
ENGROSSED SUBSTITUTE SENATE BILL 6885

State of Washington

59th Legislature

2006 Regular Session

By Senate Committee on Labor, Commerce, Research & Development
(originally sponsored by Senators Kohl-Welles, McAuliffe, Thibaudeau,
Keiser and Fairley)

READ FIRST TIME 02/06/06.

1 AN ACT Relating to unemployment insurance; amending RCW 50.20.120,
2 50.24.010, 50.29.025, 50.29.041, 50.16.030, 50.29.021, and 50.20.050;
3 creating new sections; repealing 2005 c 133 s 10 (uncodified); and
4 declaring an emergency.

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

6 **Sec. 1.** RCW 50.20.120 and 2005 c 133 s 3 are each amended to read
7 as follows:

8 (1)(a) Subject to the other provisions of this title, benefits
9 shall be payable to any eligible individual during the individual's
10 benefit year in a maximum amount equal to the lesser of thirty times
11 the weekly benefit amount, as determined in subsection (2) of this
12 section, or one-third of the individual's base year wages under this
13 title: PROVIDED, That as to any week which falls in an extended
14 benefit period as defined in RCW 50.22.010(1), an individual's
15 eligibility for maximum benefits in excess of twenty-six times his or
16 her weekly benefit amount will be subject to the terms and conditions
17 set forth in RCW 50.22.020.

18 (b) With respect to claims that have an effective date on or after
19 the first Sunday of the calendar month immediately following the month

1 in which the commissioner finds that the state unemployment rate is six
2 and eight-tenths percent or less, benefits shall be payable to any
3 eligible individual during the individual's benefit year in a maximum
4 amount equal to the lesser of twenty-six times the weekly benefit
5 amount, as determined in subsection (2) of this section, or one-third
6 of the individual's base year wages under this title.

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

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

18 (c)(i) With respect to claims with an effective date on or after
19 January 2, 2005, except as provided in (c)(ii) of this subsection, an
20 individual's weekly benefit amount shall be an amount equal to one
21 percent of the total wages paid in the individual's base year.

22 (ii) With respect to claims with an effective date on or after the
23 first Sunday following April 22, 2005, (~~and before July 1, 2007,~~) an
24 individual's weekly benefit amount shall be an amount equal to three
25 and eighty-five one-hundredths percent of the average quarterly wages
26 of the individual's total wages during the two quarters of the
27 individual's base year in which such total wages were highest.

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

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

35 (ii) With respect to claims that have an effective date on or after
36 January 4, 2004, the maximum amount payable weekly shall be either four
37 hundred ninety-six dollars or sixty-three percent of the "average

1 weekly wage" for the calendar year preceding such June 30th, whichever
2 is greater.

3 (b) The minimum amount payable weekly shall be fifteen percent of
4 the "average weekly wage" for the calendar year preceding such June
5 30th.

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

9 **Sec. 2.** RCW 50.24.010 and 2000 c 2 s 2 are each amended to read as
10 follows:

11 (1) Contributions shall accrue and become payable by each employer
12 (except employers as described in RCW 50.44.010 who have properly
13 elected to make payments in lieu of contributions and those employers
14 who are required to make payments in lieu of contributions) for each
15 calendar year in which the employer is subject to this title at the
16 rate established pursuant to chapter 50.29 RCW.

17 (2) In each rate year, the amount of wages subject to tax for each
18 individual shall be one hundred fifteen percent of the amount of wages
19 subject to tax for the previous year rounded to the next lower one
20 hundred dollars, except that:

21 (a) Through rate year 2006, the amount of wages subject to tax in
22 any rate year shall not exceed eighty percent of the "average annual
23 wage for contributions purposes" for the second preceding calendar year
24 rounded to the next lower one hundred dollars. ~~((However, the amount
25 subject to tax shall be twenty four thousand three hundred dollars for
26 rate year 2000.))~~

27 (b) For rate year 2007 and thereafter, the amount of wages subject
28 to tax in any rate year shall not exceed seventy-five percent of the
29 "average annual wage for contributions purposes" for the second
30 preceding calendar year rounded to the next lower one hundred dollars.

31 (3) In making computations under this section and RCW 50.29.010,
32 wages paid based on services for employers making payments in lieu of
33 contributions shall not be considered remuneration. Moneys paid from
34 the fund, based on services performed for employers who make payments
35 in lieu of contributions, which have not been reimbursed to the fund as
36 of any June 30 shall be deemed an asset of the unemployment
37 compensation fund, to the extent that such moneys exceed the amount of

1 payments in lieu of contributions which the commissioner has previously
2 determined to be uncollectible: PROVIDED, FURTHER, That the amount
3 attributable to employment with the state shall also include interest
4 as provided for in RCW 50.44.020.

5 (4)(a) Contributions shall become due and be paid by each employer
6 to the treasurer for the unemployment compensation fund in accordance
7 with such regulations as the commissioner may prescribe, and shall not
8 be deducted, in whole or in part, from the remuneration of individuals
9 in employment of the employer. Any deduction in violation of the
10 provisions of this section shall be unlawful.

11 (b) In the payment of any contributions, a fractional part of a
12 cent shall be disregarded unless it amounts to one-half cent or more,
13 in which case it shall be increased to one cent.

14 **Sec. 3.** RCW 50.29.025 and 2005 c 133 s 5 are each amended to read
15 as follows:

16 (1) Except as provided in subsection (2) of this section, the
17 contribution rate for each employer subject to contributions under RCW
18 50.24.010 shall be determined under this subsection.

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

27 (b) The interval of the fund balance ratio, expressed as a
28 percentage, shall determine which tax schedule in (e) of this
29 subsection shall be in effect for assigning tax rates for the rate
30 year. The intervals for determining the effective tax schedule shall
31 be:

32	Interval of the	
33	Fund Balance Ratio	Effective
34	Expressed as a Percentage	Tax Schedule
35	2.90 and above	AA

1	2.10 to 2.89	A
2	1.70 to 2.09	B
3	1.40 to 1.69	C
4	1.00 to 1.39	D
5	0.70 to 0.99	E
6	Less than 0.70	F

7 (c) An array shall be prepared, listing all qualified employers in
8 ascending order of their benefit ratios. The array shall show for each
9 qualified employer: (i) Identification number; (ii) benefit ratio;
10 (iii) taxable payrolls for the four calendar quarters immediately
11 preceding the computation date and reported to the department by the
12 cut-off date; (iv) a cumulative total of taxable payrolls consisting of
13 the employer's taxable payroll plus the taxable payrolls of all other
14 employers preceding him or her in the array; and (v) the percentage
15 equivalent of the cumulative total of taxable payrolls.

16 (d) Each employer in the array shall be assigned to one of twenty
17 rate classes according to the percentage intervals of cumulative
18 taxable payrolls set forth in (e) of this subsection: PROVIDED, That
19 if an employer's taxable payroll falls within two or more rate classes,
20 the employer and any other employer with the same benefit ratio shall
21 be assigned to the lowest rate class which includes any portion of the
22 employer's taxable payroll.

23 (e) Except as provided in RCW 50.29.026, the contribution rate for
24 each employer in the array shall be the rate specified in the following
25 tables for the rate class to which he or she has been assigned, as
26 determined under (d) of this subsection, within the tax schedule which
27 is to be in effect during the rate year:

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Percent of		Schedules of Contributions Rates							
Cumulative		for Effective Tax Schedule							
Taxable Payrolls									
Rate									
From	To Class	AA	A	B	C	D	E	F	
0.00	5.00	1	0.47	0.47	0.57	0.97	1.47	1.87	2.47
5.01	10.00	2	0.47	0.47	0.77	1.17	1.67	2.07	2.67

1	10.01	15.00	3	0.57	0.57	0.97	1.37	1.77	2.27	2.87
2	15.01	20.00	4	0.57	0.73	1.11	1.51	1.90	2.40	2.98
3	20.01	25.00	5	0.72	0.92	1.30	1.70	2.09	2.59	3.08
4	25.01	30.00	6	0.91	1.11	1.49	1.89	2.29	2.69	3.18
5	30.01	35.00	7	1.00	1.29	1.69	2.08	2.48	2.88	3.27
6	35.01	40.00	8	1.19	1.48	1.88	2.27	2.67	3.07	3.47
7	40.01	45.00	9	1.37	1.67	2.07	2.47	2.87	3.27	3.66
8	45.01	50.00	10	1.56	1.86	2.26	2.66	3.06	3.46	3.86
9	50.01	55.00	11	1.84	2.14	2.45	2.85	3.25	3.66	3.95
10	55.01	60.00	12	2.03	2.33	2.64	3.04	3.44	3.85	4.15
11	60.01	65.00	13	2.22	2.52	2.83	3.23	3.64	4.04	4.34
12	65.01	70.00	14	2.40	2.71	3.02	3.43	3.83	4.24	4.54
13	70.01	75.00	15	2.68	2.90	3.21	3.62	4.02	4.43	4.63
14	75.01	80.00	16	2.87	3.09	3.42	3.81	4.22	4.53	4.73
15	80.01	85.00	17	3.27	3.47	3.77	4.17	4.57	4.87	4.97
16	85.01	90.00	18	3.67	3.87	4.17	4.57	4.87	4.97	5.17
17	90.01	95.00	19	4.07	4.27	4.57	4.97	5.07	5.17	5.37
18	95.01	100.00	20	5.40	5.40	5.40	5.40	5.40	5.40	5.40

19 (f) The contribution rate for each employer not qualified to be in
20 the array shall be as follows:

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

32 (ii) For all other employers not qualified to be in the array, the
33 contribution rate shall be a rate equal to the average industry rate as
34 determined by the commissioner; however, the rate may not be less than
35 one percent.

36 (2) Beginning with contributions assessed for rate year 2005, the
37 contribution rate for each employer subject to contributions under RCW
38 50.24.010 shall be the sum of the array calculation factor rate and the
39 graduated social cost factor rate determined under this subsection, and
40 the solvency surcharge determined under RCW 50.29.041, if any.

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

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

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

	Benefit Ratio		Rate	Rate
	At least	Less than	Class	(percent)
14		0.000001	1	0.00
15		0.000001	2	0.13
16	0.000001	0.001250	3	0.25
17	0.001250	0.002500	4	0.38
18	0.002500	0.003750	5	0.50
19	0.003750	0.005000	6	0.63
20	0.005000	0.006250	7	0.75
21	0.006250	0.007500	8	0.88
22	0.007500	0.008750	9	1.00
23	0.008750	0.010000	10	1.15
24	0.010000	0.011250	11	1.30
25	0.011250	0.012500	12	1.45
26	0.012500	0.013750	13	1.60
27	0.013750	0.015000	14	1.75
28	0.015000	0.016250	15	1.90
29	0.016250	0.017500	16	2.05
30	0.017500	0.018750	17	2.20
31	0.018750	0.020000	18	2.35
32	0.020000	0.021250	19	2.50
33	0.021250	0.022500	20	2.65
34	0.022500	0.023750	21	2.80
35	0.023750	0.025000		
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1	0.025000	0.026250	22	2.95
2	0.026250	0.027500	23	3.10
3	0.027500	0.028750	24	3.25
4	0.028750	0.030000	25	3.40
5	0.030000	0.031250	26	3.55
6	0.031250	0.032500	27	3.70
7	0.032500	0.033750	28	3.85
8	0.033750	0.035000	29	4.00
9	0.035000	0.036250	30	4.15
10	0.036250	0.037500	31	4.30
11	0.037500	0.040000	32	4.45
12	0.040000	0.042500	33	4.60
13	0.042500	0.045000	34	4.75
14	0.045000	0.047500	35	4.90
15	0.047500	0.050000	36	5.05
16	0.050000	0.052500	37	5.20
17	0.052500	0.055000	38	5.30
18	0.055000	0.057500	39	5.35
19	0.057500		40	5.40

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

22 (i)(A) Except as provided in (b)(i)(B)((~~7~~)) and (C)((~~7~~ and (~~D~~))) of
23 this subsection, the commissioner shall calculate the flat social cost
24 factor for a rate year by dividing the total social cost by the total
25 taxable payroll. The division shall be carried to the second decimal
26 place with the remaining fraction disregarded unless it amounts to five
27 hundredths or more, in which case the second decimal place shall be
28 rounded to the next higher digit. The flat social cost factor shall be
29 expressed as a percentage.

30 (B) If, on the cut-off date, the balance in the unemployment
31 compensation fund is determined by the commissioner to be an amount
32 that will provide more than ten months of unemployment benefits, the
33 commissioner shall calculate the flat social cost factor for the rate
34 year immediately following the cut-off date by reducing the total
35 social cost by the dollar amount that represents the number of months
36 for which the balance in the unemployment compensation fund on the cut-
37 off date will provide benefits above ten months and dividing the result
38 by the total taxable payroll. However, the calculation under this

1 subsection (2)(b)(i)(B) for a rate year may not ~~((result in a))~~ reduce
2 the flat social cost factor ~~((that is more than two-tenths lower than))~~
3 below the calculation under (b)(i)(A) of this subsection for that rate
4 year by more than:

5 (I) Two-tenths, if the balance in the unemployment compensation
6 fund will provide benefits for more than ten months but less than
7 twelve months;

8 (II) Three-tenths, if the balance in the unemployment compensation
9 fund will provide benefits for at least twelve months but less than
10 fourteen months; or

11 (III) Four-tenths, if the balance in the unemployment compensation
12 fund will provide benefits for fourteen months or more.

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

20 (C) The minimum flat social cost factor calculated under this
21 subsection (2)(b) shall be six-tenths of one percent, except that if
22 (b)(i)(B)(II) of this subsection applies, the minimum shall be
23 fifty-five one-hundredths of one percent, and if (b)(i)(B)(III) of this
24 subsection applies, the minimum shall be five-tenths of one percent.

25 ~~((D) With respect to rate year 2007, the flat social cost factor~~
26 ~~shall be the lesser of:~~

27 ~~(I) The flat social cost factor determined under (b)(i)(A) through~~
28 ~~(C) of this subsection; or~~

29 ~~(II) The flat social cost factor that would be determined under~~
30 ~~(b)(i)(A) through (C) of this subsection if RCW 50.20.120(2)(c)(i) had~~
31 ~~been in effect during the immediately preceding rate year.))~~

32 (ii)(A) Except as provided in (b)(ii)(B) of this subsection, the
33 graduated social cost factor rate for each employer in the array is the
34 flat social cost factor multiplied by the percentage specified as
35 follows for the rate class to which the employer has been assigned in
36 (a)(ii) of this subsection, except that the sum of an employer's array
37 calculation factor rate and the graduated social cost factor rate may
38 not exceed six and five-tenths percent or, for employers whose North

1 American industry classification system code is within "111," "112,"
2 "1141," "115," "3114," "3117," or "42448," may not exceed six percent
3 through rate year 2006 and may not exceed five and seven-tenths percent
4 for rate year 2007 and thereafter:

- 5 (I) Rate class 1 - 78 percent;
- 6 (II) Rate class 2 - 82 percent;
- 7 (III) Rate class 3 - 86 percent;
- 8 (IV) Rate class 4 - 90 percent;
- 9 (V) Rate class 5 - 94 percent;
- 10 (VI) Rate class 6 - 98 percent;
- 11 (VII) Rate class 7 - 102 percent;
- 12 (VIII) Rate class 8 - 106 percent;
- 13 (IX) Rate class 9 - 110 percent;
- 14 (X) Rate class 10 - 114 percent;
- 15 (XI) Rate class 11 - 118 percent; and
- 16 (XII) Rate classes 12 through 40 - 120 percent.

17 (B) For contributions assessed beginning July 1, 2005, through
18 ~~((June 30,))~~ December 2007, for employers whose North American industry
19 classification system code is "111," "112," "1141," "115," "3114,"
20 "3117," "42448," or "49312," the graduated social cost factor rate is
21 zero.

22 (iii) For the purposes of this section:

23 (A) "Total social cost" means ~~((+))~~
24 ~~((I) Except as provided in (b)(iii)(A)(II) of this subsection,))~~ the
25 amount calculated by subtracting the array calculation factor
26 contributions paid by all employers with respect to the ~~((four))~~
27 sixteen consecutive calendar quarters immediately preceding the
28 computation date and paid to the employment security department by the
29 cut-off date from the total unemployment benefits paid to claimants in
30 the same ~~((four))~~ sixteen consecutive calendar quarters, and dividing
31 the amount by four. To calculate the flat social cost factor for rate
32 year 2005, the commissioner shall calculate the total social cost using
33 the array calculation factor contributions that would have been
34 required to be paid by all employers in the calculation period if (a)
35 of this subsection had been in effect for the relevant period.

36 ~~((II) For rate year 2007, the amount calculated under~~
37 ~~(b)(iii)(A)(I) of this subsection reduced by the amount of benefits~~
38 ~~charged that exceed the contributions paid in the four consecutive~~

1 ~~calendar quarters immediately preceding the applicable computation date~~
2 ~~because, as applicable, specified employers are subject to the social~~
3 ~~cost contributions under (b)(ii)(B) of this subsection, and/or because~~
4 ~~the social cost factor contributions are paid under (b)(i)(D)(II) of~~
5 ~~this subsection.)~~

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

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

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

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

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

31 (i) For employers whose array calculation factor rate is determined
32 under (c)(i) of this subsection, the social cost factor rate shall be
33 the social cost factor rate assigned to rate class 40 under (b)(ii) of
34 this subsection.

35 (ii) For employers whose array calculation factor rate is
36 determined under (c)(ii) of this subsection, the social cost factor
37 rate shall be a rate equal to the average industry social cost factor

1 rate as determined by the commissioner, plus fifteen percent of that
2 amount, but not more than the social cost factor rate assigned to rate
3 class 40 under (b)(ii) of this subsection.

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

11 **Sec. 4.** RCW 50.29.041 and 2003 2nd sp.s. c 4 s 16 are each amended
12 to read as follows:

13 Beginning with contributions assessed for rate year 2005, the
14 contribution rate of each employer subject to contributions under RCW
15 50.24.010 shall include a solvency surcharge determined as follows:

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

21 (2) The solvency surcharge shall be the lowest rate necessary, as
22 determined by the commissioner, but not more than two-tenths of one
23 percent, to provide revenue during the applicable rate year that will
24 fund unemployment benefits for the number of months that is the
25 difference between (~~eight~~) ten months and the number of months for
26 which the balance in the unemployment compensation fund on the cut-off
27 date will provide benefits.

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

30 **Sec. 5.** RCW 50.16.030 and 2005 c 133 s 6 are each amended to read
31 as follows:

32 (1)(a) Except as provided in (b) (~~and (c)~~) of this subsection,
33 moneys shall be requisitioned from this state's account in the
34 unemployment trust fund solely for the payment of benefits and
35 repayment of loans from the federal government to guarantee solvency of
36 the unemployment compensation fund in accordance with regulations

1 prescribed by the commissioner, except that money credited to this
2 state's account pursuant to section 903 of the social security act, as
3 amended, shall be used exclusively as provided in RCW 50.16.030(5).
4 The commissioner shall from time to time requisition from the
5 unemployment trust fund such amounts, not exceeding the amounts
6 standing to its account therein, as he or she deems necessary for the
7 payment of benefits for a reasonable future period. Upon receipt
8 thereof the treasurer shall deposit such moneys in the benefit account
9 and shall issue his or her warrants for the payment of benefits solely
10 from such benefits account.

11 (b) Moneys for the payment of regular benefits as defined in RCW
12 50.22.010 shall be requisitioned during fiscal year(~~s~~) 2006 (~~and~~
13 ~~2007~~) in the following order:

14 (i) First, from the moneys credited to this state's account in the
15 unemployment trust fund pursuant to section 903 of the social security
16 act, as amended in section 209 of the temporary extended unemployment
17 compensation act of 2002 (42 U.S.C. Sec. 1103(d)), the amount equal to
18 the amount of benefits charged that exceed the contributions paid in
19 the four consecutive calendar quarters ending on June 30, 2006, (~~for~~
20 ~~the fiscal year 2006 calculation, and ending on June 30, 2007, for the~~
21 ~~fiscal year 2007 calculation,~~) because the social cost factor
22 contributions that employers are subject to under RCW
23 50.29.025(2)(b)(ii)(B) are less than the social cost factor
24 contributions that these employers would have been subject to if RCW
25 50.29.025(2)(b)(ii)(A) had applied to these employers; and

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

29 (~~(c) After the requisitioning required under (b) of this~~
30 ~~subsection, if applicable, moneys for the payment of regular benefits~~
31 ~~as defined in RCW 50.22.010 shall be requisitioned during calendar year~~
32 ~~2007 in the following order:~~

33 (~~i) First, from the moneys credited to this state's account in the~~
34 ~~unemployment trust fund pursuant to section 903 of the social security~~
35 ~~act, as amended in section 209 of the temporary extended unemployment~~
36 ~~compensation act of 2002 (42 U.S.C. Sec. 1103(d)), the amount equal to~~
37 ~~the amount of benefits paid under RCW 50.20.120(2)(c)(ii) beginning on~~
38 ~~the first Sunday following April 22, 2005, and ending on June 30, 2007,~~

1 ~~that exceed the amount of benefits that would have been paid if the~~
2 ~~weekly benefit amount had been determined as one percent of the total~~
3 ~~wages paid in the individual's base year; and~~

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

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

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

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

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

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

36 (c) Limits the amount which may be obligated during a twelve-month
37 period beginning on July 1st and ending on the next June 30th to an
38 amount which does not exceed the amount by which (i) the aggregate of

1 the amounts credited to the account of this state pursuant to section
2 903 of the social security act, as amended, during the same twelve-
3 month period and the thirty-four preceding twelve-month periods,
4 exceeds (ii) the aggregate of the amounts obligated pursuant to RCW
5 50.16.030 (4), (5) and (6) and charged against the amounts credited to
6 the account of this state during any of such thirty-five twelve-month
7 periods. For the purposes of RCW 50.16.030 (4), (5) and (6), amounts
8 obligated during any such twelve-month period shall be charged against
9 equivalent amounts which were first credited and which are not already
10 so charged; except that no amount obligated for administration during
11 any such twelve-month period may be charged against any amount credited
12 during such a twelve-month period earlier than the thirty-fourth
13 twelve-month period preceding such period: PROVIDED, That any amount
14 credited to this state's account under section 903 of the social
15 security act, as amended, which has been appropriated for expenses of
16 administration, whether or not withdrawn from the trust fund shall be
17 excluded from the unemployment compensation fund balance for the
18 purpose of experience rating credit determination.

19 (5) Money credited to the account of this state pursuant to section
20 903 of the social security act, as amended, may not be withdrawn or
21 used except for the payment of benefits and for the payment of expenses
22 of administration and of public employment offices pursuant to RCW
23 50.16.030 (4), (5) and (6). However, moneys credited because of excess
24 amounts in federal accounts in federal fiscal years 1999, 2000, and
25 2001 shall be used solely for the administration of the unemployment
26 compensation program and are not subject to appropriation by the
27 legislature for any other purpose.

28 (6) Money requisitioned as provided in RCW 50.16.030 (4), (5) and
29 (6) for the payment of expenses of administration shall be deposited in
30 the unemployment compensation fund, but until expended, shall remain a
31 part of the unemployment compensation fund. The commissioner shall
32 maintain a separate record of the deposit, obligation, expenditure and
33 return of funds so deposited. Any money so deposited which either will
34 not be obligated within the period specified by the appropriation law
35 or remains unobligated at the end of the period, and any money which
36 has been obligated within the period but will not be expended, shall be
37 returned promptly to the account of this state in the unemployment
38 trust fund.

1 **Sec. 6.** RCW 50.29.021 and 2005 c 133 s 4 are each amended to read
2 as follows:

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

6 (2)(a) An experience rating account shall be established and
7 maintained for 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, and those employers who are required to make payments
11 in lieu of contributions, based on existing records of the employment
12 security department.

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

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

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

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

27 (3) The legislature finds that certain benefit payments, in whole
28 or in part, should not be charged to the experience rating accounts of
29 employers except those employers described in RCW 50.44.010 and
30 50.44.030 who have properly elected to make payments in lieu of
31 contributions, taxable local government employers described in RCW
32 50.44.035, and those employers who are required to make payments in
33 lieu of contributions, as follows:

34 (a) Benefits paid to any individual later determined to be
35 ineligible shall not be charged to the experience rating account of any
36 contribution paying employer.

37 (b) Benefits paid to an individual filing under the provisions of

1 chapter 50.06 RCW shall not be charged to the experience rating account
2 of any contribution paying employer only if:

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

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

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

11 (d) In the case of individuals who requalify for benefits under RCW
12 50.20.050 or 50.20.060, benefits based on wage credits earned prior to
13 the disqualifying separation shall not be charged to the experience
14 rating account of the contribution paying employer from whom that
15 separation took place.

16 (e) Individuals who qualify for benefits under RCW
17 50.20.050(2)(b)(iv), as applicable, shall not have their benefits
18 charged to the experience rating account of any contribution paying
19 employer.

20 (f) With respect to claims with an effective date on or after the
21 first Sunday following April 22, 2005, and before July (~~(1, 2007)~~) 2,
22 2006, benefits paid that exceed the benefits that would have been paid
23 if the weekly benefit amount for the claim had been determined as one
24 percent of the total wages paid in the individual's base year shall not
25 be charged to the experience rating account of any contribution paying
26 employer.

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

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

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

36 (iii) Is unemployed as a result of closure or severe curtailment of
37 operation at the employer's plant, building, worksite, or other

1 facility. This closure must be for reasons directly attributable to a
2 catastrophic occurrence such as fire, flood, or other natural disaster;
3 or

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

11 (b) The employer requesting relief of charges under this subsection
12 must request relief in writing within thirty days following mailing to
13 the last known address of the notification of the valid initial
14 determination of such claim, stating the date and reason for the
15 separation or the circumstances of continued employment. The
16 commissioner, upon investigation of the request, shall determine
17 whether relief should be granted.

18 **Sec. 7.** RCW 50.20.050 and 2003 2nd sp.s. c 4 s 4 are each amended
19 to read as follows:

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

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

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

32 (i) The duration of the work;

33 (ii) The extent of direction and control by the employer over the
34 work; and

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

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

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

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

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

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

23 (c) In determining under this subsection whether an individual has
24 left work voluntarily without good cause, the commissioner shall only
25 consider work-connected factors such as the degree of risk involved to
26 the individual's health, safety, and morals, the individual's physical
27 fitness for the work, the individual's ability to perform the work, and
28 such other work connected factors as the commissioner may deem
29 pertinent, including state and national emergencies. Good cause shall
30 not be established for voluntarily leaving work because of its distance
31 from an individual's residence where the distance was known to the
32 individual at the time he or she accepted the employment and where, in
33 the judgment of the department, the distance is customarily traveled by
34 workers in the individual's job classification and labor market, nor
35 because of any other significant work factor which was generally known
36 and present at the time he or she accepted employment, unless the
37 related circumstances have so changed as to amount to a substantial
38 involuntary deterioration of the work factor or unless the commissioner

1 determines that other related circumstances would work an unreasonable
2 hardship on the individual were he or she required to continue in the
3 employment.

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

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

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

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

- 32 (i) The duration of the work;
- 33 (ii) The extent of direction and control by the employer over the
34 work; and
- 35 (iii) The level of skill required for the work in light of the
36 individual's training and experience.

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

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

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

6 (A) The claimant pursued all reasonable alternatives to preserve
7 his or her employment status by requesting a leave of absence, by
8 having promptly notified the employer of the reason for the absence,
9 and by having promptly requested reemployment when again able to assume
10 employment. These alternatives need not be pursued, however, when they
11 would have been a futile act, including those instances when the
12 futility of the act was a result of a recognized labor/management
13 dispatch system; and

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

17 (iii) He or she(~~(A)~~) left work to relocate for the spouse's
18 employment that, due to a mandatory military transfer(~~(I)~~) is
19 outside the existing labor market area; and (~~(II) is in Washington or~~
20 ~~another state that, pursuant to statute, does not consider such an~~
21 ~~individual to have left work voluntarily without good cause; and (B)~~)
22 he or she remained employed as long as was reasonable prior to the
23 move;

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

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

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

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

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

1 (ix) The individual left work because of illegal activities in the
2 individual's worksite, the individual reported such activities to the
3 employer, and the employer failed to end such activities within a
4 reasonable period of time; or

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

7 NEW SECTION. **Sec. 8.** In June 2005, the employment security
8 department issued a report regarding the impact of chapter 4, Laws of
9 2003 2nd sp. sess. on the voluntary quit provision changes contained in
10 the act. The report indicated that a number of the changes seemed to
11 disproportionately impact women, although the department indicated that
12 because chapter 4, Laws of 2003 2nd sp. sess. had gone into effect less
13 than a year before the report was due, it did not have sufficient data
14 to definitively state the impact of the voluntary quit provisions. The
15 department is directed to continue this study from the effective date
16 of the voluntary quit provisions of chapter 4, Laws of 2003 2nd sp.
17 sess. to September 30, 2006, and report to the appropriate committees
18 of the legislature by December 15, 2006.

19 NEW SECTION. **Sec. 9.** 2005 c 133 s 10 (uncodified) is repealed.

20 NEW SECTION. **Sec. 10.** Sections 3 and 4 of this act apply to rate
21 years beginning on or after January 1, 2007.

22 NEW SECTION. **Sec. 11.** If any provision of this act or its
23 application to any person or circumstance is held invalid, the
24 remainder of the act or the application of the provision to other
25 persons or circumstances is not affected.

26 NEW SECTION. **Sec. 12.** If any part of this act is found to be in
27 conflict with federal requirements that are a prescribed condition to
28 the allocation of federal funds to the state or the eligibility of
29 employers in this state for federal unemployment tax credits, the
30 conflicting part of this act is inoperative solely to the extent of the
31 conflict, and the finding or determination does not affect the
32 operation of the remainder of this act. Rules adopted under this act

1 must meet federal requirements that are a necessary condition to the
2 receipt of federal funds by the state or the granting of federal
3 unemployment tax credits to employers in this state.

4 NEW SECTION. **Sec. 13.** This act is necessary for the immediate
5 preservation of the public peace, health, or safety, or support of the
6 state government and its existing public institutions, and takes effect
7 immediately.

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