
HOUSE BILL 2072

State of Washington 56th Legislature 1999 Regular Session

By Representatives B. Chandler, McMorris and Koster

Read first time 02/15/1999. Referred to Committee on Commerce & Labor.

1 AN ACT Relating to adjusting worker benefits to account for
2 inflation; amending RCW 50.20.120, 50.24.010, 51.32.050, 51.32.060,
3 51.32.072, 51.32.075, 51.32.080, and 51.36.020; reenacting and amending
4 RCW 51.32.090; adding a new section to chapter 50.04 RCW; adding a new
5 section to chapter 51.08 RCW; and declaring an emergency.

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

7 NEW SECTION. **Sec. 1.** A new section is added to chapter 50.04 RCW
8 to read as follows:

9 Unless the context requires otherwise, "inflation" means the
10 percentage change in the implicit price deflator for personal
11 consumption expenditures for the United States as published for the
12 most recent twelve-month period by the bureau of economic analysis of
13 the federal department of commerce in September of the year before a
14 June 30th determination.

15 **Sec. 2.** RCW 50.20.120 and 1993 c 483 s 12 are each amended to read
16 as follows:

17 (1) Subject to the other provisions of this title, benefits shall
18 be payable to any eligible individual during the individual's benefit

1 year in a maximum amount equal to the lesser of thirty times the weekly
2 benefit amount (determined hereinafter) or one-third of the
3 individual's base year wages under this title: PROVIDED, That as to
4 any week beginning on and after March 31, 1981, which falls in an
5 extended benefit period as defined in RCW 50.22.010(1), as now or
6 hereafter amended, an individual's eligibility for maximum benefits in
7 excess of twenty-six times his or her weekly benefit amount will be
8 subject to the terms and conditions set forth in RCW 50.22.020, as now
9 or hereafter amended.

10 (2)(a) An individual's weekly benefit amount shall be an amount
11 equal to one twenty-fifth of the average quarterly wages of the
12 individual's total wages during the two quarters of the individual's
13 base year in which such total wages were highest.

14 (b) The maximum and minimum amounts payable weekly shall be
15 determined as of each June 30th to apply to benefit years beginning in
16 the twelve-month period immediately following such June 30th(~~(-)~~) as
17 follows:

18 (i) Except as provided in (b)(ii) of this subsection, the maximum
19 amount payable weekly shall be seventy percent of the "average weekly
20 wage" for the calendar year preceding such June 30th. The minimum
21 amount payable weekly shall be fifteen percent of the "average weekly
22 wage" for the calendar year preceding such June 30th.

23 (ii) Beginning with claims filed in benefit years beginning after
24 June 30, 1999, the maximum and minimum amounts payable weekly shall be
25 the amounts determined by adjusting the maximum and minimum amounts
26 applicable during the previous twelve-month period to account for
27 inflation.

28 (c) If any weekly benefit, maximum benefit, or minimum benefit
29 amount computed herein is not a multiple of one dollar, it shall be
30 reduced to the next lower multiple of one dollar.

31 **Sec. 3.** RCW 50.24.010 and 1984 c 205 s 2 are each amended to read
32 as follows:

33 (1)(a) Contributions shall accrue and become payable by each
34 employer (except employers as described in RCW 50.44.010 who have
35 properly elected to make payments in lieu of contributions and those
36 employers who are required to make payments in lieu of contributions)
37 for each calendar year in which the employer is subject to this title
38 at the rate established pursuant to chapter 50.29 RCW.

1 (~~In each~~) (b)(i) Through rate year 1999, the amount of wages
2 subject to tax for each individual shall be one hundred fifteen percent
3 of the amount of wages subject to tax for the previous year rounded to
4 the next lower one hundred dollars: PROVIDED, That the amount of wages
5 subject to tax under this subsection (1)(b)(i) in any rate year shall
6 not exceed eighty percent of the "average annual wage for contributions
7 purposes" for the second preceding calendar year rounded to the next
8 lower one hundred dollars(~~(: PROVIDED FURTHER, That the amount subject~~
9 ~~to tax shall be twelve thousand dollars for rate year 1984 and ten~~
10 ~~thousand dollars for rate year 1985))~~).

11 (ii) Beginning with rate year 2000 and thereafter, the amount of
12 wages subject to tax shall be the amount determined by adjusting the
13 amount of wages subject to tax for the previous year to account for
14 inflation, rounded to the next lower one hundred dollars.

15 (2) In making computations under this section and RCW 50.29.010,
16 wages paid based on services for employers making payments in lieu of
17 contributions shall not be considered remuneration. Moneys paid from
18 the fund, based on services performed for employers who make payments
19 in lieu of contributions, which have not been reimbursed to the fund as
20 of any June 30 shall be deemed an asset of the unemployment
21 compensation fund, to the extent that such moneys exceed the amount of
22 payments in lieu of contributions which the commissioner has previously
23 determined to be uncollectible: PROVIDED, FURTHER, That the amount
24 attributable to employment with the state shall also include interest
25 as provided for in RCW 50.44.020.

26 (3)(a) Contributions shall become due and be paid by each employer
27 to the treasurer for the unemployment compensation fund in accordance
28 with such regulations as the commissioner may prescribe, and shall not
29 be deducted, in whole or in part, from the remuneration of individuals
30 in employment of the employer. Any deduction in violation of the
31 provisions of this section shall be unlawful.

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

35 NEW SECTION. Sec. 4. A new section is added to chapter 51.08 RCW
36 to read as follows:

37 Unless the context requires otherwise, "inflation" means the
38 percentage change in the implicit price deflator for personal

1 consumption expenditures for the United States as published for the
2 most recent twelve-month period by the bureau of economic analysis of
3 the federal department of commerce in September of the year before a
4 June 30th determination.

5 **Sec. 5.** RCW 51.32.050 and 1995 c 199 s 6 are each amended to read
6 as follows:

7 (1)(a) For claims filed with respect to injuries that occurred
8 before July 1, 1999, where death results from the injury, the expenses
9 of burial not to exceed two hundred percent of the average monthly wage
10 in the state as defined in RCW 51.08.018 shall be paid.

11 (b) For claims filed with respect to injuries that occur on or
12 after July 1, 1999, where death results from the injury, the expenses
13 of burial shall be paid, not to exceed an amount determined by the
14 department on June 30, 1999, and each June 30th thereafter, and
15 applicable to claims filed with respect to injuries occurring in the
16 twelve-month period following the June 30th determination. The amount
17 is determined by adjusting the amount applicable during the previous
18 twelve-month period to account for inflation.

19 (2)(a) Where death results from the injury, a surviving spouse of
20 a deceased worker eligible for benefits under this title shall receive
21 monthly for life or until remarriage payments according to the
22 following schedule:

23 (i) If there are no children of the deceased worker, sixty percent
24 of the wages of the deceased worker but not less than one hundred
25 eighty-five dollars;

26 (ii) If there is one child of the deceased worker and in the legal
27 custody of such spouse, sixty-two percent of the wages of the deceased
28 worker but not less than two hundred twenty-two dollars;

29 (iii) If there are two children of the deceased worker and in the
30 legal custody of such spouse, sixty-four percent of the wages of the
31 deceased worker but not less than two hundred fifty-three dollars;

32 (iv) If there are three children of the deceased worker and in the
33 legal custody of such spouse, sixty-six percent of the wages of the
34 deceased worker but not less than two hundred seventy-six dollars;

35 (v) If there are four children of the deceased worker and in the
36 legal custody of such spouse, sixty-eight percent of the wages of the
37 deceased worker but not less than two hundred ninety-nine dollars; or

1 (vi) If there are five or more children of the deceased worker and
2 in the legal custody of such spouse, seventy percent of the wages of
3 the deceased worker but not less than three hundred twenty-two dollars.

4 (b) Where the surviving spouse does not have legal custody of any
5 child or children of the deceased worker or where after the death of
6 the worker legal custody of such child or children passes from such
7 surviving spouse to another, any payment on account of such child or
8 children not in the legal custody of the surviving spouse shall be made
9 to the person or persons having legal custody of such child or
10 children. The amount of such payments shall be five percent of the
11 monthly benefits payable as a result of the worker's death for each
12 such child but such payments shall not exceed twenty-five percent.
13 Such payments on account of such child or children shall be subtracted
14 from the amount to which such surviving spouse would have been entitled
15 had such surviving spouse had legal custody of all of the children and
16 the surviving spouse shall receive the remainder after such payments on
17 account of such child or children have been subtracted. Such payments
18 on account of a child or children not in the legal custody of such
19 surviving spouse shall be apportioned equally among such children.

20 (c) Payments to the surviving spouse of the deceased worker shall
21 cease at the end of the month in which remarriage occurs: PROVIDED,
22 That a monthly payment shall be made to the child or children of the
23 deceased worker from the month following such remarriage in a sum equal
24 to five percent of the wages of the deceased worker for one child and
25 a sum equal to five percent for each additional child up to a maximum
26 of five such children. Payments to such child or children shall be
27 apportioned equally among such children. Such sum shall be in place of
28 any payments theretofore made for the benefit of or on account of any
29 such child or children. If the surviving spouse does not have legal
30 custody of any child or children of the deceased worker, or if after
31 the death of the worker, legal custody of such child or children passes
32 from such surviving spouse to another, any payment on account of such
33 child or children not in the legal custody of the surviving spouse
34 shall be made to the person or persons having legal custody of such
35 child or children.

36 (d) (~~(In no event shall)~~) (i) For claims filed with respect to
37 injuries that occurred before July 1, 1999, the monthly payments
38 provided in subsection (2) of this section may not exceed the

1 applicable percentage of the average monthly wage in the state as
2 computed under RCW 51.08.018 as follows:

3	AFTER	PERCENTAGE
4	June 30, 1993	105%
5	June 30, 1994	110%
6	June 30, 1995	115%
7	June 30, 1996	120%

8 (ii) For claims filed with respect to injuries that occur on or
9 after July 1, 1999, the monthly payments provided in this subsection
10 may not exceed an amount determined by the department on June 30, 1999,
11 and each June 30th thereafter, and applicable to claims filed with
12 respect to injuries occurring in the twelve-month period following the
13 June 30th determination. The amount is determined by adjusting the
14 amount applicable during the previous twelve-month period to account
15 for inflation.

16 (e) In addition to the monthly payments provided for in subsection
17 (2)(a) through (c) of this section, a surviving spouse or child or
18 children of such worker if there is no surviving spouse, or dependent
19 parent or parents, if there is no surviving spouse or child or children
20 of any such deceased worker shall be forthwith paid a sum equal to one
21 hundred percent of the average monthly wage in the state as defined in
22 RCW 51.08.018, any such children, or parents to share and share alike
23 in said sum.

24 (f) Upon remarriage of a surviving spouse the monthly payments for
25 the child or children shall continue as provided in this section, but
26 the monthly payments to such surviving spouse shall cease at the end of
27 the month during which remarriage occurs. However, after September 8,
28 1975, an otherwise eligible surviving spouse of a worker who died at
29 any time prior to or after September 8, 1975, shall have an option of:

30 (i) Receiving, once and for all, a lump sum of twenty-four times
31 the monthly compensation rate in effect on the date of remarriage
32 allocable to the spouse for himself or herself pursuant to subsection
33 (2)(a)(i) of this section and subject to any modifications specified
34 under subsection (2)(d) of this section and RCW 51.32.075(3) or fifty
35 percent of the then remaining annuity value of his or her pension,
36 whichever is the lesser: PROVIDED, That if the injury occurred prior
37 to July 28, 1991, the remarriage benefit lump sum available shall be as
38 provided in the remarriage benefit schedules then in effect; or

1 (ii) If a surviving spouse does not choose the option specified in
2 subsection (2)(f)(i) of this section to accept the lump sum payment,
3 the remarriage of the surviving spouse of a worker shall not bar him or
4 her from claiming the lump sum payment authorized in subsection
5 (2)(f)(i) of this section during the life of the remarriage, or shall
6 not prevent subsequent monthly payments to him or to her if the
7 remarriage has been terminated by death or has been dissolved or
8 annulled by valid court decree provided he or she has not previously
9 accepted the lump sum payment.

10 (g) If the surviving spouse during the remarriage should die
11 without having previously received the lump sum payment provided in
12 subsection (2)(f)(i) of this section, his or her estate shall be
13 entitled to receive the sum specified under subsection (2)(f)(i) of
14 this section or fifty percent of the then remaining annuity value of
15 his or her pension whichever is the lesser.

16 (h) The effective date of resumption of payments under subsection
17 (2)(f)(ii) of this section to a surviving spouse based upon termination
18 of a remarriage by death, annulment, or dissolution shall be the date
19 of the death or the date the judicial decree of annulment or
20 dissolution becomes final and when application for the payments has
21 been received.

22 (i) If it should be necessary to increase the reserves in the
23 reserve fund or to create a new pension reserve fund as a result of the
24 amendments in chapter 45, Laws of 1975-'76 2nd ex. sess., the amount of
25 such increase in pension reserve in any such case shall be transferred
26 to the reserve fund from the supplemental pension fund.

27 (3) If there is a child or children and no surviving spouse of the
28 deceased worker or the surviving spouse is not eligible for benefits
29 under this title, a sum equal to thirty-five percent of the wages of
30 the deceased worker shall be paid monthly for one child and a sum
31 equivalent to fifteen percent of such wage shall be paid monthly for
32 each additional child, the total of such sum to be divided among such
33 children, share and share alike(~~(:—PROVIDED, That)~~), subject to the
34 following:

35 (a) For claims filed with respect to injuries that occurred before
36 July 1, 1999, benefits under this subsection or subsection (4) of this
37 section shall not exceed the lesser of sixty-five percent of the wages
38 of the deceased worker at the time of his or her death or the

1 applicable percentage of the average monthly wage in the state as
2 defined in RCW 51.08.018, as follows:

3	AFTER	PERCENTAGE
4	June 30, 1993	105%
5	June 30, 1994	110%
6	June 30, 1995	115%
7	June 30, 1996	120%

8 (b) For claims filed with respect to injuries that occur on or
9 after July 1, 1999, benefits under this subsection or subsection (4) of
10 this section may not exceed an amount determined by the department on
11 June 30, 1999, and each June 30th thereafter, and applicable to claims
12 filed with respect to injuries occurring in the twelve-month period
13 following the June 30th determination. The amount is determined by
14 adjusting the amount applicable during the previous twelve-month period
15 to account for inflation.

16 (4) In the event a surviving spouse receiving monthly payments
17 dies, the child or children of the deceased worker shall receive the
18 same payment as provided in subsection (3) of this section.

19 (5)(a) If the worker leaves no surviving spouse or child, but
20 leaves a dependent or dependents, a monthly payment shall be made to
21 each dependent, as follows:

22 (i) For claims filed with respect to injuries that occurred before
23 July 1, 1999, the monthly payment shall be equal to fifty percent of
24 the average monthly support actually received by such dependent from
25 the worker during the twelve months next preceding the occurrence of
26 the injury, but the total payment to all dependents in any case shall
27 not exceed the lesser of sixty-five percent of the wages of the
28 deceased worker at the time of his or her death or the applicable
29 percentage of the average monthly wage in the state as defined in RCW
30 51.08.018 as follows:

31	AFTER	PERCENTAGE
32	June 30, 1993	105%
33	June 30, 1994	110%
34	June 30, 1995	115%
35	June 30, 1996	120%

1 (ii) For claims filed with respect to injuries that occur on or
2 after July 1, 1999, the monthly payments provided in this section may
3 not exceed an amount determined by the department on June 30, 1999, and
4 each June 30th thereafter, and applicable to claims filed with respect
5 to injuries occurring in the twelve-month period following the June
6 30th determination. The amount is determined by adjusting the amount
7 applicable during the previous twelve-month period to account for
8 inflation.

9 (b) If any dependent is under the age of eighteen years at the time
10 of the occurrence of the injury, the payment to such dependent shall
11 cease when such dependent reaches the age of eighteen years except such
12 payments shall continue until the dependent reaches age twenty-three
13 while permanently enrolled at a full time course in an accredited
14 school. The payment to any dependent shall cease if and when, under
15 the same circumstances, the necessity creating the dependency would
16 have ceased if the injury had not happened.

17 (6) For claims filed prior to July 1, 1986, if the injured worker
18 dies during the period of permanent total disability, whatever the
19 cause of death, leaving a surviving spouse, or child, or children, the
20 surviving spouse or child or children shall receive benefits as if
21 death resulted from the injury as provided in subsections (2) through
22 (4) of this section. Upon remarriage or death of such surviving
23 spouse, the payments to such child or children shall be made as
24 provided in subsection (2) of this section when the surviving spouse of
25 a deceased worker remarries.

26 (7) For claims filed on or after July 1, 1986, every worker who
27 becomes eligible for permanent total disability benefits shall elect an
28 option as provided in RCW 51.32.067.

29 **Sec. 6.** RCW 51.32.060 and 1993 c 521 s 2 are each amended to read
30 as follows:

31 (1) When the supervisor of industrial insurance shall determine
32 that permanent total disability results from the injury, the worker
33 shall receive monthly during the period of such disability:

34 (a) If married at the time of injury, sixty-five percent of his or
35 her wages but not less than two hundred fifteen dollars per month.

36 (b) If married with one child at the time of injury, sixty-seven
37 percent of his or her wages but not less than two hundred fifty-two
38 dollars per month.

1 (c) If married with two children at the time of injury, sixty-nine
2 percent of his or her wages but not less than two hundred eighty-three
3 dollars.

4 (d) If married with three children at the time of injury,
5 seventy-one percent of his or her wages but not less than three hundred
6 six dollars per month.

7 (e) If married with four children at the time of injury,
8 seventy-three percent of his or her wages but not less than three
9 hundred twenty-nine dollars per month.

10 (f) If married with five or more children at the time of injury,
11 seventy-five percent of his or her wages but not less than three
12 hundred fifty-two dollars per month.

13 (g) If unmarried at the time of the injury, sixty percent of his or
14 her wages but not less than one hundred eighty-five dollars per month.

15 (h) If unmarried with one child at the time of injury, sixty-two
16 percent of his or her wages but not less than two hundred twenty-two
17 dollars per month.

18 (i) If unmarried with two children at the time of injury,
19 sixty-four percent of his or her wages but not less than two hundred
20 fifty-three dollars per month.

21 (j) If unmarried with three children at the time of injury,
22 sixty-six percent of his or her wages but not less than two hundred
23 seventy-six dollars per month.

24 (k) If unmarried with four children at the time of injury,
25 sixty-eight percent of his or her wages but not less than two hundred
26 ninety-nine dollars per month.

27 (l) If unmarried with five or more children at the time of injury,
28 seventy percent of his or her wages but not less than three hundred
29 twenty-two dollars per month.

30 (2) For any period of time where both husband and wife are entitled
31 to compensation as temporarily or totally disabled workers, only that
32 spouse having the higher wages of the two shall be entitled to claim
33 their child or children for compensation purposes.

34 (3) In case of permanent total disability, if the character of the
35 injury is such as to render the worker so physically helpless as to
36 require the hiring of the services of an attendant, the department
37 shall make monthly payments to such attendant for such services as long
38 as such requirement continues, but such payments shall not obtain or be

1 operative while the worker is receiving care under or pursuant to the
2 provisions of chapter 51.36 RCW and RCW 51.04.105.

3 (4) Should any further accident result in the permanent total
4 disability of an injured worker, he or she shall receive the pension to
5 which he or she would be entitled, notwithstanding the payment of a
6 lump sum for his or her prior injury.

7 (5) (~~In no event shall~~) (a)(i) For claims filed with respect to
8 injuries that occurred before July 1, 1999, the monthly payments
9 provided in this section may not exceed the applicable percentage of
10 the average monthly wage in the state as computed under the provisions
11 of RCW 51.08.018 as follows:

12	AFTER	PERCENTAGE
13	June 30, 1993	105%
14	June 30, 1994	110%
15	June 30, 1995	115%
16	June 30, 1996	120%

17 (ii) For claims filed with respect to injuries that occur on or
18 after July 1, 1999, the monthly payments provided in this section may
19 not exceed an amount determined by the department on June 30, 1999, and
20 each June 30th thereafter, and applicable to claims filed with respect
21 to injuries occurring in the twelve-month period following the June
22 30th determination. The amount is determined by adjusting the amount
23 applicable during the previous twelve-month period to account for
24 inflation.

25 (b) The limitations under this subsection shall not apply to the
26 payments provided for in subsection (3) of this section.

27 (6) In the case of new or reopened claims, if the supervisor of
28 industrial insurance determines that, at the time of filing or
29 reopening, the worker is voluntarily retired and is no longer attached
30 to the work force, benefits shall not be paid under this section.

31 (7) The benefits provided by this section are subject to
32 modification under RCW 51.32.067.

33 **Sec. 7.** RCW 51.32.072 and 1987 c 185 s 34 are each amended to read
34 as follows:

35 (1)(a) Notwithstanding any other provision of law, every surviving
36 spouse and every permanently totally disabled worker or temporarily
37 totally disabled worker, if such worker was unmarried at the time of

1 the worker's injury or was then married but the marriage was later
2 terminated by judicial action, receiving a pension or compensation for
3 temporary total disability under this title pursuant to compensation
4 schedules in effect prior to July 1, 1971, shall after July 1, 1975,
5 and until July 1, 1999, be paid fifty percent of the average monthly
6 wage in the state as computed under RCW 51.08.018 per month and an
7 amount equal to five percent of such average monthly wage per month to
8 such totally disabled worker if married at the time of the worker's
9 injury and the marriage was not later terminated by judicial action,
10 and an additional two percent of such average monthly wage for each
11 child of such totally disabled worker at the time of injury in the
12 legal custody of such totally disabled worker or such surviving spouse
13 up to a maximum of five such children. The monthly payments such
14 surviving spouse or totally disabled worker are receiving pursuant to
15 compensation schedules in effect prior to July 1, 1971 shall be
16 deducted from the monthly payments above specified.

17 (b) Subject to subsection (2) of this section, where such a
18 surviving spouse has remarried, or where any such child of such worker,
19 whether living or deceased, is not in the legal custody of such worker
20 or such surviving spouse there shall be paid for the benefit of and on
21 account of each such child a sum equal to two percent of such average
22 monthly wage up to a maximum of five such children in addition to any
23 payments theretofore paid under compensation schedules in effect prior
24 to July 1, 1971 for the benefit of and on account of each such child.
25 In the case of any child or children of a deceased worker not leaving
26 a surviving spouse or where the surviving spouse has later died, there
27 shall be paid for the benefit of and on account of each such child a
28 sum equal to two percent of such average monthly wage up to a maximum
29 of five such children in addition to any payments theretofore paid
30 under such schedules for the benefit of and on account of each such
31 child.

32 (2) Beginning July 1, 1999, the monthly payments and the additional
33 payments for the injured worker's spouse or children provided in this
34 section may not exceed an amount determined by the department on June
35 30, 1999, and each June 30th thereafter, and applicable to payments
36 made during the twelve-month period following the June 30th
37 determination. The amount is determined by adjusting the amount
38 applicable during the previous twelve-month period to account for
39 inflation.

1 (3) If the character of the injury or occupational disease is such
2 as to render the worker so physically helpless as to require the hiring
3 of the services of an attendant, the department shall make monthly
4 payments to such attendant for such services as long as such
5 requirement continues but such payments shall not obtain or be
6 operative while the worker is receiving care under or pursuant to the
7 provisions of this title except for care granted at the discretion of
8 the supervisor pursuant to RCW 51.36.010: PROVIDED, That such payments
9 shall not be considered compensation nor shall they be subject to any
10 limitation upon total compensation payments.

11 No part of such additional payments shall be payable from the
12 accident fund.

13 (4) The director shall pay monthly from the supplemental pension
14 fund such an amount as will, when added to the compensation theretofore
15 paid under compensation schedules in effect prior to July 1, 1971,
16 equal the amounts hereinabove specified.

17 (5) In cases where money has been or shall be advanced to any such
18 person from the pension reserve, the additional amount to be paid under
19 this section shall be reduced by the amount of monthly pension which
20 was or is predicated upon such advanced portion of the pension reserve.

21 **Sec. 8.** RCW 51.32.075 and 1988 c 161 s 7 are each amended to read
22 as follows:

23 (1) Subject to subsection (2) of this section, the compensation or
24 death benefits payable pursuant to the provisions of this chapter for
25 temporary total disability, permanent total disability, or death
26 arising out of injuries or occupational diseases shall be adjusted as
27 follows:

28 ((+1)) (a) On July 1, 1982, there shall be an adjustment for those
29 whose right to compensation was established on or after July 1, 1971,
30 and before July 1, 1982. The adjustment shall be determined by
31 multiplying the amount of compensation to which they are entitled by a
32 fraction, the denominator of which shall be the average monthly wage in
33 the state under RCW 51.08.018 for the fiscal year in which such
34 person's right to compensation was established, and the numerator of
35 which shall be the average monthly wage in the state under RCW
36 51.08.018 on July 1, 1982.

37 ((+2)) (b) In addition to the adjustment established by
38 ((subsection(1))) (a) of this ((section)) subsection, there shall be

1 another adjustment on July 1, 1983, for those whose right to
2 compensation was established on or after July 1, 1971, and before July
3 1983, which shall be determined by multiplying the amount of
4 compensation to which they are entitled by a fraction, the denominator
5 of which shall be the average monthly wage in the state under RCW
6 51.08.018 for the fiscal year in which such person's right to
7 compensation was established, and the numerator of which shall be the
8 average monthly wage in the state under RCW 51.08.018 on July 1, 1983.

9 ~~((+3))~~ (c) In addition to the adjustments under ~~((subsections (1)~~
10 ~~and (2))~~) (a) and (b) of this ~~((section))~~ subsection, further
11 adjustments shall be made beginning on July 1, 1984, and on each July
12 1st thereafter for those whose right to compensation was established on
13 or after July 1, 1971. The adjustment shall be determined by
14 multiplying the amount of compensation to which they are entitled by a
15 fraction, the denominator of which shall be the average monthly wage in
16 the state under RCW 51.08.018 for the fiscal year in which such
17 person's right to compensation was established, and the numerator of
18 which shall be the average monthly wage in the state under RCW
19 51.08.018 on July 1st of the year in which the adjustment is being
20 made. The department or self-insurer shall adjust the resulting
21 compensation rate to the nearest whole cent, not to exceed the average
22 monthly wage in the state as computed under RCW 51.08.018.

23 (2) Beginning July 1, 1999, the annual adjustments provided for in
24 this section shall be an amount determined by the department on June
25 30, 1999, and each June 30th thereafter, and applicable to payments
26 made during the twelve-month period following the June 30th
27 determination. The amount is determined by adjusting the amount
28 applicable during the previous twelve-month period to account for
29 inflation.

30 **Sec. 9.** RCW 51.32.080 and 1993 c 520 s 1 are each amended to read
31 as follows:

32 (1)(a) Until July 1, 1993, for the permanent partial disabilities
33 here specifically described, the injured worker shall receive
34 compensation as follows:

LOSS BY AMPUTATION

1		
2	Of leg above the knee joint with short thigh stump (3"	
3	or less below the tuberosity of	
4	ischium)	\$54,000.00
5	Of leg at or above knee joint with functional stump . . .	48,600.00
6	Of leg below knee joint	43,200.00
7	Of leg at ankle (Syme)	37,800.00
8	Of foot at mid-metatarsals	18,900.00
9	Of great toe with resection of metatarsal bone	11,340.00
10	Of great toe at metatarsophalangeal joint	6,804.00
11	Of great toe at interphalangeal joint	3,600.00
12	Of lesser toe (2nd to 5th) with resection of	
13	metatarsal bone	4,140.00
14	Of lesser toe at metatarsophalangeal joint	2,016.00
15	Of lesser toe at proximal interphalangeal joint	1,494.00
16	Of lesser toe at distal interphalangeal joint	378.00
17	Of arm at or above the deltoid insertion or by	
18	disarticulation at the shoulder	54,000.00
19	Of arm at any point from below the deltoid insertion	
20	to below the elbow joint at the	
21	insertion of the biceps tendon	51,300.00
22	Of arm at any point from below the elbow joint distal	
23	to the insertion of the biceps tendon	
24	to and including mid-metacarpal	
25	amputation of the hand	48,600.00
26	Of all fingers except the thumb at metacarpophalangeal	
27	joints	29,160.00
28	Of thumb at metacarpophalangeal joint or with	
29	resection of carpometacarpal bone	19,440.00
30	Of thumb at interphalangeal joint	9,720.00
31	Of index finger at metacarpophalangeal joint or with	
32	resection of metacarpal bone	12,150.00
33	Of index finger at proximal interphalangeal joint	9,720.00
34	Of index finger at distal interphalangeal joint	5,346.00
35	Of middle finger at metacarpophalangeal joint or with	
36	resection of metacarpal bone	9,720.00
37	Of middle finger at proximal interphalangeal joint	7,776.00
38	Of middle finger at distal interphalangeal joint	4,374.00

1	Of ring finger at metacarpophalangeal joint or with	
2	resection of metacarpal bone	4,860.00
3	Of ring finger at proximal interphalangeal joint	3,888.00
4	Of ring finger at distal interphalangeal joint	2,430.00
5	Of little finger at metacarpophalangeal joint or with	
6	resection of metacarpal bone	2,430.00
7	Of little finger at proximal interphalangeal joint	1,944.00
8	Of little finger at distal interphalangeal joint	972.00

9 MISCELLANEOUS

10	Loss of one eye by enucleation	21,600.00
11	Loss of central visual acuity in one eye	18,000.00
12	Complete loss of hearing in both ears	43,200.00
13	Complete loss of hearing in one ear	7,200.00

14 (b) Beginning on July 1, 1993, compensation under this subsection
15 shall be computed as follows:

16 (i) Beginning on July 1, 1993, the compensation amounts for the
17 specified disabilities listed in (a) of this subsection shall be
18 increased by thirty-two percent; and

19 (ii) Beginning on July 1, 1994, and each July 1 thereafter, the
20 compensation amounts for the specified disabilities listed in (a) of
21 this subsection, as adjusted under (b)(i) of this subsection, shall be
22 readjusted to ~~((reflect the percentage change in the consumer price~~
23 ~~index, calculated as follows: The index for the calendar year~~
24 ~~preceding the year in which the July calculation is made, to be known~~
25 ~~as "calendar year A," is divided by the index for the calendar year~~
26 ~~preceding calendar year A, and the resulting ratio is multiplied by the~~
27 ~~compensation amount in effect on June 30 immediately preceding the July~~
28 ~~1st on which the respective calculation is made. For the purposes of~~
29 ~~this subsection, "index" means the same as the definition in RCW~~
30 ~~2.12.037(1))~~ account for inflation.

31 (2) Compensation for amputation of a member or part thereof at a
32 site other than those specified in subsection (1) of this section, and
33 for loss of central visual acuity and loss of hearing other than
34 complete, shall be in proportion to that which such other amputation or
35 partial loss of visual acuity or hearing most closely resembles and
36 approximates. Compensation shall be calculated based on the adjusted
37 schedule of compensation in effect for the respective time period as
38 prescribed in subsection (1) of this section.

1 (3)(a) Compensation for any other permanent partial disability not
2 involving amputation shall be in the proportion which the extent of
3 such other disability, called unspecified disability, shall bear to the
4 disabilities specified in subsection (1) of this section, which most
5 closely resembles and approximates in degree of disability such other
6 disability, and compensation for any other unspecified permanent
7 partial disability shall be in an amount as measured and compared to
8 total bodily impairment. To reduce litigation and establish more
9 certainty and uniformity in the rating of unspecified permanent partial
10 disabilities, the department shall enact rules having the force of law
11 classifying such disabilities in the proportion which the department
12 shall determine such disabilities reasonably bear to total bodily
13 impairment. In enacting such rules, the department shall give
14 consideration to, but need not necessarily adopt, any nationally
15 recognized medical standards or guides for determining various bodily
16 impairments.

17 (b) Until July 1, 1993, for purposes of calculating monetary
18 benefits under (a) of this subsection, the amount payable for total
19 bodily impairment shall be deemed to be ninety thousand dollars.
20 Beginning on July 1, 1993, for purposes of calculating monetary
21 benefits under (a) of this subsection, the amount payable for total
22 bodily impairment shall be adjusted as follows:

23 (i) Beginning on July 1, 1993, the amount payable for total bodily
24 impairment under this section shall be increased to one hundred
25 eighteen thousand eight hundred dollars; and

26 (ii) Beginning on July 1, 1994, and each July 1 thereafter, the
27 amount payable for total bodily impairment prescribed in (b)(i) of this
28 subsection shall be adjusted as provided in subsection (1)(b)(ii) of
29 this section.

30 (c) Until July 1, 1993, the total compensation for all unspecified
31 permanent partial disabilities resulting from the same injury shall not
32 exceed the sum of ninety thousand dollars. Beginning on July 1, 1993,
33 total compensation for all unspecified permanent partial disabilities
34 resulting from the same injury shall not exceed a sum calculated as
35 follows:

36 (i) Beginning on July 1, 1993, the sum shall be increased to one
37 hundred eighteen thousand eight hundred dollars; and

1 (ii) Beginning on July 1, 1994, and each July 1 thereafter, the sum
2 prescribed in (b)(i) of this subsection shall be adjusted as provided
3 in subsection (1)(b)(ii) of this section.

4 (4) If permanent partial disability compensation is followed by
5 permanent total disability compensation, any portion of the permanent
6 partial disability compensation which exceeds the amount that would
7 have been paid the injured worker if permanent total disability
8 compensation had been paid in the first instance, shall be deducted
9 from the pension reserve of such injured worker and his or her monthly
10 compensation payments shall be reduced accordingly.

11 (5) Should a worker receive an injury to a member or part of his or
12 her body already, from whatever cause, permanently partially disabled,
13 resulting in the amputation thereof or in an aggravation or increase in
14 such permanent partial disability but not resulting in the permanent
15 total disability of such worker, his or her compensation for such
16 partial disability shall be adjudged with regard to the previous
17 disability of the injured member or part and the degree or extent of
18 the aggravation or increase of disability thereof.

19 (6) When the compensation provided for in subsections (1) through
20 (3) of this section exceeds three times the average monthly wage in the
21 state as computed under the provisions of RCW 51.08.018, payment shall
22 be made in monthly payments in accordance with the schedule of
23 temporary total disability payments set forth in RCW 51.32.090 until
24 such compensation is paid to the injured worker in full, except that
25 the first monthly payment shall be in an amount equal to three times
26 the average monthly wage in the state as computed under the provisions
27 of RCW 51.08.018, and interest shall be paid at the rate of eight
28 percent on the unpaid balance of such compensation commencing with the
29 second monthly payment. However, upon application of the injured
30 worker or survivor the monthly payment may be converted, in whole or in
31 part, into a lump sum payment, in which event the monthly payment shall
32 cease in whole or in part. Such conversion may be made only upon
33 written application of the injured worker or survivor to the department
34 and shall rest in the discretion of the department depending upon the
35 merits of each individual application. Upon the death of a worker all
36 unpaid installments accrued shall be paid according to the payment
37 schedule established prior to the death of the worker to the widow or
38 widower, or if there is no widow or widower surviving, to the dependent

1 children of such claimant, and if there are no such dependent children,
2 then to such other dependents as defined by this title.

3 (7) Awards payable under this section are governed by the schedule
4 in effect on the date of injury.

5 **Sec. 10.** RCW 51.32.090 and 1993 c 521 s 3, 1993 c 299 s 1, and
6 1993 c 271 s 1 are each reenacted and amended to read as follows:

7 (1) When the total disability is only temporary, the schedule of
8 payments contained in RCW 51.32.060 (1) and (2) shall apply, so long as
9 the total disability continues.

10 (2) Any compensation payable under this section for children not in
11 the custody of the injured worker as of the date of injury shall be
12 payable only to such person as actually is providing the support for
13 such child or children pursuant to the order of a court of record
14 providing for support of such child or children.

15 (3)(a) As soon as recovery is so complete that the present earning
16 power of the worker, at any kind of work, is restored to that existing
17 at the time of the occurrence of the injury, the payments shall cease.
18 If and so long as the present earning power is only partially restored,
19 the payments shall:

20 (i) For claims for injuries that occurred before May 7, 1993,
21 continue in the proportion which the new earning power shall bear to
22 the old; or

23 (ii) For claims for injuries occurring on or after May 7, 1993,
24 equal eighty percent of the actual difference between the worker's
25 present wages and earning power at the time of injury, but: (A) The
26 total of these payments and the worker's present wages may not exceed
27 one hundred fifty percent of the average monthly wage in the state as
28 computed under RCW 51.08.018; (B) the payments may not exceed one
29 hundred percent of the entitlement as computed under subsection (1) of
30 this section; and (C) the payments may not be less than the worker
31 would have received if (a)(i) of this subsection had been applicable to
32 the worker's claim.

33 (b) No compensation shall be payable under this subsection (3)
34 unless the loss of earning power shall exceed five percent.

35 (4)(a) Whenever the employer of injury requests that a worker who
36 is entitled to temporary total disability under this chapter be
37 certified by a physician as able to perform available work other than
38 his or her usual work, the employer shall furnish to the physician,

1 with a copy to the worker, a statement describing the work available
2 with the employer of injury in terms that will enable the physician to
3 relate the physical activities of the job to the worker's disability.
4 The physician shall then determine whether the worker is physically
5 able to perform the work described. The worker's temporary total
6 disability payments shall continue until the worker is released by his
7 or her physician for the work, and begins the work with the employer of
8 injury. If the work thereafter comes to an end before the worker's
9 recovery is sufficient in the judgment of his or her physician to
10 permit him or her to return to his or her usual job, or to perform
11 other available work offered by the employer of injury, the worker's
12 temporary total disability payments shall be resumed. Should the
13 available work described, once undertaken by the worker, impede his or
14 her recovery to the extent that in the judgment of his or her physician
15 he or she should not continue to work, the worker's temporary total
16 disability payments shall be resumed when the worker ceases such work.

17 (b) Once the worker returns to work under the terms of this
18 subsection (4), he or she shall not be assigned by the employer to work
19 other than the available work described without the worker's written
20 consent, or without prior review and approval by the worker's
21 physician.

22 (c) If the worker returns to work under this subsection (4), any
23 employee health and welfare benefits that the worker was receiving at
24 the time of injury shall continue or be resumed at the level provided
25 at the time of injury. Such benefits shall not be continued or resumed
26 if to do so is inconsistent with the terms of the benefit program, or
27 with the terms of the collective bargaining agreement currently in
28 force.

29 (d) In the event of any dispute as to the worker's ability to
30 perform the available work offered by the employer, the department
31 shall make the final determination.

32 (5) No worker shall receive compensation for or during the day on
33 which injury was received or the three days following the same, unless
34 his or her disability shall continue for a period of fourteen
35 consecutive calendar days from date of injury: PROVIDED, That attempts
36 to return to work in the first fourteen days following the injury shall
37 not serve to break the continuity of the period of disability if the
38 disability continues fourteen days after the injury occurs.

1 (6) Should a worker suffer a temporary total disability and should
2 his or her employer at the time of the injury continue to pay him or
3 her the wages which he or she was earning at the time of such injury,
4 such injured worker shall not receive any payment provided in
5 subsection (1) of this section during the period his or her employer
6 shall so pay such wages.

7 (~~In no event shall~~) (a) For claims filed with respect to
8 injuries that occurred before July 1, 1999, the monthly payments
9 provided in this section may not exceed the applicable percentage of
10 the average monthly wage in the state as computed under the provisions
11 of RCW 51.08.018 as follows:

12	AFTER	PERCENTAGE
13	June 30, 1993	105%
14	June 30, 1994	110%
15	June 30, 1995	115%
16	June 30, 1996	120%

17 (b) For claims filed with respect to injuries that occur on or
18 after July 1, 1999, the monthly payments provided in this section may
19 not exceed an amount determined by the department on June 30, 1999, and
20 each June 30th thereafter, and applicable to claims filed with respect
21 to injuries occurring in the twelve-month period following the June
22 30th determination. The amount is determined by adjusting the amount
23 applicable during the previous twelve-month period to account for
24 inflation.

25 (8) If the supervisor of industrial insurance determines that the
26 worker is voluntarily retired and is no longer attached to the work
27 force, benefits shall not be paid under this section.

28 **Sec. 11.** RCW 51.36.020 and 1982 c 63 s 12 are each amended to read
29 as follows:

30 (1) When the injury to any worker is so serious as to require his
31 or her being taken from the place of injury to a place of treatment,
32 his or her employer shall, at the expense of the medical aid fund, or
33 self-insurer, as the case may be, furnish transportation to the nearest
34 place of proper treatment.

35 (2) Every worker whose injury results in the loss of one or more
36 limbs or eyes shall be provided with proper artificial substitutes and
37 every worker, who suffers an injury to an eye producing an error of

1 refraction, shall be once provided proper and properly equipped lenses
2 to correct such error of refraction and his or her disability rating
3 shall be based upon the loss of sight before correction.

4 (3) Every worker whose accident results in damage to or destruction
5 of an artificial limb, eye, or tooth, shall have same repaired or
6 replaced.

7 (4) Every worker whose hearing aid or eyeglasses or lenses are
8 damaged, destroyed, or lost as a result of an industrial accident shall
9 have the same restored or replaced. The department or self-insurer
10 shall be liable only for the cost of restoring damaged hearing aids or
11 eyeglasses to their condition at the time of the accident.

12 (5) All mechanical appliances necessary in the treatment of an
13 injured worker, such as braces, belts, casts, and crutches, shall be
14 provided and all mechanical appliances required as permanent equipment
15 after treatment has been completed shall continue to be provided or
16 replaced without regard to the date of injury or date treatment was
17 completed, notwithstanding any other provision of law.

18 (6) A worker, whose injury is of such short duration as to bring
19 him or her within the time limit provisions of RCW 51.32.090, shall
20 nevertheless receive during the omitted period medical, surgical, and
21 hospital care and service and transportation under the provisions of
22 this chapter.

23 (7) Whenever in the sole discretion of the supervisor it is
24 reasonable and necessary to provide residence modifications necessary
25 to meet the needs and requirements of the worker who has sustained
26 catastrophic injury, the department or self-insurer may be ordered to
27 pay an amount determined as follows:

28 (a) For claims filed with respect to injuries that occurred before
29 July 1, 1999, the amount may not ((to)) exceed the state's average
30 annual wage for one year as determined under RCW 50.04.355, as now
31 existing or hereafter amended, toward the cost of such modifications or
32 construction. ((Such))

33 (b) For claims filed with respect to injuries that occur on or
34 after July 1, 1999, the amount may not exceed an amount determined by
35 the department on June 30, 1999, and each June 30th thereafter, and
36 applicable to claims filed with respect to injuries occurring in the
37 twelve-month period following the June 30th determination. The amount
38 is determined by adjusting the amount applicable during the previous
39 twelve-month period to account for inflation. Payment shall ((only))

1 be made under this subsection only for the construction or modification
2 of a residence in which the injured worker resides. Only one residence
3 of any worker may be modified or constructed under this subsection,
4 although the supervisor may order more than one payment for any one
5 home, up to the maximum amount permitted by this section.

6 (8) Whenever in the sole discretion of the supervisor it is
7 reasonable and necessary to modify a motor vehicle owned by a worker
8 who has become an amputee or becomes paralyzed because of an industrial
9 injury, the supervisor may pay or order a self-insurer to pay as
10 follows:

11 (a) For claims filed with respect to injuries that occurred before
12 July 1, 1999, up to fifty percent of the state's average annual wage
13 for one year, as determined under RCW 50.04.355, ((as now existing or
14 hereafter amended, to be paid by the department or self insurer))
15 toward the costs thereof.

16 (b) For claims filed with respect to injuries that occur on or
17 after July 1, 1999, up to an amount determined by the department on
18 June 30, 1999, and each June 30th thereafter, and applicable to claims
19 filed with respect to injuries occurring in the twelve-month period
20 following the June 30th determination. The amount is determined by
21 adjusting the amount applicable during the previous twelve-month period
22 to account for inflation.

23 (9) The benefits provided by subsections (7) and (8) of this
24 section are available to any otherwise eligible worker regardless of
25 the date of industrial injury.

26 NEW SECTION. Sec. 12. This act is necessary for the immediate
27 preservation of the public peace, health, or safety, or support of the
28 state government and its existing public institutions, and takes effect
29 immediately.

--- END ---