

HB 2152 - H AMD 600

By Representative Chandler

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

3 "Sec. 1. RCW 50.01.010 and 1945 c 35 s 2 are each amended to read
4 as follows:

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

29 **PART I - UNEMPLOYMENT ELIGIBILITY AND COMPENSATION**

1 NEW SECTION. **Sec. 2.** A new section is added to chapter 50.04 RCW
2 to read as follows:

3 After December 31, 2003, for the purpose of the payment of
4 contributions, the term "wages" does not include an employee's income
5 attributable to the transfer of shares of stock to the employee
6 pursuant to his or her exercise of a stock option granted for any
7 reason connected with his or her employment.

8 **Sec. 3.** RCW 50.20.010 and 1995 c 381 s 1 are each amended to read
9 as follows:

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

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

22 ~~((2))~~ (b) He or she has filed an application for an initial
23 determination and made a claim for waiting period credit or for
24 benefits in accordance with the provisions of this title;

25 ~~((3))~~ (c) He or she is able to work, and is available for work in
26 any trade, occupation, profession, or business for which he or she is
27 reasonably fitted.

28 (i) With respect to claims that have an effective date before
29 January 4, 2004, to be available for work an individual must be ready,
30 able, and willing, immediately to accept any suitable work which may be
31 offered to him or her and must be actively seeking work pursuant to
32 customary trade practices and through other methods when so directed by
33 the commissioner or the commissioner's agents.

34 (ii) With respect to claims that have an effective date on or after
35 January 4, 2004, to be available for work an individual must be ready,
36 able, 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 by
3 the commissioner or the commissioner's agents. If a labor agreement or
4 dispatch rules apply, customary trade practices must be in accordance
5 with the applicable agreement or rules;

6 ((+4)) (d) He or she has been unemployed for a waiting period of
7 one week;

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

12 ((+a)) (i) The individual has completed such services; or

13 ((+b)) (ii) There is justifiable cause for the claimant's failure
14 to participate in such services; and

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

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

24 **Sec. 4.** RCW 50.20.050 and 2002 c 8 s 1 are each amended to read as
25 follows:

26 (1) With respect to claims that have an effective date before
27 January 4, 2004:

28 (a) An individual shall be disqualified from benefits beginning
29 with the first day of the calendar week in which he or she has left
30 work voluntarily without good cause and thereafter for seven calendar
31 weeks and until he or she has obtained bona fide work in employment
32 covered by this title and earned wages in that employment equal to
33 seven times his or her weekly benefit amount.

34 The disqualification shall continue if the work obtained is a mere
35 sham to qualify for benefits and is not bona fide work. In determining

1 whether work is of a bona fide nature, the commissioner shall consider
2 factors including but not limited to the following:

3 ~~((a))~~ (i) The duration of the work;

4 ~~((b))~~ (ii) The extent of direction and control by the employer
5 over the work; and

6 ~~((c))~~ (iii) The level of skill required for the work in light of
7 the individual's training and experience.

8 ~~((2))~~ (b) An individual shall not be considered to have left work
9 voluntarily without good cause when:

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

13 ~~((b))~~ (ii) The separation was because of the illness or
14 disability of the claimant or the death, illness, or disability of a
15 member of the claimant's immediate family if the claimant took all
16 reasonable precautions, in accordance with any regulations that the
17 commissioner may prescribe, to protect his or her employment status by
18 having promptly notified the employer of the reason for the absence and
19 by having promptly requested reemployment when again able to assume
20 employment: PROVIDED, That these precautions need not have been taken
21 when they would have been a futile act, including those instances when
22 the futility of the act was a result of a recognized labor/management
23 dispatch system;

24 ~~((c))~~ (iii) He or she has left work to relocate for the spouse's
25 employment that is due to an employer-initiated mandatory transfer that
26 is outside the existing labor market area if the claimant remained
27 employed as long as was reasonable prior to the move; or

28 ~~((d))~~ (iv) The separation was necessary to protect the claimant
29 or the claimant's immediate family members from domestic violence, as
30 defined in RCW 26.50.010, or stalking, as defined in RCW 9A.46.110.

31 ~~((3))~~ (c) In determining under this ~~((section))~~ subsection
32 whether an individual has left work voluntarily without good cause, the
33 commissioner shall only consider work-connected factors such as the
34 degree of risk involved to the individual's health, safety, and morals,
35 the individual's physical fitness for the work, the individual's
36 ability to perform the work, and such other work connected factors as
37 the commissioner may deem pertinent, including state and national

1 emergencies. Good cause shall not be established for voluntarily
2 leaving work because of its distance from an individual's residence
3 where the distance was known to the individual at the time he or she
4 accepted the employment and where, in the judgment of the department,
5 the distance is customarily traveled by workers in the individual's job
6 classification and labor market, nor because of any other significant
7 work factor which was generally known and present at the time he or she
8 accepted employment, unless the related circumstances have so changed
9 as to amount to a substantial involuntary deterioration of the work
10 factor or unless the commissioner determines that other related
11 circumstances would work an unreasonable hardship on the individual
12 were he or she required to continue in the employment.

13 ~~((4))~~ (d) Subsection~~((s))~~ (1)(a) and ~~((3))~~ (c) of this section
14 shall not apply to an individual whose marital status or domestic
15 responsibilities cause him or her to leave employment. Such an
16 individual shall not be eligible for unemployment insurance benefits
17 beginning with the first day of the calendar week in which he or she
18 left work and thereafter for seven calendar weeks and until he or she
19 has requalified, either by obtaining bona fide work in employment
20 covered by this title and earning wages in that employment equal to
21 seven times his or her weekly benefit amount or by reporting in person
22 to the department during ten different calendar weeks and certifying on
23 each occasion that he or she is ready, able, and willing to immediately
24 accept any suitable work which may be offered, is actively seeking work
25 pursuant to customary trade practices, and is utilizing such employment
26 counseling and placement services as are available through the
27 department. This subsection does not apply to individuals covered by
28 ~~((subsection (2)(b) or (c) of this section))~~ (b)(ii) or (iii) of this
29 subsection.

30 (2) With respect to claims that have an effective date on or after
31 January 4, 2004:

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

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

5 (i) The duration of the work;

6 (ii) The extent of direction and control by the employer over the
7 work; and

8 (iii) The level of skill required for the work in light of the
9 individual's training and experience.

10 (b) An individual is not disqualified from benefits under (a) of
11 this subsection when:

12 (i) He or she has left work to accept a bona fide offer of bona
13 fide work as described in (a) of this subsection;

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

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

25 (B) The claimant terminated his or her employment status, and is
26 not entitled to be reinstated to the same position or a comparable or
27 similar position;

28 (iii) He or she: (A) Left work to relocate for the spouse's
29 employment that, due to a mandatory military transfer: (I) Is outside
30 the existing labor market area; and (II) is in Washington or another
31 state that, pursuant to statute, does not consider such an individual
32 to have left work voluntarily without good cause; and (B) remained
33 employed as long as was reasonable prior to the move;

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

1 (v) The individual's usual compensation was reduced by twenty-five
2 percent or more;

3 (vi) The individual's usual hours were reduced by twenty-five
4 percent or more;

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

9 (viii) The individual's worksite safety deteriorated, the
10 individual reported such safety deterioration to the employer, and the
11 employer failed to correct the hazards within a reasonable period of
12 time;

13 (ix) The individual left work because of illegal activities in the
14 individual's worksite, the individual reported such activities to the
15 employer, and the employer failed to end such activities within a
16 reasonable period of time; or

17 (x) The individual's usual work was changed to work that violates
18 the individual's religious convictions or sincere moral beliefs.

19 **Sec. 5.** RCW 50.04.293 and 1993 c 483 s 1 are each amended to read
20 as follows:

21 With respect to claims that have an effective date before January
22 4, 2004, "misconduct" means an employee's act or failure to act in
23 willful disregard of his or her employer's interest where the effect of
24 the employee's act or failure to act is to harm the employer's
25 business.

26 NEW SECTION. **Sec. 6.** A new section is added to chapter 50.04 RCW
27 to read as follows:

28 With respect to claims that have an effective date on or after
29 January 4, 2004:

30 (1) "Misconduct" includes, but is not limited to, the following
31 conduct by a claimant:

32 (a) Willful or wanton disregard of the rights, title, and interests
33 of the employer or a fellow employee;

34 (b) Deliberate violations or disregard of standards of behavior
35 which the employer has the right to expect of an employee;

1 (c) Carelessness or negligence that causes or would likely cause
2 serious bodily harm to the employer or a fellow employee; or

3 (d) Carelessness or negligence of such degree or recurrence to show
4 an intentional or substantial disregard of the employer's interest.

5 (2) The following acts are considered misconduct because the acts
6 signify a willful or wanton disregard of the rights, title, and
7 interests of the employer or a fellow employee. These acts include,
8 but are not limited to:

9 (a) Insubordination showing a deliberate, willful, or purposeful
10 refusal to follow the reasonable directions or instructions of the
11 employer;

12 (b) Repeated inexcusable tardiness following warnings by the
13 employer;

14 (c) Dishonesty related to employment, including but not limited to
15 deliberate falsification of company records, theft, deliberate
16 deception, or lying;

17 (d) Repeated and inexcusable absences, including absences for which
18 the employee was able to give advance notice and failed to do so;

19 (e) Deliberate acts that are illegal, provoke violence or violation
20 of laws, or violate the collective bargaining agreement. However, an
21 employee who engages in lawful union activity may not be disqualified
22 due to misconduct;

23 (f) Violation of a company rule if the rule is reasonable and if
24 the claimant knew or should have known of the existence of the rule; or

25 (g) Violations of law by the claimant while acting within the scope
26 of employment that substantially affect the claimant's job performance
27 or that substantially harm the employer's ability to do business.

28 (3) "Misconduct" does not include:

29 (a) Inefficiency, unsatisfactory conduct, or failure to perform
30 well as the result of inability or incapacity;

31 (b) Inadvertence or ordinary negligence in isolated instances; or

32 (c) Good faith errors in judgment or discretion.

33 (4) "Gross misconduct" means a criminal act in connection with an
34 individual's work for which the individual has been convicted in a
35 criminal court, or has admitted committing, or conduct connected with
36 the individual's work that demonstrates a flagrant and wanton disregard

1 of and for the rights, title, or interest of the employer or a fellow
2 employee.

3 **Sec. 7.** RCW 50.20.060 and 2000 c 2 s 13 are each amended to read
4 as follows:

5 With respect to claims that have an effective date before January
6 4, 2004, an individual shall be disqualified from benefits beginning
7 with the first day of the calendar week in which he or she has been
8 discharged or suspended for misconduct connected with his or her work
9 and thereafter for seven calendar weeks and until he or she has
10 obtained bona fide work in employment covered by this title and earned
11 wages in that employment equal to seven times his or her weekly benefit
12 amount. Alcoholism shall not constitute a defense to disqualification
13 from benefits due to misconduct.

14 **Sec. 8.** RCW 50.20.065 and 1993 c 483 s 11 are each amended to read
15 as follows:

16 With respect to claims that have an effective date before January
17 4, 2004:

18 (1) An individual who has been discharged from his or her work
19 because of a felony or gross misdemeanor of which he or she has been
20 convicted, or has admitted committing to a competent authority, and
21 that is connected with his or her work shall have all hourly wage
22 credits based on that employment canceled.

23 (2) The employer shall notify the department of such an admission
24 or conviction, not later than six months following the admission or
25 conviction.

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

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

33 NEW SECTION. **Sec. 9.** A new section is added to chapter 50.20 RCW
34 to read as follows:

1 With respect to claims that have an effective date on or after
2 January 4, 2004:

3 (1) An individual shall be disqualified from benefits beginning
4 with the first day of the calendar week in which he or she has been
5 discharged or suspended for misconduct connected with his or her work
6 and thereafter for ten calendar weeks and until he or she has obtained
7 bona fide work in employment covered by this title and earned wages in
8 that employment equal to ten times his or her weekly benefit amount.
9 Alcoholism shall not constitute a defense to disqualification from
10 benefits due to misconduct.

11 (2) An individual who has been discharged from his or her work
12 because of gross misconduct shall have all hourly wage credits based on
13 that employment or six hundred eighty hours of wage credits, whichever
14 is greater, canceled.

15 (3) The employer shall notify the department of a felony or gross
16 misdemeanor of which an individual has been convicted, or has admitted
17 committing to a competent authority, not later than six months
18 following the admission or conviction.

19 (4) The claimant shall disclose any conviction of the claimant of
20 a work-connected felony or gross misdemeanor occurring in the previous
21 two years to the department at the time of application for benefits.

22 (5) All benefits that are paid in error based on this section are
23 recoverable, notwithstanding RCW 50.20.190 or 50.24.020 or any other
24 provisions of this title.

25 **Sec. 10.** RCW 50.20.240 and 2002 c 8 s 3 are each amended to read
26 as follows:

27 (1)(a) To ensure that following the initial application for
28 benefits, an individual is actively engaged in searching for work,
29 ~~((effective July 1, 1999,))~~ the employment security department shall
30 implement a job search monitoring program. Effective January 4, 2004,
31 the department shall contract with employment security agencies in
32 other states to ensure that individuals residing in those states and
33 receiving benefits under this title are actively engaged in searching
34 for work in accordance with the requirements of this section. The
35 department may use interactive voice technology and other electronic

1 means to ensure that individuals are subject to comparable job search
2 monitoring, regardless of whether they reside in Washington or
3 elsewhere.

4 (b) Except for those individuals with employer attachment or union
5 referral, individuals who qualify for unemployment compensation under
6 RCW 50.20.050(~~((2)(d))~~) (1)(b)(iii) or (2)(b)(v), as applicable, and
7 individuals in commissioner-approved training, an individual who has
8 received five or more weeks of benefits under this title, regardless of
9 whether the individual resides in Washington or elsewhere, must provide
10 evidence of seeking work, as directed by the commissioner or the
11 commissioner's agents, for each week beyond five in which a claim is
12 filed. With regard to claims with an effective date before January 4,
13 2004, the evidence must demonstrate contacts with at least three
14 employers per week or documented in-person job search activity at the
15 local reemployment center. With regard to claims with an effective
16 date on or after January 4, 2004, the evidence must demonstrate
17 contacts with at least three employers per week or documented in-person
18 job search activities at the local reemployment center at least three
19 times per week.

20 (c) In developing the requirements for the job search monitoring
21 program, the commissioner or the commissioner's agents shall utilize an
22 existing advisory committee having equal representation of employers
23 and workers.

24 (2) Effective January 4, 2004, an individual who fails to comply
25 fully with the requirements for actively seeking work under RCW
26 50.20.010 shall lose all benefits for all weeks during which the
27 individual was not in compliance, and the individual shall be liable
28 for repayment of all such benefits under RCW 50.20.190.

29 **Sec. 11.** RCW 50.20.120 and 2002 c 149 s 4 are each amended to read
30 as follows:

31 (1)(a) Subject to the other provisions of this title, benefits
32 shall be payable to any eligible individual during the individual's
33 benefit year in a maximum amount equal to the lesser of thirty times
34 the weekly benefit amount (~~((determined hereinafter))~~), as determined
35 in subsection (2) of this section, or one-third of the individual's
36 base year wages under this title: PROVIDED, That as to any week

1 (~~beginning on and after March 31, 1981,~~) which falls in an extended
2 benefit period as defined in RCW 50.22.010(1), (~~as now or hereafter~~
3 ~~amended,~~) an individual's eligibility for maximum benefits in excess
4 of twenty-six times his or her weekly benefit amount will be subject to
5 the terms and conditions set forth in RCW 50.22.020(~~, as now or~~
6 ~~hereafter amended~~)).

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

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

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

26 (c) With respect to claims with an effective date on or after
27 January 2, 2005, an individual's weekly benefit amount shall be an
28 amount equal to one percent of the total wages paid in the individual's
29 base year.

30 (3) The maximum and minimum amounts payable weekly shall be
31 determined as of each June 30th to apply to benefit years beginning in
32 the twelve-month period immediately following such June 30th. (~~Except~~
33 as provided in RCW 50.20.125,))

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

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

6 (b) The minimum amount payable weekly shall be fifteen percent of
7 the "average weekly wage" for the calendar year preceding such June
8 30th.

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

12 NEW SECTION. Sec. 12. A new section is added to chapter 50.20 RCW
13 to read as follows:

14 (1) It is the intent of the legislature to establish eligibility
15 requirements for workers who are part-time or seasonal workers.

16 (2) Except as provided in (a) of this subsection and subsection (3)
17 of this section, with respect to claims that have an effective date on
18 or after January 2, 2005:

19 (a) With respect to claims that have an effective date on or after
20 January 4, 2009, an otherwise eligible individual may not be denied
21 benefits for any week because the individual is a part-time worker and
22 is available for, seeks, applies for, or accepts only work of twenty or
23 fewer hours per week by reason of the application of RCW
24 50.20.010(1)(c), 50.20.080, or 50.22.020(1) relating to availability
25 for work and active search for work, or failure to apply for or refusal
26 to accept suitable work.

27 (b) If a claimant is a seasonal worker:

28 (i) Who earned wages in "employment" in fewer than one thousand
29 four hundred forty hours in his or her base year, benefits are payable
30 to the claimant during a calendar week of the claimant's benefit year
31 only if the week corresponds to a calendar week within a seasonal work
32 period of a base year employer who had been designated as a seasonal
33 employer by the commissioner under this section.

34 (ii) Who earned wages in "employment" in one thousand four hundred
35 forty hours or more in his or her base year, benefits are payable to

1 the claimant during any calendar week of the claimant's benefit year as
2 otherwise provided in this title.

3 (c)(i) Between January 1st and April 1st of any year, an employer
4 may apply to the commissioner in writing for designation as a seasonal
5 employer, effective on the date determined by the commissioner. By
6 June 30th, the commissioner shall determine if the employer is a
7 seasonal employer and, if the employer is designated a seasonal
8 employer, identify one or more seasonal work periods of the employer.
9 The commissioner's determination regarding an employer's status as a
10 seasonal employer, or a decision of an administrative law judge or of
11 the court regarding the employer's status as a seasonal employer, which
12 has become final and is not subject to further appeal, together with
13 the record thereof, may be introduced in any proceeding involving a
14 claim for benefits, and the facts found and decision issued in the
15 determination or decision shall be conclusive unless the claimant
16 introduces substantial evidence to the contrary.

17 (ii) A determination of seasonal employer status shall remain in
18 effect until the commissioner, on the commissioner's own motion for
19 good cause or upon the written request of the employer, issues a
20 determination terminating an employer's status as a seasonal employer.
21 A termination determination under this subsection becomes effective as
22 specified by the commissioner.

23 (d) At the time an employee is hired by a seasonal employer, the
24 employer must notify the employee in writing that the employee may be
25 a seasonal worker.

26 (3) With respect to claims that have an effective date on or after
27 January 2, 2005, but before January 4, 2009, for a claimant who is a
28 seasonal worker under subsection (2)(b)(i) of this section, the denial
29 of benefits under subsection (2)(b)(i) of this section for weeks that
30 do not correspond to calendar weeks within a seasonal work period
31 designated by the commissioner does not apply to that seasonal worker
32 if he or she earned less than the state average wage in his or her base
33 year and if he or she receives his or her benefits within this state.
34 Benefits paid pursuant to this subsection shall be charged to money
35 credited to the account of this state in the unemployment trust fund
36 pursuant to section 903 of the social security act, as amended. If
37 there is no money credited pursuant to section 903 of the social

1 security act, as amended, remaining in this state's account in the
2 unemployment trust fund, other money in this state's account may be
3 used for the payment of such benefits.

4 (4) For purposes of this section:

5 (a) "Part-time worker" means an individual that: (i) Earned wages
6 in "employment" in at least forty weeks in the individual's base year;
7 and (ii) did not earn wages in "employment" in more than twenty hours
8 per week in more than three weeks in the individual's base year.

9 (b) "Seasonal employer" means an employer who:

10 (i) With respect to a period identified by the employer of twelve
11 consecutive calendar months preceding the employer's application, has
12 reduced his or her work force by at least sixty percent from the
13 highest level of employment in a seasonal work period to the lowest
14 level of employment at any point in the twelve calendar month period;
15 and

16 (ii) Operates in an industry or with a process which, because of
17 conditions related to climate, agriculture, food fish, shellfish, or
18 natural resources, makes it impractical or impossible for the employer
19 to operate without the reduction in employment specified in (b)(i) of
20 this subsection.

21 (c) "Seasonal worker" means a worker who earned at least seventy-
22 five percent of his or her base year wages in employment with one or
23 more seasonal employers during one or more seasonal work periods.

24 (d) "Seasonal work period" means a regularly recurring period in
25 any twelve consecutive calendar months that is determined by the
26 commissioner to be a period during which the seasonal employer
27 customarily operates and because of which the employer meets the
28 definition of "seasonal employer."

29 **Sec. 13.** RCW 50.20.100 and 2002 c 8 s 2 are each amended to read
30 as follows:

31 (1) Suitable work for an individual is employment in an occupation
32 in keeping with the individual's prior work experience, education, or
33 training and if the individual has no prior work experience, special
34 education, or training for employment available in the general area,
35 then employment which the individual would have the physical and mental
36 ability to perform. In determining whether work is suitable for an

1 individual, the commissioner shall also consider the degree of risk
2 involved to the individual's health, safety, and morals, the
3 individual's physical fitness, the individual's length of unemployment
4 and prospects for securing local work in the individual's customary
5 occupation, the distance of the available work from the individual's
6 residence, and such other factors as the commissioner may deem
7 pertinent, including state and national emergencies.

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

13 (3) With respect to claims that have an effective date on or after
14 January 4, 2004, for seasonal workers, any work available from any
15 seasonal employer shall be deemed suitable unless it meets conditions
16 in RCW 50.20.110 or the commissioner finds elements of specific work
17 opportunity unsuitable for a particular individual.

18 (4) For part-time workers as defined in section 12 of this act,
19 suitable work includes suitable work under subsection (1) of this
20 section that is for twenty or fewer hours per week.

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

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

29 (1) It is the intent of the legislature that a transitional
30 training benefits program be established to provide unemployment
31 insurance benefits to unemployed individuals who would be or are
32 impacted by the changes in benefits made in this act and who are
33 participating in training programs approved by the commissioner. If
34 section 12(2)(b) of this act does not take effect by July 1, 2003, this
35 section is null and void. With respect to claims that have an
36 effective date before January 7, 2007, the employment security

1 department is authorized to pay transitional training benefits under
2 this section, but may not obligate expenditures of more than the
3 following:

- 4 (a) For the fiscal year ending June 30, 2004, ten million dollars;
- 5 (b) For the fiscal year ending June 30, 2005, ten million dollars;
- 6 (c) For the fiscal year ending June 30, 2006, ten million dollars;

7 and

- 8 (d) For the fiscal year ending June 30, 2007, ten million dollars.

9 (2) Any funds not obligated under subsection (1)(a) through (c) of
10 this section in any fiscal year may be carried forward to the next
11 fiscal year to increase, by the amount carried forward, the amount
12 available to obligate under RCW 50.22.140. The department shall
13 develop a process to ensure that expenditures under subsection (1) of
14 this section do not exceed available funds and to prioritize access to
15 funds when again available.

16 (3) Subject to availability of funds, transitional training
17 benefits are available for an individual who:

18 (a) Is eligible for or has exhausted entitlement to unemployment
19 compensation benefits; and

20 (i) As a seasonal worker whose claim has an effective date before
21 January 4, 2004, would not have received benefits under this title if
22 section 12(2)(b) of this act had applied to the individual; or

23 (ii) Has a claim that has an effective date on or after July 6,
24 2004, or has exhausted benefits on or after July 6, 2004, and received
25 benefits that were limited because of the section 11, chapter..., Laws
26 of 2003 amendments to RCW 50.20.120 or section 12(2)(b) of this act, or
27 would have had benefits limited if these provisions had been in effect
28 at the time the individual's claim became effective;

29 (b) Develops an individual training program that is submitted to
30 the commissioner for approval within sixty days after the individual is
31 notified by the employment security department of the requirements of
32 this section;

33 (c) Enters the approved training program by ninety days after the
34 date of the notification, unless the employment security department
35 determines that the training is not available during the ninety-day
36 period, in which case the individual enters training as soon as it is
37 available; and

1 (d) Is enrolled in training approved under this section on a
2 full-time basis as determined by the educational institution, and is
3 making satisfactory progress in the training as certified by the
4 educational institution.

5 (4) Benefits under this section shall be paid to eligible
6 exhaustees as follows:

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

11 (b)(i) For exhaustees receiving financial aid in the form of
12 scholarships, grants, tuition waivers, or any other financial aid that
13 does not require repayment, the weekly benefit amount shall be the same
14 as the regular weekly amount payable during the applicable benefit year
15 and shall be paid under the same terms and conditions as regular
16 benefits.

17 (ii) For other exhaustees, the weekly benefit amount shall be one
18 and one-fourth times the regular weekly amount payable during the
19 applicable benefit year and shall be paid under the same terms and
20 conditions as regular benefits.

21 (c) Transitional training benefits are not payable for weeks more
22 than two years beyond the end of the benefit year of the regular claim.

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

30 (6) An individual who received benefits under any other additional
31 benefits program for training within the five-year period immediately
32 preceding application under this section is not eligible for training
33 benefits under this section.

34 (7) An individual eligible to receive emergency unemployment
35 compensation, so called, under any federal law, is not eligible to
36 receive benefits under this section for each week the individual
37 receives such compensation.

1 (8) All base year employers are interested parties to the approval
2 of training and the granting of transitional training benefits.

3 (9) For purposes of this section:

4 (a) "Educational institution" and "training program" mean the same
5 as the definitions in RCW 50.22.150.

6 (b) "Exhaustee," "extended benefits," and "regular benefits" mean
7 the same as the definitions in RCW 50.22.010.

8 **PART II - FINANCING UNEMPLOYMENT COMPENSATION**

9 **Sec. 15.** RCW 50.29.025 and 2003 c 4 (SHB 1832) s 1 are each
10 amended to read as follows:

11 (1) Except as provided in subsection (2) of this section, the
12 contribution rate for each employer subject to contributions under RCW
13 50.24.010 shall be determined under this (~~section~~) subsection.

14 (~~(1)~~) (a) A fund balance ratio shall be determined by dividing
15 the balance in the unemployment compensation fund as of the September
16 30th immediately preceding the rate year by the total remuneration paid
17 by all employers subject to contributions during the second calendar
18 year preceding the rate year and reported to the department by the
19 following March 31st. The division shall be carried to the fourth
20 decimal place with the remaining fraction, if any, disregarded. The
21 fund balance ratio shall be expressed as a percentage.

22 (~~(2)~~) (b) The interval of the fund balance ratio, expressed as a
23 percentage, shall determine which tax schedule in (e) of this
24 subsection (~~(5) of this section~~) shall be in effect for assigning tax
25 rates for the rate year. The intervals for determining the effective
26 tax schedule shall be:

Interval of the Fund Balance Ratio Expressed as a Percentage	Effective Tax Schedule
2.90 and above	AA
2.10 to 2.89	A
1.70 to 2.09	B
1.40 to 1.69	C
1.00 to 1.39	D

1	30.01	35.00	7	1.00	1.29	1.69	2.08	2.48	2.88	3.27
2	35.01	40.00	8	1.19	1.48	1.88	2.27	2.67	3.07	3.47
3	40.01	45.00	9	1.37	1.67	2.07	2.47	2.87	3.27	3.66
4	45.01	50.00	10	1.56	1.86	2.26	2.66	3.06	3.46	3.86
5	50.01	55.00	11	1.84	2.14	2.45	2.85	3.25	3.66	3.95
6	55.01	60.00	12	2.03	2.33	2.64	3.04	3.44	3.85	4.15
7	60.01	65.00	13	2.22	2.52	2.83	3.23	3.64	4.04	4.34
8	65.01	70.00	14	2.40	2.71	3.02	3.43	3.83	4.24	4.54
9	70.01	75.00	15	2.68	2.90	3.21	3.62	4.02	4.43	4.63
10	75.01	80.00	16	2.87	3.09	3.42	3.81	4.22	4.53	4.73
11	80.01	85.00	17	3.27	3.47	3.77	4.17	4.57	4.87	4.97
12	85.01	90.00	18	3.67	3.87	4.17	4.57	4.87	4.97	5.17
13	90.01	95.00	19	4.07	4.27	4.57	4.97	5.07	5.17	5.37
14	95.01	100.00	20	5.40	5.40	5.40	5.40	5.40	5.40	5.40

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

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

28 ~~((b))~~ (ii) For all other employers not qualified to be in the
29 array, the contribution rate shall be a rate equal to the average
30 industry rate as determined by the commissioner; however, the rate may
31 not be less than one percent. ~~((Assignment of employers by the
32 commissioner to industrial classification, for purposes of this
33 section, shall be in accordance with established classification
34 practices found in the "Standard Industrial Classification Manual"
35 issued by the federal office of management and budget to the third
36 digit provided in the standard industrial classification code, or in
37 the North American industry classification system code.))~~

38 (2) Beginning with contributions assessed for rate year 2005, the
39 contribution rate for each employer subject to contributions under RCW

1 50.24.010 shall be the sum of the array calculation factor rate and the
2 graduated social cost factor rate determined under this subsection, and
3 the solvency surcharge determined under section 17 of this act, if any.

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

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

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

	<u>Benefit Ratio</u>		<u>Rate</u>	<u>Rate</u>
	<u>At least</u>	<u>Less than</u>	<u>Class</u>	<u>(percent)</u>
		<u>0.000001</u>	<u>1</u>	<u>0.00</u>
	<u>0.000001</u>	<u>0.001250</u>	<u>2</u>	<u>0.13</u>
	<u>0.001250</u>	<u>0.002500</u>	<u>3</u>	<u>0.25</u>
	<u>0.002500</u>	<u>0.003750</u>	<u>4</u>	<u>0.38</u>
	<u>0.003750</u>	<u>0.005000</u>	<u>5</u>	<u>0.50</u>
	<u>0.005000</u>	<u>0.006250</u>	<u>6</u>	<u>0.63</u>
	<u>0.006250</u>	<u>0.007500</u>	<u>7</u>	<u>0.75</u>
	<u>0.007500</u>	<u>0.008750</u>	<u>8</u>	<u>0.88</u>
	<u>0.008750</u>	<u>0.010000</u>	<u>9</u>	<u>1.00</u>
	<u>0.010000</u>	<u>0.011250</u>	<u>10</u>	<u>1.15</u>
	<u>0.011250</u>	<u>0.012500</u>	<u>11</u>	<u>1.30</u>
	<u>0.012500</u>	<u>0.013750</u>	<u>12</u>	<u>1.45</u>
	<u>0.013750</u>	<u>0.015000</u>	<u>13</u>	<u>1.60</u>
	<u>0.015000</u>	<u>0.016250</u>	<u>14</u>	<u>1.75</u>
	<u>0.016250</u>	<u>0.017500</u>	<u>15</u>	<u>1.90</u>
	<u>0.017500</u>	<u>0.018750</u>	<u>16</u>	<u>2.05</u>
	<u>0.018750</u>	<u>0.020000</u>	<u>17</u>	<u>2.20</u>
	<u>0.020000</u>	<u>0.021250</u>	<u>18</u>	<u>2.35</u>

1	<u>0.021250</u>	<u>0.022500</u>	<u>19</u>	<u>2.50</u>
2	<u>0.022500</u>	<u>0.023750</u>	<u>20</u>	<u>2.65</u>
3	<u>0.023750</u>	<u>0.025000</u>	<u>21</u>	<u>2.80</u>
4	<u>0.025000</u>	<u>0.026250</u>	<u>22</u>	<u>2.95</u>
5	<u>0.026250</u>	<u>0.027500</u>	<u>23</u>	<u>3.10</u>
6	<u>0.027500</u>	<u>0.028750</u>	<u>24</u>	<u>3.25</u>
7	<u>0.028750</u>	<u>0.030000</u>	<u>25</u>	<u>3.40</u>
8	<u>0.030000</u>	<u>0.031250</u>	<u>26</u>	<u>3.55</u>
9	<u>0.031250</u>	<u>0.032500</u>	<u>27</u>	<u>3.70</u>
10	<u>0.032500</u>	<u>0.033750</u>	<u>28</u>	<u>3.85</u>
11	<u>0.033750</u>	<u>0.035000</u>	<u>29</u>	<u>4.00</u>
12	<u>0.035000</u>	<u>0.036250</u>	<u>30</u>	<u>4.15</u>
13	<u>0.036250</u>	<u>0.037500</u>	<u>31</u>	<u>4.30</u>
14	<u>0.037500</u>	<u>0.040000</u>	<u>32</u>	<u>4.45</u>
15	<u>0.040000</u>	<u>0.042500</u>	<u>33</u>	<u>4.60</u>
16	<u>0.042500</u>	<u>0.045000</u>	<u>34</u>	<u>4.75</u>
17	<u>0.045000</u>	<u>0.047500</u>	<u>35</u>	<u>4.90</u>
18	<u>0.047500</u>	<u>0.050000</u>	<u>36</u>	<u>5.05</u>
19	<u>0.050000</u>	<u>0.052500</u>	<u>37</u>	<u>5.20</u>
20	<u>0.052500</u>	<u>0.055000</u>	<u>38</u>	<u>5.30</u>
21	<u>0.055000</u>	<u>0.057500</u>	<u>39</u>	<u>5.35</u>
22	<u>0.057500</u>		<u>40</u>	<u>5.40</u>

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

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

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

1 social cost by the dollar amount that represents the number of months
2 for which the balance in the unemployment compensation fund on the cut-
3 off date will provide benefits above ten months and dividing the result
4 by the total taxable payroll. However, the calculation under this
5 subsection (2)(b)(i)(B) for a rate year may not result in a flat social
6 cost factor that is more than two-tenths lower than the calculation
7 under (b)(i)(A) of this subsection for that rate year. For the
8 purposes of this subsection, the commissioner shall determine the
9 number of months of unemployment benefits in the unemployment
10 compensation fund using the benefit cost rate for the average of the
11 three highest calendar benefit cost rates in the twenty consecutive
12 completed calendar years immediately preceding the cut-off date or a
13 period of consecutive calendar years immediately preceding the cut-off
14 date that includes three recessions, if longer.

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

17 (ii) The graduated social cost factor rate for each employer in the
18 array is the flat social cost factor multiplied by the percentage
19 specified as follows for the rate class to which the employer has been
20 assigned in (a)(ii) of this subsection, except that the sum of an
21 employer's array calculation factor rate and the graduated social cost
22 factor rate may not exceed six and five-tenths percent:

23 (A) Rate class 1 - 78 percent;

24 (B) Rate class 2 - 82 percent;

25 (C) Rate class 3 - 86 percent;

26 (D) Rate class 4 - 90 percent;

27 (E) Rate class 5 - 94 percent;

28 (F) Rate class 6 - 98 percent;

29 (G) Rate class 7 - 102 percent;

30 (H) Rate class 8 - 106 percent;

31 (I) Rate class 9 - 110 percent;

32 (J) Rate class 10 - 114 percent;

33 (K) Rate class 11 - 118 percent; and

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

35 (iii) For the purposes of this section:

36 (A) "Total social cost" means the amount calculated by subtracting
37 the array calculation factor contributions paid by all employers with

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

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

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

17 (i) Employers who do not meet the definition of "qualified
18 employer" by reason of failure to pay contributions when due shall be
19 assigned an array calculation factor rate two-tenths higher than that
20 in rate class 40, except employers who have an approved agency-deferred
21 payment contract by September 30th of the previous rate year. If any
22 employer with an approved agency-deferred payment contract fails to
23 make any one of the succeeding deferred payments or fails to submit any
24 succeeding tax report and payment in a timely manner, the employer's
25 tax rate shall immediately revert to an array calculation factor rate
26 two-tenths higher than that in rate class 40; and

27 (ii) For all other employers not qualified to be in the array, the
28 array calculation factor rate shall be a rate equal to the average
29 industry array calculation factor rate as determined by the
30 commissioner, plus fifteen percent of that amount; however, the rate
31 may not be less than one percent or more than the array calculation
32 factor rate in rate class 40.

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

35 (i) For employers whose array calculation factor rate is determined
36 under (c)(i) of this subsection, the social cost factor rate shall be

1 the social cost factor rate assigned to rate class 40 under (b)(ii) of
2 this subsection.

3 (ii) For employers whose array calculation factor rate is
4 determined under (c)(ii) of this subsection, the social cost factor
5 rate shall be a rate equal to the average industry social cost factor
6 rate as determined by the commissioner, plus fifteen percent of that
7 amount, but not more than the social cost factor rate assigned to rate
8 class 40 under (b)(ii) of this subsection.

9 (3) Assignment of employers by the commissioner to industrial
10 classification, for purposes of this section, shall be in accordance
11 with established classification practices found in the "Standard
12 Industrial Classification Manual" issued by the federal office of
13 management and budget to the third digit provided in the standard
14 industrial classification code, or in the North American industry
15 classification system code.

16 **Sec. 16.** RCW 50.04.355 and 2000 c 2 s 1 are each amended to read
17 as follows:

18 (1) For computations made before January 1, 2007, the employment
19 security department shall compute, on or before the fifteenth day of
20 June of each year, an "average annual wage", an "average weekly wage",
21 and an "average annual wage for contributions purposes" (~~shall be~~
22 computed)) from information for the specified preceding calendar years
23 including corrections thereof reported within three months after the
24 close of the final year of the specified years by all employers as
25 defined in RCW 50.04.080.

26 ~~((+1))~~ (a) The "average annual wage" is the quotient derived by
27 dividing the total remuneration reported by all employers for the
28 preceding calendar year by the average number of workers reported for
29 all months of the preceding calendar year and if the result is not a
30 multiple of one dollar, rounding the result to the next lower multiple
31 of one dollar.

32 ~~((+2))~~ (b) The "average weekly wage" is the quotient derived by
33 dividing the "average annual wage" obtained under ~~((+1))~~ (a) of this
34 subsection by fifty-two and if the result is not a multiple of one
35 dollar, rounding the result to the next lower multiple of one dollar.

1 ~~((3))~~ (c) The "average annual wage for ~~((contribution[s]))~~
2 contributions purposes" is the quotient derived by dividing by three
3 the total remuneration reported by all employers subject to
4 contributions for the preceding three consecutive calendar years and
5 dividing this amount by the average number of workers reported for all
6 months of these three years by these same employers and if the result
7 is not a multiple of one dollar, rounding the result to the next lower
8 multiple of one dollar.

9 (2) For computations made on or after January 1, 2007, the
10 employment security department shall compute, on or before the
11 fifteenth day of June of each year, an "average annual wage," an
12 "average weekly wage," and an "average annual wage for contributions
13 purposes" from information for the preceding calendar year including
14 corrections thereof reported within three months after the close of
15 that year by all employers as defined in RCW 50.04.080.

16 (a) The "average annual wage" is the quotient derived by dividing
17 the total remuneration reported by all employers by the average number
18 of workers reported for all months and if the result is not a multiple
19 of one dollar, rounding the result to the next lower multiple of one
20 dollar.

21 (b) The "average weekly wage" is the quotient derived by dividing
22 the "average annual wage" obtained under (a) of this subsection by
23 fifty-two and if the result is not a multiple of one dollar, rounding
24 the result to the next lower multiple of one dollar.

25 (c) The "average annual wage for contributions purposes" is the
26 quotient derived by dividing the total remuneration reported by all
27 employers subject to contributions by the average number of workers
28 reported for all months by these same employers and if the result is
29 not a multiple of one dollar, rounding the result to the next lower
30 multiple of one dollar.

31 NEW SECTION. Sec. 17. A new section is added to chapter 50.29 RCW
32 to read as follows:

33 Beginning with contributions assessed for rate year 2005, the
34 contribution rate of each employer subject to contributions under RCW
35 50.24.010 shall include a solvency surcharge determined as follows:

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

6 (2) The solvency surcharge shall be the lowest rate necessary, as
7 determined by the commissioner, but not more than two-tenths of one
8 percent, to provide revenue during the applicable rate year that will
9 fund unemployment benefits for the number of months that is the
10 difference between eight months and the number of months for which the
11 balance in the unemployment compensation fund on the cut-off date will
12 provide benefits.

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

15 **Sec. 18.** RCW 50.29.026 and 2000 c 2 s 5 are each amended to read
16 as follows:

17 (1) Beginning with contributions assessed for rate year 1996, a
18 qualified employer's contribution rate applicable for rate years
19 beginning before January 1, 2005, or array calculation factor rate
20 applicable for rate years beginning on or after January 1, 2005,
21 determined under RCW 50.29.025 may be modified as follows:

22 (a) Subject to the limitations of this subsection, an employer may
23 make a voluntary contribution of an amount equal to part or all of the
24 benefits charged to the employer's account during the two years most
25 recently ended on June 30th that were used for the purpose of computing
26 the employer's contribution rate applicable for rate years beginning
27 before January 1, 2005, or array calculation factor rate applicable for
28 rate years beginning on or after January 1, 2005. On receiving timely
29 payment of a voluntary contribution, plus a surcharge of ten percent of
30 the amount of the voluntary contribution, the commissioner shall cancel
31 the benefits equal to the amount of the voluntary contribution,
32 excluding the surcharge, and compute a new benefit ratio for the
33 employer. The employer shall then be assigned the contribution rate
34 applicable for rate years beginning before January 1, 2005, or array
35 calculation factor rate applicable for rate years beginning on or after
36 January 1, 2005, applicable to the rate class within which the

1 recomputed benefit ratio is included. The minimum amount of a
2 voluntary contribution, excluding the surcharge, must be an amount that
3 will result in a recomputed benefit ratio that is in a rate class at
4 least (~~two~~) four rate classes lower than the rate class that included
5 the employer's original benefit ratio.

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

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

19 (2) This section does not apply to any employer who has not had an
20 increase of at least (~~six~~) twelve rate classes from the previous tax
21 rate year.

22 **Sec. 19.** RCW 50.29.062 and 1996 c 238 s 1 are each amended to read
23 as follows:

24 Predecessor and successor employer contribution rates shall be
25 computed in the following manner:

26 (1) If the successor is an employer, as defined in RCW 50.04.080,
27 at the time of the transfer, its contribution rate shall remain
28 unchanged for the remainder of the rate year in which the transfer
29 occurs. From and after January 1 following the transfer, the
30 successor's contribution rate for each rate year shall be based on its
31 experience with payrolls and benefits including the experience of the
32 acquired business or portion of a business from the date of transfer,
33 as of the regular computation date for that rate year.

34 (2) For transfers before January 1, 2005, the following applies if
35 the successor is not an employer at the time of the transfer(~~it~~).

1 The successor shall pay contributions at the lowest rate determined
2 under either of the following:

3 (a)(i) For transfers before January 1, 1997, the contribution rate
4 of the rate class assigned to the predecessor employer at the time of
5 the transfer for the remainder of that rate year and continuing until
6 the successor qualifies for a different rate in its own right;

7 (ii) For transfers on or after January 1, 1997, the contribution
8 rate of the rate class assigned to the predecessor employer at the time
9 of the transfer for the remainder of that rate year. Any experience
10 relating to the assignment of that rate class attributable to the
11 predecessor is transferred to the successor. Beginning with the
12 January 1 following the transfer, the successor's contribution rate
13 shall be based on the transferred experience of the acquired business
14 and the successor's experience after the transfer; or

15 (b) The contribution rate equal to the average industry rate as
16 determined by the commissioner, but not less than one percent, and
17 continuing until the successor qualifies for a different rate in its
18 own right. Assignment of employers by the commissioner to industrial
19 classification, for purposes of this subsection, must be in accordance
20 with established classification practices found in the "Standard
21 Industrial Classification Manual" issued by the federal office of
22 management and budget to the third digit provided in the standard
23 industrial classification code, or in the North American industry
24 classification code system.

25 (3) For transfers before January 1, 2005, if the successor is not
26 an employer at the time of the transfer and simultaneously acquires the
27 business or a portion of the business of two or more employers in
28 different rate classes, its rate from the date the transfer occurred
29 until the end of that rate year and until it qualifies in its own right
30 for a new rate, shall be the highest rate class applicable at the time
31 of the acquisition to any predecessor employer who is a party to the
32 acquisition, but not less than one percent.

33 (4) For transfers on or after January 1, 2005, the following
34 applies if the successor is not an employer at the time of the
35 transfer:

36 (a) Except as provided in (b) of this subsection, the successor
37 shall pay contributions:

1 (i) At the contribution rate determined for the predecessor
2 employer at the time of the transfer for the remainder of the rate
3 year. Any experience attributable to the predecessor relating to the
4 assignment of the predecessor's rate class is transferred to the
5 successor. On and after January 1st following the transfer, the
6 successor's array calculation factor rate shall be based on the
7 transferred experience of the acquired business and the successor's
8 experience after the transfer; or

9 (ii) At the contribution rate equal to the sum of the rates
10 determined by the commissioner under RCW 50.29.025(2) (c)(ii) and
11 (d)(ii), and section 17 of this act, if applicable, and continuing
12 until the successor qualifies for a different rate in its own right.

13 (b) If there is a substantial continuity of ownership or management
14 by the successor of the business of the predecessor, the successor
15 shall pay contributions at the contribution rate determined for the
16 predecessor employer at the time of the transfer for the remainder of
17 that rate year. Any experience attributable to the predecessor
18 relating to the assignment of the predecessor's rate class is
19 transferred to the successor. On and after January 1st following the
20 transfer, the successor's array calculation factor rate shall be based
21 on the transferred experience of the acquired business and the
22 successor's experience after the transfer.

23 (c) If the successor simultaneously acquires the business or a
24 portion of the business of two or more employers with different
25 contribution rates, the successor's rate from the date the transfer
26 occurred until the end of that rate year and until it qualifies in its
27 own right for a new rate, shall be the sum of the rates determined by
28 the commissioner under RCW 50.29.025(2) (a) and (b), and section 17 of
29 this act, applicable at the time of the acquisition to the predecessor
30 employer who, among the parties to the acquisition, had the largest
31 taxable payroll in the completed calendar quarter immediately preceding
32 the date of transfer, but not less than the sum of the rates determined
33 by the commissioner under RCW 50.29.025(2) (c)(ii) and (d)(ii), and
34 section 17 of this act, if applicable.

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

1 ~~((+5))~~ (6) In all cases, from and after January 1 following the
2 transfer, the predecessor's contribution rate or, beginning January 1,
3 2005, the predecessor's array calculation factor for each rate year
4 shall be based on its experience with payrolls and benefits as of the
5 regular computation date for that rate year including the experience of
6 the acquired business or portion of business up to the date of
7 transfer: PROVIDED, That if all of the predecessor's business is
8 transferred to a successor or successors, the predecessor shall not be
9 a qualified employer until it satisfies the requirements of a
10 "qualified employer" as set forth in RCW 50.29.010.

11 **Sec. 20.** RCW 50.29.070 and 1990 c 245 s 8 are each amended to read
12 as follows:

13 (1) Within a reasonable time after the computation date each
14 employer shall be notified of the employer's rate of contribution as
15 determined for the succeeding rate year and factors used in the
16 calculation. Beginning with rate year 2005, the notice must include
17 the amount of the contribution rate that is attributable to each
18 component of the rate under RCW 50.29.025(2).

19 (2) Any employer dissatisfied with the benefit charges made to the
20 employer's account for the twelve-month period immediately preceding
21 the computation date or with his or her determined rate may file a
22 request for review and redetermination with the commissioner within
23 thirty days of the mailing of the notice to the employer, showing the
24 reason for such request. Should such request for review and
25 redetermination be denied, the employer may, within thirty days of the
26 mailing of such notice of denial, file with the appeal tribunal a
27 petition for hearing which shall be heard in the same manner as a
28 petition for denial of refund. The appellate procedure prescribed by
29 this title for further appeal shall apply to all denials of review and
30 redetermination under this section.

31 **Sec. 21.** RCW 50.29.020 and 2002 c 149 s 6 and 2002 c 8 s 4 are
32 each reenacted and amended to read as follows:

33 (1) This section applies to benefits charged to the experience
34 rating accounts of employers for claims that have an effective date
35 before January 4, 2004.

1 (2) An experience rating account shall be established and
2 maintained for each employer, except employers as described in RCW
3 50.44.010 and 50.44.030 who have properly elected to make payments in
4 lieu of contributions, taxable local government employers as described
5 in RCW 50.44.035, and those employers who are required to make payments
6 in lieu of contributions, based on existing records of the employment
7 security department. Benefits paid to any eligible individuals shall
8 be charged to the experience rating accounts of each of such
9 individual's employers during the individual's base year in the same
10 ratio that the wages paid by each employer to the individual during the
11 base year bear to the wages paid by all employers to that individual
12 during that base year, except as otherwise provided in this section.

13 ~~((+2))~~ (3) The legislature finds that certain benefit payments, in
14 whole or in part, should not be charged to the experience rating
15 accounts of employers except those employers described in RCW 50.44.010
16 and 50.44.030 who have properly elected to make payments in lieu of
17 contributions, taxable local government employers described in RCW
18 50.44.035, and those employers who are required to make payments in
19 lieu of contributions, as follows:

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

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

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

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

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

34 (d) In the case of individuals who requalify for benefits under RCW
35 50.20.050 or 50.20.060, benefits based on wage credits earned prior to
36 the disqualifying separation shall not be charged to the experience

1 rating account of the contribution paying employer from whom that
2 separation took place.

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

6 (f) In the case of individuals identified under RCW 50.20.015,
7 benefits paid with respect to a calendar quarter, which exceed the
8 total amount of wages earned in the state of Washington in the higher
9 of two corresponding calendar quarters included within the individual's
10 determination period, as defined in RCW 50.20.015, shall not be charged
11 to the experience rating account of any contribution paying employer.

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

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

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

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

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

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

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

3 NEW SECTION. **Sec. 22.** A new section is added to chapter 50.29 RCW
4 to read as follows:

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

8 (2)(a) 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.

15 (b) Benefits paid to an eligible individual shall be charged to the
16 experience rating accounts of each of such individual's employers
17 during the individual's base year in the same ratio that the wages paid
18 by each employer to the individual during the base year bear to the
19 wages paid by all employers to that individual during that base year,
20 except as otherwise provided in this section.

21 (c) When the eligible individual's separating employer is a covered
22 contribution paying base year employer, benefits paid to the eligible
23 individual shall be charged to the experience rating account of only
24 the individual's separating employer if the individual qualifies for
25 benefits under:

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

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

29 (d) Benefits paid to an individual with respect to weeks of the
30 benefit year that correspond to calendar weeks within a seasonal work
31 period of a base year employer who had been designated as a seasonal
32 employer by the commissioner under section 12(2)(c) of this act shall
33 be charged to the experience rating account of that contribution paying
34 seasonal employer.

35 (3) The legislature finds that certain benefit payments, in whole
36 or in part, should not be charged to the experience rating accounts of

1 employers except those employers described in RCW 50.44.010 and
2 50.44.030 who have properly elected to make payments in lieu of
3 contributions, taxable local government employers described in RCW
4 50.44.035, and those employers who are required to make payments in
5 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 any
8 contribution paying employer.

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

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

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

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

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

25 (e) Individuals who qualify for benefits under RCW
26 50.20.050(2)(b)(iv), as applicable, shall not have their benefits
27 charged to the experience rating account of any contribution paying
28 employer.

29 (f) Benefits paid to an individual under section 12(2)(b)(ii) of
30 this act that are paid for weeks that do not fall within a period
31 designated by the commissioner as a seasonal work period of any of the
32 individual's base year employers shall not be charged to the experience
33 rating account of any contribution paying seasonal employer.

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

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

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

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

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 the
13 base year was concurrently employed and subsequently separated from at
14 least one other base year employer. Benefit charge relief ceases when
15 the employment relationship between the employer requesting relief and
16 the claimant is terminated. This subsection does not apply to shared
17 work employers under chapter 50.60 RCW.

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

25 **Sec. 23.** RCW 50.12.220 and 1987 c 111 s 2 are each amended to read
26 as follows:

27 (1)(a) If an employer fails to file in a timely and complete manner
28 a report required by RCW 50.12.070 (~~((as now or hereafter amended))~~), or
29 the rules adopted pursuant thereto, the employer shall be subject to a
30 (~~((minimum))~~) penalty (~~((of ten dollars per violation))~~) to be determined
31 by the commissioner, but not to exceed two hundred fifty dollars or ten
32 percent of the quarterly contributions for each such offense, whichever
33 is less.

34 (b) If an employer knowingly misrepresents to the employment
35 security department the amount of his or her payroll upon which
36 contributions under this title are based, the employer shall be liable

1 to the state for up to ten times the amount of the difference in
2 contributions paid, if any, and the amount the employer should have
3 paid and for the reasonable expenses of auditing his or her books and
4 collecting such sums. Such liability may be enforced in the name of
5 the department.

6 (c) If any part of a delinquency for which an assessment is made
7 under this title is due to an intent to evade the successorship
8 provisions of RCW 50.29.062, the commissioner shall assign to the
9 employer, and to any business found to be promoting the evasion of such
10 provisions, the tax rate determined under RCW 50.29.025 for rate class
11 20 or rate class 40, as applicable, for five consecutive calendar
12 quarters, beginning with the calendar quarter in which the intent to
13 evade such provision is found.

14 (2) If contributions are not paid on the date on which they are due
15 and payable as prescribed by the commissioner, there shall be assessed
16 a penalty of five percent of the amount of the contributions for the
17 first month or part thereof of delinquency; there shall be assessed a
18 total penalty of ten percent of the amount of the contributions for the
19 second month or part thereof of delinquency; and there shall be
20 assessed a total penalty of twenty percent of the amount of the
21 contributions for the third month or part thereof of delinquency. No
22 penalty so added shall be less than ten dollars. These penalties are
23 in addition to the interest charges assessed under RCW 50.24.040.

24 (3) Penalties shall not accrue on contributions from an estate in
25 the hands of a receiver, executor, administrator, trustee in
26 bankruptcy, common law assignee, or other liquidating officer
27 subsequent to the date when such receiver, executor, administrator,
28 trustee in bankruptcy, common law assignee, or other liquidating
29 officer qualifies as such, but contributions accruing with respect to
30 employment of persons by a receiver, executor, administrator, trustee
31 in bankruptcy, common law assignee, or other liquidating officer shall
32 become due and shall be subject to penalties in the same manner as
33 contributions due from other employers.

34 (4) Where adequate information has been furnished to the department
35 and the department has failed to act or has advised the employer of no
36 liability or inability to decide the issue, penalties shall be waived

1 by the commissioner. Penalties may also be waived for good cause if
2 the commissioner determines that the failure to timely file reports or
3 pay contributions was not due to the employer's fault.

4 (5) Any decision to assess a penalty as provided by this section
5 shall be made by the chief administrative officer of the tax branch or
6 his or her designee.

7 (6) Nothing in this section shall be construed to deny an employer
8 the right to appeal the assessment of any penalty. Such appeal shall
9 be made in the manner provided in RCW 50.32.030.

10 **Sec. 24.** RCW 50.16.010 and 2002 c 371 s 914 are each amended to
11 read as follows:

12 (1) There shall be maintained as special funds, separate and apart
13 from all public moneys or funds of this state an unemployment
14 compensation fund, an administrative contingency fund, and a federal
15 interest payment fund, which shall be administered by the commissioner
16 exclusively for the purposes of this title, and to which RCW 43.01.050
17 shall not be applicable.

18 (2)(a) The unemployment compensation fund shall consist of:

19 ~~((1))~~ (i) All contributions collected under RCW 50.24.010 and
20 payments in lieu of contributions collected pursuant to the provisions
21 of this title~~((τ))~~i

22 ~~((2))~~ (ii) Any property or securities acquired through the use of
23 moneys belonging to the fund~~((τ))~~i

24 ~~((3))~~ (iii) All earnings of such property or securities~~((τ))~~i

25 ~~((4))~~ (iv) Any moneys received from the federal unemployment
26 account in the unemployment trust fund in accordance with Title XII of
27 the social security act, as amended~~((τ))~~i

28 ~~((5))~~ (v) All money recovered on official bonds for losses
29 sustained by the fund~~((τ))~~i

30 ~~((6))~~ (vi) All money credited to this state's account in the
31 unemployment trust fund pursuant to section 903 of the social security
32 act, as amended~~((τ))~~i

33 ~~((7))~~ (vii) All money received from the federal government as
34 reimbursement pursuant to section 204 of the federal-state extended
35 compensation act of 1970 (84 Stat. 708-712; 26 U.S.C. Sec. 3304)~~((τ))~~i
36 and

1 ~~((+8))~~ (viii) All moneys received for the fund from any other
2 source.

3 (b) All moneys in the unemployment compensation fund shall be
4 commingled and undivided.

5 (3)(a) Except as provided in (b) of this subsection, the
6 administrative contingency fund shall consist of:

7 (i) All interest on delinquent contributions collected pursuant to
8 this title~~((τ))~~;

9 (ii) All fines and penalties collected pursuant to the provisions
10 of this title~~((τ))~~;

11 (iii) All sums recovered on official bonds for losses sustained by
12 the fund~~((τ))~~; and

13 (iv) Revenue received under RCW 50.24.014~~((:—PROVIDED, That))~~.

14 (b) All fees, fines, forfeitures, and penalties collected or
15 assessed by a district court because of the violation of ~~((a state~~
16 ~~law))~~ this title or rules adopted under this title shall be remitted as
17 provided in chapter 3.62 RCW ~~((as now exists or is later amended))~~.

18 (c) Moneys available in the administrative contingency fund, other
19 than money in the special account created under RCW 50.24.014(1)(a),
20 shall be expended upon the direction of the commissioner, with the
21 approval of the governor, whenever it appears to him or her that such
22 expenditure is necessary solely for:

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

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

32 ~~((+c))~~ (iii) The proper administration of this title for which
33 compliance and audit issues have been identified that establish federal
34 claims requiring the expenditure of state resources in resolution.
35 Claims must be resolved in the following priority: First priority is
36 to provide services to eligible participants within the state; second

1 priority is to provide substitute services or program support; and last
2 priority is the direct payment of funds to the federal government.

3 (d) (~~During the 2001-2003 fiscal biennium, the cost of worker~~
4 ~~retraining programs at community and technical colleges as appropriated~~
5 ~~by the legislature.~~)

6 Money in the special account created under RCW 50.24.014(1)(a) may
7 only be expended, after appropriation, for the purposes specified in
8 this section and RCW 50.62.010, 50.62.020, 50.62.030, (~~50.04.070,~~
9 ~~50.04.072, 50.16.010, 50.29.025,~~) 50.24.014, 50.44.053, and 50.22.010.

10 **Sec. 25.** RCW 50.16.015 and 1983 1st ex.s. c 13 s 6 are each
11 amended to read as follows:

12 A separate and identifiable fund to provide for the payment of
13 interest on advances received from this state's account in the federal
14 unemployment trust fund shall be established and administered under the
15 direction of the commissioner. This fund shall be known as the federal
16 interest payment fund and shall consist of contributions paid under RCW
17 50.16.070. All money in this fund shall be expended solely for the
18 payment of interest on advances received from this state's account in
19 the federal unemployment trust fund and for no other purposes
20 whatsoever.

21 **Sec. 26.** RCW 50.24.014 and 2000 c 2 s 15 are each amended to read
22 as follows:

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

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

20 (c) For the first calendar quarter of 1994 only, the basic two one-
21 hundredths of one percent contribution payable under (a) of this
22 subsection shall be increased by one-hundredth of one percent to a
23 total rate of three one-hundredths of one percent. The proceeds of
24 this incremental one-hundredth of one percent shall be used solely for
25 the purposes described in section 22, chapter 483, Laws of 1993, and
26 for the purposes of conducting an evaluation of the call center
27 approach to unemployment insurance under section 5, chapter 161, Laws
28 of 1998. During the 1997-1999 fiscal biennium, any surplus from
29 contributions payable under this subsection (c) may be deposited in the
30 unemployment compensation trust fund, used to support tax and wage
31 automated systems projects that simplify and streamline employer
32 reporting, or both.

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.

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

4 (3) If the commissioner determines that federal funding has been
5 increased to provide financing for the services specified in chapter
6 50.62 RCW, the commissioner shall direct that collection of
7 contributions under this section be terminated on the following January
8 1st.

9 **Sec. 27.** RCW 50.20.190 and 2002 c 371 s 915 are each amended to
10 read as follows:

11 (1) An individual who is paid any amount as benefits under this
12 title to which he or she is not entitled shall, unless otherwise
13 relieved pursuant to this section, be liable for repayment of the
14 amount overpaid. The department shall issue an overpayment assessment
15 setting forth the reasons for and the amount of the overpayment. The
16 amount assessed, to the extent not collected, may be deducted from any
17 future benefits payable to the individual: PROVIDED, That in the
18 absence of a back pay award, a settlement affecting the allowance of
19 benefits, fraud, misrepresentation, or willful nondisclosure, every
20 determination of liability shall be mailed or personally served not
21 later than two years after the close of or final payment made on the
22 individual's applicable benefit year for which the purported
23 overpayment was made, whichever is later, unless the merits of the
24 claim are subjected to administrative or judicial review in which event
25 the period for serving the determination of liability shall be extended
26 to allow service of the determination of liability during the six-month
27 period following the final decision affecting the claim.

28 (2) The commissioner may waive an overpayment if the commissioner
29 finds that the overpayment was not the result of fraud,
30 misrepresentation, willful nondisclosure, or fault attributable to the
31 individual and that the recovery thereof would be against equity and
32 good conscience: PROVIDED, HOWEVER, That the overpayment so waived
33 shall be charged against the individual's applicable entitlement for
34 the eligibility period containing the weeks to which the overpayment
35 was attributed as though such benefits had been properly paid.

1 (3) Any assessment herein provided shall constitute a determination
2 of liability from which an appeal may be had in the same manner and to
3 the same extent as provided for appeals relating to determinations in
4 respect to claims for benefits: PROVIDED, That an appeal from any
5 determination covering overpayment only shall be deemed to be an appeal
6 from the determination which was the basis for establishing the
7 overpayment unless the merits involved in the issue set forth in such
8 determination have already been heard and passed upon by the appeal
9 tribunal. If no such appeal is taken to the appeal tribunal by the
10 individual within thirty days of the delivery of the notice of
11 determination of liability, or within thirty days of the mailing of the
12 notice of determination, whichever is the earlier, the determination of
13 liability shall be deemed conclusive and final. Whenever any such
14 notice of determination of liability becomes conclusive and final, the
15 commissioner, upon giving at least twenty days notice by certified mail
16 return receipt requested to the individual's last known address of the
17 intended action, may file with the superior court clerk of any county
18 within the state a warrant in the amount of the notice of determination
19 of liability plus a filing fee under RCW 36.18.012(10). The clerk of
20 the county where the warrant is filed shall immediately designate a
21 superior court cause number for the warrant, and the clerk shall cause
22 to be entered in the judgment docket under the superior court cause
23 number assigned to the warrant, the name of the person(s) mentioned in
24 the warrant, the amount of the notice of determination of liability,
25 and the date when the warrant was filed. The amount of the warrant as
26 docketed shall become a lien upon the title to, and any interest in,
27 all real and personal property of the person(s) against whom the
28 warrant is issued, the same as a judgment in a civil case duly docketed
29 in the office of such clerk. A warrant so docketed shall be sufficient
30 to support the issuance of writs of execution and writs of garnishment
31 in favor of the state in the manner provided by law for a civil
32 judgment. A copy of the warrant shall be mailed to the person(s)
33 mentioned in the warrant by certified mail to the person's last known
34 address within five days of its filing with the clerk.

35 (4) On request of any agency which administers an employment
36 security law of another state, the United States, or a foreign
37 government and which has found in accordance with the provisions of

1 such law that a claimant is liable to repay benefits received under
2 such law, the commissioner may collect the amount of such benefits from
3 the claimant to be refunded to the agency. In any case in which under
4 this section a claimant is liable to repay any amount to the agency of
5 another state, the United States, or a foreign government, such amounts
6 may be collected without interest by civil action in the name of the
7 commissioner acting as agent for such agency if the other state, the
8 United States, or the foreign government extends such collection rights
9 to the employment security department of the state of Washington, and
10 provided that the court costs be paid by the governmental agency
11 benefiting from such collection.

12 (5) Any employer who is a party to a back pay award or settlement
13 due to loss of wages shall, within thirty days of the award or
14 settlement, report to the department the amount of the award or
15 settlement, the name and social security number of the recipient of the
16 award or settlement, and the period for which it is awarded. When an
17 individual has been awarded or receives back pay, for benefit purposes
18 the amount of the back pay shall constitute wages paid in the period
19 for which it was awarded. For contribution purposes, the back pay
20 award or settlement shall constitute wages paid in the period in which
21 it was actually paid. The following requirements shall also apply:

22 (a) The employer shall reduce the amount of the back pay award or
23 settlement by an amount determined by the department based upon the
24 amount of unemployment benefits received by the recipient of the award
25 or settlement during the period for which the back pay award or
26 settlement was awarded;

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

30 (c) The employer shall also pay to the department any taxes due for
31 unemployment insurance purposes on the entire amount of the back pay
32 award or settlement notwithstanding any reduction made pursuant to (a)
33 of this subsection;

34 (d) If the employer fails to reduce the amount of the back pay
35 award or settlement as required in (a) of this subsection, the
36 department shall issue an overpayment assessment against the recipient

1 of the award or settlement in the amount that the back pay award or
2 settlement should have been reduced; and

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

8 (6) When an individual fails to repay an overpayment assessment
9 that is due and fails to arrange for satisfactory repayment terms, the
10 commissioner shall impose an interest penalty of one percent per month
11 of the outstanding balance. Interest shall accrue immediately on
12 overpayments assessed pursuant to RCW 50.20.070 and shall be imposed
13 when the assessment becomes final. For any other overpayment, interest
14 shall accrue when the individual has missed two or more of (~~their~~)
15 the individual's monthly payments either partially or in full. The
16 interest penalty shall be used, first, to fully fund either social
17 security number cross-match audits or other more effective activities
18 that ensure that individuals are entitled to all amounts of benefits
19 that they are paid and, second, to fund other detection and recovery of
20 overpayment and collection activities (~~and, during the 2001-2003~~
21 ~~fiscal biennium, the cost of worker retraining programs at community~~
22 ~~and technical colleges as appropriated by the legislature)).~~

23 **Sec. 28.** RCW 50.04.206 and 1990 c 245 s 3 are each amended to read
24 as follows:

25 The term "employment" shall not include service that is performed
26 by a nonresident alien for the period he or she is temporarily present
27 in the United States as a nonimmigrant under subparagraph (F), (H)(ii),
28 (H)(iii), or (J) of section 101(a)(15) of the federal immigration and
29 naturalization act, as amended, and that is performed to carry out the
30 purpose specified in the applicable subparagraph of the federal
31 immigration and naturalization act.

32 **PART III - ADMINISTRATION**

33 **Sec. 29.** RCW 50.20.140 and 1998 c 161 s 2 are each amended to read
34 as follows:

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

12 (2) The term "application for initial determination" shall mean a
13 request in writing, or by other means as determined by the
14 commissioner, for an initial determination. The term "claim for
15 waiting period" shall mean a certification, after the close of a given
16 week, that the requirements stated herein for eligibility for waiting
17 period have been met. The term "claim for benefits" shall mean a
18 certification, after the close of a given week, that the requirements
19 stated herein for eligibility for receipt of benefits have been met.

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

31 (4) The legislature finds that the shift by the employment security
32 department from in-person written applications for unemployment
33 insurance benefits to call centers and internet applications has
34 increased the potential for fraud. Therefore, the employment security
35 department must require claimants filing initial and weekly claims
36 telephonically or electronically to provide additional proof of

1 identity, such as a valid driver's license, a valid identification
2 card, or other similar proof specified in rule by the department.

3 NEW SECTION. **Sec. 30.** The employment security department shall:

4 (1) In consultation with an advisory committee equally representing
5 business and labor, identify the programs funded by special
6 administrative contributions under Title 50 RCW and report to the
7 advisory committee the expenditures for these programs annually and
8 cumulatively since enactment. Following its report to the advisory
9 committee, the department shall report its findings and any
10 recommendations to the appropriate committees of the legislature by
11 December 1, 2003.

12 (2) Conduct a review of the type, rate, and causes of employer
13 turnover in the unemployment compensation system, using unified
14 business identifier information or other relevant data bases and
15 methods. The department shall report its findings and any
16 recommendations to the appropriate committees of the legislature by
17 December 1, 2003.

18 (3) Conduct a study of the potential for year to year volatility,
19 if any, in the rate classes to which employers in the array are
20 assigned under RCW 50.29.025(2)(a)(ii). The department shall report
21 its findings and any recommendations for minimizing the potential for
22 year to year volatility to the appropriate committees of the
23 legislature by December 1, 2003.

24 **PART IV - MISCELLANEOUS**

25 **Sec. 31.** RCW 50.20.043 and 1985 c 40 s 1 are each amended to read
26 as follows:

27 No otherwise eligible individual shall be denied benefits for any
28 week because the individual is in training with the approval of the
29 commissioner, nor shall such individual be denied benefits with respect
30 to any week in which the individual is satisfactorily progressing in a
31 training program with the approval of the commissioner by reason of the
32 application of RCW 50.20.010(~~(+3)~~) (1)(c), (~~(50-20-015-7)~~) 50.20.080,
33 or 50.22.020(1) relating to availability for work and active search for
34 work, or failure to apply for or refusal to accept suitable work.

1 An individual who the commissioner determines to be a dislocated
2 worker as defined by RCW 50.04.075 and who is satisfactorily
3 progressing in a training program approved by the commissioner shall be
4 considered to be in training with the approval of the commissioner.

5 **Sec. 32.** RCW 50.20.160 and 1990 c 245 s 4 are each amended to read
6 as follows:

7 (1) A determination of amount of benefits potentially payable
8 issued pursuant to the provisions of RCW 50.20.120 and 50.20.140 shall
9 not serve as a basis for appeal but shall be subject to request by the
10 claimant for reconsideration and/or for redetermination by the
11 commissioner at any time within one year from the date of delivery or
12 mailing of such determination, or any redetermination thereof:
13 PROVIDED, That in the absence of fraud or misrepresentation on the part
14 of the claimant, any benefits paid prior to the date of any
15 redetermination which reduces the amount of benefits payable shall not
16 be subject to recovery under the provisions of RCW 50.20.190. A denial
17 of a request to reconsider or a redetermination shall be furnished the
18 claimant in writing and provide the basis for appeal under the
19 provisions of RCW 50.32.020.

20 (2) A determination of denial of benefits issued under the
21 provisions of RCW 50.20.180 shall become final, in absence of timely
22 appeal therefrom: PROVIDED, That the commissioner may reconsider and
23 redetermine such determinations at any time within one year from
24 delivery or mailing to correct an error in identity, omission of fact,
25 or misapplication of law with respect to the facts.

26 (3) A determination of allowance of benefits shall become final, in
27 absence of a timely appeal therefrom: PROVIDED, That the commissioner
28 may redetermine such allowance at any time within two years following
29 the benefit year in which such allowance was made in order to recover
30 any benefits improperly paid and for which recovery is provided under
31 the provisions of RCW 50.20.190: AND PROVIDED FURTHER, That in the
32 absence of fraud, misrepresentation, or nondisclosure, this provision
33 or the provisions of RCW 50.20.190 shall not be construed so as to
34 permit redetermination or recovery of an allowance of benefits which
35 having been made after consideration of the provisions of RCW

1 50.20.010(~~(+3)~~) (1)(c), or the provisions of RCW 50.20.050, 50.20.060,
2 50.20.080, or 50.20.090 has become final.

3 (4) A redetermination may be made at any time: (a) To conform to
4 a final court decision applicable to either an initial determination or
5 a determination of denial or allowance of benefits; (b) in the event of
6 a back pay award or settlement affecting the allowance of benefits; or
7 (c) in the case of fraud, misrepresentation, or willful nondisclosure.
8 Written notice of any such redetermination shall be promptly given by
9 mail or delivered to such interested parties as were notified of the
10 initial determination or determination of denial or allowance of
11 benefits and any new interested party or parties who, pursuant to such
12 regulation as the commissioner may prescribe, would be an interested
13 party.

14 **Sec. 33.** RCW 50.32.040 and 1989 c 175 s 117 are each amended to
15 read as follows:

16 In any proceeding before an appeal tribunal involving a dispute of
17 an individual's initial determination, all matters covered by such
18 initial determination shall be deemed to be in issue irrespective of
19 the particular ground or grounds set forth in the notice of appeal.

20 In any proceeding before an appeal tribunal involving a dispute of
21 an individual's claim for waiting period credit or claim for benefits,
22 all matters and provisions of this title relating to the individual's
23 right to receive such credit or benefits for the period in question,
24 including but not limited to the question and nature of the claimant's
25 availability for work within the meaning of RCW 50.20.010(~~(+3)~~) (1)(c)
26 and 50.20.080, shall be deemed to be in issue irrespective of the
27 particular ground or grounds set forth in the notice of appeal in
28 single claimant cases. The claimant's availability for work shall be
29 determined apart from all other matters.

30 In any proceeding before an appeal tribunal involving an
31 individual's right to benefits, all parties shall be afforded an
32 opportunity for hearing after not less than seven days' notice in
33 accordance with RCW 34.05.434.

34 In any proceeding involving an appeal relating to benefit
35 determinations or benefit claims, the appeal tribunal, after affording
36 the parties reasonable opportunity for fair hearing, shall render its

1 decision affirming, modifying, or setting aside the determination or
2 decisions of the unemployment compensation division. The parties shall
3 be duly notified of such appeal tribunal's decision together with its
4 reasons therefor, which shall be deemed to be the final decision on the
5 initial determination or the claim for waiting period credit or the
6 claim for benefits unless, within thirty days after the date of
7 notification or mailing, whichever is the earlier, of such decision,
8 further appeal is perfected pursuant to the provisions of this title
9 relating to review by the commissioner.

10 **Sec. 34.** RCW 28B.50.030 and 1997 c 367 s 13 are each amended to
11 read as follows:

12 As used in this chapter, unless the context requires otherwise, the
13 term:

14 (1) "System" shall mean the state system of community and technical
15 colleges, which shall be a system of higher education.

16 (2) "Board" shall mean the work force training and education
17 coordinating board.

18 (3) "College board" shall mean the state board for community and
19 technical colleges created by this chapter.

20 (4) "Director" shall mean the administrative director for the state
21 system of community and technical colleges.

22 (5) "District" shall mean any one of the community and technical
23 college districts created by this chapter.

24 (6) "Board of trustees" shall mean the local community and
25 technical college board of trustees established for each college
26 district within the state.

27 (7) "Occupational education" shall mean that education or training
28 that will prepare a student for employment that does not require a
29 baccalaureate degree.

30 (8) "K-12 system" shall mean the public school program including
31 kindergarten through the twelfth grade.

32 (9) "Common school board" shall mean a public school district board
33 of directors.

34 (10) "Community college" shall include those higher education
35 institutions that conduct education programs under RCW 28B.50.020.

1 (11) "Technical college" shall include those higher education
2 institutions with the sole mission of conducting occupational
3 education, basic skills, literacy programs, and offering on short
4 notice, when appropriate, programs that meet specific industry needs.
5 The programs of technical colleges shall include, but not be limited
6 to, continuous enrollment, competency-based instruction, industry-
7 experienced faculty, curriculum integrating vocational and basic skills
8 education, and curriculum approved by representatives of employers and
9 labor. For purposes of this chapter, technical colleges shall include
10 Lake Washington Vocational-Technical Institute, Renton Vocational-
11 Technical Institute, Bates Vocational-Technical Institute, Clover Park
12 Vocational Institute, and Bellingham Vocational-Technical Institute.

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

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

35 (14) "Forest products worker" shall mean a worker in the forest
36 products industries affected by the reduction of forest fiber
37 enhancement, transportation, or production. The workers included

1 within this definition shall be determined by the employment security
2 department, but shall include workers employed in the industries
3 assigned the major group standard industrial classification codes "24"
4 and "26" and the industries involved in the harvesting and management
5 of logs, transportation of logs and wood products, processing of wood
6 products, and the manufacturing and distribution of wood processing and
7 logging equipment. The commissioner may adopt rules further
8 interpreting these definitions. For the purposes of this subsection,
9 "standard industrial classification code" means the code identified in
10 RCW 50.29.025(~~((6)(e))~~) (3).

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

21 (16) "Salmon fishing worker" means a worker in the finfish industry
22 affected by 1994 or future salmon disasters. The workers included
23 within this definition shall be determined by the employment security
24 department, but shall include workers employed in the industries
25 involved in the commercial and recreational harvesting of finfish
26 including buying and processing finfish. The commissioner may adopt
27 rules further interpreting these definitions.

28 (17) "Rural natural resources impact area" means:

29 (a) A nonmetropolitan county, as defined by the 1990 decennial
30 census, that meets three of the five criteria set forth in subsection
31 (18) of this section;

32 (b) A nonmetropolitan county with a population of less than forty
33 thousand in the 1990 decennial census, that meets two of the five
34 criteria as set forth in subsection (18) of this section; or

35 (c) A nonurbanized area, as defined by the 1990 decennial census,
36 that is located in a metropolitan county that meets three of the five
37 criteria set forth in subsection (18) of this section.

1 (18) For the purposes of designating rural natural resources impact
2 areas, the following criteria shall be considered:

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

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

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

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

11 (e) An unemployment rate twenty percent or more above the state
12 average. The counties that meet these criteria shall be determined by
13 the employment security department for the most recent year for which
14 data is available. For the purposes of administration of programs
15 under this chapter, the United States post office five-digit zip code
16 delivery areas will be used to determine residence status for
17 eligibility purposes. For the purpose of this definition, a zip code
18 delivery area of which any part is ten miles or more from an urbanized
19 area is considered nonurbanized. A zip code totally surrounded by zip
20 codes qualifying as nonurbanized under this definition is also
21 considered nonurbanized. The office of financial management shall make
22 available a zip code listing of the areas to all agencies and
23 organizations providing services under this chapter.

24 NEW SECTION. **Sec. 35.** The commissioner of the employment security
25 department may adopt such rules as are necessary to implement this act.

26 NEW SECTION. **Sec. 36.** The following acts or parts of acts are
27 each repealed:

28 (1) RCW 50.20.015 (Person with marginal labor force attachment) and
29 1986 c 106 s 1, 1985 c 285 s 3, & 1984 c 205 s 9;

30 (2) RCW 50.20.045 (Employee separated from employment due to wage
31 garnishment not disqualified) and 1969 ex.s. c 264 s 35;

32 (3) RCW 50.20.125 (Maximum amount payable weekly) and 2002 c 149 s
33 3; and

34 (4) RCW 50.29.045 (Contribution rate--Insolvency surcharge) and
35 2002 c 149 s 9.

1 NEW SECTION. **Sec. 37.** If any part of this act is found to be in
2 conflict with federal requirements that are a prescribed condition to
3 the allocation of federal funds to the state or the eligibility of
4 employers in this state for federal unemployment tax credits, the
5 conflicting part of this act is inoperative solely to the extent of the
6 conflict, and the finding or determination does not affect the
7 operation of the remainder of this act. Rules adopted under this act
8 must meet federal requirements that are a necessary condition to the
9 receipt of federal funds by the state or the granting of federal
10 unemployment tax credits to employers in this state.

11 NEW SECTION. **Sec. 38.** If any provision of this act or its
12 application to any person or circumstance is held invalid, the
13 remainder of the act or the application of the provision to other
14 persons or circumstances is not affected.

15 NEW SECTION. **Sec. 39.** Section 30 of this act expires January 1,
16 2004.

17 NEW SECTION. **Sec. 40.** This act is necessary for the immediate
18 preservation of the public peace, health, or safety, or support of the
19 state government and its existing public institutions, and takes effect
20 immediately."

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By Representative Chandler

21 On page 1, line 3 of the title, after "rates;" strike the remainder
22 of the title and insert "amending RCW 50.01.010, 50.20.010, 50.20.050,
23 50.04.293, 50.20.060, 50.20.065, 50.20.240, 50.20.120, 50.20.100,
24 50.29.025, 50.04.355, 50.29.026, 50.29.062, 50.29.070, 50.12.220,
25 50.16.010, 50.16.015, 50.24.014, 50.20.190, 50.04.206, 50.20.140,
26 50.20.043, 50.20.160, 50.32.040, and 28B.50.030; reenacting and
27 amending RCW 50.29.020; adding new sections to chapter 50.04 RCW;

1 adding new sections to chapter 50.20 RCW; adding new sections to
2 chapter 50.29 RCW; creating new sections; repealing RCW 50.20.015,
3 50.20.045, 50.20.125, and 50.29.045; providing an expiration date; and
4 declaring an emergency."

--- END ---