Received 6/1/11

STATE OF WASHINGTON
**EMPLOYMENT SECURITY DEPARTMENT**
PO Box 9046 Olympia, WA 98507-9046

June 1, 2011

Ms. Gay Gilbert
Administrator
Office of Workforce Security
United States Department of Labor
200 Constitution Avenue, N.W.
Rooms S-4231
Washington, D.C. 20210

Dear Ms. Gilbert:

On behalf of the State of Washington, I am submitting our application for the remaining two-thirds of the Unemployment Compensation Modernization incentive payment pursuant to Section 2003 of Public Law 111-5. This application is based upon Washington State laws regarding eligibility for unemployment compensation due to compelling family reasons and the expansion of the Training Benefits program. All of the relevant laws referenced in our application are either currently in effect as permanent law or will be in effect as permanent law on July 1, 2012.

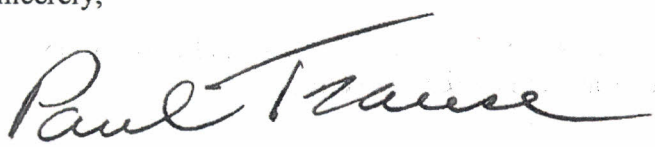
The following attachments are included to support the application:

- Certification (attachment A);
- Program Summaries (attachment B);
- Revised Code of Washington (RCW) 50.20.050 (attachment C);
- Washington Administrative Code (WAC) 192-150-112 (attachment D);
- WAC 192-150-113 (attachment E);
- WAC 192-150-055 (attachment F);
- Unemployment Insurance Resource Manual (UIRM), section 5435 (attachment G);
- RCW 50.04.294 (attachment H);
- WAC 192-150-210 (attachment I);
- New section from Chapter 4, Laws of 2011 (attachment J);
- RCW 50.22.155 (attachment K);
- RCW 50.04.075 (attachment L);
- RCW 50.22.140 (attachment M); and
- RCW 50.22.157 (attachment N).

The Washington State Employment Security Department will utilize Unemployment Compensation Modernization incentive funds to improve and strengthen Washington's unemployment compensation program, consistent with Section 903 of the Social Security Act.

If your office has any questions or concerns regarding this application, please contact Nan Thomas, Assistant Commissioner of Unemployment Insurance, at (360) 902-9303 or nthomas@esd.wa.gov.

Sincerely,



Paul Trause
Commissioner

cc: Suzanne Simonetta
Division Chief, Division of Legislation

Robert Johnston
Team Leader, State Conformity & Compliance Team, Division of Legislation

Jamie Bachinski
Chief, Division of Workforce Security, Employment and Training Administration, Region 6

Pat O'Neal
Office of Systems Performance, Workforce Security, Region 6, Legislation and Appeals

Attachment A

# Certification

I hereby certify that:

Compelling Family Reasons:

- The attached laws, RCW 50.20.050 and 50.04.294, are true and accurate copies of the laws and provide for permanent changes in law. They are not subject to discontinuation under any circumstances other than repeal by the Washington State Legislature.

- The attached rules, WACs 192-150-112, 192-150-113, 192-150-210, and 192-150-055 are true and accurate copies of the rules and are currently in effect.

Training Benefits Program:

The attached laws, RCW 50.22.155, RCW 50.04.075, RCW 50.22.140, RCW 50.22.157, and the new section from Chapter 4, Laws of 2011, are true and accurate copies of the laws and provide a permanent change in law. These laws all go into effect July 1, 2012. They are not subject to discontinuation under any circumstances other than denial of this application or repeal by the Washington State Legislature.

This application is submitted in good faith with the intention of providing benefits to unemployed workers who meet the eligibility provisions on which this application is based.

Dated: June 1, 2011

Paul Trause
Commissioner
Washington State Employment Security Department

Attachment B

# Program Summaries

## Compelling Family Reasons

Relevant state laws and rules regarding compelling family reasons are located in:

- Revised Code of Washington (RCW) 50.20.050 (attachment C);
- Washington Administrative Code (WAC) 192-150-112 (attachment D);
- WAC 192-150-113 (attachment E);
- WAC 192-150-055 (attachment F);
- Unemployment Insurance Resource Manual (UIRM), section 5435 (attachment G);
- RCW 50.04.294 (attachment H); and
- WAC 192-150-210 (attachment I)

**Summary of Compelling Family Reasons Provisions**

On December 23, 2009, your office provided the Employment Security Department with informal, written notice that Washington's compelling family reasons policies do not create any issues in terms of meeting Unemployment Compensation Modernization requirements. No policy changes have been made since that time.

Washington has broad provisions that allow individuals who quit due to compelling family reasons to collect unemployment insurance (UI). Claimants are eligible for UI if they voluntarily quit due to domestic violence, an illness or disability of a family member, and following a spouse or domestic partner. Individuals who are discharged for reasons which would constitute "good cause" for a quit are also eligible.

***Domestic Violence***

Since 2002, Washington has provided UI coverage to individuals who have quit to protect themselves and their immediate family members from domestic violence or stalking, as provided in RCW 50.20.050(2)(b)(iv) (attachment C)[1]. The term "immediate family," referenced in RCW 50.20.050 is broadly defined in WAC 192-150-112(1) (attachment D) in that it extends to spouses, domestic partners, parents, and minor children as well as to unborn children, step-children, foster children, siblings, and other relatives who live with the individual.

Previously, your staff expressed concerns that the law did not include separations that are "reasonably believed" to be necessary. To clarify, WAC 192-150-113(3)(b) states an individual only has to have a "good faith belief" that he or she needs to leave work because of fear, avoidance, or consequences of domestic violence or stalking in order to qualify (attachment E). Other subsections of that same rule, WAC 192-150-113(1) and (2), provide that victims of domestic violence are eligible regardless of whether they provide notice to their employers before leaving work or exhaust all reasonable alternatives.

[1] This section was most recently amended in 2009; however, the domestic violence law has been in effect since 2002.

***Illness and Disability of an Immediate Family Member***
Washington has a longstanding provision providing UI eligibility to individuals who quit their jobs due to the death, illness, or disability of an immediate family member, as provided in RCW 50.20.050(2)(b)(ii) (attachment C). As referenced above, "immediate family" is broadly defined in WAC 192-150-112(1) (attachment E).

*Reemployment*
RCW 50.20.050(2)(b)(ii)(A) (attachment C) states the claimant must pursue:

> ...all reasonable alternatives to preserve his or her employment status by requesting a leave of absence, by having promptly notified the employer of the reason for the absence, and by having promptly requested reemployment when again able to assume employment.

Requesting a leave of absence and notifying the employer of the reason for the absence are provisions that address the separation from work and the steps that must be taken to attempt to preserve employment. Promptly requesting reemployment after the separation has occurred, however, is a requirement related not to the separation itself, but to the reemployment of the individual. Accordingly, WAC 192-150-055(1)(c)(ii) (attachment F), states, "You are not required to request reemployment after the job separation has occurred to establish good cause." Your staff indicated concern that this WAC and the RCW 50.20.050(2)(b)(ii)(A) conflict. To clarify, and based on USDOL guidance, our Unemployment Insurance Resource Manual (UIRM) policy emphasizes that a claimant does not need to request reemployment if he or she reasonably believes doing so would be a futile act (attachment G).

*Defining "Illness"*
In UIPL 14-09, Attachment 3, the terms "illness" and "disability" mean a verified illness/disability which "necessitates the care" of the ill/disabled person "for a period of time longer than the employer is willing to grant leave (paid or otherwise)." USDOL staff indicated previously "illness" is not expressly defined in Washington State policies. Per USDOL guidance, the UIPL language has been incorporated into Washington's UIRM (attachment G). Washington also applies the "not entitled to be reinstated" provision to determine if the UIPL standard has been met. If the individual is not entitled to be reinstated, he or she has definitively separated from the employer, which is a threshold requirement to receive UI.

***Quit to Follow a Spouse***
The law providing UI eligibility to individuals who quit work to follow a spouse was expanded during the 2009 Legislative Session. As the federal provision requires, RCW 50.20.050(2)(b)(iii) provides that an individual has good cause to quit if he or she relocates due to the employment of a spouse or domestic partner outside the existing labor market area (attachment C).

***Coverage for Discharged Workers***
Your staff indicated previously that Washington needs to address situations in which an individual is discharged for reasons which would constitute "good cause" for a quit, such as if an

individual is absent due to caring for an ill or disabled family member or due to domestic violence. Such an individual is eligible for benefits under Washington law and policies.

RCW 50.04.294(2)(d) states, "repeated and inexcusable absences..." are considered misconduct "because the acts signify a willful or wanton disregard of the rights, title, and interests of the employer..." (attachment H). WAC 192-150-210(3) defines repeated and inexcusable absences as "repeated absences that are unjustified or that would not cause a reasonably prudent person in the same circumstances to be absent" (attachment I). In terms of absences related to illnesses, disabilities, and domestic violence, the Employment Security Department relies on the application of the "reasonably prudent person" standard. Generally, such absences that lead to a discharge are not considered misconduct, so unemployment insurance benefits are allowed.

## Training Benefits

Relevant state laws are located in:

- New section from Chapter 4, Laws of 2011 (attachment J);
- RCW 50.22.155 (attachment K);
- RCW 50.04.075 (attachment L); and
- RCW 50.22.140 (attachment M)
- RCW 50.22.157 (attachment N)

**Summary of Training Benefits Program**

On July 1, 2010, your office provided the Employment Security Department with informal, written notice that Washington's draft TB laws did not create any issues in terms of meeting Unemployment Compensation Modernization requirements. Except for ordering changes and a small adjustment to the effective date language (attachment J), no other changes were made to the draft laws, and the 2011 Legislature has now passed them as permanent law. We are including study language for your information. This language should have no impact on eligibility for Unemployment Compensation Modernization funding.

Washington's Training Benefits (TB) program has been in existence since 2000. A state law passed in 2009 expanded eligibility, authorized waivers for failing to meet deadlines, and eliminated a provision requiring individuals to have a long-term attachment to their occupation. Based on additional information from USDOL staff, during the 2011 Legislative Session, Washington made additional changes to state law as outlined below. These changes go into effect July 1, 2012, unless USDOL determines by October 1, 2011 that the changes do not meet Unemployment Compensation Modernization requirements (attachment J). Additional study language is also included (attachment N), which, while it instructs the legislature to consider changes to improve the program, does not affect the permanency of the laws.

All eligibility provisions, including those changes adopted in 2009, are reflected in RCW 50.22.155 (attachment K). One relevant change, regarding the total number of weeks of TB available, applies to all TB participants, whereas the remaining changes apply only to dislocated workers.

***Total Amount of Training Benefits Available***
Your staff indicated previously the total amount of TB must be at least 26 times the weekly benefit amount. Based on USDOL guidance, Washington changed state law accordingly, as reflected in RCW 50.22.155(2)(g)(i) (attachment K).

***Definition of Dislocated Worker***
Your staff indicated previously Washington's definition of "dislocated worker" was too narrow. Based on USDOL guidance, Washington changed state law so the definition is broader, as reflected in RCW 50.04.075(2) (attachment L). Under the new definition, a dislocated worker is an individual who:

(a) Has been involuntarily and indefinitely separated from employment as a result of a permanent reduction of operations at the individual's place of employment, or has separated from a declining occupation; and
(b) Is eligible for or has exhausted entitlement to unemployment compensation benefits.

The following changes to state law apply only to dislocated workers. The definition is referenced in RCW 50.22.155(2)(a)(i) (attachment K), a subsection which is also referenced throughout the provisions below (generally referred to as "(a)(i) of this subsection").

***Application and Enrollment Deadlines***
Your staff indicated Washington's application and enrollment deadlines were too restrictive. Based on this guidance, as provided in RCW 50.22.155(2)(b)(i) through RCW 50.22.155(2)(b)(iii) (attachment K), Washington changed state law so dislocated workers are exempt from the application and enrollment deadlines. Instead, dislocated workers must submit an individual training plan and enroll in training prior to the end of their benefit year.

***Full-Time Training***
Your staff indicated Washington's full-time training requirement was too restrictive. Based on this guidance, Washington changed state law, as reflected in RCW 50.22.155(2)(c) so dislocated workers are exempt from this requirement (attachment K).

***When Claimants are Eligible Again***
Your staff indicated Washington's law regarding how frequently claimants can participate in TB again was too restrictive. Based on this guidance, Washington changed state law, as reflected in RCW 50.22.155(2)(i) (attachment K). Dislocated workers are not restricted in terms of how frequently they can participate.

***Funding***
RCW 50.22.140 (attachment M) ensures there will always be sufficient TB funding for dislocated workers. The law provides that $20 million is available for all TB participants each fiscal year. Additionally, all funds not obligated in one fiscal year are carried forward to the next fiscal year. The law further states that if the amount available for TB drops to $5 million or less, funds will only be obligated to dislocated workers. If funds are exhausted, TB funds will continue to be obligated to dislocated workers, and the following year's obligation will be

reduced by a corresponding amount. In short, this change in law results in no funding cap of any kind for dislocated workers.

***Study of TB Program***

Washington has expanded the requirements for its TB study. The Employment Security Department's annual study will include a survey based assessment of program participant outcomes and will address issues such as whether participants are employed in a field for which they were retrained. It will also analyze program costs and total funds obligated.

The state Joint Legislative Audit and Review Committee is also directed to evaluate the program periodically. It will assess the effectiveness and efficiency of the program and make recommendations for improvements. The legislature is instructed to hold hearings on the review and consider potential improvements to the program.

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Attachment C

**RCW 50.20.050**
**Disqualification for leaving work voluntarily without good cause (as amended by 2009 c 493).**

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

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

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

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

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

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

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

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

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

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

~~(iv) The separation was necessary to protect the claimant or the claimant's immediate family members from domestic violence, as defined in RCW 26.50.010, or stalking, as defined in RCW~~

~~9A.46.110.~~

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

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

~~(2)~~)) With respect to claims that have an effective date on or after January 4, 2004, and for separations that occur before September 6, 2009:

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

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

(i) The duration of the work;

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

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

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

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

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

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

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

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

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

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

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

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

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

(viii) The individual's worksite safety deteriorated, the individual reported such safety

deterioration to the employer, and the employer failed to correct the hazards within a reasonable period of time;

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

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

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

(2) With respect to separations that occur on or after September 6, 2009:

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

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

(i) The duration of the work;

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

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

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

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

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

(A) The claimant pursued all reasonable alternatives to preserve his or her employment status by requesting a leave of absence, by having promptly notified the employer of the reason for the absence, and by having promptly requested reemployment when again able to assume employment. These alternatives need not be pursued, however, when they would have been a

futile act, including those instances when the futility of the act was a result of a recognized labor/management dispatch system; and

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

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

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

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

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

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

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

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

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

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

[2009 c 493 § 3; 2008 c 323 § 1; 2006 c 13 § 2. Prior: 2006 c 12 § 1; 2003 2nd sp.s. c 4 § 4; 2002 c 8 § 1; 2000 c 2 § 12; 1993 c 483 § 8; 1982 1st ex.s. c 18 § 6; 1981 c 35 § 4; 1980 c 74 § 5; 1977 ex.s. c 33 § 4; 1970 ex.s. c 2 § 21; 1953 ex.s. c 8 § 8; 1951 c 215 § 12; 1949 c 214 § 12; 1947 c 215 § 15; 1945 c 35 § 73; Rem. Supp. 1949 § 9998-211; prior: 1943 c 127 § 3; 1941 c 253 § 3; 1939 c 214 § 3; 1937 c 162 § 5.]

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Attachment D

**WAC 192-150-112**
**Definitions — Domestic violence and stalking — RCW 50.20.050 (2)(b)(iv).**

To constitute good cause for leaving work, your job separation must have been necessary to protect yourself or a member of your immediate family from domestic violence or stalking.

(1) **Immediate family** is defined in WAC 192-150-055 and means your spouse, domestic partner, and [the] children (including your unborn children), siblings, stepchildren, foster children, or parents of either spouse or domestic partner, whether living with you or not, and other relatives who temporarily or permanently reside in your household.

(2)(a) **Domestic violence** is defined in RCW 26.50.010. It includes the following acts committed between family or household members:

(i) Physical harm, bodily injury, assault, or the infliction of fear of imminent physical harm, bodily injury or assault;

(ii) Sexual assault; or

(iii) Stalking.

(b) The perpetrator of domestic violence must be a family or household member, which means:

(i) Spouses, domestic partners, former spouses, and former domestic partners,

(ii) Persons who have a child in common regardless of whether they have been married or have lived together at any time,

(iii) Adult persons related by blood or marriage,

(iv) Adult persons who are presently residing together or who have resided together in the past,

(v) Persons sixteen years of age or older who are presently residing together or who have resided together in the past and who have or have had a dating relationship,

(vi) Persons sixteen years of age or older with whom a person sixteen years of age or older has or has had a dating relationship, and

(vii) Persons who have a biological or legal parent-child relationship, including stepparents, stepchildren, grandparents, and grandchildren.

(c) "Dating relationship" means a social relationship of a romantic nature.

(3) **Stalking** is defined by RCW 9A.46.110. It means:

(a) Intentionally and repeatedly harassing or following another person; and

(b) Placing the person being harassed or followed in fear of injury to self or property, or to another person or the property of another person; and

(c) Intending to frighten, intimidate, or harass the other person; or

(d) Knowing or having reason to know that the person is afraid, intimidated, or harassed even if the stalker did not intend to place the person in fear or intimidate or harass the person.

(i) "Harass" means a knowing and willful course of conduct directed at a specific person which seriously alarms, annoys, harasses, or is detrimental to such person, and which serves no legitimate or lawful purpose.

(ii) "Repeatedly" means on two or more separate occasions.

(iii) "Follows" means deliberately maintaining visual or physical proximity to a specific person over a period of time. A finding that the alleged stalker repeatedly and deliberately appears at the person's home, school, place of employment, business, or any other location to maintain visual or physical proximity to the person is sufficient to find that the alleged stalker follows the person. It is not necessary to establish that the alleged stalker follows the person while in transit from one location to another.

(iv) "Contact" includes, in addition to any other form of contact or communication, the sending of an electronic communication to the person.

[Statutory Authority: RCW 50.12.010, 50.12.040, and 34.05.120. 10-01-156, § 192-150-112, filed 12/22/09, effective 1/22/10. Statutory Authority: RCW 50.12.010, 50.12.040, 50.12.042, and 50.20.010. 05-13-156, § 192-150-112, filed 6/21/05, effective 7/22/05.]

Attachment E

**WAC 192-150-113**
**Domestic violence or stalking — RCW 50.20.050 (2)(b)(iv).**

(1) As a condition of eligibility for benefits, you are not required to exhaust reasonable alternatives prior to leaving work.

(2) The amount of notice you provide to your employer will not be a factor in evaluating whether you had good cause to leave work under this section. You will not be penalized for:

(a) Failing to provide notice to your employer prior to leaving work;

(b) Providing several weeks advance notice because you are making preparations to leave the situation;

(c) Not disclosing the domestic violence or stalking to your employer;

(d) Enduring domestic violence or stalking for an extended period of time before the job separation; or

(e) Leaving work when there has not been a recent act of domestic violence or stalking, provided you had a reasonable fear of future domestic violence or stalking.

(3) The following factors will be considered in evaluating whether you had good cause to leave work under this section:

(a) Domestic violence or stalking is the primary reason you left work, even if you gave a different reason for separation to your employer;

(b) Your separation was necessary which, for purposes of this section, means you had a good faith belief that you needed to leave work based upon:

(i) Your fear of domestic violence or stalking;

(ii) Avoiding domestic violence or stalking; or

(iii) The consequences of domestic violence or stalking, including but not limited to legal proceedings, health care, counseling, child custody, or child protection matters.

[Statutory Authority: RCW 50.12.010, 50.12.040, 50.12.042, and 50.20.010. 05-13-156, § 192-150-113, filed 6/21/05, effective 7/22/05.]

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Attachment F

**WAC 192-150-055**
**Leaving work because of illness or disability — General rules and definitions — RCW 50.20.050 (1)(b)(ii) and (2)(b)(ii).**

(1) **General rule.** To establish good cause for leaving work voluntarily because of your illness or disability or the illness, disability, or death of a member of your immediate family, you must demonstrate that:

(a) You left work primarily because of such illness, disability, or death; and

(b) The illness, disability, or death made it necessary for you to leave work; and

(c) You first exhausted all reasonable alternatives prior to leaving work, including:

(i) Notifying your employer of the reason(s) for the absence as provided in WAC 192-150-060; and

(ii) Asking to be reemployed when you are able to return to work. (You are not required to request reemployment after the job separation has occurred to establish good cause.)

(2) For claims with an effective date of January 4, 2004, or later, you are not eligible for unemployment benefits unless, in addition to the requirements of subsections (1)(a)-(c) above, you terminate your employment and are not entitled to be reinstated in the same or similar position.

(3) **Exception.** You may be excused from failure to exhaust reasonable alternatives prior to leaving work as required by subsection (1)(c) if you can show that doing so would have been a futile act.

(4) **Definitions.** For purposes of this chapter:

(a) "Disability" means a sensory, mental, or physical condition that:

(i) Is medically recognizable or diagnosable;

(ii) Exists as a record or history; and

(iii) Substantially limits the proper performance of your job;

(b) "Immediate family" means your spouse, domestic partner, and the children (including unborn children), siblings, step-children, foster children, or parents of either spouse or domestic partner, whether living with you or not, and other relatives who temporarily or permanently reside in your household;

(c) "Necessary" means the conditions are of such degree or severity in relation to your particular circumstances that they would cause a reasonably prudent person acting under similar circumstances to quit work.

[Statutory Authority: RCW 50.12.010, 50.12.040, and 34.05.120. 10-01-156, § 192-150-055, filed 12/22/09, effective 1/22/10. Statutory Authority: RCW 50.12.010, 50.12.040, 50.12.042. 05-01-076, § 192-150-055, filed 12/9/04, effective 1/9/05. Statutory Authority: RCW 50.12.010 and 50.12.040. 02-14-035, § 192-150-055, filed 6/25/02, effective 7/26/02.]

Attachment G

**Section 5435, Unemployment Insurance Resource Manual text:**

**Illness or Disability** (WAC 192-150-055)
*Resolution Code = VF*

Good cause may be found for quitting work if the quit was necessary because of the illness or disability of the claimant or the death, illness, or disability of a member of the claimant's immediate family (RCW 50.20.050(2)(b)(ii)).

A quit for medical reasons is "necessary" if the conditions are of such a degree or severity in relation to a claimant's particular circumstances that they would cause a reasonably prudent person acting under similar circumstances to quit work. The illness or disability of the claimant or of a claimant's immediate family member must require the claimant to be off work longer than the employer is willing to grant leave (paid or unpaid).

If a claimant has a doctor's note advising the claimant to quit work, they meet the criteria. However, a doctor's note is not necessarily required. If a review of all facts indicates that a reasonably prudent person in the same or similar circumstances would have quit, then good cause may be found and benefits allowed. (Bergman CD 455)

Under Washington law, the employer has the responsibility of advising an employee about alternate positions. The state Supreme Court has ruled that an employee does not have to ask for alternative work once the employee has made the employer aware of the illness or disability.

"Disability" is defined as a sensory, mental, or physical condition that is medically recognizable or diagnosable; exists as a record or history; and substantially limits the proper performance of the claimant's job (WAC 192-170-050).

"Immediate family" is defined as the spouse, registered domestic partner, and the children (including unborn children), siblings, step-children, foster children, or the parents of either spouse or domestic partner, whether living with the individual or not, and other relatives who temporarily or permanently reside in the household (WAC 192-150-055 (3)(b)).

The claimant must pursue all reasonable alternatives to preserve the employment, including:

- Requesting a leave of absence;
- Promptly notifying the employer of the reason for the absence; and
- Promptly requesting reemployment when again able to resume employment.

These alternatives need not be pursued when they would have been a futile act or the claimant reasonably believes they would be a futile act, including those instances when the futility of the act was a result of a recognized labor/management dispatch system. To decide if the claimant reasonably believed that attempting to preserve employment would have been futile, the

adjudicator should decide what a reasonably prudent person would have believed in the same situation.

In addition, the claimant is not eligible for unemployment benefits unless he or she terminates employment and the employer is not holding the claimant's position open for him or her.

Anytime a claimant separates due to a personal illness or disability or the death, illness, or disability of an immediate family member, we must decide if the claimant is able and available for other work.

Examples:

1. Joe works as a long-haul truck driver and is on the road away from home most of the time. Joe's dad becomes ill and Joe must return home to Washington to provide care for his dad. Joe tells his employer he must return home for an unknown amount of time and asks the employer if a leave of absence is possible. The employer tells Joe he cannot hold Joe's job because he doesn't know how long Joe will be unavailable for work. The employer has no other work available for Joe. The employer tells Joe they will be happy to rehire him if a position is available when Joe is again able to return to work as a long-haul truck driver. We will allow Joe on the job separation because the employer is not holding his specific job and has only given him a prospect of work in the future. We must address whether Joe is able and available for other suitable work while caring for his dad.

2. Same scenario as number 1 except Joe knows he needs to be off for four weeks because his dad's normal caregiver is on vacation for four weeks. Joe's employer holds and guarantees Joe's job back in four weeks. We would deny Joe for being on leave of absence as he has not terminated his employment and is unavailable to work for his employer.

The claimant is not required to request other work. Once the employer is notified of the illness, the burden to offer other work is on the employer. (Gachen and Booser vs Alaska Airlines in Summary of Agreements resulting from lawsuits against the Department).

**Emotional or Mental Disorder** (WAC 192-170-050)
An emotional or mental condition may require a claimant's leaving work.

- The condition may render a claimant incapable of forming intent to quit or to make an effort to preserve employment.
- Failing to take reasonable steps to preserve the employment under this circumstance may be excused.
- It is not necessary that a claimant have medical treatment prior to quitting.
- In some cases the condition can be verified after the separation.
- Always consider the claimant's current ability to work.

Examples:

A claimant failed to report to work. The claimant had no recall of events of that time and was diagnosed as having amnesia. The claimant was not subject to denial. Ziakin, CD 461 (2nd Series, 1978).

A claimant quit work as a health clinic director because the work was too stressful. The claimant's physician advised him to quit because of the stress of acting in a supervisory capacity. Benefits were allowed **under** RCW 50.20.050(2)(b), as there was no reasonable alternative to leaving work. Miller, CD 704 (2nd Series, 1982).

**Health of Mother or Unborn Child**

A pregnant woman establishes good cause for quitting due to illness or disability if her doctor advises her to do so to avoid risk to her health or the health of her unborn child (medical verification required), AND all other requirements of RCW 50.20.050(2)(b)(ii) are established.

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Attachment H

**RCW 50.04.294**
**Misconduct — Gross misconduct.**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(3) "Misconduct" does not include:

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

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

(c) Good faith errors in judgment or discretion.

(4) "Gross misconduct" means a criminal act in connection with an individual's work for which the individual has been convicted in a criminal court, or has admitted committing, or conduct connected with the individual's work that demonstrates a flagrant and wanton disregard of and for the rights, title, or interest of the employer or a fellow employee.

[2006 c 13 § 9. Prior: 2003 2nd sp.s. c 4 § 6.]

Attachment I

**WAC 192-150-210**
**Willful or wanton disregard — RCW 50.04.294 (1)(a) and (2).**

(1) "Repeated inexcusable tardiness" means repeated instances of tardiness that are unjustified or that would not cause a reasonably prudent person in the same circumstances to be tardy. Your employer must have warned you at least twice, either verbally or in writing, about your tardiness, and violation of such warnings must have been the immediate cause of your discharge.

(2) "Dishonesty related to employment" means the intent to deceive the employer on a material fact. It includes, but is not limited to, making a false statement on an employment application and falsifying the employer's records.

(3) "Repeated and inexcusable absences" means repeated absences that are unjustified or that would not cause a reasonably prudent person in the same circumstances to be absent. Previous warnings from your employer are not required, but your repeated absences must have been the immediate cause of your discharge.

(4) A company rule is reasonable if it is related to your job duties, is a normal business requirement or practice for your occupation or industry, or is required by law or regulation.

(5) The department will find that you knew or should have known about a company rule if you were provided an employee orientation on company rules, you were provided a copy or summary of the rule in writing, or the rule is posted in an area that is normally frequented by you and your co-workers, and the rule is conveyed or posted in a language that can be understood by you.

(6) You are considered to be acting within your "scope of employment" if you are:

(a) Representing your employer in an official capacity;

(b) On your employer's property whether on duty or not;

(c) Operating equipment under your employer's ownership or control;

(d) Delivering products or goods on behalf of your employer; or

(e) Acting in any other capacity at the direction of your employer.

[Statutory Authority: RCW 50.12.010, 50.12.040, 50.12.042. 05-01-076, § 192-150-210, filed 12/9/04, effective 1/9/05.]

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Attachment J

**From Chapter 4, Laws of 2011:**

NEW SECTION. **Sec. 24.** Sections 7 through 15 of this act take effect July 1, 2012, unless the United States department of labor determines by October 1, 2011, that this act does not meet the requirements of section 2003 of the federal American recovery and reinvestment act of 2009 for unemployment insurance modernization incentive funding.

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Attachment K

**From Chapter 4, Laws of 2011**

**Sec. 9.** RCW 50.22.155 and 2009 c 3 s 4 are each amended to read as follows:

(1) ((~~This section applies~~)) With respect to claims with an effective date on or after April 5, 2009((~~.~~)), and before July 1, 2012:

((~~(2)~~)) (a) Subject to availability of funds, training benefits are available for an individual who is eligible for or has exhausted entitlement to unemployment compensation benefits when:

((~~(a)~~)) (i) The individual is a dislocated worker as defined in RCW 50.04.075 and, after assessment of the individual's labor market, occupation, or skills, is determined to need job-related training to find suitable employment in the individual's labor market. The assessment of demand for the individual's occupation or skill sets must be substantially based on declining occupation or skill sets and high-demand occupations identified in local labor market areas by the local workforce development councils in cooperation with the employment security department and its labor market information division; or

((~~(b)~~)) (ii) For claims with an effective date on or after September 7, 2009, the individual:

((~~(i)~~)) (A) Earned an average hourly wage in the individual's base year that is less than one hundred thirty percent of the state minimum wage((~~,~~)) and, after assessment, it is determined that the individual's earning potential will be enhanced through vocational training. The individual's average hourly wage is calculated by dividing the total wages paid by the total hours worked in the individual's base year;

((~~(ii)~~)) (B) Served in the United States military or the Washington national guard during the twelve-month period prior to the application date, was honorably discharged from military service or the Washington national guard and, after assessment, is determined to need job-related training to find suitable employment in the individual's labor market;

((~~(iii)~~)) (C) Is currently serving in the Washington national guard and, after assessment, is determined to need job-related training to find suitable employment in the individual's labor market; or

((~~(iv)~~)) (D) Is disabled due to an injury or illness and, after assessment, is determined to be unable to return to his or her previous occupation and to need job-related training to find suitable employment in the individual's labor market.

((~~(3)(a)~~)) (b)(i) The individual must develop an individual training program that is submitted to the commissioner for approval within ninety days after the individual is notified by the employment security department of the requirements of this section;

((~~(b)~~)) (ii) The individual must enter the approved training program by one hundred twenty days after the date of the notification, unless the employment security department determines that the training is not available during the one hundred twenty days, in which case the individual enters training as soon as it is available;

((~~(c)~~)) (iii) The department may waive the deadlines established under this subsection for reasons deemed by the commissioner to be good cause.

((~~(4)~~)) (c) The individual must be enrolled in training approved under this section on a full-time basis as determined by the educational institution, except that less than full-time training may be approved when the individual has a physical, mental, or emotional disability that precludes enrollment on a full-time basis.

((~~(5)~~)) (d) The individual must make satisfactory progress in the training as defined by the commissioner and certified by the educational institution.

((~~(6)~~)) (e) An individual is not eligible for training benefits under this section if he or she:

((~~(a)~~)) (i) Is a standby claimant who expects recall to his or her regular employer; or

((~~(b)~~)) (ii) Has a definite recall date that is within six months of the date he or she is laid off.

((~~(7)~~)) (f) The following definitions apply throughout this ((~~section~~)) subsection (1) unless the context clearly requires otherwise.

((~~(a)~~)) (i) "Educational institution" means an institution of higher education as defined in RCW 28B.10.016 or an educational institution as defined in RCW 28C.04.410, including equivalent educational institutions in other states.

((~~(b)~~)) (ii) "High-demand occupation" means an occupation with a substantial number of current or projected employment opportunities.

((~~(c)~~)) (iii) "Training benefits" means additional benefits paid under this section.

((~~(d)~~)) (iv) "Training program" means:

((~~(i)~~)) (A) An education program determined to be necessary as a prerequisite to vocational training after counseling at the educational institution in which the individual enrolls under his or her approved training program; or

((~~(ii)~~)) (B) A vocational training program at an educational institution that:

((~~(A)~~)) (I) Is targeted to training for a high-demand occupation;

((~~(B)~~)) (II) Is likely to enhance the individual's marketable skills and earning power; and

((~~(C)~~)) (III) Meets the criteria for performance developed by the workforce training and education coordinating board for the purpose of determining those training programs eligible for funding under Title I of P.L. 105-220.

"Training program" does not include any course of education primarily intended to meet the requirements of a baccalaureate or higher degree, unless the training meets specific requirements for certification, licensing, or for specific skills necessary for the occupation.

((~~(8)~~)) (g) Benefits shall be paid as follows:

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

((~~(b)~~)) (ii) The weekly benefit amount shall be the same as the regular weekly amount payable during the applicable benefit year and shall be paid under the same terms and conditions as regular benefits.

((~~(c)~~)) (iii) Training benefits shall be paid before any extended benefits but not before any similar federally funded program. Effective July 3, 2011, training benefits shall be paid after any federally funded program.

((~~(d)~~)) (iv) Training benefits are not payable for weeks more than two years beyond the end of the benefit year of the regular claim. However, training benefits are not payable for weeks more than three years beyond the end of the benefit year of the regular claim when individuals are eligible for benefits in accordance with RCW 50.22.010 (2)(c) or (3)(c).

((~~(9)~~)) (h) The requirement under RCW 50.22.010(10) relating to exhausting regular benefits does not apply to an individual otherwise eligible for training benefits under this section when the individual's benefit year ends before his or her training benefits are exhausted and the individual is eligible for a new benefit year. These individuals will have the option of remaining on the original claim or filing a new claim.

((~~(10)~~)) (i) Individuals who receive training benefits under RCW 50.22.150 or this section are not eligible for training benefits under this section for five years from the last receipt of training benefits.

((~~(11)~~)) (j) An individual eligible to receive a trade readjustment allowance under chapter 2, Title II of the trade act of 1974, as amended, shall not be eligible to receive benefits under this section for each week the individual receives such trade readjustment allowance.

((~~(12)~~)) (k) An individual eligible to receive emergency unemployment compensation under any federal law shall not be eligible to receive benefits under this section for each week the individual receives such compensation.

((~~(13)~~)) (l) All base year employers are interested parties to the approval of training and the granting of training benefits.

((~~(14)~~)) (m) Each local workforce development council, in cooperation with the employment security department and its labor market information division, must identify occupations and skill sets that are declining and high-demand occupations and skill sets. Each local workforce development council shall update this information annually or more frequently if needed.

((~~(15)~~)) (2) With respect to claims with an effective date on or after July 1, 2012:

(a) Training benefits are available for an individual who is eligible for or has exhausted entitlement to unemployment compensation benefits when:

(i) The individual is a dislocated worker as defined in RCW 50.04.075 and, after assessment of the individual's labor market, occupation, or skills, is determined to need job-related training to find suitable employment in the individual's labor market. The assessment of demand for the individual's occupation or skill sets must be substantially based on declining occupation or skill sets and high-demand occupations identified in local labor market areas by the local workforce development councils in cooperation with the employment security department and its labor market information division; or

(ii) Subject to the availability of funds as specified in RCW 50.22.140, the individual:

(A) Earned an average hourly wage in the individual's base year that is less than one hundred thirty percent of the state minimum wage and, after assessment, it is determined that the individual's earning potential will be enhanced through vocational training. The individual's average hourly wage is calculated by dividing the total wages paid by the total hours worked in the individual's base year;

(B) Served in the United States military or the Washington national guard during the twelve-month period prior to the application date, was honorably discharged from military service or the Washington national guard and, after assessment, is determined to need job-related training to find suitable employment in the individual's labor market;

(C) Is currently serving in the Washington national guard and, after assessment, is determined to need job-related training to find suitable employment in the individual's labor market; or

(D) Is disabled due to an injury or illness and, after assessment, is determined to be unable to return to his or her previous occupation and to need job-related training to find suitable employment in the individual's labor market.

(b)(i) Except for an individual eligible under (a)(i) of this subsection, the individual must develop an individual training plan that is submitted to the commissioner for approval within ninety days after the individual is notified by the employment security department of the requirements of this section;

(ii) Except for an individual eligible under (a)(i) of this subsection, the individual must enroll in the approved training program by one hundred twenty days after the date of the notification, unless the employment security department determines that the training is not available during the one hundred twenty days, in which case the individual enters training as soon as it is available;

(iii) An individual eligible under (a)(i) of this subsection must submit an individual training plan and enroll in the approved training program prior to the end of the individual's benefit year;

(iv) The department may waive the deadlines established under (b)(i) and (ii) of this subsection for reasons deemed by the commissioner to be good cause.

(c) Except for an individual eligible under (a)(i) of this subsection, the individual must be enrolled in training approved under this section on a full-time basis as determined by the educational institution, except that less than full-time training may be approved when the individual has a physical, mental, or emotional disability that precludes enrollment on a full-time basis.

(d) The individual must make satisfactory progress in the training as defined by the commissioner and certified by the educational institution.

(e) An individual is not eligible for training benefits under this section if he or she:

(i) Is a standby claimant who expects recall to his or her regular employer; or

(ii) Has a definite recall date that is within six months of the date he or she is laid off.

(f) The following definitions apply throughout this subsection (2) unless the context clearly

requires otherwise:

(i) "Educational institution" means an institution of higher education as defined in RCW 28B.10.016 or an educational institution as defined in RCW 28C.04.410, including equivalent educational institutions in other states.

(ii) "High-demand occupation" means an occupation with a substantial number of current or projected employment opportunities.

(iii) "Training benefits" means additional benefits paid under this section.

(iv) "Training program" means:

(A) An education program determined to be necessary as a prerequisite to vocational training after counseling at the educational institution in which the individual enrolls under his or her approved training program; or

(B) A vocational training program at an educational institution that:

(I) Is targeted to training for a high-demand occupation;

(II) Is likely to enhance the individual's marketable skills and earning power; and

(III) Meets the criteria for performance developed by the workforce training and education coordinating board for the purpose of determining those training programs eligible for funding under Title I of P.L. 105-220.

"Training program" does not include any course of education primarily intended to meet the requirements of a baccalaureate or higher degree, unless the training meets specific requirements for certification, licensing, or for specific skills necessary for the occupation.

(g) Available benefits shall be paid as follows:

(i) The total training benefit amount shall be fifty-two times the individual's weekly benefit amount, reduced by the total amount of regular benefits paid, or deemed paid, with respect to the benefit year.

(ii) The weekly benefit amount shall be the same as the regular weekly amount payable during the applicable benefit year and shall be paid under the same terms and conditions as regular benefits.

(iii) Training benefits shall be paid after any federally funded program.

(iv) Training benefits are not payable for weeks more than two years beyond the end of the benefit year of the regular claim. However, training benefits are not payable for weeks more than three years beyond the end of the benefit year of the regular claim when individuals are eligible for

benefits in accordance with RCW 50.22.010 (2)(c) or (3)(c).

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

(i) Except for individuals eligible under (a)(i) of this subsection, individuals who receive training benefits under RCW 50.22.150 or this section are not eligible for training benefits under this section for five years from the last receipt of training benefits.

(j) An individual eligible to receive a trade readjustment allowance under chapter 2, Title II of the trade act of 1974, as amended, shall not be eligible to receive benefits under this section for each week the individual receives such trade readjustment allowance.

(k) An individual eligible to receive emergency unemployment compensation under any federal law shall not be eligible to receive benefits under this section for each week the individual receives such compensation.

(l) All base year employers are interested parties to the approval of training and the granting of training benefits.

(m) Each local workforce development council, in cooperation with the employment security department and its labor market information division, must identify occupations and skill sets that are declining and high-demand occupations and skill sets. Each local workforce development council shall update this information annually or more frequently if needed.

(3) The commissioner shall adopt rules as necessary to implement this section.

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Attachment L

**From Chapter 4, Laws of 2011**

**Sec. 12.** RCW 50.04.075 and 1984 c 181 s 1 are each amended to read as follows:

(1) With respect to claims with an effective date prior to July 1, 2012, "dislocated worker" means any individual who:

((~~(1)~~)) (a) Has been terminated or received a notice of termination from employment;

((~~(2)~~)) (b) Is eligible for or has exhausted entitlement to unemployment compensation benefits; and

((~~(3)~~)) (c) Is unlikely to return to employment in the individual's principal occupation or previous industry because of a diminishing demand for their skills in that occupation or industry.

(2) With respect to claims with an effective date on or after July 1, 2012, "dislocated worker" means any individual who:

(a) Has been involuntarily and indefinitely separated from employment as a result of a permanent reduction of operations at the individual's place of employment, or has separated from a declining occupation; and

(b) Is eligible for or has exhausted entitlement to unemployment compensation benefits.

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Attachment M

**From Chapter 4, Laws of 2011**

**Sec. 10.** RCW 50.22.140 and 2002 c 149 s 1 are each amended to read as follows:

(1) The employment security department is authorized to pay training benefits under RCW 50.22.150 and 50.22.155, but may not obligate expenditures beyond the limits specified in this section or as otherwise set by the legislature. ((~~For the fiscal year ending June 30, 2000, the commissioner may not obligate more than twenty million dollars for training benefits. For the two fiscal years ending June 30, 2002, the commissioner may not obligate more than sixty million dollars for training benefits.~~)) Any funds not obligated in one fiscal year may be carried forward to the next fiscal year. ((~~For each fiscal year beginning after June 30, 2002,~~)) The commissioner may not obligate more than twenty million dollars annually in addition to any funds carried forward from previous fiscal years. ((~~The department shall develop a process to ensure that expenditures do not exceed available funds and to prioritize access to funds when again available.~~))

(2) ((~~After June 30, 2002, in addition to the amounts that may be obligated under subsection (1) of this section, the commissioner may obligate up to thirty-four million dollars for training benefits under RCW 50.22.150 for individuals in the aerospace industry assigned the standard industrial classification code "372" or the North American industry classification system code "336411" whose claims are filed before January 5, 2003. The funds provided in this subsection must be fully obligated for training benefits for these individuals before the funds provided in subsection (1) of this section may be obligated for training benefits for these individuals. Any amount of the funds specified in this subsection that is not obligated as permitted may not be carried forward to any future period.~~)) If the amount available for training benefits at any time is equal to or less than five million dollars, funds will no longer be obligated for individuals in RCW 50.22.155(2)(a)(ii). If funds are exhausted, training benefits will continue to be obligated to dislocated workers only under RCW 50.22.155(2)(a)(i). The following year's obligation for training benefits will be reduced by a corresponding amount.

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Attachment N

**From Chapter 4, Laws of 2011:**

**Sec. 15.** RCW 50.22.157 and 2009 c 3 s 6 are each amended to read as follows:

(1) The employment security department shall report to the appropriate committees of the legislature by December 1, 2009, and every year thereafter, on the status of the training benefits program and the resulting outcomes. The report shall include a survey based assessment of the employment outcomes for program participants within the previous three years. The department shall also include in its report:

((~~(1)~~)) (a) A demographic analysis of participants in the training benefits program under this section including the number of claimants per North American industry classification system code and the gender, race, age, and geographic representation of participants;

((~~(2)~~)) (b) The duration of training benefits claimed per claimant;

((~~(3)~~)) (c) An analysis of the training provided to participants including the occupational category supported by the training, whether the training received would lead to employment in a high demand occupation, whether a degree or certificate is required in that occupational category to obtain employment, those participants who complete training in relationship to those that do not, the number of participants who take courses in basic language, reading, or writing skills to improve their employability, and the reasons for noncompletion of approved training programs;

((~~(4)~~)) (d) The employment and wage history of participants, including the pretraining and posttraining wage, the type of work participants were engaged in prior to unemployment, and whether those participating in training return to their previous employer ((~~after training terminates~~)) within two years of receiving training, or are employed in a field for which they were retrained;

((~~and~~

~~(5)~~)) (e) An identification and analysis of administrative costs at both the local and state level for administering this program;

(f) A projection of program costs for the next fiscal year; and

(g) The total funds obligated for training benefits, and the net balance remaining to be obligated subject to the restrictions of RCW 50.22.140.

(2) The joint legislative audit and review committee is directed to conduct a thorough review and evaluation of the training benefits program on the following schedule:

(a) Three years after the implementation of the training benefits portion of this act and every five years thereafter; and

(b) In any year in which the employment security department is required to suspend obligation of training benefits funds pursuant to RCW 50.22.140(2), or total expenditures exceed twenty-five million dollars.

(3) As part of the review conducted under subsection (2) of this section, the joint legislative audit and review committee shall:

(a) Assess whether the program is complying with legislative intent;

(b) Assess whether the program is effective;

(c) Assess whether the program is operating in an efficient and economical manner which results in optimum performance; and

(d) Make recommendations on how to improve the training benefits program.

(4) After a review of the training benefits program has been completed by the joint legislative audit and review committee, the appropriate committees of the legislature must hold a public hearing on the review and consider potential changes to improve the program.