

2 **SSB 5702** - S AMD

3 By Senators Vognild, Gaspard, Moore and Prentice

4 Adopted 3/16/93

5 Strike everything after the enacting clause and insert the
6 following:

7 "NEW SECTION. **Sec. 1.** A new section is added to chapter 50.04 RCW
8 to read as follows:

9 "Misconduct" means an employee's act or failure to act in willful
10 disregard of his or her employer's interest where the effect of the
11 employee's act or failure to act is to harm the employer's business.

12 **Sec. 2.** RCW 50.04.323 and 1983 1st ex.s. c 23 s 7 are each amended
13 to read as follows:

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

22 However:

23 (a) The requirements of this subsection shall apply to any pension,
24 retirement or retired pay, annuity, or other similar periodic payment
25 only if--

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

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

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

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

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

15 (3) A lump sum payment accumulated in a plan described in this
16 section paid to an individual eligible for such payment shall be
17 prorated over the life expectancy of the individual computed in
18 accordance with the commissioner's regulation.

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

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

25 **Sec. 3.** RCW 50.06.010 and 1984 c 65 s 1 are each amended to read
26 as follows:

27 This chapter is enacted for the purpose of providing the protection
28 of the unemployment compensation system to persons who have suffered a
29 temporary total disability (~~compensable under industrial insurance or~~
30 ~~crime victims compensation laws~~) and is a recognition by this
31 legislature of the economic hardship confronting those persons who have
32 not been promptly reemployed after a prolonged period of temporary
33 total disability.

34 **Sec. 4.** RCW 50.06.020 and 1984 c 65 s 2 are each amended to read
35 as follows:

36 The benefits of this chapter shall be allowed only to:

1 (1) Individuals who have suffered a temporary total disability and
2 have received compensation under the industrial insurance or crime
3 victims compensation laws of this state, any other state or the United
4 States for a period of not less than thirteen consecutive calendar
5 weeks by reason of such temporary total disability ((shall be allowed
6 the benefits of this chapter)); or

7 (2) Individuals who are reentering the work force after an absence
8 of not less than thirteen consecutive calendar weeks resulting from
9 temporary total physical disability because of a nonwork-related injury
10 or illness: PROVIDED, That individuals authorized to receive benefits
11 under this subsection are required to meet other eligibility
12 requirements under Title 50 RCW.

13 **Sec. 5.** RCW 50.06.030 and 1987 c 278 s 3 are each amended to read
14 as follows:

15 (1) In the case of individuals eligible under RCW 50.06.020(1), an
16 application for initial determination made pursuant to this chapter, to
17 be considered timely, must be filed in writing with the employment
18 security department within twenty-six weeks following the week in which
19 the period of temporary total disability commenced. Notice from the
20 department of labor and industries shall satisfy this requirement. The
21 records of the agency supervising the award of compensation shall be
22 conclusive evidence of the fact of temporary disability and the
23 beginning date of such disability.

24 (2) In the case of individuals eligible under RCW 50.06.020(2), an
25 application for initial determination must be filed in writing with the
26 employment security department within twenty-six weeks following the
27 week in which the period of temporary total physical disability
28 commenced. This filing requirement is satisfied by filing a signed
29 statement from the attending physician stating the date that the
30 disability commenced and stating that the individual was unable to
31 reenter the work force during the time of the disability. The
32 department may examine any medical information related to the
33 disability. If the claim is appealed, a base year employer may examine
34 the medical information related to the disability and require, at the
35 employer's expense, that the individual obtain the opinion of a second
36 health care provider selected by the employer concerning any
37 information related to the disability.

1 (3) The employment security department shall process and issue an
2 initial determination of entitlement or nonentitlement as the case may
3 be.

4 (4) For the purpose of this chapter, a special base year is
5 established for an individual consisting of either the first four of
6 the last five completed calendar quarters or the last four completed
7 calendar quarters immediately prior to the first day of the calendar
8 week in which the individual's temporary total disability commenced,
9 and a special individual benefit year is established consisting of the
10 entire period of disability and a fifty-two consecutive week period
11 commencing with the first day of the calendar week immediately
12 following the week or part thereof with respect to which the individual
13 received his final temporary total disability compensation under the
14 applicable industrial insurance or crime victims compensation laws, or
15 the week in which the individual reentered the work force after an
16 absence under subsection (2) of this section, as applicable, except
17 that no special benefit year shall have a duration in excess of three
18 hundred twelve calendar weeks: PROVIDED HOWEVER, That such special
19 benefit year will not be established unless the criteria contained in
20 RCW 50.04.030 has been met, except that an individual meeting the
21 (~~disability and filing~~) eligibility requirements of this chapter and
22 who has an unexpired benefit year established which would overlap the
23 special benefit year provided by this chapter, notwithstanding the
24 provisions in RCW 50.04.030 relating to the establishment of a
25 subsequent benefit year and RCW 50.40.010 relating to waiver of rights,
26 may elect to establish a special benefit year under this chapter:
27 PROVIDED FURTHER, that the unexpired benefit year shall be terminated
28 with the beginning of the special benefit year if the individual elects
29 to establish such special benefit year.

30 (5) For the purposes of establishing a benefit year, the department
31 shall initially use the first four of the last five completed calendar
32 quarters as the base year. If a benefit year is not established using
33 the first four of the last five calendar quarters as the base year, the
34 department shall use the last four completed calendar quarters as the
35 base year.

36 **Sec. 6.** RCW 50.13.040 and 1977 ex.s. c 153 s 4 are each amended to
37 read as follows:

1 (1) An individual shall have access to all records and information
2 concerning that individual held by the department of employment
3 security, unless the information is exempt from disclosure under RCW
4 42.17.310.

5 (2) An employing unit shall have access to its own records and to
6 any records and information relating to a benefit claim by an
7 individual if the employing unit is either the individual's last
8 employer or is the individual's base year employer.

9 (3) An employing unit shall have access to any records and
10 information relating to any decision to allow or deny benefits if:

11 (a) The decision is based on employment or an offer of employment
12 with the employing unit; or

13 (b) If the decision is based on material information provided by
14 the employing unit.

15 (4) An employing unit shall have access to general summaries of
16 benefit claims by individuals whose benefits are chargeable to the
17 employing unit's experience rating or reimbursement account.

18 **Sec. 7.** RCW 50.16.010 and 1991 sp.s. c 13 s 59 are each amended to
19 read as follows:

20 There shall be maintained as special funds, separate and apart from
21 all public moneys or funds of this state an unemployment compensation
22 fund, an administrative contingency fund, and a federal interest
23 payment fund, which shall be administered by the commissioner
24 exclusively for the purposes of this title, and to which RCW 43.01.050
25 shall not be applicable. The unemployment compensation fund shall
26 consist of

27 (1) all contributions and payments in lieu of contributions
28 collected pursuant to the provisions of this title,

29 (2) any property or securities acquired through the use of moneys
30 belonging to the fund,

31 (3) all earnings of such property or securities,

32 (4) any moneys received from the federal unemployment account in
33 the unemployment trust fund in accordance with Title XII of the social
34 security act, as amended,

35 (5) all money recovered on official bonds for losses sustained by
36 the fund,

1 (6) all money credited to this state's account in the unemployment
2 trust fund pursuant to section 903 of the social security act, as
3 amended,

4 (7) all money received from the federal government as reimbursement
5 pursuant to section 204 of the federal-state extended compensation act
6 of 1970 (84 Stat. 708-712; 26 U.S.C. Sec. 3304), and

7 (8) all moneys received for the fund from any other source.

8 All moneys in the unemployment compensation fund shall be
9 commingled and undivided.

10 The administrative contingency fund shall consist of all interest
11 on delinquent contributions collected pursuant to this title, all fines
12 and penalties collected pursuant to the provisions of this title, all
13 sums recovered on official bonds for losses sustained by the fund, and
14 revenue received under RCW 50.24.014: PROVIDED, That all fees, fines,
15 forfeitures and penalties collected or assessed by a district court
16 because of the violation of a state law shall be remitted as provided
17 in chapter 3.62 RCW as now exists or is later amended. Moneys
18 available in the administrative contingency fund, other than money in
19 the special account created under RCW 50.24.014, shall be expended upon
20 the direction of the commissioner, with the approval of the governor,
21 whenever it appears to him or her that such expenditure is necessary
22 for:

23 (a) The proper administration of this title and no federal funds
24 are available for the specific purpose to which such expenditure is to
25 be made, provided, the moneys are not substituted for appropriations
26 from federal funds which, in the absence of such moneys, would be made
27 available.

28 (b) The proper administration of this title for which purpose
29 appropriations from federal funds have been requested but not yet
30 received, provided, the administrative contingency fund will be
31 reimbursed upon receipt of the requested federal appropriation.

32 (c) The proper administration of this title for which compliance
33 and audit issues have been identified that establish federal claims
34 requiring the expenditure of state resources in resolution. Claims
35 must be resolved in the following priority: First priority is to
36 provide services to eligible participants within the state; second
37 priority is to provide substitute services or program support; and last
38 priority is the direct payment of funds to the federal government.

1 Money in the special account created under RCW 50.24.014 may only
2 be expended, after appropriation, for the purposes specified in RCW
3 (~~74.09.035, 74.09.510, 74.09.520, and 74.09.700~~) 50.62.010,
4 50.62.020, 50.62.030, 50.04.070, 50.04.072, 50.16.010, 50.29.025,
5 50.24.014, 50.44.053, and 50.22.010.

6 **Sec. 8.** RCW 50.20.050 and 1982 1st ex.s. c 18 s 6 are each amended
7 to read as follows:

8 (1) An individual shall be disqualified from benefits beginning
9 with the first day of the calendar week in which he or she has left the
10 most recent work voluntarily without good cause and thereafter for five
11 calendar weeks and until he or she has obtained bona fide work and
12 earned wages (~~(of not less than his or her suspended weekly benefit~~
13 ~~amount in each of five calendar weeks)) equal to five times his or her~~
14 weekly benefit amount.

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

- 19 (a) The duration of the work;
- 20 (b) The extent of direction and control by the employer over the
21 work; and
- 22 (c) The level of skill required for the work in light of the
23 individual's training and experience.

24 (2) An individual shall not be considered to have left the most
25 recent work voluntarily without good cause when:

26 (a) He or she has left work to accept a bona fide offer of bona
27 fide work as described in subsection (1) of this section; (~~or~~)

28 (b) The separation was because of the illness or disability of the
29 claimant or the death, illness, or disability of a member of the
30 claimant's immediate family if the claimant took all reasonable
31 precautions, in accordance with any regulations that the commissioner
32 may prescribe, to protect his or her employment status by having
33 promptly notified the employer of the reason for the absence and by
34 having promptly requested reemployment when again able to assume
35 employment: PROVIDED, That these precautions need not have been taken
36 when they would have been a futile act, including those instances when
37 the futility of the act was a result of a recognized labor/management
38 dispatch system; or

1 (c) He or she has left work to relocate for employment outside the
2 existing labor market area with his or her spouse if the claimant
3 remained employed as long as was reasonable prior to the move.

4 (3)(a) In determining under this section whether an individual has
5 left the most recent work voluntarily without good cause, the
6 commissioner shall only consider work-connected factors such as the
7 degree of risk involved to the individual's health, safety, and morals,
8 the individual's physical fitness for the work, the individual's
9 ability to perform the work, distance to work and transportation
10 available and such other work connected factors as the commissioner may
11 deem pertinent, including state and national emergencies. (~~Good cause~~
12 ~~shall not be established for voluntarily leaving work because of its~~
13 ~~distance from an individual's residence where the distance was known to~~
14 ~~the individual at the time he or she accepted the employment and where,~~
15 ~~in the judgment of the department, the distance is customarily traveled~~
16 ~~by workers in the individual's job classification and labor market,~~
17 ~~nor because of any other significant work factor which was generally~~
18 ~~known and present at the time he or she accepted employment, unless the~~
19 ~~related circumstances have so changed as to amount to a substantial~~
20 ~~involuntary deterioration of the work factor or unless the commissioner~~
21 ~~determines that other related~~))

22 (b) Good cause shall be established whenever an individual quits
23 work because hours of work offered, pay, or any other significant work
24 factor has deteriorated to the detriment of the employee by more than
25 ten percent, unless the reduction has been specifically agreed to in
26 writing by the individual and the employer.

27 (c) Notwithstanding the requirement for written agreements in (b)
28 of this subsection, good cause may be established when work-related
29 circumstances would work an unreasonable hardship on the individual
30 were he or she required to continue in the employment.

31 (4) Subsections (1) and (3) of this section shall not apply to an
32 individual whose marital status or domestic responsibilities cause him
33 or her to leave employment. Such an individual shall not be eligible
34 for unemployment insurance benefits beginning with the first day of the
35 calendar week in which he or she left the most recent work without good
36 cause and thereafter for five calendar weeks and until he or she has
37 requalified, either by obtaining bona fide work and earning wages ((of
38 not less than the suspended weekly benefit amount in each of five
39 calendar weeks)) equal to five times his or her weekly benefit amount

1 or by reporting in person to the department during ten different
2 calendar weeks and certifying on each occasion that he or she is ready,
3 able, and willing to immediately accept any suitable work which may be
4 offered, is actively seeking work pursuant to customary trade
5 practices, and is utilizing such employment counseling and placement
6 services as are available through the department. This subsection does
7 not apply to individuals covered by subsection (2)(c) of this section.

8 **Sec. 9.** RCW 50.20.060 and 1982 1st ex.s. c 18 s 16 are each
9 amended to read as follows:

10 ~~((1))~~ An individual shall be disqualified from benefits beginning
11 with the first day of the calendar week in which he or she has been
12 discharged or suspended for misconduct connected with his or her most
13 recent work and thereafter for five calendar weeks and until he or she
14 has obtained work and earned wages ~~((of not less than the suspended~~
15 ~~weekly benefit amount in each of five calendar weeks))~~ equal to five
16 times his or her benefit amount. Alcoholism shall not constitute a
17 defense to disqualification from benefits due to misconduct.

18 ~~((2) An individual who has been discharged because of a felony or~~
19 ~~a gross misdemeanor of which he or she has been convicted, or has~~
20 ~~admitted committing to a competent authority, and which is connected~~
21 ~~with his or her work shall be disqualified from receiving any benefits~~
22 ~~for which base year credits are earned in any employment prior to the~~
23 ~~discharge. Such disqualification begins with the first day of the~~
24 ~~calendar week in which he or she has been discharged, and all benefits~~
25 ~~paid during the period the individual was disqualified shall be~~
26 ~~recoverable, notwithstanding RCW 50.20.190, 50.24.020, or any other~~
27 ~~provision of this title.))~~

28 **Sec. 10.** RCW 50.20.080 and 1959 c 321 s 1 are each amended to read
29 as follows:

30 An individual is disqualified for benefits, if the commissioner
31 finds that ~~((he))~~ the individual has failed without good cause, either
32 to apply for available, suitable work when so directed by the
33 employment office or the commissioner, or to accept suitable work when
34 offered ~~((him))~~ the individual, or to return to his or her customary
35 self-employment (if any) when so directed by the commissioner. Such
36 disqualification shall begin with the week of the refusal and
37 thereafter for five calendar weeks and continue until ~~((he))~~ the

1 individual has obtained work and earned wages therefor of not less than
2 five times his or her suspended weekly benefit amount (~~(in each of five~~
3 ~~weeks)~~).

4 NEW SECTION. Sec. 11. A new section is added to chapter 50.20 RCW
5 to read as follows:

6 CANCELLATION OF WAGE/HOUR CREDITS. (1) An individual who has been
7 discharged from his or her most recent work because of a felony or
8 gross misdemeanor of which he or she has been convicted, or has
9 admitted committing to a competent authority, and that is connected
10 with his or her work shall have all hourly wage credits based on that
11 employment canceled.

12 (2) The employer shall notify the department of such an admission
13 or conviction, not later than six months following the admission or
14 conviction.

15 (3) The claimant shall disclose any conviction of the claimant of
16 a work-connected felony or gross misdemeanor occurring in the previous
17 two years to the department at the time of application for benefits.

18 (4) All benefits that are paid in error based on wage/hour credits
19 that should have been removed from the claimant's base year are
20 recoverable, notwithstanding RCW 50.20.190 or 50.24.020 or any other
21 provisions of this title.

22 Sec. 12. RCW 50.20.120 and 1984 c 205 s 1 are each amended to read
23 as follows:

24 (1) Subject to the other provisions of this title, benefits shall
25 be payable to any eligible individual during the individual's benefit
26 year in a maximum amount equal to the lesser of thirty times the weekly
27 benefit amount (determined hereinafter) or one-third of the
28 individual's base year wages under this title: PROVIDED, That as to
29 any week beginning on and after March 31, 1981, which falls in an
30 extended benefit period as defined in RCW 50.22.010(1), as now or
31 hereafter amended, an individual's eligibility for maximum benefits in
32 excess of twenty-six times his or her weekly benefit amount will be
33 subject to the terms and conditions set forth in RCW 50.22.020, as now
34 or hereafter amended.

35 (2) An individual's weekly benefit amount shall be an amount equal
36 to one twenty-fifth of the average quarterly wages of the individual's
37 total wages during the two quarters of the individual's base year in

1 which such total wages were highest. The maximum and minimum amounts
2 payable weekly shall be determined as of each June 30th to apply to
3 benefit years beginning in the twelve-month period immediately
4 following such June 30th. The maximum amount payable weekly shall be
5 ~~((fifty-five))~~ seventy percent of the "average weekly wage" for the
6 calendar year preceding such June 30th(~~(: PROVIDED, That if as of the~~
7 ~~first December 31st on which the ratio of the balance in the~~
8 ~~unemployment compensation fund to total remuneration paid by all~~
9 ~~employers subject to contributions during the calendar year ending on~~
10 ~~such December 31st and reported to the department by the following~~
11 ~~March 31st is 0.024 or more, the maximum amount payable weekly for~~
12 ~~benefit years beginning with the first full calendar week in July next~~
13 ~~following, and thereafter, shall be sixty percent of the "average~~
14 ~~weekly wage"))). The computation for this ratio shall be carried to the
15 fourth decimal place with the remaining fraction, if any, disregarded:
16 PROVIDED FURTHER, That for benefit years beginning before July 7, 1985,
17 the maximum amount payable weekly shall not exceed one hundred eighty-
18 five dollars. The minimum amount payable weekly shall be fifteen
19 percent of the "average weekly wage" for the calendar year preceding
20 such June 30th. If any weekly benefit, maximum benefit, or minimum
21 benefit amount computed herein is not a multiple of one dollar, it
22 shall be reduced to the next lower multiple of one dollar.~~

23 **Sec. 13.** RCW 50.20.190 and 1991 c 117 s 3 are each amended to read
24 as follows:

25 (1) An individual who is paid any amount as benefits under this
26 title to which he or she is not entitled shall, unless otherwise
27 relieved pursuant to this section, be liable for repayment of the
28 amount overpaid. The department shall issue an overpayment assessment
29 setting forth the reasons for and the amount of the overpayment. The
30 amount assessed, to the extent not collected, may be deducted from any
31 future benefits payable to the individual: PROVIDED, That in the
32 absence of fraud, misrepresentation, or willful nondisclosure, every
33 determination of liability shall be mailed or personally served not
34 later than two years after the close of the individual's benefit year
35 in which the purported overpayment was made unless the merits of the
36 claim are subjected to administrative or judicial review in which event
37 the period for serving the determination of liability shall be extended

1 to allow service of the determination of liability during the six-month
2 period following the final decision affecting the claim.

3 (2) The commissioner may waive an overpayment if the commissioner
4 finds that said overpayment was not the result of fraud,
5 misrepresentation, willful nondisclosure, or fault attributable to the
6 individual and that the recovery thereof would be against equity and
7 good conscience: PROVIDED, HOWEVER, That the overpayment so waived
8 shall be charged against the individual's applicable entitlement for
9 the eligibility period containing the weeks to which the overpayment
10 was attributed as though such benefits had been properly paid.

11 (3) Any assessment herein provided shall constitute a determination
12 of liability from which an appeal may be had in the same manner and to
13 the same extent as provided for appeals relating to determinations in
14 respect to claims for benefits: PROVIDED, That an appeal from any
15 determination covering overpayment only shall be deemed to be an appeal
16 from the determination which was the basis for establishing the
17 overpayment unless the merits involved in the issue set forth in such
18 determination have already been heard and passed upon by the appeal
19 tribunal. If no such appeal is taken to the appeal tribunal by the
20 individual within thirty days of the delivery of the notice of
21 determination of liability, or within thirty days of the mailing of the
22 notice of determination, whichever is the earlier, said determination
23 of liability shall be deemed conclusive and final. Whenever any such
24 notice of determination of liability becomes conclusive and final, the
25 commissioner, upon giving at least twenty days notice by certified mail
26 return receipt requested to the individual's last known address of the
27 intended action, may file with the superior court clerk of any county
28 within the state a warrant in the amount of the notice of determination
29 of liability plus a filing fee of five dollars. The clerk of the
30 county where the warrant is filed shall immediately designate a
31 superior court cause number for the warrant, and the clerk shall cause
32 to be entered in the judgment docket under the superior court cause
33 number assigned to the warrant, the name of the person(s) mentioned in
34 the warrant, the amount of the notice of determination of liability,
35 and the date when the warrant was filed. The amount of the warrant as
36 docketed shall become a lien upon the title to, and any interest in,
37 all real and personal property of the person(s) against whom the
38 warrant is issued, the same as a judgment in a civil case duly docketed
39 in the office of such clerk. A warrant so docketed shall be sufficient

1 to support the issuance of writs of execution and writs of garnishment
2 in favor of the state in the manner provided by law for a civil
3 judgment. A copy of the warrant shall be mailed to the person(s)
4 mentioned in the warrant by certified mail to the person's last known
5 address within five days of its filing with the clerk.

6 (4) On request of any agency which administers an employment
7 security law of another state, the United States, or a foreign
8 government and which has found in accordance with the provisions of
9 such law that a claimant is liable to repay benefits received under
10 such law, the commissioner may collect the amount of such benefits from
11 the claimant to be refunded to the agency. In any case in which under
12 this section a claimant is liable to repay any amount to the agency of
13 another state, the United States, or a foreign government, such amounts
14 may be collected without interest by civil action in the name of the
15 commissioner acting as agent for such agency if the other state, the
16 United States, or the foreign government extends such collection rights
17 to the employment security department of the state of Washington, and
18 provided that the court costs be paid by the governmental agency
19 benefiting from such collection.

20 (5) Any employer who is a party to a back pay award or settlement
21 due to loss of wages shall, within thirty days of the award or
22 settlement, report to the department the amount of the award or
23 settlement, the name and social security number of the recipient of the
24 award or settlement, and the period for which it is awarded. When an
25 individual has been awarded or receives back pay, for benefit purposes
26 the amount of the back pay shall constitute wages paid in the period
27 for which it was awarded. For contribution purposes, the back pay
28 award or settlement shall constitute wages paid in the period in which
29 it was actually paid. The following requirements shall also apply:

30 (a) The employer shall reduce the amount of the back pay award or
31 settlement by an amount determined by the department based upon the
32 amount of unemployment benefits received by the recipient of the award
33 or settlement during the period for which the back pay award or
34 settlement was awarded;

35 (b) The employer shall pay to the unemployment compensation fund,
36 in a manner specified by the commissioner, an amount equal to the
37 amount of such reduction;

38 (c) The employer shall also pay to the department any taxes due for
39 unemployment insurance purposes on the entire amount of the back pay

1 award or settlement notwithstanding any reduction made pursuant to (a)
2 of this subsection;

3 (d) If the employer fails to reduce the amount of the back pay
4 award or settlement as required in (a) of this subsection, the
5 department shall issue an overpayment assessment against the recipient
6 of the award or settlement in the amount that the back pay award or
7 settlement should have been reduced; and

8 (e) If the employer fails to pay to the department an amount equal
9 to the reduction as required in (b) of this subsection, the department
10 shall issue an assessment of liability against the employer which shall
11 be collected pursuant to the procedures for collection of assessments
12 provided herein and in RCW 50.24.110.

13 (6) When an individual fails to repay an overpayment assessment
14 that is due and fails to arrange for satisfactory repayment terms, the
15 commissioner shall impose an interest penalty of one percent per month
16 of the outstanding balance (~~((for each month that payments are not made~~
17 ~~in a timely fashion))~~). Interest shall accrue immediately on
18 overpayments assessed pursuant to RCW 50.20.070 and shall be imposed
19 when the assessment becomes final. For any other overpayment, interest
20 shall accrue when the individual has missed two or more of their
21 monthly payments either partially or in full. The interest penalty
22 shall be used to fund detection and recovery of overpayment and
23 collection activities.

24 NEW SECTION. Sec. 14. A new section is added to chapter 50.20 RCW
25 to read as follows:

26 All receipts from interest assessed against unemployment insurance
27 claimants shall be deposited in the administrative contingency account
28 and shall be used for the purpose of RCW 50.20.190(3).

29 **Sec. 15.** RCW 50.22.010 and 1985 ex.s. c 5 s 10 are each amended to
30 read as follows:

31 As used in this chapter, unless the context clearly indicates
32 otherwise:

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

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

36 (b) Ends with the third week after the first week for which there
37 is an "off" indicator: PROVIDED, That no extended benefit period shall

1 last for a period of less than thirteen consecutive weeks, and further
2 that no extended benefit period may begin by reason of an "on"
3 indicator before the fourteenth week after the close of a prior
4 extended benefit period which was in effect with respect to this state.

5 (2) There is an "on" indicator for this state for a week if the
6 commissioner determines, in accordance with the regulations of the
7 United States secretary of labor, that for the period consisting of
8 such week and the immediately preceding twelve weeks(~~(7)~~):

9 (a) The rate of insured unemployment (~~(+)~~), not seasonally
10 adjusted(~~(-)~~ either:

11 (a)), ~~(a)~~, equaled or exceeded one hundred twenty percent of the
12 average of such rates for the corresponding thirteen-week period ending
13 in each of the preceding two calendar years and equaled or exceeded
14 five percent; or

15 (b) (~~Equaled or exceeded six percent: PROVIDED, That the six~~
16 percent trigger shall apply only until December 31, 1985)) ~~For benefits~~
17 for weeks of unemployment beginning after March 6, 1993:

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

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

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

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

37 (b) The average rate of total unemployment in the state, seasonally
38 adjusted, as determined by the United States secretary of labor, for
39 the three-month period referred to in (a) of this subsection, equals or

1 exceeds one hundred ten percent of the average for either or both of
2 the corresponding three-month periods ending in the two preceding
3 calendar years.

4 ~~(4) There is an "off" indicator for this state for a week ((if the~~
5 ~~commissioner determines, in accordance with the regulations of the~~
6 ~~United States secretary of labor, that for the period consisting of~~
7 ~~such week and the immediately preceding twelve weeks, the rate of~~
8 ~~insured unemployment (not seasonally adjusted) was either:~~

9 ~~(a) Less than five percent; or~~

10 ~~(b) Five percent or more but less than six percent and the rate of~~
11 ~~insured unemployment was less than one hundred twenty percent of the~~
12 ~~average of the rates for the corresponding thirteen week period ending~~
13 ~~in each of the two preceding calendar years: PROVIDED, That the six~~
14 ~~percent trigger shall apply only until December 31, 1985)) only if, for~~
15 ~~the period consisting of such week and immediately preceding twelve~~
16 ~~weeks, none of the options specified in subsection (2) or (3) of this~~
17 ~~section result in an "on" indicator.~~

18 ~~((+4)) (5) "Regular benefits" means benefits payable to an~~
19 ~~individual under this title or under any state law (including benefits~~
20 ~~payable to federal civilian employees and to ex-servicemen pursuant to~~
21 ~~5 U.S.C. chapter 85) other than extended benefits or additional~~
22 ~~benefits.~~

23 ~~((+5)) (6) "Extended benefits" means benefits payable for weeks of~~
24 ~~unemployment beginning in an extended benefit period to an individual~~
25 ~~under this title or under any state law (including benefits payable to~~
26 ~~federal civilian employees and to ex-servicemen pursuant to 5 U.S.C.~~
27 ~~chapter 85) other than regular or additional benefits.~~

28 ~~((+6)) (7) "Additional benefits" are benefits totally financed by~~
29 ~~the state and payable under this title to exhaustees by reason of~~
30 ~~conditions of high unemployment or by reason of other special factors.~~

31 ~~((+7)) (8) "Eligibility period" of an individual means the period~~
32 ~~consisting of the weeks in his or her benefit year which begin in an~~
33 ~~extended benefit period that is in effect in this state and, if his or~~
34 ~~her benefit year ends within such extended benefit period, any weeks~~
35 ~~thereafter which begin in such period.~~

36 ~~((+8)) (9) "Additional benefit eligibility period" of an~~
37 ~~individual means the period consisting of the weeks in his or her~~
38 ~~benefit year which begin in an additional benefit period that is in~~

1 effect and, if his or her benefit year ends within such additional
2 benefit period, any weeks thereafter which begin in such period.

3 ~~((+9))~~ (10) "Exhaustee" means an individual who, with respect to
4 any week of unemployment in his or her eligibility period:

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

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

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

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

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

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

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

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

18 (~~(10)~~) (11) "State law" means the unemployment insurance law of
19 any state, approved by the United States secretary of labor under
20 section 3304 of the internal revenue code of 1954.

21 **Sec. 16.** RCW 50.22.020 and 1981 c 35 s 8 are each amended to read
22 as follows:

23 When the result would not be inconsistent with the other provisions
24 of this chapter, the provisions of this title and commissioner's
25 regulations enacted pursuant thereto, which apply to claims for, or the
26 payment of, regular benefits, shall apply to claims for, and the
27 payment of, extended benefits: PROVIDED, That

28 (1) Payment of extended compensation under this chapter shall not
29 be made to any individual for any week of unemployment in his or her
30 eligibility period--

31 (a) During which he or she fails to accept any offer of suitable
32 work (as defined in subsection (3) of this section) or fails to apply
33 for any suitable work to which he or she was referred by the employment
34 security department; or

35 (b) During which he or she fails to actively engage in seeking
36 work.

37 (2) If any individual is ineligible for extended compensation for
38 any week by reason of a failure described in subsections (1)(a) or

1 (1)(b) of this section, the individual shall be ineligible to receive
2 extended compensation for any week which begins during a period which--
3 (a) Begins with the week following the week in which such failure
4 occurs; and
5 (b) Does not end until such individual has been employed during at
6 least four weeks which begin after such failure and the total of the
7 remuneration earned by the individual for being so employed is not less
8 than the product of four multiplied by the individual's weekly benefit
9 amount (as determined under RCW 50.20.120) for his or her benefit year.
10 (3) For purposes of this section, the term "suitable work" means,
11 with respect to any individual, any work which is within such
12 individual's capabilities and which does not involve conditions
13 described in RCW 50.20.110: PROVIDED, That if the individual furnishes
14 evidence satisfactory to the employment security department that such
15 individual's prospects for obtaining work in his or her customary
16 occupation within a reasonably short period are good, the determination
17 of whether any work is suitable work with respect to such individual
18 shall be made in accordance with RCW 50.20.100.
19 (4) Extended compensation shall not be denied under subsection
20 (1)(a) of this section to any individual for any week by reason of a
21 failure to accept an offer of, or apply for, suitable work if:
22 (a) The gross average weekly remuneration payable to such
23 individual for the position does not exceed the sum of--
24 (i) The individual's weekly benefit amount (as determined under RCW
25 50.20.120) for his or her benefit year; plus
26 (ii) The amount (if any) of supplemental unemployment compensation
27 benefits (as defined in section 501(c)(17)(D) of the Internal Revenue
28 Code of 1954, 26 U.S.C. Sec. 501(c)(17)(D)), payable to such individual
29 for such week;
30 (b) The position was not offered to such individual in writing and
31 was not listed with the employment security department;
32 (c) Such failure would not result in a denial of compensation under
33 the provisions of RCW 50.20.080 and 50.20.100 to the extent such
34 provisions are not inconsistent with the provisions of subsections (3)
35 and (5) of this section; or
36 (d) The position pays wages less than the higher of--
37 (i) The minimum wage provided by section (6)(a)(1) of the Fair
38 Labor Standards Act of 1938, without regard to any exemption; or
39 (ii) Any applicable state or local minimum wage.

1 (5) For purposes of this section, an individual shall be treated as
2 actively engaged in seeking work during any week if:

3 (a) The individual has engaged in a systematic and sustained effort
4 to obtain work during such week; and

5 (b) The individual provides tangible evidence to the employment
6 security department that he or she has engaged in such an effort during
7 such week.

8 (6) The employment security department shall refer applicants for
9 benefits under this chapter to any suitable work to which subsections
10 (4)(a) through (4)(d) of this section would not apply.

11 (7) No provisions of this title which terminates a disqualification
12 for voluntarily leaving employment, being discharged for misconduct, or
13 refusing suitable employment shall apply for purposes of determining
14 eligibility for extended compensation unless such termination is based
15 upon employment subsequent to the date of such disqualification.

16 (8) The provisions of subsections (1) through (7) of this section
17 shall apply with respect to weeks of unemployment beginning after March
18 31, 1981. However, the provisions of subsections (1) through (7) of
19 this section shall not apply to those weeks of unemployment beginning
20 after March 6, 1993, and before January 1, 1995.

21 **Sec. 17.** RCW 50.22.030 and 1982 1st ex.s. c 18 s 4 are each
22 amended to read as follows:

23 (1) An individual shall be eligible to receive extended benefits
24 with respect to any week of unemployment in his or her eligibility
25 period only if the commissioner finds with respect to such week that:

26 (a) The individual is an "exhaustee" as defined in RCW 50.22.010;

27 (b) He or she has satisfied the requirements of this title for the
28 receipt of regular benefits that are applicable to individuals claiming
29 extended benefits, including not being subject to a disqualification
30 for the receipt of benefits; and

31 (c) He or she has earned wages in the applicable base year of at
32 least:

33 (i) Forty times his or her weekly benefit amount; or

34 (ii) One and one-half times his or her insured wages in the
35 calendar quarter of the base period in which the insured wages are the
36 highest, for weeks of unemployment on or after July 3, 1992.

37 (2) An individual filing an interstate claim in any state under the
38 interstate benefit payment plan shall not be eligible to receive

1 extended benefits for any week beyond the first two weeks claimed for
2 which extended benefits are payable unless an extended benefit period
3 embracing such week is also in effect in the agent state.

4 **Sec. 18.** RCW 50.22.050 and 1982 1st ex.s. c 18 s 5 are each
5 amended to read as follows:

6 (1) The total extended benefit amount payable to any eligible
7 individual with respect to his or her applicable benefit year shall be
8 the least of the following amounts:

9 (a) Fifty percent of the total amount of regular benefits which
10 were payable to him or her under this title in his or her applicable
11 benefit year;

12 (b) Thirteen times his or her weekly benefit amount which was
13 payable to him or her under this title for a week of total unemployment
14 in the applicable benefit year; or

15 (c) Thirty-nine times his or her weekly benefit amount which was
16 payable to him or her under this title for a week of total unemployment
17 in the applicable benefit year, reduced by the total amount of regular
18 benefits which were paid (or deemed paid) to him or her under this
19 title with respect to the benefit year.

20 (2) Notwithstanding any other provision of this chapter, if the
21 benefit year of any eligible individual ends within an extended benefit
22 period, the extended benefits which the individual would otherwise be
23 entitled to receive with respect to weeks of unemployment beginning
24 after the end of the benefit year and within the extended benefit
25 period shall be reduced (but not below zero) by the product of the
26 number of weeks for which the individual received any amount as a trade
27 readjustment allowance within that benefit year, multiplied by the
28 individual's weekly extended benefit amount.

29 (3) Effective for weeks beginning in a high unemployment period as
30 defined in RCW 50.22.010(3) the total extended benefit amount payable
31 to any eligible individual with respect to his or her applicable
32 benefit year shall be the least of the following amounts:

33 (a) Eighty percent of the total amount of regular benefits that
34 were payable to him or her under this title in his or her applicable
35 benefit year;

36 (b) Twenty times his or her weekly benefit amount that was payable
37 to him or her under this title for a week of total unemployment in the
38 applicable benefit year; or

1 (c) Forty-six times his or her weekly benefit amount that was
2 payable to him or her under this title for a week of total unemployment
3 in the applicable benefit year, reduced by the total amount of regular
4 benefits which were paid, or deemed paid, to him or her under this
5 title with respect to the benefit year.

6 **Sec. 19.** RCW 50.29.020 and 1991 c 129 s 1 are each amended to read
7 as follows:

8 (1) An experience rating account shall be established and
9 maintained for each employer, except employers as described in RCW
10 50.44.010 and 50.44.030 who have properly elected to make payments in
11 lieu of contributions, taxable local government employers as described
12 in RCW 50.44.035, and those employers who are required to make payments
13 in lieu of contributions, based on existing records of the employment
14 security department. Benefits paid to any eligible individuals shall
15 be charged to the experience rating accounts of each of such
16 individual's employers during the individual's base year in the same
17 ratio that the wages paid by each employer to the individual during the
18 base year bear to the wages paid by all employers to that individual
19 during that base year, except as otherwise provided in this section.

20 (2) The legislature finds that certain benefit payments, in whole
21 or in part, should not be charged to the experience rating accounts of
22 employers except those employers described in RCW 50.44.010 and
23 50.44.030 who have properly elected to make payments in lieu of
24 contributions, taxable local government employers described in RCW
25 50.44.035, and those employers who are required to make payments in
26 lieu of contributions, as follows:

27 (a) Benefits paid to any individuals later determined to be
28 ineligible shall not be charged to the experience rating account of any
29 contribution paying employer.

30 (b) Benefits paid to an individual under the provisions of RCW
31 50.12.050 shall not be charged to the account of any contribution
32 paying employer if the wage credits earned in this state by the
33 individual during his or her base year are less than the minimum amount
34 necessary to qualify the individual for unemployment benefits.

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

1 (d) Benefits paid which represent the state's share of benefits
2 payable under chapter 50.22 RCW shall not be charged to the experience
3 rating account of any contribution paying employer.

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

9 (f)(i) Benefits paid to an individual as the result of a
10 determination by the commissioner that no stoppage of work exists,
11 pursuant to RCW 50.20.090, shall not be charged to the experience
12 rating account of any contribution paying employer.

13 (ii) Benefits paid to an individual under RCW 50.20.090(1) for
14 weeks of unemployment ending before February 20, 1987, shall not be
15 charged to the experience rating account of any base year employer.

16 (g) In the case of individuals identified under RCW 50.20.015,
17 benefits paid with respect to a calendar quarter, which exceed the
18 total amount of wages earned in the state of Washington in the higher
19 of two corresponding calendar quarters included within the individual's
20 determination period, as defined in RCW 50.20.015, shall not be charged
21 to the experience rating account of any contribution paying employer.

22 (h) Benefits paid to an individual who does not successfully
23 complete an approved on-the-job training program under RCW 50.12.240
24 may not be charged to the experience rating account of the
25 contribution-paying employer who provided the approved on-the-job
26 training.

27 (i) Beginning July 1, 1985, a contribution-paying base year
28 employer, not otherwise eligible for relief of charges for benefits
29 under this section, may receive such relief if the benefit charges
30 result from payment to an individual who:

31 (i) (~~The benefit charges result from payment to an individual~~
32 ~~who)) Last left the employ of such employer voluntarily for reasons not~~
33 ~~attributable to the employer(, or was discharged for misconduct~~
34 ~~connected with his or her work; and))i~~

35 (ii) (~~The employer requests relief of charges in writing within~~
36 ~~thirty days following mailing to the last known address of the~~
37 ~~notification of the initial determination of such a claim, stating the~~
38 ~~date and reason for the last leaving; and~~

1 ~~(iii) Upon investigation of the separation, the commissioner rules~~
2 ~~that the relief should be granted.~~

3 ~~(i) An employer who employed a claimant during the claimant's base~~
4 ~~year, and who continues to employ the claimant, is eligible for relief~~
5 ~~of benefit charges if relief is requested in writing within thirty days~~
6 ~~of notification by the department of the claimant's application for~~
7 ~~initial determination of eligibility. Relief of benefit charges shall~~
8 ~~cease when the employment relationship with the claimant ends. This~~
9 ~~subsection shall not apply to shared work employers under chapter 50.60~~
10 ~~RCW.~~

11 ~~(j) Benefits paid to an individual who does not successfully~~
12 ~~complete an approved on the job training program under RCW 50.12.240~~
13 ~~shall not be charged to the experience rating account of the~~
14 ~~contribution paying employer who provided the approved on the job~~
15 ~~training.~~

16 ~~(k) Benefits paid resulting from a closure or severe curtailment of~~
17 ~~operations at the employer's plant, building, work site, or facility~~
18 ~~due to damage caused by fire, flood, or other natural disaster shall~~
19 ~~not be charged to the experience rating account of the employer if:~~

20 ~~(i)) Was discharged for misconduct connected with his or her work~~
21 ~~not a result of inability to meet the minimum job requirements;~~

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

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

34 ~~(j) The employer ((petitions for)) requests relief of charges((+~~
35 ~~and~~

36 ~~(ii) The commissioner approves granting relief of charges)) in~~
37 ~~writing within thirty days following mailing to the last known address~~
38 ~~of the notification of the valid initial determination of such claim,~~
39 ~~stating the date and reason for the separation or the circumstances of~~

1 continued employment, and, upon investigation of the request, the
2 commissioner rules that relief should be granted.

3 **Sec. 20.** RCW 50.24.014 and 1987 c 171 s 4 are each amended to read
4 as follows:

5 A separate and identifiable account to provide for the financing of
6 special programs to assist the unemployed is established in the
7 administrative contingency fund. Contributions to this account shall
8 accrue and become payable by each employer, except employers as
9 described in RCW 50.44.010 and 50.44.030 who have properly elected to
10 make payments in lieu of contributions, taxable local government
11 employers as described in RCW 50.44.035, and those employers who are
12 required to make payments in lieu of contributions, at ((the)) a basic
13 rate of two one-hundredths of one percent. The amount of wages subject
14 to tax shall be determined under RCW 50.24.010.

15 For the first calendar quarter of 1994 only, this basic two one-
16 hundredths of one percent shall be increased by one hundredth of one
17 percent to a total rate of three one-hundredths of one percent. The
18 proceeds of this incremental one-hundredth of one percent shall be used
19 solely for the purposes described in section 22 of this act. Any
20 surplus will be deposited in the unemployment compensation trust fund.

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

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

29 If the commissioner determines that federal funding has been
30 increased to provide financing for the services specified in chapter
31 50.62 RCW, the commissioner shall direct that collection of
32 contributions under this section be terminated on the following January
33 1st.

34 **Sec. 21.** RCW 50.29.025 and 1990 c 245 s 7 are each amended to read
35 as follows:

36 The contribution rate for each employer shall be determined under
37 this section.

1 (1) A fund balance ratio shall be determined by dividing the
 2 balance in the unemployment compensation fund as of the June 30th
 3 immediately preceding the rate year by the total remuneration paid by
 4 all employers subject to contributions during the second calendar year
 5 preceding the rate year and reported to the department by the following
 6 March 31st. The division shall be carried to the fourth decimal place
 7 with the remaining fraction, if any, disregarded. The fund balance
 8 ratio shall be expressed as a percentage.

9 (2) The interval of the fund balance ratio, expressed as a
 10 percentage, shall determine which tax schedule in subsection (5) of
 11 this section shall be in effect for assigning tax rates for the rate
 12 year. The intervals for determining the effective tax schedule shall
 13 be:

14 Interval of the	Effective
15 Fund Balance Ratio	Tax Schedule
16 Expressed as a Percentage	
17 <u>3.90 and above</u>	<u>AA</u>
18 3.40 ((and above)) <u>to 3.89</u>	A
19 2.90 to 3.39	B
20 2.40 to 2.89	C
21 1.90 to 2.39	D
22 1.40 to 1.89	E
23 Less than 1.40	F

24 (3) An array shall be prepared, listing all qualified employers in
 25 ascending order of their benefit ratios. The array shall show for each
 26 qualified employer: (a) Identification number; (b) benefit ratio; (c)
 27 taxable payrolls for the four calendar quarters immediately preceding
 28 the computation date and reported to the department by the cut-off
 29 date; (d) a cumulative total of taxable payrolls consisting of the
 30 employer's taxable payroll plus the taxable payrolls of all other
 31 employers preceding him or her in the array; and (e) the percentage
 32 equivalent of the cumulative total of taxable payrolls.

33 (4) Each employer in the array shall be assigned to one of twenty
 34 rate classes according to the percentage intervals of cumulative
 35 taxable payrolls set forth in subsection (5) of this section:
 36 PROVIDED, That if an employer's taxable payroll falls within two or
 37 more rate classes, the employer and any other employer with the same

1 benefit ratio shall be assigned to the lowest rate class which includes
 2 any portion of the employer's taxable payroll.

3 (5) The contribution rate for each employer in the array shall be
 4 the rate specified in the following table for the rate class to which
 5 he or she has been assigned, as determined under subsection (4) of this
 6 section, within the tax schedule which is to be in effect during the
 7 rate year:

8 Percent of			9 Schedule of Contribution Rates for								
10 Cumulative Taxable Payrolls			11 Effective Tax Schedule								
			12 Rate								
12 From	To	Class	<u>AA</u>	A	B	C	D	E	F		
13 0.00	5.00	1	<u>0.48</u>	0.48	0.58	0.98	1.48	1.88	2.48		
14 5.01	10.00	2	<u>0.48</u>	0.48	0.78	1.18	1.68	2.08	2.68		
15 10.01	15.00	3	<u>0.58</u>	0.58	0.98	1.38	1.78	2.28	2.88		
16 15.01	20.00	4	<u>0.58</u>	0.78	1.18	1.58	1.98	2.48	3.08		
17 20.01	25.00	5	<u>0.78</u>	0.98	1.38	1.78	2.18	2.68	3.18		
18 25.01	30.00	6	<u>0.98</u>	1.18	1.58	1.98	2.38	2.78	3.28		
19 30.01	35.00	7	<u>1.08</u>	1.38	1.78	2.18	2.58	2.98	3.38		
20 35.01	40.00	8	<u>1.28</u>	1.58	1.98	2.38	2.78	3.18	3.58		
21 40.01	45.00	9	<u>1.48</u>	1.78	2.18	2.58	2.98	3.38	3.78		
22 45.01	50.00	10	<u>1.68</u>	1.98	2.38	2.78	3.18	3.58	3.98		
23 50.01	55.00	11	<u>1.98</u>	2.28	2.58	2.98	3.38	3.78	4.08		
24 55.01	60.00	12	<u>2.18</u>	2.48	2.78	3.18	3.58	3.98	4.28		
25 60.01	65.00	13	<u>2.38</u>	2.68	2.98	3.38	3.78	4.18	4.48		
26 65.01	70.00	14	<u>2.58</u>	2.88	3.18	3.58	3.98	4.38	4.68		
27 70.01	75.00	15	<u>2.88</u>	3.08	3.38	3.78	4.18	4.58	4.78		
28 75.01	80.00	16	<u>3.08</u>	3.28	3.58	3.98	4.38	4.68	4.88		
29 80.01	85.00	17	<u>3.28</u>	3.48	3.78	4.18	4.58	4.88	4.98		
30 85.01	90.00	18	<u>3.68</u>	3.88	4.18	4.58	4.88	4.98	5.18		
31 90.01	95.00	19	<u>4.08</u>	4.28	4.58	4.98	5.08	5.18	5.38		
32 95.01	100.00	20	<u>5.40</u>	5.40	5.40	5.40	5.40	5.40	5.40		

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

35 (a) Employers who do not meet the definition of "qualified
 36 employer" by reason of failure to pay contributions when due shall be
 37 assigned the contribution rate of five and (~~four-tenths~~) six-tenths
 38 percent, except employers who have an approved agency-deferred payment

1 contract by September 30 of the previous rate year. If any employer
2 with an approved agency-deferred payment contract fails to make any one
3 of the succeeding deferred payments or fails to submit any succeeding
4 tax report and payment in a timely manner, the employer's tax rate
5 shall immediately revert to five and (~~four-tenths~~) six-tenths percent
6 for the current rate year;

7 (b) The contribution rate for employers exempt as of December 31,
8 1989, who are newly covered under the section 78, chapter 380, Laws of
9 1989 amendment to RCW 50.04.150 and not yet qualified to be in the
10 array shall be 2.5 percent for employers whose standard industrial code
11 is "013", "016", "017", "018", "019", "021", or "081"; and

12 (c) For all other employers not qualified to be in the array, the
13 contribution rate shall be a rate equal to the average industry rate as
14 determined by the commissioner; however, the rate may not be less than
15 one percent. Assignment of employers by the commissioner to industrial
16 classification, for purposes of this subsection, shall be in accordance
17 with established classification practices found in the "Standard
18 Industrial Classification Manual" issued by the federal office of
19 management and budget to the third digit provided in the Standard
20 Industrial Classification code.

21 NEW SECTION. **Sec. 22.** (1) There is hereby created a joint task
22 force on unemployment insurance composed of the following members:

23 (a) Four members of the senate labor and commerce committee, two
24 from each of the major caucuses, to be appointed by the president of
25 the senate;

26 (b) Four members of the house of representatives commerce and labor
27 committee, two from each of the major caucuses, to be appointed by the
28 speaker of the house of representatives; and

29 (c) Up to eight members appointed jointly by the president of the
30 senate and the speaker of the house of representatives representing
31 business and labor in equal numbers. The business representatives
32 shall be selected from nominations submitted by state-wide business
33 organizations representing a cross-section of industries. The labor
34 representatives shall be selected from nominations submitted by state-
35 wide labor organizations representing a cross-section of industries.

36 (2) The employment security department unemployment insurance
37 advisory committee shall act as an advisory body to the task force.

1 (3) The senate committee services and the office of program
2 research shall provide the staff support as mutually agreed by the
3 cochairmen of the task force. The task force shall designate the
4 cochairmen.

5 (4) The members of the task force shall be reimbursed for travel
6 expenses as provided in RCW 43.03.050 and 43.03.060.

7 (5) The task force shall study the following issues:

8 (a) Financing and administration of unemployment insurance;

9 (b) Social costs;

10 (c) Administrative costs;

11 (d) Experience rating systems;

12 (e) Tax rates;

13 (f) Trust fund adequacy;

14 (g) Accountability and administrative funding of employment
15 security department programs; and

16 (h) Any other issues deemed appropriate by the task force.

17 (6) The task force shall report its findings to the legislature by
18 December 31, 1993.

19 NEW SECTION. Sec. 23. (1) Sections 1 and 8 through 11 of this act
20 are necessary for the immediate preservation of the public peace,
21 health, or safety, or support of the state government and its existing
22 public institutions, and shall take effect July 3, 1993, and shall be
23 effective as to separations occurring after July 3, 1993.

24 (2) Section 2 of this act is necessary for the immediate
25 preservation of the public peace, health, or safety, or support of the
26 state government and its existing public institutions, and shall take
27 effect July 3, 1993, and is effective as to weeks claimed after July 3,
28 1993.

29 (3) Section 12 of this act is necessary for the immediate
30 preservation of the public peace, health, or safety, or support of the
31 state government and its existing public institutions, and shall take
32 effect July 3, 1993, and is effective as to new claims filed after July
33 3, 1993.

34 (4) Section 19 of this act is necessary for the immediate
35 preservation of the public peace, health, or safety, or support of the
36 state government and its existing public institutions, and shall take
37 effect July 3, 1993, and is effective as to requests for relief of
38 charges received after July 3, 1993.

1 (5) Sections 15, 17, and 18 of this act shall be effective to new
2 extended benefit claims filed after October 2, 1993.

3 (6) Sections 13 and 14 of this act shall take effect January 1,
4 1994.

5 (7) Sections 3, 4, 5, and 13 of this act shall take effect January
6 2, 1994.

7 (8) Sections 20 and 21 of this act shall take effect for tax year
8 1994.

9 (9) Section 16 of this act is necessary for the immediate
10 preservation of the public peace, health, or safety, or support of the
11 state government and its existing public institutions, and shall take
12 effect immediately.

13 NEW SECTION. **Sec. 24.** If any part of this act is found to be in
14 conflict with federal requirements that are a prescribed condition to
15 the allocation of federal funds to the state or the eligibility of
16 employers in this state for federal unemployment tax credits, the
17 conflicting part of this act is hereby declared to be inoperative
18 solely to the extent of the conflict, and such finding or determination
19 shall not affect the operation of the remainder of this act. The rules
20 under this act shall meet federal requirements that are a necessary
21 condition to the receipt of federal funds by the state or the granting
22 of federal unemployment tax credits to employers in this state.

23 NEW SECTION. **Sec. 25.** If any provision of this act or its
24 application to any person or circumstance is held invalid, the
25 remainder of the act or the application of the provision to other
26 persons or circumstances is not affected."

27 **SSB 5702** - S AMD

28 By Senators Vognild, Gaspard, Moore and Prentice

29 Adopted 3/16/93

30 On page 1, line 1 of the title, after "insurance;" strike the
31 remainder of the title and insert "amending RCW 50.04.323, 50.06.010,
32 50.06.020, 50.06.030, 50.13.040, 50.16.010, 50.20.050, 50.20.060,
33 50.20.080, 50.20.120, 50.20.190, 50.22.010, 50.22.020, 50.22.030,
34 50.22.050, 50.29.020, 50.24.014, and 50.29.025; adding a new section to

1 chapter 50.04 RCW; adding new sections to chapter 50.20 RCW; creating
2 new sections; providing effective dates; and declaring an emergency."

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