

1 **HB 2052** - H AMD
2 By Representative Chandler

3 Strike everything after the enacting clause and insert the
4 following:

5 "NEW SECTION. **Sec. 1.** The legislature finds that improving
6 the stability of industrial insurance rates is essential to the
7 long-term competitiveness of the Washington economy. The stability
8 of the rates, and the rates themselves, are dependent on multiple
9 factors including investment income, medical inflation, benefit
10 costs, and administrative efficiency. Therefore, the legislature
11 intends to improve the stability of the rates by controlling
12 benefit costs and improving administrative efficiency.

13 NEW SECTION. **Sec. 2.** A new section is added to chapter 51.08
14 RCW to read as follows:

15 "Inflation" means the percentage change in the implicit price
16 deflator for personal consumption expenditures for the United
17 States as published for the most recent twelve-month period by the
18 bureau of economic analysis of the federal department of commerce
19 in September of the year before a June 30th determination.

20 **Sec. 3.** RCW 51.08.178 and 1988 c 161 s 12 are each amended to
21 read as follows:

22 ~~((1) For the purposes of this title, the monthly wages the~~
23 ~~worker was receiving from all employment at the time of injury~~
24 ~~shall be the basis upon which compensation is computed unless~~
25 ~~otherwise provided specifically in the statute concerned. In cases~~
26 ~~where the worker's wages are not fixed by the month, they shall be~~
27 ~~determined by multiplying the daily wage the worker was receiving~~
28 ~~at the time of the injury:~~

29 ~~(a) By five, if the worker was normally employed one day a~~
30 ~~week;~~

1 ~~(b) By nine, if the worker was normally employed two days a~~
2 ~~week;~~

3 ~~(c) By thirteen, if the worker was normally employed three days~~
4 ~~a week;~~

5 ~~(d) By eighteen, if the worker was normally employed four days~~
6 ~~a week;~~

7 ~~(e) By twenty-two, if the worker was normally employed five~~
8 ~~days a week;~~

9 ~~(f) By twenty-six, if the worker was normally employed six days~~
10 ~~a week;~~

11 ~~(g) By thirty, if the worker was normally employed seven days~~
12 ~~a week.~~

13 ~~The term "wages" shall include the reasonable value of board,~~
14 ~~housing, fuel, or other consideration of like nature received from~~
15 ~~the employer as part of the contract of hire, but shall not include~~
16 ~~overtime pay except in cases under subsection (2) of this section.~~
17 ~~However, tips shall also be considered wages only to the extent~~
18 ~~such tips are reported to the employer for federal income tax~~
19 ~~purposes. The daily wage shall be the hourly wage multiplied by~~
20 ~~the number of hours the worker is normally employed. The number of~~
21 ~~hours the worker is normally employed shall be determined by the~~
22 ~~department in a fair and reasonable manner, which may include~~
23 ~~averaging the number of hours worked per day.~~

24 ~~(2) In cases where (a) the worker's employment is exclusively~~
25 ~~seasonal in nature or (b) the worker's current employment or his or~~
26 ~~her relation to his or her employment is essentially part-time or~~
27 ~~intermittent, the monthly wage shall be determined by dividing by~~
28 ~~twelve the total wages earned, including overtime, from all~~
29 ~~employment in any twelve successive calendar months preceding the~~
30 ~~injury which fairly represent the claimant's employment pattern.~~

31 ~~(3) If, within the twelve months immediately preceding the~~
32 ~~injury, the worker has received from the employer at the time of~~
33 ~~injury a bonus as part of the contract of hire, the average monthly~~
34 ~~value of such bonus shall be included in determining the worker's~~
35 ~~monthly wages.~~

36 ~~(4) In cases where a wage has not been fixed or cannot be~~
37 ~~reasonably and fairly determined, the monthly wage shall be~~
38 ~~computed on the basis of the usual wage paid other employees~~
39 ~~engaged in like or similar occupations where the wages are fixed.))~~

1 (1) "Wages" means the gross cash compensation paid by the employer
2 for services performed.

3 (2) "Cash" means payment in cash, by check, by electronic
4 transfer, or by other means made directly to the worker at the end
5 of each pay period before any mandatory deductions required by
6 state or federal law.

7 (3) The worker's monthly wage shall be determined by dividing
8 by twelve the total wages earned from all employment, including
9 cash bonuses and overtime pay, in any four successive quarters in
10 the twenty-four months preceding the injury or manifestation of
11 occupational disease that most reasonably represents the worker's
12 wages.

13 (a) Tips shall be considered wages only to the extent that such
14 tips are reported to the employer for federal income tax purposes.

15 (b) Wages shall include the actual value of board, housing, and
16 fuel received from the employer as part of the contract of hire and
17 for which an internal revenue service form 1099 is required. This
18 subsection does not apply during any period in which the employer
19 continues to provide, through a past or current payment, board,
20 housing, and/or fuel that were provided to the employee at the time
21 of the injury or manifestation of occupational disease.

22 (c) Wages shall not include fringe benefits. Fringe benefits
23 are any consideration given to a worker in addition to wages
24 including, but not limited to: Retirement and financial benefit
25 plans of whatever nature; mental and physical health insurance and
26 treatment of whatever nature; life, disability, and wage-
27 replacement insurance of whatever nature; unused, accrued leave of
28 whatever nature; memberships of whatever nature; employee discounts
29 or use or consumption of employer services, materials, equipment,
30 and facilities of whatever nature; training and education of
31 whatever nature; and other employee or beneficiary benefit plan for
32 the employee's or beneficiaries' benefit resulting from the
33 employment relationship.

34 (4) In cases where the worker is self-employed or the worker's
35 monthly wage cannot be reasonably determined under subsection (3)
36 of this section due to the worker sustaining an injury or
37 occupational disease less than one year after beginning an
38 employment relationship that both the worker and the employer
39 intend to be continuous and lasting without limit into the

1 foreseeable future, and which provides wages, on an annualized
2 basis, of greater than one hundred fifty percent of wages earned by
3 the worker in the twelve months before beginning such employment,
4 the monthly wage shall be computed on the basis of the usual wage
5 paid other employees of the employer at the time of injury or
6 manifestation of occupational disease who perform like job duties
7 with like work patterns or, if none exist, other employees in the
8 worker's labor market who perform like job duties with like work
9 patterns.

10 (5) In cases where the worker's monthly wage cannot be
11 reasonably determined under subsection (3) of this section due to
12 the worker sustaining an injury or occupational disease less than
13 one year after beginning an employment relationship that either the
14 worker or the employer do not intend to be continuous and lasting
15 without limit into the foreseeable future, or which provides wages,
16 on an annualized basis, of fifty percent or less of wages earned by
17 the worker in the twelve months before beginning such employment,
18 the monthly wage shall be computed on the basis of the usual wage
19 paid other employees of the employer at the time of injury or
20 manifestation of occupational disease who perform like job duties
21 with like work patterns, or, if none exist, other employees in the
22 worker's labor market who perform like job duties with like work
23 patterns.

24 (6) If the employer or department cannot obtain sufficient
25 accurate information to calculate the worker's wages pursuant to
26 subsection (3) of this section before the first payment of
27 temporary total disability compensation is due, payments may be
28 made provisionally based upon the worker's wages on the date of
29 injury or manifestation of occupational disease. For purposes of
30 this subsection only, "wages" means the gross cash compensation
31 paid by the employer for services performed. "Cash" means payment
32 in cash, by check, by electronic transfer, or by other means made
33 directly to the worker at the end of each pay period before any
34 mandatory deductions required by state or federal law.

35 **Sec. 4.** RCW 51.28.040 and 1977 ex.s. c 199 s 1 are each
36 amended to read as follows:

37 ~~((If change of circumstances warrants an increase or~~
38 ~~rearrangement of compensation, like application shall be made~~

1 therefor.)) Where the worker's application to reopen a claim has
2 been granted under RCW 51.32.160, compensation and other benefits
3 if in order shall be allowed for periods of time up to sixty days
4 prior to the receipt of such application.

5 **Sec. 5.** RCW 51.28.055 and 1984 c 159 s 2 are each amended to
6 read as follows:

7 (1) Except as provided in subsection (2) of this section for
8 claims filed for occupational hearing loss, claims for occupational
9 disease or infection to be valid and compensable must be filed
10 within two years following the date the worker had written notice
11 from a physician: ((+1)) (a) Of the existence of his or her
12 occupational disease, and ((+2)) (b) that a claim for disability
13 benefits may be filed. The notice shall also contain a statement
14 that the worker has two years from the date of the notice to file
15 a claim. The physician shall file the notice with the department.
16 The department shall send a copy to the worker and to the self-
17 insurer if the worker's employer is self-insured. However, a claim
18 is valid if it is filed within two years from the date of death of
19 the worker suffering from an occupational disease.

20 (2)(a) Except as provided in (b) of this subsection, to be
21 valid and compensable, claims for hearing loss due to occupational
22 noise exposure must be filed within two years of the date of the
23 worker's last injurious exposure to occupational noise in
24 employment covered under this title or within one year of the
25 effective date of this section, whichever is later.

26 (b) A claim for hearing loss due to occupational noise exposure
27 that is not timely filed under (a) of this subsection can only be
28 allowed for medical aid benefits under chapter 51.36 RCW.

29 (3) The department may adopt rules to implement this section.

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

32 (1) Where death results from the injury, the expenses of burial
33 not to exceed two hundred percent of the average monthly wage in
34 the state as defined in RCW 51.08.018 shall be paid.

35 (2)(a)(i) For claims with date of injury or manifestation of
36 occupational disease before July 1, 2003, where death results from
37 the injury, a surviving spouse of a deceased worker eligible for

1 benefits under this title shall receive monthly for life or until
2 remarriage payments according to the following schedule:

3 ~~((+i))~~ (A) If there are no children of the deceased worker,
4 sixty percent of the wages of the deceased worker but not less than
5 one hundred eighty-five dollars;

6 ~~((+ii))~~ (B) If there is one child of the deceased worker and
7 in the legal custody of such spouse, sixty-two percent of the wages
8 of the deceased worker but not less than two hundred twenty-two
9 dollars;

10 ~~((+iii))~~ (C) If there are two children of the deceased worker
11 and in the legal custody of such spouse, sixty-four percent of the
12 wages of the deceased worker but not less than two hundred fifty-
13 three dollars;

14 ~~((+iv))~~ (D) If there are three children of the deceased worker
15 and in the legal custody of such spouse, sixty-six percent of the
16 wages of the deceased worker but not less than two hundred seventy-
17 six dollars;

18 ~~((+v))~~ (E) If there are four children of the deceased worker
19 and in the legal custody of such spouse, sixty-eight percent of the
20 wages of the deceased worker but not less than two hundred ninety-
21 nine dollars; or

22 ~~((+vi))~~ (F) If there are five or more children of the deceased
23 worker and in the legal custody of such spouse, seventy percent of
24 the wages of the deceased worker but not less than three hundred
25 twenty-two dollars.

26 (ii) For claims with date of injury or manifestation of
27 occupational disease on or after July 1, 2003, where death results
28 from the injury, a surviving spouse of a deceased worker eligible
29 for benefits under this title shall receive monthly for life or
30 until remarriage payments of sixty-five and five-tenths percent of
31 the wages of the deceased worker, but not less than two hundred
32 seventy-six dollars.

33 (b) Where the surviving spouse does not have legal custody of
34 any child or children of the deceased worker or where after the
35 death of the worker legal custody of such child or children passes
36 from such surviving spouse to another, any payment on account of
37 such child or children not in the legal custody of the surviving
38 spouse shall be made to the person or persons having legal custody
39 of such child or children. The amount of such payments shall be

1 five percent of the monthly benefits payable as a result of the
2 worker's death for each such child but such payments shall not
3 exceed twenty-five percent. Such payments on account of such child
4 or children shall be subtracted from the amount to which such
5 surviving spouse would have been entitled had such surviving spouse
6 had legal custody of all of the children and the surviving spouse
7 shall receive the remainder after such payments on account of such
8 child or children have been subtracted. Such payments on account
9 of a child or children not in the legal custody of such surviving
10 spouse shall be apportioned equally among such children.

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

28 (d) (~~In no event shall~~) (i) For claims with date of injury or
29 manifestation of occupational disease before July 1, 2003, the
30 monthly payments provided in subsection (2) of this section may not
31 exceed the applicable percentage of the average monthly wage in the
32 state as computed under RCW 51.08.018 as follows:

<i>AFTER</i>	<i>PERCENTAGE</i>
<i>June 30, 1993</i>	<i>105%</i>
<i>June 30, 1994</i>	<i>110%</i>
<i>June 30, 1995</i>	<i>115%</i>

1 (ii) For claims with date of injury or manifestation of
2 occupational disease on or after July 1, 2002, but before June 30,
3 2004, the monthly payments provided in this subsection may not exceed
4 one hundred twenty percent of the average monthly wage in the state on
5 June 30, 2003. For all claims with the date of injury or manifestation
6 of occupational disease on or after July 1, 2004, the monthly payments
7 provided in this subsection may not exceed an amount determined by the
8 department on June 30, 2003, and each June 30th thereafter, and
9 applicable to claims with date of injury or manifestation of
10 occupational disease in the twelve-month period following the June 30th
11 determination. The amount is determined by adjusting the June 30,
12 2003, amount for inflation on June 30, 2004. In subsequent years, the
13 department shall adjust the amount applicable during the previous
14 twelve-month period to account for inflation.

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

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

29 (i) Receiving, once and for all, a lump sum of twenty-four times
30 the monthly compensation rate in effect on the date of remarriage
31 allocable to the spouse for himself or herself pursuant to subsection
32 (2)(a)(i)(A) of this section and subject to any modifications specified
33 under subsection (2)(d) of this section and RCW 51.32.075(~~(+3)~~) (1)(c)
34 or fifty percent of the then remaining annuity value of his or her
35 pension, whichever is the lesser: PROVIDED, That if the injury
36 occurred prior to July 28, 1991, the remarriage benefit lump sum

1 available shall be as provided in the remarriage benefit schedules then
2 in effect; or

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

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

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

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

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

37 (a) For claims with date of injury or manifestation of occupational
38 disease before July 1, 2003, benefits under this subsection or
39 subsection (4) of this section shall not exceed the lesser of sixty-

1 five percent of the wages of the deceased worker at the time of his or
2 her death or the applicable percentage of the average monthly wage in
3 the state as defined in RCW 51.08.018, as follows:

<i>AFTER</i>	<i>PERCENTAGE</i>
<i>June 30, 1993</i>	<i>105%</i>
<i>June 30, 1994</i>	<i>110%</i>
<i>June 30, 1995</i>	<i>115%</i>
<i>June 30, 1996</i>	<i>120%</i>

4 (b) For claims with date of injury or manifestation of occupational
5 disease on or after July 1, 2003, but before June 30, 2004, the monthly
6 payments provided in this subsection may not exceed one hundred twenty
7 percent of the average monthly wage in the state on June 30, 2003. For
8 all claims with date of injury or manifestation of occupational disease
9 on or after July 1, 2004, the monthly payments provided in this
10 subsection may not exceed an amount determined by the department on
11 June 30, 2003, and each June 30th thereafter, and applicable to claims
12 with date of injury or manifestation of occupational disease in the
13 twelve-month period following the June 30th determination. The amount
14 is determined by adjusting the June 30, 2003, amount for inflation on
15 June 30, 2004. In subsequent years, the department shall adjust the
16 amount applicable during the previous twelve-month period to account
17 for inflation.

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

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

24 (i) For claims with date of injury or manifestation of occupational
25 disease before July 1, 2003, the monthly payment shall be equal to
26 fifty percent of the average monthly support actually received by such
27 dependent from the worker during the twelve months next preceding the
28 occurrence of the injury, but the total payment to all dependents in
29 any case shall not exceed the lesser of sixty-five percent of the wages
30 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:

<i>AFTER</i>	<i>PERCENTAGE</i>
<i>June 30, 1993</i>	<i>105%</i>
<i>June 30, 1994</i>	<i>110%</i>
<i>June 30, 1995</i>	<i>115%</i>
<i>June 30, 1996</i>	<i>120%</i>

3 (ii) For claims with date of injury or manifestation of
4 occupational disease on or after July 1, 2003, but before June 30,
5 2004, the monthly payments provided in this subsection may not exceed
6 one hundred twenty percent of the average monthly wage in the state on
7 June 30, 2003. For all claims with date of injury or manifestation of
8 occupational disease on or after July 1, 2004, the monthly payments
9 provided in this subsection may not exceed an amount determined by the
10 department on June 30, 2003, and each June 30th thereafter, and
11 applicable to claims with date of injury or manifestation of
12 occupational disease occurring in the twelve-month period following the
13 June 30th determination. The amount is determined by adjusting the
14 June 30, 2003, amount for inflation on June 30, 2004. In subsequent
15 years, the department shall adjust the amount applicable during the
16 previous twelve-month period to account for inflation.

17 (b) If any dependent is under the age of eighteen years at the time
18 of the occurrence of the injury, the payment to such dependent shall
19 cease when such dependent reaches the age of eighteen years except such
20 payments shall continue until the dependent reaches age twenty-three
21 while permanently enrolled at a full time course in an accredited
22 school. The payment to any dependent shall cease if and when, under
23 the same circumstances, the necessity creating the dependency would
24 have ceased if the injury had not happened.

25 (6) For claims filed prior to July 1, 1986, if the injured worker
26 dies during the period of permanent total disability, whatever the
27 cause of death, leaving a surviving spouse, or child, or children, the
28 surviving spouse or child or children shall receive benefits as if
29 death resulted from the injury as provided in subsections (2) through
30 (4) of this section. Upon remarriage or death of such surviving
31 spouse, the payments to such child or children shall be made as

1 provided in subsection (2) of this section when the surviving spouse of
2 a deceased worker remarries.

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

6 **Sec. 7.** RCW 51.32.060 and 1993 c 521 s 2 are each amended to read
7 as follows:

8 (1) Except as provided in subsection (2) of this section, when the
9 supervisor of industrial insurance (~~shall~~) determines that permanent
10 total disability results from the injury, the worker shall receive
11 monthly during the period of such disability:

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

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

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

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

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

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

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

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

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

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

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

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

10 (2) For any claim with date of injury or manifestation of
11 occupational disease on or after July 1, 2003, when the supervisor of
12 industrial insurance determines that permanent total disability results
13 from the injury, the worker shall receive monthly during the period of
14 such disability sixty-five and five-tenths percent of his or her wages
15 as determined under RCW 51.08.178, but not less than two hundred
16 seventy-six dollars per month.

17 (3) For any period of time where both husband and wife are entitled
18 to compensation as temporarily or totally disabled workers, only that
19 spouse having the higher wages of the two shall be entitled to claim
20 their child or children for compensation purposes under subsection (1)
21 of this section.

22 ~~((+3))~~ (4) In case of permanent total disability, if the character
23 of the injury is such as to render the worker so physically helpless as
24 to require the hiring of the services of an attendant, the department
25 shall make monthly payments to such attendant for such services as long
26 as such requirement continues, but such payments shall not obtain or be
27 operative while the worker is receiving care under or pursuant to the
28 provisions of chapter 51.36 RCW and RCW 51.04.105.

29 ~~((+4))~~ (5) Should any further accident result in the permanent
30 total disability of an injured worker, he or she shall receive the
31 pension to which he or she would be entitled, notwithstanding the
32 payment of a lump sum for his or her prior injury.

33 ~~((+5) In no event shall))~~ (6)(a)(i) For claims filed before July 1,
34 2003, the monthly payments provided in this section may not exceed the
35 applicable percentage of the average monthly wage in the state as
36 computed under the provisions of RCW 51.08.018 as follows:

AFTER PERCENTAGE

<i>June 30, 1993</i>	<i>105%</i>
<i>June 30, 1994</i>	<i>110%</i>
<i>June 30, 1995</i>	<i>115%</i>
<i>June 30, 1996</i>	<i>120%</i>

1 (ii) For claims with date of injury or manifestation of
2 occupational disease on or after July 1, 2003, but before June 30,
3 2004, the monthly payments provided in this subsection may not exceed
4 one hundred twenty percent of the average monthly wage in the state on
5 June 30, 2003. For all claims with date of injury or manifestation of
6 occupational disease on or after July 1, 2004, the monthly payments
7 provided in this subsection may not exceed an amount determined by the
8 department on June 30, 2003, and each June 30th thereafter, and
9 applicable to claims with date of injury or manifestation of
10 occupational disease occurring in the twelve-month period following the
11 June 30th determination. The amount is determined by adjusting the
12 June 30, 2003, amount for inflation on June 30, 2004. In subsequent
13 years, the department shall adjust the amount applicable during the
14 previous twelve-month period to account for inflation.

15 (b) The limitations under this subsection shall not apply to the
16 payments provided for in subsection ~~((+3))~~ (4) of this section.

17 ~~((+6))~~ (7) In the case of new or reopened claims, if the
18 supervisor of industrial insurance determines that, at the time of
19 filing or reopening, the worker is voluntarily retired and is no longer
20 attached to the work force, benefits shall not be paid under this
21 section.

22 ~~((+7))~~ (8) The benefits provided by this section are subject to
23 modification under RCW 51.32.067.

24 **Sec. 8.** RCW 51.32.072 and 1987 c 185 s 34 are each amended to read
25 as follows:

26 (1)(a) Notwithstanding any other provision of law, every surviving
27 spouse and every permanently totally disabled worker or temporarily
28 totally disabled worker, if such worker was unmarried at the time of
29 the worker's injury or was then married but the marriage was later
30 terminated by judicial action, receiving a pension or compensation for
31 temporary total disability under this title pursuant to compensation
32 schedules in effect prior to July 1, 1971, shall after July 1, 1975,

1 and until July 1, 2003, be paid fifty percent of the average monthly
2 wage in the state as computed under RCW 51.08.018 per month and an
3 amount equal to five percent of such average monthly wage per month to
4 such totally disabled worker if married at the time of the worker's
5 injury and the marriage was not later terminated by judicial action,
6 and an additional two percent of such average monthly wage for each
7 child of such totally disabled worker at the time of injury in the
8 legal custody of such totally disabled worker or such surviving spouse
9 up to a maximum of five such children. The monthly payments such
10 surviving spouse or totally disabled worker are receiving pursuant to
11 compensation schedules in effect prior to July 1, 1971 shall be
12 deducted from the monthly payments above specified.

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

28 (2) Beginning July 1, 2003, the monthly payments and the additional
29 payments for the injured worker's spouse or children provided in this
30 section may not exceed an amount determined by the department on June
31 30, 2002, adjusted for inflation on June 30, 2003, and each June 30th
32 thereafter, and applicable to payments made during the twelve-month
33 period following the June 30th determination. The amount is determined
34 by adjusting the amount applicable during the previous twelve-month
35 period to account for inflation.

36 (3)(a) If the character of the injury or occupational disease is
37 such as to render the worker so physically helpless as to require the
38 hiring of the services of an attendant, the department shall make
39 monthly payments to such attendant for such services as long as such

1 requirement continues but such payments shall not obtain or be
2 operative while the worker is receiving care under or pursuant to the
3 provisions of this title except for care granted at the discretion of
4 the supervisor pursuant to RCW 51.36.010: PROVIDED, That such payments
5 shall not be considered compensation nor shall they be subject to any
6 limitation upon total compensation payments.

7 (b) No part of such additional payments shall be payable from the
8 accident fund.

9 (4) The director shall pay monthly from the supplemental pension
10 fund such an amount as will, when added to the compensation theretofore
11 paid under compensation schedules in effect prior to July 1, 1971,
12 equal the amounts herein above specified.

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

17 **Sec. 9.** RCW 51.32.075 and 1988 c 161 s 7 are each amended to read
18 as follows:

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

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

33 ~~((2))~~ (b) In addition to the adjustment established by
34 ~~((subsection (1)))~~ (a) of this ~~((section))~~ subsection, there shall be
35 another adjustment on July 1, 1983, for those whose right to
36 compensation was established on or after July 1, 1971, and before July
37 1983, which shall be determined by multiplying the amount of
38 compensation to which they are entitled by a fraction, the denominator

1 of which shall be the average monthly wage in the state under RCW
2 51.08.018 for the fiscal year in which such person's right to
3 compensation was established, and the numerator of which shall be the
4 average monthly wage in the state under RCW 51.08.018 on July 1, 1983.

5 ~~((+3))~~ (c) In addition to the adjustments under ~~((subsections (1)~~
6 ~~and (2))~~) (a) and (b) of this ~~((section))~~ subsection, further
7 adjustments shall be made beginning on July 1, 1984, and on each July
8 1st thereafter for those whose right to compensation was established on
9 or after July 1, 1971. The adjustment shall be determined by
10 multiplying the amount of compensation to which they are entitled by a
11 fraction, the denominator of which shall be the average monthly wage in
12 the state under RCW 51.08.018 for the fiscal year in which such
13 person's right to compensation was established, and the numerator of
14 which shall be the average monthly wage in the state under RCW
15 51.08.018 on July 1st of the year in which the adjustment is being
16 made. The department or self-insurer shall adjust the resulting
17 compensation rate to the nearest whole cent, not to exceed the average
18 monthly wage in the state as computed under RCW 51.08.018.

19 (2) Beginning July 1, 2003, the annual adjustments provided for in
20 this section shall be an amount determined by the department on June
21 30, 2002, adjusted for inflation on June 30, 2003, and each June 30th
22 thereafter, and applicable to payments made during the twelve-month
23 period following the June 30th determination. The amount is determined
24 by adjusting the amount applicable during the previous twelve-month
25 period to account for inflation.

26 **Sec. 10.** RCW 51.32.080 and 1993 c 520 s 1 are each amended to read
27 as follows:

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

31 **LOSS BY AMPUTATION**

32	<i>Of leg above the knee joint with short</i>	
33	<i>thigh stump (3" or less below the</i>	<i>\$54,000.0</i>
34	<i>tuberosity of ischium)</i>	<i>0</i>
35	<i>Of leg at or above knee joint with</i>	
36	<i>functional stump</i>	<i>48,600.00</i>

1	<i>Of leg below knee joint</i>	<i>43,200.00</i>
2	<i>Of leg at ankle (Syme)</i>	<i>37,800.00</i>
3	<i>Of foot at mid-metatarsals</i>	<i>18,900.00</i>
4	<i>Of great toe with resection of metatarsal</i>	
5	<i>bone</i>	<i>11,340.00</i>
6	<i>Of great toe at metatarsophalangeal</i>	
7	<i>joint</i>	<i>6,804.00</i>
8	<i>Of great toe at interphalangeal joint . .</i>	<i>3,600.00</i>
9	<i>Of lesser toe (2nd to 5th) with resection</i>	
10	<i>of</i>	
11	<i>metatarsal bone</i>	<i>4,140.00</i>
12	<i>Of lesser toe at metatarsophalangeal</i>	
13	<i>joint</i>	<i>2,016.00</i>
14	<i>Of lesser toe at proximal interphalangeal</i>	
15	<i>joint</i>	<i>1,494.00</i>
16	<i>Of lesser toe at distal interphalangeal</i>	
17	<i>joint</i>	<i>378.00</i>
18	<i>Of arm at or above the deltoid insertion</i>	
19	<i>or</i>	
20	<i>by disarticulation at the shoulder .</i>	<i>54,000.00</i>
21	<i>Of arm at any point from below the</i>	
22	<i>deltoid</i>	
23	<i>insertion to below the elbow joint at</i>	
24	<i>the insertion of the biceps tendon .</i>	<i>51,300.00</i>
25	<i>Of arm at any point from below the elbow</i>	
26	<i>joint distal to the insertion of the</i>	
27	<i>biceps tendon to and including</i>	
28	<i>mid-metacarpal amputation of the</i>	
29	<i>hand</i>	<i>48,600.00</i>
30	<i>Of all fingers except the thumb at</i>	
31	<i>metacarpophalangeal joints</i>	<i>29,160.00</i>

1	<i>Of thumb at metacarpophalangeal joint or</i>	
2	<i>with resection of carpometacarpal</i>	
3	<i>bone</i>	<i>19,440.00</i>
4	<i>Of thumb at interphalangeal joint</i>	<i>9,720.00</i>
5	<i>Of index finger at metacarpophalangeal</i>	
6	<i>joint or with resection of metacarpal</i>	
7	<i>bone</i>	<i>12,150.00</i>
8	<i>Of index finger at proximal</i>	
9	<i>interphalangeal joint</i>	<i>9,720.00</i>
10	<i>Of index finger at distal interphalangeal</i>	
11	<i>joint</i>	<i>5,346.00</i>
12	<i>Of middle finger at metacarpophalangeal</i>	
13	<i>joint or with resection of metacarpal</i>	
14	<i>bone</i>	<i>9,720.00</i>
15	<i>Of middle finger at proximal</i>	
16	<i>interphalangeal joint</i>	<i>7,776.00</i>
17	<i>Of middle finger at distal interphalangeal</i>	
18	<i>joint</i>	<i>4,374.00</i>
19	<i>Of ring finger at metacarpophalangeal</i>	
20	<i>joint or with resection of metacarpal</i>	
21	<i>bone</i>	<i>4,860.00</i>
22	<i>Of ring finger at proximal</i>	
23	<i>interphalangeal</i>	
24	<i>joint</i>	<i>3,888.00</i>
25	<i>Of ring finger at distal interphalangeal</i>	
26	<i>joint</i>	<i>2,430.00</i>
27	<i>Of little finger at metacarpophalangeal</i>	
28	<i>joint or with resection of metacarpal</i>	
29	<i>bone</i>	<i>2,430.00</i>
30	<i>Of little finger at proximal</i>	
31	<i>interphalangeal</i>	
32	<i>joint</i>	<i>1,944.00</i>
33	<i>Of little finger at distal interphalangeal</i>	
34	<i>joint</i>	<i>972.00</i>

MISCELLANEOUS

<i>Loss of one eye by enucleation</i>	<i>21,600.00</i>
<i>Loss of central visual acuity in one eye</i>	<i>18,000.00</i>
<i>Complete loss of hearing in both ears .</i>	<i>43,200.00</i>
<i>Complete loss of hearing in one ear ..</i>	<i>7,200.00</i>

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

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

(ii) Beginning on July 1, 1994, and (~~each July 1 thereafter~~) ending on June 30, 2003, the compensation amounts for the specified disabilities listed in (a) of this subsection, as adjusted under (b)(i) of this subsection, shall be readjusted to reflect the percentage change in the consumer price index, calculated as follows: The index for the calendar year preceding the year in which the July calculation is made, to be known as "calendar year A," is divided by the index for the calendar year preceding calendar year A, and the resulting ratio is multiplied by the compensation amount in effect on June 30 immediately preceding the July 1st on which the respective calculation is made. For the purposes of this subsection, "index" means the same as the definition in RCW 2.12.037(1); and

(iii) Beginning on July 1, 2003, and each July 1st thereafter, the compensation amounts of the specified disabilities listed in (a) of this subsection, as adjusted under (b)(ii) of this subsection, shall be adjusted to account for inflation.

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

(3)(a) Compensation for any other permanent partial disability not involving amputation shall be in the proportion which the extent of

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

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

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

24 (ii) Beginning on July 1, 1994, and (~~each July 1 thereafter~~)
25 ending on June 30, 2003, the amount payable for total bodily impairment
26 prescribed in (b)(i) of this subsection shall be adjusted as provided
27 in subsection (1)(b)(ii) of this section; and

28 (iii) Beginning on July 1, 2003, and each July 1st thereafter, the
29 amount payable for total bodily impairment prescribed in (b)(i) of this
30 subsection shall be adjusted as provided in subsection (1)(b)(iii) of
31 this section.

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

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

1 (ii) Beginning on July 1, 1994, and (~~each July 1 thereafter~~)
2 ending on June 30, 2003, the sum prescribed in (b)(i) of this
3 subsection shall be adjusted as provided in subsection (1)(b)(ii) of
4 this section; and

5 (iii) Beginning on July 1, 2003, and each July 1st thereafter, the
6 sum prescribed in (b)(i) of this subsection shall be adjusted as
7 provided in subsection (1)(b)(iii) of this section.

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

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

23 (6) When the compensation provided for in subsections (1) through
24 (3) of this section exceeds three times the average monthly wage in the
25 state as computed under the provisions of RCW 51.08.018, payment shall
26 be made in monthly payments in accordance with the schedule of
27 temporary total disability payments set forth in RCW 51.32.090 until
28 such compensation is paid to the injured worker in full, except that
29 the first monthly payment shall be in an amount equal to three times
30 the average monthly wage in the state as computed under the provisions
31 of RCW 51.08.018, and interest shall be paid at the rate of eight
32 percent on the unpaid balance of such compensation commencing with the
33 second monthly payment. However, upon application of the injured
34 worker or survivor the monthly payment may be converted, in whole or in
35 part, into a lump sum payment, in which event the monthly payment shall
36 cease in whole or in part. Such conversion may be made only upon
37 written application of the injured worker or survivor to the department
38 and shall rest in the discretion of the department depending upon the
39 merits of each individual application. Upon the death of a worker all

1 unpaid installments accrued shall be paid according to the payment
2 schedule established prior to the death of the worker to the widow or
3 widower, or if there is no widow or widower surviving, to the dependent
4 children of such claimant, and if there are no such dependent children,
5 then to such other dependents as defined by this title.

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

8 **Sec. 11.** RCW 51.32.090 and 1993 c 521 s 3, 1993 c 299 s 1, and
9 1993 c 271 s 1 are each reenacted and amended to read as follows:

10 (1) When the total disability is only temporary, the schedule of
11 payments contained in RCW 51.32.060 (1) (~~and~~) or (2) and (3) shall
12 apply, so long as the total disability continues.

13 (2) Any compensation payable under this section for children not in
14 the custody of the injured worker as of the date of injury shall be
15 payable only to such person as actually is providing the support for
16 such child or children pursuant to the order of a court of record
17 providing for support of such child or children. This subsection does
18 not apply to claims filed on or after July 1, 2003.

19 (3)(a) As soon as recovery is so complete that the worker is
20 capable of gainful employment on a reasonably continuous basis and the
21 present earning power of the worker, at any kind of work, is restored
22 to that existing at the time of the occurrence of the injury, the
23 payments shall cease. If and so long as the present earning power is
24 only partially restored and the worker is working, the payments shall:

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

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

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

3 (c) The injured worker remains eligible for the benefits provided
4 in this subsection only until the injured worker's condition is
5 medically fixed and stable.

6 (4)(a) Whenever the employer of injury requests that a worker who
7 is entitled to temporary total disability under this chapter be
8 certified by a physician as able to perform available work other than
9 his or her usual work, the employer shall furnish to the physician,
10 with a copy to the worker, a statement describing the work available
11 with the employer of injury in terms that will enable the physician to
12 relate the physical activities of the job to the worker's disability.
13 The physician shall then determine whether the worker is physically
14 able to perform the work described. The worker's temporary total
15 disability payments shall continue until the worker is released by his
16 or her physician for the work, and begins the work with the employer of
17 injury. If the work thereafter comes to an end before the worker's
18 recovery is sufficient in the judgment of his or her physician to
19 permit him or her to return to his or her usual job, or to perform
20 other available work offered by the employer of injury, the worker's
21 temporary total disability payments shall be resumed. Should the
22 available work described, once undertaken by the worker, impede his or
23 her recovery to the extent that in the judgment of his or her physician
24 he or she should not continue to work, the worker's temporary total
25 disability payments shall be resumed when the worker ceases such work.

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

31 (c) If the worker returns to work under this subsection (4), any
32 employee health and welfare benefits that the worker was receiving at
33 the time of injury shall continue or be resumed at the level provided
34 at the time of injury. Such benefits shall not be continued or resumed
35 if to do so is inconsistent with the terms of the benefit program, or
36 with the terms of the collective bargaining agreement currently in
37 force.

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

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

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

17 (7) (~~In no event shall~~) (a) For claims with date of injury or
18 manifestation of occupational disease before July 1, 2003, the monthly
19 payments provided in this section may not exceed the applicable
20 percentage of the average monthly wage in the state as computed under
21 the provisions of RCW 51.08.018 as follows:

<i>AFTER</i>	<i>PERCENTAGE</i>
<i>June 30, 1993</i>	<i>105%</i>
<i>June 30, 1994</i>	<i>110%</i>
<i>June 30, 1995</i>	<i>115%</i>
<i>June 30, 1996</i>	<i>120%</i>

22 (b) For claims with date of injury or manifestation of occupational
23 disease on or after July 1, 2003, but before June 30, 2004, the monthly
24 payments provided in this subsection may not exceed one hundred twenty
25 percent of the average monthly wage in the state on June 30, 2003. For
26 all claims with date of injury or manifestation of occupational disease
27 on or after July 1, 2004, the monthly payments provided in this
28 subsection may not exceed an amount determined by the department on
29 June 30, 2003, and each June 30th thereafter, and applicable to claims
30 with date of injury or manifestation of occupational disease occurring
31 in the twelve-month period following the June 30th determination. The

1 amount is determined by adjusting the June 30, 2003, amount for
2 inflation on June 30, 2004. In subsequent years, the department shall
3 adjust the amount applicable during the previous twelve-month period to
4 account for inflation.

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

8 **Sec. 12.** RCW 51.32.095 and 1999 c 110 s 1 are each amended to read
9 as follows:

10 (1) One of the primary purposes of this title is to enable the
11 injured worker to become employable at gainful employment. To this
12 end, the department or self-insurers shall utilize the services of
13 individuals and organizations, public or private, whose experience,
14 training, and interests in vocational rehabilitation and retraining
15 qualify them to lend expert assistance to the supervisor of industrial
16 insurance in such programs of vocational rehabilitation as may be
17 reasonable to make the worker employable consistent with his or her
18 physical and mental status. Where, after evaluation and recommendation
19 by such individuals or organizations and prior to final evaluation of
20 the worker's permanent disability and in the sole opinion of the
21 supervisor or supervisor's designee, whether or not medical treatment
22 has been concluded, vocational rehabilitation is both necessary and
23 likely to enable the injured worker to become employable at gainful
24 employment, the supervisor or supervisor's designee may, in his or her
25 sole discretion, pay or, if the employer is a self-insurer, direct the
26 self-insurer to pay the cost as provided in subsection (3) of this
27 section.

28 (2) When in the sole discretion of the supervisor or the
29 supervisor's designee vocational rehabilitation is both necessary and
30 likely to make the worker employable at gainful employment, then the
31 following order of priorities shall be used:

- 32 (a) Return to the previous job with the same employer;
33 (b) Modification of the previous job with the same employer
34 including transitional return to work;
35 (c) A new job with the same employer in keeping with any
36 limitations or restrictions;
37 (d) Modification of a new job with the same employer including
38 transitional return to work;

- 1 (e) Modification of the previous job with a new employer;
- 2 (f) A new job with a new employer or self-employment based upon
- 3 transferable skills;
- 4 (g) Modification of a new job with a new employer;
- 5 (h) A new job with a new employer or self-employment involving on-
- 6 the-job training;
- 7 (i) Short-term retraining and job placement.

8 (3)(a) Except as provided in (b) of this subsection, costs for
9 vocational rehabilitation benefits allowed by the supervisor or
10 supervisor's designee under subsection (1) of this section may include
11 the cost of books, tuition, fees, supplies, equipment, transportation,
12 child or dependent care, and other necessary expenses for any such
13 worker in an amount not to exceed three thousand dollars in any fifty-
14 two week period (~~(except as authorized by RCW 51.60.060)~~), and the cost
15 of continuing the temporary total disability compensation under RCW
16 51.32.090 while the worker is actively and successfully undergoing a
17 formal program of vocational rehabilitation.

18 (b) Beginning with vocational rehabilitation plans approved on or
19 after July 1, 1999, costs for vocational rehabilitation benefits
20 allowed by the supervisor or supervisor's designee under subsection (1)
21 of this section may include the cost of books, tuition, fees, supplies,
22 equipment, child or dependent care, and other necessary expenses for
23 any such worker in an amount not to exceed (~~(four)~~) five thousand
24 dollars in any fifty-two week period (~~(except as authorized by RCW~~
25 ~~51.60.060)~~), and the cost of transportation and continuing the
26 temporary total disability compensation under RCW 51.32.090 while the
27 worker is actively and successfully undergoing a formal program of
28 vocational rehabilitation.

29 (c) The expenses allowed under (a) or (b) of this subsection may
30 include training fees for on-the-job training and the cost of
31 furnishing tools and other equipment necessary for self-employment or
32 reemployment. However, compensation or payment of retraining with job
33 placement expenses under (a) or (b) of this subsection may not be
34 authorized for a period of more than fifty-two weeks, except that such
35 period may, in the sole discretion of the supervisor after his or her
36 review, be extended for an additional fifty-two weeks or portion
37 thereof by written order of the supervisor.

1 (d) In cases where the worker is required to reside away from his
2 or her customary residence, the reasonable cost of board and lodging
3 shall also be paid.

4 (e) Costs paid under this subsection shall be chargeable to the
5 employer's cost experience or shall be paid by the self-insurer as the
6 case may be.

7 (4) In addition to the vocational rehabilitation expenditures
8 provided for under subsection (3) of this section, an additional five
9 thousand dollars may, upon authorization of the supervisor or the
10 supervisor's designee, be expended for: (a) Accommodations for an
11 injured worker that are medically necessary for the worker to
12 participate in an approved retraining plan; and (b) accommodations
13 necessary to perform the essential functions of an occupation in which
14 an injured worker is seeking employment, consistent with the retraining
15 plan or the recommendations of a vocational evaluation. The injured
16 worker's attending physician must verify the necessity of the
17 modifications or accommodations. The total expenditures authorized in
18 this subsection and the expenditures authorized under RCW 51.32.250
19 shall not exceed five thousand dollars.

20 (5) The department shall establish criteria to monitor the quality
21 and effectiveness of rehabilitation services provided by the
22 individuals and organizations used under subsection (1) of this
23 section. The state fund shall make referrals for vocational
24 rehabilitation services based on these performance criteria.

25 (6) The department shall engage in, where feasible and cost-
26 effective, a cooperative program with the state employment security
27 department to provide job placement services under this section.

28 (7) The benefits in this section shall be provided for the injured
29 workers of self-insured employers. Self-insurers shall report both
30 benefits provided and benefits denied under this section in the manner
31 prescribed by the department by rule adopted under chapter 34.05 RCW.
32 The director may, in his or her sole discretion and upon his or her own
33 initiative or at any time that a dispute arises under this section,
34 promptly make such inquiries as circumstances require and take such
35 other action as he or she considers will properly determine the matter
36 and protect the rights of the parties.

37 (8) Except as otherwise provided in this section, the benefits
38 provided for in this section are available to any otherwise eligible

1 worker regardless of the date of industrial injury. However, claims
2 shall not be reopened solely for vocational rehabilitation purposes.

3 **Sec. 13.** RCW 51.36.020 and 1999 c 395 s 1 are each amended to read
4 as follows:

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

10 (2) Every worker whose injury results in the loss of one or more
11 limbs or eyes shall be provided with proper artificial substitutes and
12 every worker, who suffers an injury to an eye producing an error of
13 refraction, shall be once provided proper and properly equipped lenses
14 to correct such error of refraction and his or her disability rating
15 shall be based upon the loss of sight before correction.

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

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

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

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

35 (7) Whenever in the sole discretion of the supervisor it is
36 reasonable and necessary to provide residence modifications necessary
37 to meet the needs and requirements of the worker who has sustained

1 catastrophic injury, the department or self-insurer may be ordered to
2 pay an amount determined as follows:

3 (a) For claims with date of injury or manifestation of occupational
4 disease before July 1, 2003, the amount may not ((to)) exceed the
5 state's average annual wage for one year as determined under RCW
6 50.04.355(~~(, as now existing or hereafter amended,~~)) toward the cost of
7 such modifications or construction. ((Such))

8 (b) For claims with date of injury or manifestation of occupational
9 disease on or after July 1, 2003, but before June 30, 2004, the amount
10 provided for in this subsection may not exceed one hundred twenty
11 percent of the average annual wage in the state on June 30, 2003. For
12 all claims with date of injury or manifestation of occupational disease
13 on or after July 1, 2004, the amount provided in this subsection may
14 not exceed an amount determined by the department on June 30, 2003, and
15 each June 30th thereafter, and applicable to claims with date of injury
16 or manifestation of occupational disease occurring in the twelve-month
17 period following the June 30th determination. The amount is determined
18 by adjusting the June 30, 2003, amount for inflation on June 30, 2004.
19 In subsequent years, the department shall adjust the amount applicable
20 during the previous twelve-month period to account for inflation.
21 Payment shall ((only)) be made under this subsection only for the
22 construction or modification of a residence in which the injured worker
23 resides. Only one residence of any worker may be modified or
24 constructed under this subsection, although the supervisor may order
25 more than one payment for any one home, up to the maximum amount
26 permitted by this section.

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

32 (i) For claims with date of injury or manifestation of occupational
33 disease before July 1, 2003, up to fifty percent of the state's average
34 annual wage for one year, as determined under RCW 50.04.355(~~(, to be~~
35 paid by the department or self-insurer)) toward the costs thereof.

36 (ii) For claims with date of injury or manifestation of
37 occupational disease on or after July 1, 2003, but before June 30,
38 2004, the amount will be up to fifty percent of the state's average
39 annual wage as of June 30, 2003, adjusted for inflation. For all

1 claims with date of injury or manifestation of occupational disease on
2 or after July 1, 2004, the amount provided in this subsection may not
3 exceed an amount determined by the department on June 30, 2003, and
4 each June 30th thereafter, and applicable to claims with date of injury
5 or manifestation of occupational disease occurring in the twelve-month
6 period following the June 30th determination. The amount is determined
7 by adjusting the June 30, 2003, amount for inflation on June 30, 2004.
8 In subsequent years, the department shall adjust the amount applicable
9 during the previous twelve-month period to account for inflation.

10 (b) In the sole discretion of the supervisor after his or her
11 review, the amount paid under this subsection may be increased by no
12 more than four thousand dollars by written order of the supervisor.

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

16 NEW SECTION. Sec. 14. A new section is added to chapter 51.08 RCW
17 to read as follows:

18 The department may adopt rules necessary to implement section 2 of
19 this act.

20 NEW SECTION. Sec. 15. A new section is added to chapter 51.32 RCW
21 to read as follows:

22 The department may adopt rules necessary to implement section 10 of
23 this act.

24 NEW SECTION. Sec. 16. This act is necessary for the immediate
25 preservation of the public peace, health, or safety, or support of the
26 state government and its existing public institutions, and takes effect
27 July 1, 2003."

28 Correct the title.

EFFECT: Deletes the provisions of the underlying bill. Adds that the Legislature intends to improve industrial insurance rate stability by controlling benefit costs and improving administrative efficiency. Adds provisions changing the definition of "wages" to

exclude fringe benefits and requiring wages to be averaged over the four successive quarters that best represent the worker's wages, changing to the Implicit Price Deflator to calculate inflation, calculating benefits on a fixed 65.5 percent of wages, increasing annual vocational benefits from \$4,000 to \$5,000, and providing a new time period for filing claims for occupation noise exposure, among other changes.