in RCW
31 50.29.025 (1) (b) (ii) (~~(or (2) (b) (ii))~~);

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

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

37 (3) If the person knowingly evading the successorship provisions,
38 or knowingly attempting to evade these provisions, or knowingly
39 promoting the evasion of these provisions, is not an employer, the
40 person is subject to a civil penalty assessment of five thousand

1 dollars per occurrence. In addition, the person is subject to the
2 penalties prescribed in RCW 50.36.020 as if the person were an
3 employer. The person must also pay for the employment security
4 department's reasonable expenses of auditing his or her books and
5 collecting the civil penalty assessment.

6 (4) For purposes of this section:

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

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

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

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

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

22 (7) The commissioner shall engage in prevention, detection, and
23 collection activities related to evasion of the successorship
24 provisions of RCW 50.29.062 and this section, and establish
25 procedures to enforce this section.

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

28 Benefits paid to employees of "nonprofit organizations" shall be
29 financed in accordance with the provisions of this section. For the
30 purpose of this section and RCW 50.44.070, the term "nonprofit
31 organization" is limited to those organizations described in RCW
32 50.44.010, and joint accounts composed exclusively of such
33 organizations.

34 (1) Any nonprofit organization which is, or becomes subject to
35 this title (~~on or after January 1, 1972~~), shall pay contributions
36 under the provisions of RCW 50.24.010 and chapter 50.29 RCW, unless
37 it elects, in accordance with this subsection, to pay to the
38 commissioner for the unemployment compensation fund an amount equal
39 to the full amount of regular and additional benefits and one-half of

1 the amount of extended benefits paid to individuals for weeks of
2 unemployment that are based upon wages paid or payable during the
3 effective period of such election to the extent that such payments
4 are attributable to service in the employ of such nonprofit
5 organization.

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

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

19 (c) Any nonprofit organization which has been paying
20 contributions under this title (~~((for a period subsequent to January
21 1, 1972,))~~) may change to a reimbursable basis by filing with the
22 commissioner not later than thirty days prior to the beginning of any
23 taxable year a written notice of election to become liable for
24 payments in lieu of contributions. Such election shall not be
25 terminable by the organization for that and the next year.

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

30 (e) The commissioner, in accordance with such regulations as the
31 commissioner may prescribe, shall notify each nonprofit organization
32 of any determination which the commissioner may make of its status as
33 an employer and of the effective date of any election which it makes
34 and of any termination of such election. Any nonprofit organization
35 subject to such determination and dissatisfied with such
36 determination may file a request for review and redetermination with
37 the commissioner within thirty days of the mailing of the
38 determination to the organization. Should such request for review and
39 redetermination be denied, the organization may, within ten days of
40 the mailing of such notice of denial, file with the appeal tribunal a

1 petition for hearing which shall be heard in the same manner as a
2 petition for denial of refund. The appellate procedure prescribed by
3 this title for further appeal shall apply to all denials of review
4 and redetermination under this paragraph.

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

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

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

18 (ii) At the end of each calendar quarter, or at the end of such
19 other period as determined by the commissioner, the commissioner
20 shall bill each nonprofit organization for an amount representing one
21 of the following:

22 (A) The percentage of its total payroll for the immediately
23 preceding calendar year as the commissioner shall determine. Such
24 determination shall be based each year on the average benefit costs
25 attributable to service in the employ of nonprofit organizations
26 during the preceding calendar year.

27 (B) For any organization which did not pay wages throughout the
28 four calendar quarters of the preceding calendar year, such
29 percentage of its payroll during such year as the commissioner shall
30 determine.

31 (iii) At the end of each taxable year, the commissioner may
32 modify the quarterly percentage of payroll thereafter payable by the
33 nonprofit organization in order to minimize excess or insufficient
34 payments.

35 (iv) At the end of each taxable year, the commissioner shall
36 determine whether the total of payments for such year made by a
37 nonprofit organization is less than, or in excess of, the total
38 amount of regular and additional benefits plus one-half of the amount
39 of extended benefits paid to individuals during such taxable year
40 based on wages attributable to service in the employ of such

1 organization. Each nonprofit organization whose total payments for
2 such year are less than the amount so determined shall be liable for
3 payment of the unpaid balance to the fund in accordance with (c) of
4 this subsection. If the total payments exceed the amount so
5 determined for the taxable year, all of the excess payments will be
6 retained in the fund as part of the payments which may be required
7 for the next taxable year, or a part of the excess may, at the
8 discretion of the commissioner, be refunded from the fund or retained
9 in the fund as part of the payments which may be required for the
10 next taxable year.

11 (c) Payment of any bill rendered under (a) or (b) of this
12 subsection shall be made not later than thirty days after such bill
13 was mailed to the last known address of the nonprofit organization or
14 was otherwise delivered to it, and if not paid within such thirty
15 days, the reimbursement payments itemized in the bill shall be deemed
16 to be delinquent and the whole or part thereof remaining unpaid shall
17 bear interest and penalties from and after the end of such thirty
18 days at the rate and in the manner set forth in RCW 50.12.220 and
19 50.24.040.

20 (d) Payments made by any nonprofit organization under the
21 provisions of this section shall not be deducted or deductible, in
22 whole or in part, from the remuneration of individuals in the employ
23 of the organization. Any deduction in violation of the provisions of
24 this paragraph shall be unlawful.

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

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

32 (3) Each employer that is liable for payments in lieu of
33 contributions shall pay to the commissioner for the fund the total
34 amount of regular and additional benefits plus the amount of one-half
35 of extended benefits paid that are attributable to service in the
36 employ of such employer. If benefits paid to an individual are based
37 on wages paid by more than one employer and one or more of such
38 employers are liable for payments in lieu of contributions, the
39 amount payable to the fund by each employer that is liable for such

1 payments shall be determined in accordance with the provisions of (a)
2 and (b) of this subsection.

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

12 (b) If benefits paid to an individual are based on wages paid by
13 two or more employers that are liable for payments in lieu of
14 contributions, the amount of benefits payable by each such employer
15 shall be an amount which bears the same ratio to the total benefits
16 paid to the individual as the total base-period wages paid to the
17 individual by such employer bear to the total base-period wages paid
18 to the individual by all of his or her base-period employers.

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

21 Unless the context clearly requires otherwise, the definitions in
22 this section apply throughout this chapter.

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

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

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

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

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

38 (6) "Unemployment compensation" means the benefits payable under
39 this title other than shared work benefits and includes any amounts

1 payable pursuant to an agreement under federal law providing for
2 compensation, assistance, or allowances with respect to unemployment.

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

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

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

14 (2) (~~For weeks of benefits paid between July 1, 2012, and June~~
15 ~~28, 2015, any~~) Any amount of shared work benefits that is paid or
16 reimbursed by the federal government is not charged to experience
17 rating accounts of employers or to employers who are liable for
18 payments in lieu of contributions. The employment security department
19 shall remove charges for any amount of shared work benefits that is
20 paid or reimbursed by the federal government (~~between July 1, 2012,~~
21 ~~and the week prior to July 28, 2013~~)).

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

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

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

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

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

6 (2) RCW 50.20.1202 (Additional temporary benefit increase) and
7 2011 c 4 s 1.

8 NEW SECTION. **Sec. 28.** This act is necessary for the immediate
9 preservation of the public peace, health, or safety, or support of
10 the state government and its existing public institutions, and takes
11 effect immediately.

Passed by the Senate January 27, 2021.
Passed by the House January 29, 2021.
Approved by the Governor February 8, 2021.
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