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**BILL REQUEST - CODE REVISER'S OFFICE**

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BILL REQ. #: Z-0152.2/09 2nd draft

ATTY/TYPIST: SCG:cro

BRIEF DESCRIPTION: Clarifying terms for workforce and economic development.

1 AN ACT Relating to clarifying terms for workforce and economic  
2 development; amending RCW 28B.50.030, 28B.50.273, 50.22.130, 50.22.150,  
3 51.32.099, and 74.08A.250; and providing an expiration date.

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

5 **Sec. 1.** RCW 28B.50.030 and 2007 c 277 s 301 are each amended to  
6 read as follows:

7 As used in this chapter, unless the context requires otherwise, the  
8 term:

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

11 (2) "Board" shall mean the workforce training and education  
12 coordinating board.

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

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

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

1 (6) "Board of trustees" shall mean the local community and  
2 technical college board of trustees established for each college  
3 district within the state.

4 (7) "Occupational education" shall mean that education or training  
5 that will prepare a student for employment that does not require a  
6 baccalaureate degree, and education and training leading to an applied  
7 baccalaureate degree.

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

10 (9) "Common school board" shall mean a public school district board  
11 of directors.

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

14 (11) "Technical college" shall include those higher education  
15 institutions with the sole mission of conducting occupational  
16 education, basic skills, literacy programs, and offering on short  
17 notice, when appropriate, programs that meet specific industry needs.  
18 The programs of technical colleges shall include, but not be limited  
19 to, continuous enrollment, competency-based instruction, industry-  
20 experienced faculty, curriculum integrating vocational and basic skills  
21 education, and curriculum approved by representatives of employers and  
22 labor. For purposes of this chapter, technical colleges shall include  
23 Lake Washington Vocational-Technical Institute, Renton Vocational-  
24 Technical Institute, Bates Vocational-Technical Institute, Clover Park  
25 Vocational Institute, and Bellingham Vocational-Technical Institute.

26 (12) "Adult education" shall mean all education or instruction,  
27 including academic, vocational education or training, basic skills and  
28 literacy training, and "occupational education" provided by public  
29 educational institutions, including common school districts for persons  
30 who are eighteen years of age and over or who hold a high school  
31 diploma or certificate. However, "adult education" shall not include  
32 academic education or instruction for persons under twenty-one years of  
33 age who do not hold a high school degree or diploma and who are  
34 attending a public high school for the sole purpose of obtaining a high  
35 school diploma or certificate, nor shall "adult education" include  
36 education or instruction provided by any four year public institution  
37 of higher education.

1 (13) "Dislocated forest product worker" shall mean a forest  
2 products worker who: (a)(i) Has been terminated or received notice of  
3 termination from employment and is unlikely to return to employment in  
4 the individual's principal occupation or previous industry because of  
5 a diminishing demand for his or her skills in that occupation or  
6 industry; or (ii) is self-employed and has been displaced from his or  
7 her business because of the diminishing demand for the business'  
8 services or goods; and (b) at the time of last separation from  
9 employment, resided in or was employed in a rural natural resources  
10 impact area.

11 (14) "Forest products worker" shall mean a worker in the forest  
12 products industries affected by the reduction of forest fiber  
13 enhancement, transportation, or production. The workers included  
14 within this definition shall be determined by the employment security  
15 department, but shall include workers employed in the industries  
16 assigned the major group standard industrial classification codes "24"  
17 and "26" and the industries involved in the harvesting and management  
18 of logs, transportation of logs and wood products, processing of wood  
19 products, and the manufacturing and distribution of wood processing and  
20 logging equipment. The commissioner may adopt rules further  
21 interpreting these definitions. For the purposes of this subsection,  
22 "standard industrial classification code" means the code identified in  
23 RCW 50.29.025(3).

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

34 (16) "Salmon fishing worker" means a worker in the finfish industry  
35 affected by 1994 or future salmon disasters. The workers included  
36 within this definition shall be determined by the employment security  
37 department, but shall include workers employed in the industries

1 involved in the commercial and recreational harvesting of finfish  
2 including buying and processing finfish. The commissioner may adopt  
3 rules further interpreting these definitions.

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

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

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

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

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

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

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

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

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

24 (e) An unemployment rate twenty percent or more above the state  
25 average. The counties that meet these criteria shall be determined by  
26 the employment security department for the most recent year for which  
27 data is available. For the purposes of administration of programs  
28 under this chapter, the United States post office five-digit zip code  
29 delivery areas will be used to determine residence status for  
30 eligibility purposes. For the purpose of this definition, a zip code  
31 delivery area of which any part is ten miles or more from an urbanized  
32 area is considered nonurbanized. A zip code totally surrounded by zip  
33 codes qualifying as nonurbanized under this definition is also  
34 considered nonurbanized. The office of financial management shall make  
35 available a zip code listing of the areas to all agencies and  
36 organizations providing services under this chapter.

37 (19) "Applied baccalaureate degree" means a baccalaureate degree

1 awarded by a college under RCW 28B.50.810 for successful completion of  
2 a program of study that is:

3 (a) Specifically designed for individuals who hold an associate of  
4 applied science degree, or its equivalent, in order to maximize  
5 application of their technical course credits toward the baccalaureate  
6 degree; and

7 (b) Based on a curriculum that incorporates both theoretical and  
8 applied knowledge and skills in a specific technical field.

9 (20) "Qualified institutions of higher education" means:

10 (a) Washington public community and technical colleges;

11 (b) Private career schools that are members of an accrediting  
12 association recognized by rule of the higher education coordinating  
13 board for the purposes of chapter 28B.92 RCW; and

14 (c) Washington state apprenticeship and training council-approved  
15 apprenticeship programs.

16 (21) "High employer demand program of study" means an  
17 apprenticeship, or an undergraduate or graduate certificate or degree  
18 program in which the number of students prepared for employment per  
19 year from in-state institutions is substantially less than the number  
20 of projected job openings per year in that field, statewide or in a  
21 substate region.

22 **Sec. 2.** RCW 28B.50.273 and 2008 c 14 s 10 are each amended to read  
23 as follows:

24 The college board, in partnership with business, labor, and the  
25 workforce training and education coordinating board, shall:

26 (1) Identify high employer demand programs of study offered by  
27 qualified postsecondary institutions that lead to a credential,  
28 certificate, or degree;

29 (2) Identify job-specific training programs offered by qualified  
30 postsecondary institutions that lead to a credential, certificate, or  
31 degree in green industry occupations as established in chapter 14, Laws  
32 of 2008(~~, and other high demand occupations, which are occupations~~  
33 ~~where data show that employer demand for workers exceeds the supply of~~  
34 ~~qualified job applicants throughout the state or in a specific region,~~  
35 ~~and where training capacity is underutilized));~~

36 ((+2)) (3) Gain recognition of the credentials, certificates, and

1 degrees by Washington's employers and labor organizations. The college  
2 board shall designate these recognized credentials, certificates, and  
3 degrees as "opportunity grant-eligible programs of study"; and

4 ~~((3))~~ (4) Market the credentials, certificates, and degrees to  
5 potential students, businesses, and apprenticeship programs as a way  
6 for individuals to advance in their careers and to better meet the  
7 needs of industry.

8 **Sec. 3.** RCW 50.22.130 and 2000 c 2 s 6 are each amended to read as  
9 follows:

10 It is the intent of the legislature that a training benefits  
11 program be established to provide unemployment insurance benefits to  
12 unemployed individuals who participate in training programs necessary  
13 for their reemployment.

14 The legislature further intends that this program serve the  
15 following goals:

16 (1) Retraining should be available for those unemployed individuals  
17 whose skills are no longer in demand;

18 (2) To be eligible for retraining, an individual must have a long-  
19 term attachment to the labor force;

20 (3) Training must enhance the individual's marketable skills and  
21 earning power; and

22 (4) Retraining must be targeted to ~~((those industries or skills  
23 that are in high demand within the labor market))~~ high-demand  
24 occupations.

25 Individuals unemployed as a result of structural changes in the  
26 economy and technological advances rendering their skills obsolete must  
27 receive the highest priority for participation in this program. It is  
28 the further intent of the legislature that individuals for whom  
29 suitable employment is available are not eligible for additional  
30 benefits while participating in training.

31 The legislature further intends that funding for this program be  
32 limited by a specified maximum amount each fiscal year.

33 **Sec. 4.** RCW 50.22.150 and 2002 c 149 s 2 are each amended to read  
34 as follows:

35 (1) Subject to availability of funds, training benefits are

1 available for an individual who is eligible for or has exhausted  
2 entitlement to unemployment compensation benefits and who:

3 (a) Is a dislocated worker as defined in RCW 50.04.075;

4 (b) Except as provided under subsection (2) of this section, has  
5 demonstrated, through a work history, sufficient tenure in an  
6 occupation or in work with a particular skill set. This screening will  
7 take place during the assessment process;

8 (c) Is, after assessment of demand for the individual's occupation  
9 or skills in the individual's labor market, determined to need job-  
10 related training to find suitable employment in his or her labor  
11 market. Beginning July 1, 2001, the assessment of demand for the  
12 individual's occupation or skill sets must be substantially based on  
13 declining occupation or skill sets identified in local labor market  
14 areas by the local workforce development councils, in cooperation with  
15 the employment security department and its labor market information  
16 division, under subsection (10) of this section;

17 (d) Develops an individual training program that is submitted to  
18 the commissioner for approval within sixty days after the individual is  
19 notified by the employment security department of the requirements of  
20 this section;

21 (e) Enters the approved training program by ninety days after the  
22 date of the notification, unless the employment security department  
23 determines that the training is not available during the ninety-day  
24 period, in which case the individual enters training as soon as it is  
25 available; and

26 (f) Is enrolled in training approved under this section on a full-  
27 time basis as determined by the educational institution, and is making  
28 satisfactory progress in the training as certified by the educational  
29 institution.

30 (2) Until June 30, 2002, the following individuals who meet the  
31 requirements of subsection (1) of this section may, without regard to  
32 the tenure requirements under subsection (1)(b) of this section,  
33 receive training benefits as provided in this section:

34 (a) An exhaustee who has base year employment in the aerospace  
35 industry assigned the standard industrial classification code "372" or  
36 the North American industry classification system code "336411";

37 (b) An exhaustee who has base year employment in the forest  
38 products industry, determined by the department, but including the

1 industries assigned the major group standard industrial classification  
2 codes "24" and "26" or any equivalent codes in the North American  
3 industry classification system code, and the industries involved in the  
4 harvesting and management of logs, transportation of logs and wood  
5 products, processing of wood products, and the manufacturing and  
6 distribution of wood processing and logging equipment; or

7 (c) An exhaustee who has base year employment in the fishing  
8 industry assigned the standard industrial classification code "0912" or  
9 any equivalent codes in the North American industry classification  
10 system code.

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

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

15 (b) Has a definite recall date that is within six months of the  
16 date he or she is laid off; or

17 (c) Is unemployed due to a regular seasonal layoff which  
18 demonstrates a pattern of unemployment consistent with the provisions  
19 of RCW 50.20.015. Regular seasonal layoff does not include layoff due  
20 to permanent structural downsizing or structural changes in the  
21 individual's labor market.

22 (4) The definitions in this subsection apply throughout this  
23 section unless the context clearly requires otherwise.

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

28 (b) "Sufficient tenure" means earning a plurality of wages in a  
29 particular occupation or using a particular skill set during the base  
30 year and at least two of the four twelve-month periods immediately  
31 preceding the base year.

32 (c) "Training benefits" means additional benefits paid under this  
33 section.

34 (d) "Training program" means:

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

1 (ii) A vocational training program at an educational institution:

2 (A) That is targeted to training for a high-demand occupation.  
3 Beginning July 1, 2001, the assessment of high-demand occupations  
4 authorized for training under this section must be substantially based  
5 on labor market and employment information developed by local workforce  
6 development councils, in cooperation with the employment security  
7 department and its labor market information division, under subsection  
8 (10) of this section;

9 (B) That is likely to enhance the individual's marketable skills  
10 and earning power; and

11 (C) That meets the criteria for performance developed by the  
12 workforce training and education coordinating board for the purpose of  
13 determining those training programs eligible for funding under Title I  
14 of P.L. 105-220.

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

20 (5) Benefits shall be paid as follows:

21 (a)(i) Except as provided in (a)(iii) of this subsection, for  
22 exhaustees who are eligible under subsection (1) of this section, the  
23 total training benefit amount shall be fifty-two times the individual's  
24 weekly benefit amount, reduced by the total amount of regular benefits  
25 and extended benefits paid, or deemed paid, with respect to the benefit  
26 year; or

27 (ii) For exhaustees who are eligible under subsection (2) of this  
28 section, for claims filed before June 30, 2002, the total training  
29 benefit amount shall be seventy-four times the individual's weekly  
30 benefit amount, reduced by the total amount of regular benefits and  
31 extended benefits paid, or deemed paid, with respect to the benefit  
32 year; or

33 (iii) For exhaustees eligible under subsection (1) of this section  
34 from industries listed under subsection (2)(a) of this section, for  
35 claims filed on or after June 30, 2002, but before January 5, 2003, the  
36 total training benefit amount shall be seventy-four times the  
37 individual's weekly benefit amount, reduced by the total amount of

1 regular benefits and extended benefits paid, or deemed paid, with  
2 respect to the benefit year.

3 (b) The weekly benefit amount shall be the same as the regular  
4 weekly amount payable during the applicable benefit year and shall be  
5 paid under the same terms and conditions as regular benefits. The  
6 training benefits shall be paid before any extended benefits but not  
7 before any similar federally funded program.

8 (c) Training benefits are not payable for weeks more than two years  
9 beyond the end of the benefit year of the regular claim.

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

17 (7)(a) Except as provided in (b) of this subsection, individuals  
18 who receive training benefits under this section or under any previous  
19 additional benefits program for training are not eligible for training  
20 benefits under this section for five years from the last receipt of  
21 training benefits under this section or under any previous additional  
22 benefits program for training.

23 (b) With respect to claims that are filed before January 5, 2003,  
24 an individual in the aerospace industry assigned the standard  
25 industrial code "372" or the North American industry classification  
26 system code "336411" who received training benefits under this section,  
27 and who had been making satisfactory progress in a training program but  
28 did not complete the program, is eligible, without regard to the five-  
29 year limitation of this section and without regard to the requirement  
30 of subsection (1)(b) of this section, if applicable, to receive  
31 training benefits under this section in order to complete that training  
32 program. The total training benefit amount that applies to the  
33 individual is seventy-four times the individual's weekly benefit  
34 amount, reduced by the total amount of regular benefits paid, or deemed  
35 paid, with respect to the benefit year in which the training program  
36 resumed and, if applicable, reduced by the amount of training benefits  
37 paid, or deemed paid, with respect to the benefit year in which the  
38 training program commenced.

1 (8) An individual eligible to receive a trade readjustment  
2 allowance under chapter 2 of Title II of the Trade Act of 1974, as  
3 amended, shall not be eligible to receive benefits under this section  
4 for each week the individual receives such trade readjustment  
5 allowance. An individual eligible to receive emergency unemployment  
6 compensation, so called, under any federal law, shall not be eligible  
7 to receive benefits under this section for each week the individual  
8 receives such compensation.

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

11 (10) By July 1, 2001, each local workforce development council, in  
12 cooperation with the employment security department and its labor  
13 market information division, must identify (~~occupations and skill sets~~  
14 ~~that are declining and occupations and skill sets that are in~~) high\_  
15 demand occupations and occupations in declining employer demand. For  
16 the purposes of RCW 50.22.130 through 50.22.150 and section 9, chapter  
17 2, Laws of 2000, "high-demand occupation" means (~~demand for employment~~  
18 ~~that exceeds the supply of qualified workers for occupations or skill~~  
19 ~~sets in a labor market area~~) an occupation with a substantial number  
20 of current or projected employment opportunities. Local workforce  
21 development councils must use state and locally developed labor market  
22 information. Thereafter, each local workforce development council  
23 shall update this information annually or more frequently if needed.

24 (11) The commissioner shall adopt rules as necessary to implement  
25 this section.

26 **Sec. 5.** RCW 51.32.099 and 2007 c 72 s 2 are each amended to read  
27 as follows:

28 (1)(a) The legislature intends to create improved vocational  
29 outcomes for Washington state injured workers and employers through  
30 legislative and regulatory change under a pilot program for the period  
31 of January 1, 2008, through June 30, 2013. This pilot vocational  
32 system is intended to allow opportunities for eligible workers to  
33 participate in meaningful retraining in high-demand occupations,  
34 improve successful return to work and achieve positive outcomes for  
35 workers, reduce the incidence of repeat vocational services, increase  
36 accountability and responsibility, and improve cost predictability. To  
37 facilitate the study and evaluation of the results of the proposed

1 changes, the department shall establish the temporary funding of  
2 certain state fund vocational costs through the medical aid account to  
3 ensure the appropriate assessments to employers for the costs of their  
4 claims for vocational services in accordance with RCW 51.32.0991.

5 (b) An independent review and study of the effects of the pilot  
6 program shall be conducted to determine whether it has achieved the  
7 appropriate outcomes at reasonable cost to the system. The review  
8 shall include, at a minimum, a report on the department's performance  
9 with regard to the provision of vocational services, the skills  
10 acquired by workers who receive retraining services, the types of  
11 training programs approved, whether the workers are employed, at what  
12 jobs and wages after completion of the training program and at various  
13 times subsequent to their claim closure, the number and demographics of  
14 workers who choose the option provided in subsection (4)(b) of this  
15 section, and their employment and earnings status at various times  
16 subsequent to claim closure. The department may adopt rules, in  
17 collaboration with the subcommittee created under (c)(iii) of this  
18 subsection, to further define the scope and elements of the required  
19 study. Reports of the independent researcher are due on December 1,  
20 2010, December 1, 2011, and December 1, 2012.

21 (c) In implementing the pilot program, the department shall:

22 (i) Establish a vocational initiative project that includes  
23 participation by the department as a partner with WorkSource, the  
24 established state system that administers the federal workforce  
25 investment act of 1998. As a partner, the department shall place  
26 vocational professional full-time employees at pilot WorkSource  
27 locations; refer some workers for vocational services to these  
28 vocational professionals; and work with employers in work source pilot  
29 areas to market the benefits of on-the-job training programs and with  
30 community colleges to reserve slots in high employer demand programs of  
31 study as defined in RCW 28B.50.030. These on-the-job training programs  
32 and community college slots may be considered by both department and  
33 private sector vocational professionals for vocational plan  
34 development. The department will also assist stakeholders in  
35 developing additional vocational training programs in various  
36 industries, including but not limited to agriculture and construction.  
37 These programs will expand the choices available to injured workers in

1 developing their vocational training plans with the assistance of  
2 vocational professionals.

3 (ii) Develop and maintain a register of state fund and self-insured  
4 workers who have been retrained or have selected any of the vocational  
5 options described in this section for at least the duration of the  
6 pilot program.

7 (iii) Create a vocational rehabilitation subcommittee made up of  
8 members appointed by the director for at least the duration of the  
9 pilot program. This subcommittee shall provide the business and labor  
10 partnership needed to maintain focus on the intent of the pilot  
11 program, as described in this section, and provide consistency and  
12 transparency to the development of rules and policies. The  
13 subcommittee shall report to the director at least annually and  
14 recommend to the director and the legislature any additional statutory  
15 changes needed, which may include extension of the pilot period. The  
16 subcommittee shall provide input and oversight with the department  
17 concerning the study required under (b) of this subsection. The  
18 subcommittee shall provide recommendations for additional changes or  
19 incentives for injured workers to return to work with their employer of  
20 injury.

21 (iv) The department shall develop an annual report concerning  
22 Washington's workers' compensation vocational rehabilitation system to  
23 the legislature and to the subcommittee by December 1, 2009, and  
24 annually thereafter with the final report due by December 1, 2012. The  
25 annual report shall include the number of workers who have participated  
26 in more than one vocational training plan beginning with plans approved  
27 on January 1, 2008, and in which industries those workers were  
28 employed. The final report shall include the department's assessment  
29 and recommendations for further legislative action, in collaboration  
30 with the subcommittee.

31 (2)(a) For the purposes of this section, the day the worker  
32 commences vocational plan development means the date the department or  
33 self-insurer notifies the worker of his or her eligibility for plan  
34 development services.

35 (b) When vocational rehabilitation is both necessary and likely to  
36 make the worker employable at gainful employment, he or she shall be  
37 provided with services necessary to develop a vocational plan that, if  
38 completed, would render the worker employable. The vocational

1 professional assigned to the claim shall, at the initial meeting with  
2 the worker, fully inform the worker of the return-to-work priorities  
3 set forth in RCW 51.32.095(2) and of his or her rights and  
4 responsibilities under the workers' compensation vocational system.  
5 The department shall provide tools to the vocational professional for  
6 communicating this and other information required by RCW 51.32.095 and  
7 this section to the worker.

8 (c) On the date the worker commences vocational plan development,  
9 the department shall also inform the employer in writing of the  
10 employer's right to make a valid return-to-work offer during the first  
11 fifteen days following the commencement of vocational plan development.  
12 To be valid, the offer must be for bona fide employment with the  
13 employer of injury, consistent with the worker's documented physical  
14 and mental restrictions as provided by the worker's health care  
15 provider. When the employer makes a valid return-to-work offer, the  
16 vocational plan development services and temporary total disability  
17 compensation shall be terminated effective (~~(+on+)~~) on the starting  
18 date for the job without regard to whether the worker accepts the  
19 return-to-work offer. Following the fifteen-day period, the employer  
20 may still provide, and the worker may accept, any valid return-to-work  
21 offer. The worker's acceptance of such an offer shall result in the  
22 termination of vocational plan development or implementation services  
23 and temporary total disability compensation effective the day the  
24 employment begins.

25 (3)(a) All vocational plans must contain an accountability  
26 agreement signed by the worker detailing expectations regarding  
27 progress, attendance, and other factors influencing successful  
28 participation in the plan. Failure to abide by the agreed expectations  
29 shall result in suspension of vocational benefits pursuant to RCW  
30 51.32.110.

31 (b) Any formal education included as part of the vocational plan  
32 must be for an accredited or licensed program or other program approved  
33 by the department. The department shall develop rules that provide  
34 criteria for the approval of nonaccredited or unlicensed programs.

35 (c) The vocational plan for an individual worker must be completed  
36 and submitted to the department within ninety days of the day the  
37 worker commences vocational plan development. The department may  
38 extend the ninety days for good cause. Criteria for good cause shall

1 be provided in rule. The frequency and reasons for good cause  
2 extensions shall be reported to the subcommittee created under  
3 subsection (1)(c)(iii) of this section.

4 (d) Costs for the vocational plan may include books, tuition, fees,  
5 supplies, equipment, child or dependent care, training fees for on-the-  
6 job training, the cost of furnishing tools and other equipment  
7 necessary for self-employment or reemployment, and other necessary  
8 expenses in an amount not to exceed twelve thousand dollars. This  
9 amount shall be adjusted effective July 1 of each year for vocational  
10 plans or retraining benefits available under subsection (4)(b) of this  
11 section approved on or after this date but before June 30 of the next  
12 year based on the average percentage change in tuition for the next  
13 fall quarter for all Washington state community colleges.

14 (e) The duration of the vocational plan shall not exceed two years  
15 from the date the plan is implemented. The worker shall receive  
16 temporary total disability compensation under RCW 51.32.090 and the  
17 cost of transportation while he or she is actively and successfully  
18 participating in a vocational plan.

19 (f) If the worker is required to reside away from his or her  
20 customary residence, the reasonable cost of board and lodging shall  
21 also be paid.

22 (4) Vocational plan development services shall be completed within  
23 ninety days of commencing. During vocational plan development the  
24 worker shall, with the assistance of a vocational professional,  
25 participate in vocational counseling and occupational exploration to  
26 include, but not be limited to, identifying possible job goals,  
27 training needs, resources, and expenses, consistent with the worker's  
28 physical and mental status. A vocational rehabilitation plan shall be  
29 developed by the worker and the vocational professional and submitted  
30 to the department or self-insurer. Following this submission, the  
31 worker shall elect one of the following options:

32 (a) Option 1: The department or self-insurer implements and the  
33 worker participates in the vocational plan developed by the vocational  
34 professional and approved by the worker and the department or  
35 self-insurer. For state fund claims, the department must review and  
36 approve the vocational plan before implementation may begin. If the  
37 department takes no action within fifteen days, the plan is deemed

1 approved. The worker may, within fifteen days of approval of the plan  
2 by the department, elect option 2.

3 (i) Following successful completion of the vocational plan, any  
4 subsequent assessment of whether vocational rehabilitation is both  
5 necessary and likely to enable the injured worker to become employable  
6 at gainful employment under RCW 51.32.095(1) shall include  
7 consideration of transferable skills obtained in the vocational plan.

8 (ii) If a vocational plan is successfully completed on a claim  
9 which is thereafter reopened as provided in RCW 51.32.160, the cost and  
10 duration available for any subsequent vocational plan is limited to  
11 that in subsection (3)(d) and (e) of this section, less that previously  
12 expended.

13 (b) Option 2: The worker declines further vocational services  
14 under the claim and receives an amount equal to six months of temporary  
15 total disability compensation under RCW 51.32.090. The award is  
16 payable in biweekly payments in accordance with the schedule of  
17 temporary total disability payments, until such award is paid in full.  
18 These payments shall not include interest on the unpaid balance.  
19 However, upon application by the worker, and at the discretion of the  
20 department, the compensation may be converted to a lump sum payment.  
21 The vocational costs defined in subsection (3)(d) of this section shall  
22 remain available to the worker, upon application to the department or  
23 self-insurer, for a period of five years. The vocational costs shall,  
24 if expended, be available for programs or courses at any accredited or  
25 licensed institution or program from a list of those approved by the  
26 department for tuition, books, fees, supplies, equipment, and tools,  
27 without department or self-insurer oversight. The department shall  
28 issue an order as provided in RCW 51.52.050 confirming the option 2  
29 election, setting a payment schedule, and terminating temporary total  
30 disability benefits. The department shall thereafter close the claim.

31 (i) If within five years from the date the option 2 order becomes  
32 final, the worker is subsequently injured or suffers an occupational  
33 disease or reopens the claim as provided in RCW 51.32.160, and  
34 vocational rehabilitation is found both necessary and likely to enable  
35 the injured worker to become employable at gainful employment under RCW  
36 51.32.095(1), the duration of any vocational plan under subsection  
37 (3)(e) of this section shall not exceed eighteen months.

1 (ii) If the available vocational costs are utilized by the worker,  
2 any subsequent assessment of whether vocational rehabilitation is both  
3 necessary and likely to enable the injured worker to become employable  
4 at gainful employment under RCW 51.32.095(1) shall include  
5 consideration of the transferable skills obtained.

6 (iii) If the available vocational costs are utilized by the worker  
7 and the claim is thereafter reopened as provided in RCW 51.32.160, the  
8 cost available for any vocational plan is limited to that in subsection  
9 (3)(d) of this section less that previously expended.

10 (iv) Option 2 may only be elected once per worker.

11 (c) The director, in his or her sole discretion, may provide the  
12 worker vocational assistance not to exceed that in subsection (3) of  
13 this section, without regard to the worker's prior option selection or  
14 benefits expended, where vocational assistance would prevent permanent  
15 total disability under RCW 51.32.060.

16 (5)(a) As used in this section, "vocational plan interruption"  
17 means an occurrence which disrupts the plan to the extent the  
18 employability goal is no longer attainable. "Vocational plan  
19 interruption" does not include institutionally scheduled breaks in  
20 educational programs, occasional absence due to illness, or  
21 modifications to the plan which will allow it to be completed within  
22 the cost and time provisions of subsection (3)(d) and (e) of this  
23 section.

24 (b) When a vocational plan interruption is beyond the control of  
25 the worker, the department or self-insurer shall recommence plan  
26 development. If necessary to complete vocational services, the cost  
27 and duration of the plan may include credit for that expended prior to  
28 the interruption. A vocational plan interruption is considered outside  
29 the control of the worker when it is due to the closure of the  
30 accredited institution, when it is due to a death in the worker's  
31 immediate family, or when documented changes in the worker's accepted  
32 medical conditions prevent further participation in the vocational  
33 plan.

34 (c) When a vocational plan interruption is the result of the  
35 worker's actions, the worker's entitlement to benefits shall be  
36 suspended in accordance with RCW 51.32.110. If plan development or  
37 implementation is recommenced, the cost and duration of the plan shall  
38 not include credit for that expended prior to the interruption. A

1 vocational plan interruption is considered a result of the worker's  
2 actions when it is due to the failure to meet attendance expectations  
3 set by the training or educational institution, failure to achieve  
4 passing grades or acceptable performance review, unaccepted or  
5 postinjury conditions that prevent further participation in the  
6 vocational plan, or the worker's failure to abide by the accountability  
7 agreement per subsection (3)(a) of this section.

8 **Sec. 6.** RCW 74.08A.250 and 2006 c 107 s 2 are each amended to read  
9 as follows:

10 Unless the context clearly requires otherwise, as used in this  
11 chapter, "work activity" means:

- 12 (1) Unsubsidized paid employment in the private or public sector;
- 13 (2) Subsidized paid employment in the private or public sector,  
14 including employment through the state or federal work-study program  
15 for a period not to exceed twenty-four months;
- 16 (3) Work experience, including:
  - 17 (a) An internship or practicum, that is paid or unpaid and is  
18 required to complete a course of vocational training or to obtain a  
19 license or certificate in a high-demand (~~field~~) occupation, as  
20 determined by the employment security department. No internship or  
21 practicum shall exceed twelve months; or
  - 22 (b) Work associated with the refurbishing of publicly assisted  
23 housing, if sufficient paid employment is not available;
- 24 (4) On-the-job training;
- 25 (5) Job search and job readiness assistance;
- 26 (6) Community service programs;
- 27 (7) Vocational educational training, not to exceed twelve months  
28 with respect to any individual;
- 29 (8) Job skills training directly related to employment;
- 30 (9) Education directly related to employment, in the case of a  
31 recipient who has not received a high school diploma or a GED;
- 32 (10) Satisfactory attendance at secondary school or in a course of  
33 study leading to a GED, in the case of a recipient who has not  
34 completed secondary school or received such a certificate;
- 35 (11) The provision of child care services to an individual who is  
36 participating in a community service program;

1 (12) Internships, that shall be paid or unpaid work experience  
2 performed by an intern in a business, industry, or government or  
3 nongovernmental agency setting;

4 (13) Practicums, which include any educational program in which a  
5 student is working under the close supervision of a professional in an  
6 agency, clinic, or other professional practice setting for purposes of  
7 advancing their skills and knowledge;

8 (14) Services required by the recipient under RCW 74.08.025(3) and  
9 74.08A.010(3) to become employable; and

10 (15) Financial literacy activities designed to be effective in  
11 assisting a recipient in becoming self-sufficient and financially  
12 stable.

13 NEW SECTION. **Sec. 7.** Section 5 of this act expires June 30, 2013.

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