PROPOSED RULE MAKING

CR-102 (December 2017)
(Implements RCW 34.05.320)
Do **NOT** use for expedited rule making

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DATE: June 01, 2018
TIME: 4:16 PM

WSR 18-12-076

Agency: Employment Security Department

☒ **Original Notice**

☐ **Supplemental Notice to WSR** _____

☐ **Continuance of WSR** _____

☒ **Preproposal Statement of Inquiry was filed as WSR** 18-08-052 **; or**

☐ **Expedited Rule Making--Proposed notice was filed as WSR** _____ **; or**

☐ **Proposal is exempt under RCW 34.05.310(4) or 34.05.330(1); or**

☐ **Proposal is exempt under RCW** _____ **.**

Title of rule and other identifying information: (describe subject) Reasonable Assurance - Clarifying requirements for educational employees to qualify for unemployment benefits, specifically addressing modifications to the analysis of whether an educational employee has a contract or reasonable assurance of continued employment, as well as clarifying eligibility requirements for educational employees with multiple employers.

Hearing location(s):

Date:	Time:	Location: (be specific)	Comment:
July 13, 2018	9:00 a.m.	Employment Security Department, 212 Maple Park Ave. SE, Olympia, WA , 98501	Maple Leaf Conference Room

Date of intended adoption: July 16, 2018 (Note: This is **NOT** the **effective** date)

Submit written comments to:

Name: Scott E. Michael
Address: P.O. Box 9046, Olympia, WA 98507-9046
Email: rules@esd.wa.gov
Fax: (360) 902-9662
Other:
By (date) July 13, 2018

Assistance for persons with disabilities:

Contact Teresa Eckstein
Phone: (360) 902-9354
Fax: (360) 586-4600
TTY: Relay 711
Email: teckstein@esd.wa.gov
Other:
By (date) July 10, 2018

Purpose of the proposal and its anticipated effects, including any changes in existing rules: To clarify when educational employees qualify for unemployment insurance benefits within and between academic terms by laying out more specific guidelines when an educational employee has a contract or reasonable assurance for future work; addressing when educational employees work for more than one employer; and explaining the impact of voluntary quits for educational employees that have a contract or reasonable assurance for future work.

Reasons supporting proposal: Adoption of the proposed rules will help keep Washington in conformity with federal laws governing its unemployment insurance program, thereby allowing Washington to continue to receive federal funding to administer its state unemployment insurance program.

Statutory authority for adoption: RCW 50.12.010 and RCW 50.12.040

Statute being implemented: RCW 50.44.050; RCW 50.44.053; RCW 50.44.055; Laws of 2018, c. 97.

Is rule necessary because of a:

Federal Law?	☒ Yes	☐ No
Federal Court Decision?	☐ Yes	☒ No
State Court Decision?	☐ Yes	☒ No

If yes, CITATION: 26 U.S.C. § 3304(a)(6)(A); United States Department of Labor, Unemployment Insurance Program Letter No. 5-17 (Dec. 22, 2016)

Agency comments or recommendations, if any, as to statutory language, implementation, enforcement, and fiscal matters:

Name of proponent: (person or organization) Employment Security Department

☐ Private
☐ Public
☒ Governmental

Name of agency personnel responsible for:

	Name	Office Location	Phone
Drafting:	Scott Michael	Olympia, WA	360-902-9587
Implementation:	Julie Lord	Olympia, WA	360-902-9579
Enforcement:	Julie Lord	Olympia, WA	360-902-9579

Is a school district fiscal impact statement required under RCW 28A.305.135? ☐ Yes ☒ No

If yes, insert statement here:

The public may obtain a copy of the school district fiscal impact statement by contacting:
Name:
Address:
Phone:
Fax:
TTY:
Email:
Other:

Is a cost-benefit analysis required under RCW 34.05.328?

☒ Yes: A preliminary cost-benefit analysis may be obtained by contacting:
Name: Scott E. Michael
Address: P.O. Box 9046, Olympia, WA 98507-9046
Phone: (360) 902-9587
Fax: (360) 902-9662
TTY: Relay 711
Email: rules@esd.wa.gov
Other: https://www.esd.wa.gov/newsroom/UI-rule-making/reasonable-assurance

☐ No: Please explain:

Regulatory Fairness Act Cost Considerations for a Small Business Economic Impact Statement:

This rule proposal, or portions of the proposal, **may be exempt** from requirements of the Regulatory Fairness Act (see chapter 19.85 RCW). Please check the box for any applicable exemption(s):

☒ This rule proposal, or portions of the proposal, is exempt under RCW 19.85.061 because this rule making is being adopted solely to conform and/or comply with federal statute or regulations. Please cite the specific federal statute or regulation this rule is being adopted to conform or comply with, and describe the consequences to the state if the rule is not adopted.

Citation and description: 26 U.S.C. § 3304(a)(6)(A); United States Department of Labor, Unemployment Insurance Program Letter No. 5-17 (Dec. 22, 2016). The consequence of not adopting the proposed rules is that the Employment Security Department could lose the federal funding it receives to administer the state unemployment insurance program.

☐ This rule proposal, or portions of the proposal, is exempt because the agency has completed the pilot rule process defined by RCW 34.05.313 before filing the notice of this proposed rule.

☐ This rule proposal, or portions of the proposal, is exempt under the provisions of RCW 15.65.570(2) because it was adopted by a referendum.

☐ This rule proposal, or portions of the proposal, is exempt under RCW 19.85.025(3). Check all that apply:

☐	RCW 34.05.310 (4)(b) (Internal government operations)	☐	RCW 34.05.310 (4)(e) (Dictated by statute)
☐	RCW 34.05.310 (4)(c) (Incorporation by reference)	☐	RCW 34.05.310 (4)(f) (Set or adjust fees)
☐	RCW 34.05.310 (4)(d) (Correct or clarify language)	☐	RCW 34.05.310 (4)(g) ((i) Relating to agency hearings; or (ii) process requirements for applying to an agency for a license or permit)

☐ This rule proposal, or portions of the proposal, is exempt under RCW _____.

Explanation of exemptions, if necessary:

COMPLETE THIS SECTION ONLY IF NO EXEMPTION APPLIES

If the proposed rule is **not exempt**, does it impose more-than-minor costs (as defined by RCW 19.85.020(2)) on businesses?

☐ No   Briefly summarize the agency's analysis showing how costs were calculated. _____

☐ Yes   Calculations show the rule proposal likely imposes more-than-minor cost to businesses, and a small business economic impact statement is required. Insert statement here:

The public may obtain a copy of the small business economic impact statement or the detailed cost calculations by contacting:

Name:
Address:
Phone:
Fax:
TTY:
Email:
Other:

Date: May 30, 2018	**Signature:**
Name: Cami Feek	
Title: Interim Commissioner	