

CERTIFICATION OF ENROLLMENT
ENGROSSED SUBSTITUTE SENATE BILL 6885

59th Legislature
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Passed by the Senate March 3, 2006
YEAS 44 NAYS 2

President of the Senate

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Speaker of the House of Representatives

Approved

Governor of the State of Washington

CERTIFICATE

I, Thomas Hoemann, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **ENGROSSED SUBSTITUTE SENATE BILL 6885** as passed by the Senate and the House of Representatives on the dates hereon set forth.

Secretary

FILED

**Secretary of State
State of Washington**

1 eligibility for maximum benefits in excess of twenty-six times his or
2 her weekly benefit amount will be subject to the terms and conditions
3 set forth in RCW 50.22.020.

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

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

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

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

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

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

36 (a)(i) With respect to claims that have an effective date before
37 January 4, 2004, the maximum amount payable weekly shall be seventy

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

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

8 (b) The minimum amount payable weekly shall be fifteen percent of
9 the "average weekly wage" for the calendar year preceding such June
10 30th.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

29 (i) The duration of the work;

30 (ii) The extent of direction and control by the employer over the
31 work; and

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

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

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

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

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

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

15 (iii)(A) With respect to claims that have an effective date before
16 July 2, 2006, he or she: ((+A)) (I) Left work to relocate for the
17 spouse's employment that, due to a mandatory military transfer:
18 ((+I)) (1) Is outside the existing labor market area; and ((+II)) (2)
19 is in Washington or another state that, pursuant to statute, does not
20 consider such an individual to have left work voluntarily without good
21 cause; and ((+B)) (II) remained employed as long as was reasonable
22 prior to the move;

23 (B) With respect to claims that have an effective date on or after
24 July 2, 2006, he or she: (I) Left work to relocate for the spouse's
25 employment that, due to a mandatory military transfer, is outside the
26 existing labor market area; and (II) remained employed as long as was
27 reasonable prior to the move;

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

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

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

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

1 (viii) The individual's worksite safety deteriorated, the
2 individual reported such safety deterioration to the employer, and the
3 employer failed to correct the hazards within a reasonable period of
4 time;

5 (ix) The individual left work because of illegal activities in the
6 individual's worksite, the individual reported such activities to the
7 employer, and the employer failed to end such activities within a
8 reasonable period of time; or

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

11 NEW SECTION. **Sec. 3.** 2005 c 133 s 10 (uncodified) is repealed.

12 **PART II - TAX PROVISIONS**

13 **Sec. 4.** RCW 50.29.025 and 2005 c 133 s 5 are each amended to read
14 as follows:

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

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

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

31	Interval of the	
32	Fund Balance Ratio	Effective
33	Expressed as a Percentage	Tax Schedule

1	2.90 and above	AA
2	2.10 to 2.89	A
3	1.70 to 2.09	B
4	1.40 to 1.69	C
5	1.00 to 1.39	D
6	0.70 to 0.99	E
7	Less than 0.70	F

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

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

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

29											
30		Percent of									
31		Cumulative		Schedules of Contributions Rates							
32		Taxable Payrolls		for Effective Tax Schedule							
33			Rate								
34		From	To Class	AA	A	B	C	D	E	F	
35		0.00	5.00	1	0.47	0.47	0.57	0.97	1.47	1.87	2.47
36		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				
16		0.000001	2	0.13
17	0.000001	0.001250		
18	0.001250	0.002500	3	0.25
19	0.002500	0.003750	4	0.38
20	0.003750	0.005000	5	0.50
21	0.005000	0.006250	6	0.63
22	0.006250	0.007500	7	0.75
23	0.007500	0.008750	8	0.88
24	0.008750	0.010000	9	1.00
25	0.010000	0.011250	10	1.15
26	0.011250	0.012500	11	1.30
27	0.012500	0.013750	12	1.45
28	0.013750	0.015000	13	1.60
29	0.015000	0.016250	14	1.75
30	0.016250	0.017500	15	1.90
31	0.017500	0.018750	16	2.05
32	0.018750	0.020000	17	2.20
33	0.020000	0.021250	18	2.35
34	0.021250	0.022500	19	2.50
35	0.022500	0.023750	20	2.65
36	0.023750	0.025000	21	2.80

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 flat social
2 cost factor that is more than (~~two-tenths~~) four-tenths lower than the
3 calculation under (b)(i)(A) of this subsection for that rate year.

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

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

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

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

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

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

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

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

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

13 (B) For contributions assessed beginning July 1, 2005, through
14 ~~((June 30,))~~ December 31, 2007, for employers whose North American
15 industry classification system code is "111," "112," "1141," "115,"
16 "3114," "3117," "42448," or "49312," the graduated social cost factor
17 rate is zero.

18 (iii) For the purposes of this section:

19 (A) "Total social cost" means(+

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

32 ~~((II) For rate year 2007, the amount calculated under~~
33 ~~(b)(iii)(A)(I) of this subsection reduced by the amount of benefits~~
34 ~~charged that exceed the contributions paid in the four consecutive~~
35 ~~calendar quarters immediately preceding the applicable computation date~~
36 ~~because, as applicable, specified employers are subject to the social~~
37 ~~cost contributions under (b)(ii)(B) of this subsection, and/or because~~

1 ~~the social cost factor contributions are paid under (b)(i)(D)(II) of~~
2 ~~this subsection.)~~

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

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

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

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

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

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

32 (ii) For employers whose array calculation factor rate is
33 determined under (c)(ii) of this subsection, the social cost factor
34 rate shall be a rate equal to the average industry social cost factor
35 rate as determined by the commissioner, plus fifteen percent of that
36 amount, but not more than the social cost factor rate assigned to rate
37 class 40 under (b)(ii) of this subsection.

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

8 **Sec. 5.** RCW 50.29.041 and 2003 2nd sp.s. c 4 s 16 are each amended
9 to read as follows:

10 Beginning with contributions assessed for rate year 2005, the
11 contribution rate of each employer subject to contributions under RCW
12 50.24.010 shall include a solvency surcharge determined as follows:

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

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

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

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

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

32 (2)(a) An experience rating account shall be established and
33 maintained for each employer, except employers as described in RCW
34 50.44.010 and 50.44.030 who have properly elected to make payments in
35 lieu of contributions, taxable local government employers as described

1 in RCW 50.44.035, and those employers who are required to make payments
2 in lieu of contributions, based on existing records of the employment
3 security department.

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

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

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

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

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

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

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

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

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

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

1 (d) In the case of individuals who requalify for benefits under RCW
2 50.20.050 or 50.20.060, benefits based on wage credits earned prior to
3 the disqualifying separation shall not be charged to the experience
4 rating account of the contribution paying employer from whom that
5 separation took place.

6 (e) Individuals who qualify for benefits under RCW
7 50.20.050(2)(b)(iv), as applicable, shall not have their benefits
8 charged to the experience rating account of any contribution paying
9 employer.

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

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

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

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

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

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

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

8 **Sec. 7.** RCW 50.16.030 and 2005 c 133 s 6 are each amended to read
9 as follows:

10 (1)(a) Except as provided in (b) (~~and (c)~~) of this subsection,
11 moneys shall be requisitioned from this state's account in the
12 unemployment trust fund solely for the payment of benefits and
13 repayment of loans from the federal government to guarantee solvency of
14 the unemployment compensation fund in accordance with regulations
15 prescribed by the commissioner, except that money credited to this
16 state's account pursuant to section 903 of the social security act, as
17 amended, shall be used exclusively as provided in RCW 50.16.030(5).
18 The commissioner shall from time to time requisition from the
19 unemployment trust fund such amounts, not exceeding the amounts
20 standing to its account therein, as he or she deems necessary for the
21 payment of benefits for a reasonable future period. Upon receipt
22 thereof the treasurer shall deposit such moneys in the benefit account
23 and shall issue his or her warrants for the payment of benefits solely
24 from such benefits account.

25 (b) Moneys for the payment of regular benefits as defined in RCW
26 50.22.010 shall be requisitioned during fiscal year(~~s~~) 2006 (~~and~~
27 ~~2007~~) in the following order:

28 (i) First, from the moneys credited to this state's account in the
29 unemployment trust fund pursuant to section 903 of the social security
30 act, as amended in section 209 of the temporary extended unemployment
31 compensation act of 2002 (42 U.S.C. Sec. 1103(d)), the amount equal to
32 the amount of benefits charged that exceed the contributions paid in
33 the four consecutive calendar quarters ending on June 30, 2006, (~~for~~
34 ~~the fiscal year 2006 calculation, and ending on June 30, 2007, for the~~
35 ~~fiscal year 2007 calculation,~~) because the social cost factor
36 contributions that employers are subject to under RCW

1 50.29.025(2)(b)(ii)(B) are less than the social cost factor
2 contributions that these employers would have been subject to if RCW
3 50.29.025(2)(b)(ii)(A) had applied to these employers; and

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

7 ~~((c) After the requisitioning required under (b) of this
8 subsection, if applicable, moneys for the payment of regular benefits
9 as defined in RCW 50.22.010 shall be requisitioned during calendar year
10 2007 in the following order:~~

11 ~~(i) First, from the moneys credited to this state's account in the
12 unemployment trust fund pursuant to section 903 of the social security
13 act, as amended in section 209 of the temporary extended unemployment
14 compensation act of 2002 (42 U.S.C. Sec. 1103(d)), the amount equal to
15 the amount of benefits paid under RCW 50.20.120(2)(c)(ii) beginning on
16 the first Sunday following April 22, 2005, and ending on June 30, 2007,
17 that exceed the amount of benefits that would have been paid if the
18 weekly benefit amount had been determined as one percent of the total
19 wages paid in the individual's base year; and~~

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

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

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

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

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

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

14 (c) Limits the amount which may be obligated during a twelve-month
15 period beginning on July 1st and ending on the next June 30th to an
16 amount which does not exceed the amount by which (i) the aggregate of
17 the amounts credited to the account of this state pursuant to section
18 903 of the social security act, as amended, during the same twelve-
19 month period and the thirty-four preceding twelve-month periods,
20 exceeds (ii) the aggregate of the amounts obligated pursuant to RCW
21 50.16.030 (4), (5) and (6) and charged against the amounts credited to
22 the account of this state during any of such thirty-five twelve-month
23 periods. For the purposes of RCW 50.16.030 (4), (5) and (6), amounts
24 obligated during any such twelve-month period shall be charged against
25 equivalent amounts which were first credited and which are not already
26 so charged; except that no amount obligated for administration during
27 any such twelve-month period may be charged against any amount credited
28 during such a twelve-month period earlier than the thirty-fourth
29 twelve-month period preceding such period: PROVIDED, That any amount
30 credited to this state's account under section 903 of the social
31 security act, as amended, which has been appropriated for expenses of
32 administration, whether or not withdrawn from the trust fund shall be
33 excluded from the unemployment compensation fund balance for the
34 purpose of experience rating credit determination.

35 (5) Money credited to the account of this state pursuant to section
36 903 of the social security act, as amended, may not be withdrawn or
37 used except for the payment of benefits and for the payment of expenses
38 of administration and of public employment offices pursuant to RCW

1 50.16.030 (4), (5) and (6). However, moneys credited because of excess
2 amounts in federal accounts in federal fiscal years 1999, 2000, and
3 2001 shall be used solely for the administration of the unemployment
4 compensation program and are not subject to appropriation by the
5 legislature for any other purpose.

6 (6) Money requisitioned as provided in RCW 50.16.030 (4), (5) and
7 (6) for the payment of expenses of administration shall be deposited in
8 the unemployment compensation fund, but until expended, shall remain a
9 part of the unemployment compensation fund. The commissioner shall
10 maintain a separate record of the deposit, obligation, expenditure and
11 return of funds so deposited. Any money so deposited which either will
12 not be obligated within the period specified by the appropriation law
13 or remains unobligated at the end of the period, and any money which
14 has been obligated within the period but will not be expended, shall be
15 returned promptly to the account of this state in the unemployment
16 trust fund.

17 **PART III - REENACTED PROVISIONS**

18 **Sec. 8.** RCW 50.04.293 and 2003 2nd sp.s. c 4 s 5 are each
19 reenacted to read as follows:

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

25 **Sec. 9.** RCW 50.04.294 and 2003 2nd sp.s. c 4 s 6 are each
26 reenacted to read as follows:

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

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

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

33 (b) Deliberate violations or disregard of standards of behavior
34 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
37 of and for the rights, title, or interest of the employer or a fellow
38 employee.

1 **Sec. 10.** RCW 50.20.010 and 2003 2nd sp.s. c 4 s 3 are each
2 reenacted to read as follows:

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

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

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

18 (c) He or she is able to work, and is available for work in any
19 trade, occupation, profession, or business for which he or she is
20 reasonably fitted.

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

27 (ii) With respect to claims that have an effective date on or after
28 January 4, 2004, to be available for work an individual must be ready,
29 able, and willing, immediately to accept any suitable work which may be
30 offered to him or her and must be actively seeking work pursuant to
31 customary trade practices and through other methods when so directed by
32 the commissioner or the commissioner's agents. If a labor agreement or
33 dispatch rules apply, customary trade practices must be in accordance
34 with the applicable agreement or rules;

35 (d) He or she has been unemployed for a waiting period of one week;

36 (e) He or she participates in reemployment services if the
37 individual has been referred to reemployment services pursuant to the

1 profiling system established by the commissioner under RCW 50.20.011,
2 unless the commissioner determines that:

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

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

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

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

15 **Sec. 11.** RCW 50.20.060 and 2003 2nd sp.s. c 4 s 7 are each
16 reenacted to read as follows:

17 With respect to claims that have an effective date before January
18 4, 2004, an individual shall be disqualified from benefits beginning
19 with the first day of the calendar week in which he or she has been
20 discharged or suspended for misconduct connected with his or her work
21 and thereafter for seven calendar weeks and until he or she has
22 obtained bona fide work in employment covered by this title and earned
23 wages in that employment equal to seven times his or her weekly benefit
24 amount. Alcoholism shall not constitute a defense to disqualification
25 from benefits due to misconduct.

26 **Sec. 12.** RCW 50.20.065 and 2003 2nd sp.s. c 4 s 8 are each
27 reenacted to read as follows:

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

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

35 (2) The employer shall notify the department of such an admission

1 or conviction, not later than six months following the admission or
2 conviction.

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

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

10 **Sec. 13.** RCW 50.20.066 and 2003 2nd sp.s. c 4 s 9 are each
11 reenacted to read as follows:

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

14 (1) An individual shall be disqualified from benefits beginning
15 with the first day of the calendar week in which he or she has been
16 discharged or suspended for misconduct connected with his or her work
17 and thereafter for ten calendar weeks and until he or she has obtained
18 bona fide work in employment covered by this title and earned wages in
19 that employment equal to ten times his or her weekly benefit amount.
20 Alcoholism shall not constitute a defense to disqualification from
21 benefits due to misconduct.

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

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

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

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

1 **Sec. 14.** RCW 50.20.100 and 2004 c 110 s 2 are each reenacted to
2 read as follows:

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

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

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

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

29 **Sec. 15.** RCW 50.20.119 and 2003 2nd sp.s. c 4 s 12 are each
30 reenacted to read as follows:

31 (1) With respect to claims that have an effective date on or after
32 January 2, 2005, an otherwise eligible individual may not be denied
33 benefits for any week because the individual is a part-time worker and
34 is available for, seeks, applies for, or accepts only work of seventeen
35 or fewer hours per week by reason of the application of RCW
36 50.20.010(1)(c), 50.20.080, or 50.22.020(1) relating to availability

1 for work and active search for work, or failure to apply for or refusal
2 to accept suitable work.

3 (2) For purposes of this section, "part-time worker" means an
4 individual who: (a) Earned wages in "employment" in at least forty
5 weeks in the individual's base year; and (b) did not earn wages in
6 "employment" in more than seventeen hours per week in any weeks in the
7 individual's base year.

8 **Sec. 16.** RCW 50.20.240 and 2004 c 110 s 1 are each reenacted to
9 read as follows:

10 (1)(a) To ensure that following the initial application for
11 benefits, an individual is actively engaged in searching for work, the
12 employment security department shall implement a job search monitoring
13 program. Effective January 4, 2004, the department shall contract with
14 employment security agencies in other states to ensure that individuals
15 residing in those states and receiving benefits under this title are
16 actively engaged in searching for work in accordance with the
17 requirements of this section. The department may use interactive voice
18 technology and other electronic means to ensure that individuals are
19 subject to comparable job search monitoring, regardless of whether they
20 reside in Washington or elsewhere.

21 (b) Except for those individuals with employer attachment or union
22 referral, individuals who qualify for unemployment compensation under
23 RCW 50.20.050 (1)(b)(iv) or (2)(b)(iv), as applicable, and individuals
24 in commissioner-approved training, an individual who has received five
25 or more weeks of benefits under this title, regardless of whether the
26 individual resides in Washington or elsewhere, must provide evidence of
27 seeking work, as directed by the commissioner or the commissioner's
28 agents, for each week beyond five in which a claim is filed. With
29 regard to claims with an effective date before January 4, 2004, the
30 evidence must demonstrate contacts with at least three employers per
31 week or documented in-person job search activity at the local
32 reemployment center. With regard to claims with an effective date on
33 or after January 4, 2004, the evidence must demonstrate contacts with
34 at least three employers per week or documented in-person job search
35 activities at the local reemployment center at least three times per
36 week.

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

5 (2) Effective January 4, 2004, an individual who fails to comply
6 fully with the requirements for actively seeking work under RCW
7 50.20.010 shall lose all benefits for all weeks during which the
8 individual was not in compliance, and the individual shall be liable
9 for repayment of all such benefits under RCW 50.20.190.

10 **Sec. 17.** RCW 50.04.335 and 2003 2nd sp.s. c 4 s 2 are each
11 reenacted to read as follows:

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

17 **Sec. 18.** RCW 50.16.010 and 2005 c 518 s 933 are each reenacted to
18 read as follows:

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

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

26 (i) All contributions collected under RCW 50.24.010 and payments in
27 lieu of contributions collected pursuant to the provisions of this
28 title;

29 (ii) Any property or securities acquired through the use of moneys
30 belonging to the fund;

31 (iii) All earnings of such property or securities;

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

35 (v) All money recovered on official bonds for losses sustained by
36 the fund;

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

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

7 (viii) All moneys received for the fund from any other source.

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

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

12 (i) All interest on delinquent contributions collected pursuant to
13 this title;

14 (ii) All fines and penalties collected pursuant to the provisions
15 of this title;

16 (iii) All sums recovered on official bonds for losses sustained by
17 the fund; and

18 (iv) Revenue received under RCW 50.24.014.

19 (b) All fees, fines, forfeitures, and penalties collected or
20 assessed by a district court because of the violation of this title or
21 rules adopted under this title shall be remitted as provided in chapter
22 3.62 RCW.

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

28 (i) The proper administration of this title and no federal funds
29 are available for the specific purpose to which such expenditure is to
30 be made, provided, the moneys are not substituted for appropriations
31 from federal funds which, in the absence of such moneys, would be made
32 available.

33 (ii) The proper administration of this title for which purpose
34 appropriations from federal funds have been requested but not yet
35 received, provided, the administrative contingency fund will be
36 reimbursed upon receipt of the requested federal appropriation.

37 (iii) The proper administration of this title for which compliance
38 and audit issues have been identified that establish federal claims

1 requiring the expenditure of state resources in resolution. Claims
2 must be resolved in the following priority: First priority is to
3 provide services to eligible participants within the state; second
4 priority is to provide substitute services or program support; and last
5 priority is the direct payment of funds to the federal government.

6 (d) During the 2005-2007 fiscal biennium, the cost of the job
7 skills program at community and technical colleges as appropriated by
8 the legislature.

9 Money in the special account created under RCW 50.24.014(1)(a) may
10 only be expended, after appropriation, for the purposes specified in
11 this section and RCW 50.62.010, 50.62.020, 50.62.030, 50.24.014,
12 50.44.053, and 50.22.010.

13 **Sec. 19.** RCW 50.16.015 and 2003 2nd sp.s. c 4 s 24 are each
14 reenacted to read as follows:

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

24 **Sec. 20.** RCW 50.24.014 and 2003 2nd sp.s. c 4 s 25 are each
25 reenacted to read as follows:

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

1 hundredths of one percent. The amount of wages subject to tax shall be
2 determined under RCW 50.24.010.

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

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

35 (2)(a) Contributions under this section shall become due and be
36 paid by each employer under rules as the commissioner may prescribe,
37 and shall not be deducted, in whole or in part, from the remuneration

1 of individuals in the employ of the employer. Any deduction in
2 violation of this section is unlawful.

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

6 (3) If the commissioner determines that federal funding has been
7 increased to provide financing for the services specified in chapter
8 50.62 RCW, the commissioner shall direct that collection of
9 contributions under this section be terminated on the following January
10 1st.

11 **Sec. 21.** RCW 50.20.190 and 2005 c 518 s 934 are each reenacted to
12 read as follows:

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

30 (2) The commissioner may waive an overpayment if the commissioner
31 finds that the overpayment was not the result of fraud,
32 misrepresentation, willful nondisclosure, or fault attributable to the
33 individual and that the recovery thereof would be against equity and
34 good conscience: PROVIDED, HOWEVER, That the overpayment so waived
35 shall be charged against the individual's applicable entitlement for
36 the eligibility period containing the weeks to which the overpayment
37 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
38 such law that a claimant is liable to repay benefits received under

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

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

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

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

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

33 (d) If the employer fails to reduce the amount of the back pay
34 award or settlement as required in (a) of this subsection, the
35 department shall issue an overpayment assessment against the recipient
36 of the award or settlement in the amount that the back pay award or
37 settlement should have been reduced; and

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

6 (6) When an individual fails to repay an overpayment assessment
7 that is due and fails to arrange for satisfactory repayment terms, the
8 commissioner shall impose an interest penalty of one percent per month
9 of the outstanding balance. Interest shall accrue immediately on
10 overpayments assessed pursuant to RCW 50.20.070 and shall be imposed
11 when the assessment becomes final. For any other overpayment, interest
12 shall accrue when the individual has missed two or more of the
13 individual's monthly payments either partially or in full. The
14 interest penalty shall be used, first, to fully fund either social
15 security number cross-match audits or other more effective activities
16 that ensure that individuals are entitled to all amounts of benefits
17 that they are paid, second, to fund other detection and recovery of
18 overpayment and collection activities, and third, during the 2005-07
19 fiscal biennium, the cost of the job skills program at community and
20 technical colleges as appropriated by the legislature.

21 **Sec. 22.** RCW 50.04.206 and 2003 2nd sp.s. c 4 s 27 are each
22 reenacted to read as follows:

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

30 NEW SECTION. **Sec. 23.** (1) Sections 8 through 13 and 16 of this
31 act apply retroactively to claims that have an effective date on or
32 after January 4, 2004.

33 (2) Sections 14 and 15 of this act apply retroactively to claims
34 that have an effective date on or after January 2, 2005.

35 (3) Sections 17 through 22 of this act apply retroactively to June
36 20, 2003.

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

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