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SENATE BILL 5826

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State of Washington

59th Legislature

2005 Regular Session

By Senators Hewitt, Parlette and Honeyford

Read first time 02/08/2005. Referred to Committee on Labor, Commerce, Research & Development.

1 AN ACT Relating to making cost-of-living adjustments to account for  
2 inflation in industrial insurance claims; amending RCW 51.32.050,  
3 51.32.060, 51.32.072, 51.32.075, 51.32.080, 51.32.090, and 51.36.020;  
4 reenacting and amending RCW 51.32.090; adding a new section to chapter  
5 51.08 RCW; providing effective dates; providing an expiration date; and  
6 declaring an emergency.

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

8 NEW SECTION. **Sec. 1.** A new section is added to chapter 51.08 RCW  
9 to read as follows:

10 "Inflation" means the percentage change in the implicit price  
11 deflator for personal consumption expenditures for the United States as  
12 published for the most recent twelve-month period by the bureau of  
13 economic analysis of the federal department of commerce in September of  
14 the year before a July 1st determination.

15 **Sec. 2.** RCW 51.32.050 and 1995 c 199 s 6 are each amended to read  
16 as follows:

17 (1) Where death results from the injury, the expenses of burial not

1 to exceed two hundred percent of the average monthly wage in the state  
2 as defined in RCW 51.08.018 shall be paid.

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

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

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

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

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

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

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

25 (b) Where the surviving spouse does not have legal custody of any  
26 child or children of the deceased worker or where after the death of  
27 the worker legal custody of such child or children passes from such  
28 surviving spouse to another, any payment on account of such child or  
29 children not in the legal custody of the surviving spouse shall be made  
30 to the person or persons having legal custody of such child or  
31 children. The amount of such payments shall be five percent of the  
32 monthly benefits payable as a result of the worker's death for each  
33 such child but such payments shall not exceed twenty-five percent.  
34 Such payments on account of such child or children shall be subtracted  
35 from the amount to which such surviving spouse would have been entitled  
36 had such surviving spouse had legal custody of all of the children and  
37 the surviving spouse shall receive the remainder after such payments on

1 account of such child or children have been subtracted. Such payments  
2 on account of a child or children not in the legal custody of such  
3 surviving spouse shall be apportioned equally among such children.

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

20 (d) (~~In no event shall~~) (i) For claims with date of injury or  
21 manifestation of occupational disease before July 1, 2005, the monthly  
22 payments provided in subsection (2) of this section may not exceed the  
23 applicable percentage of the average monthly wage in the state as  
24 computed under RCW 51.08.018 as follows:

AFTER	PERCENTAGE
June 30, 1993	105%
June 30, 1994	110%
June 30, 1995	115%
June 30, 1996	120%

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30 (ii) On July 1, 2005, and on each July 1st thereafter, the  
31 department shall determine the maximum amount of the monthly payment  
32 provided in this subsection for claims with date of injury or  
33 manifestation of occupational disease in the twelve-month period  
34 beginning on the date of the department's determination. The  
35 department shall determine the maximum amount for the twelve-month

1 period beginning on July 1st of each year by adjusting the maximum  
2 amount for the previous twelve-month period by the rate of inflation.

3 (e) In addition to the monthly payments provided for in subsection  
4 (2)(a) through (c) of this section, a surviving spouse or child or  
5 children of such worker if there is no surviving spouse, or dependent  
6 parent or parents, if there is no surviving spouse or child or children  
7 of any such deceased worker shall be forthwith paid a sum equal to one  
8 hundred percent of the average monthly wage in the state as defined in  
9 RCW 51.08.018, any such children, or parents to share and share alike  
10 in said sum.

11 (f) Upon remarriage of a surviving spouse the monthly payments for  
12 the child or children shall continue as provided in this section, but  
13 the monthly payments to such surviving spouse shall cease at the end of  
14 the month during which remarriage occurs. However, after September 8,  
15 1975, an otherwise eligible surviving spouse of a worker who died at  
16 any time prior to or after September 8, 1975, shall have an option of:

17 (i) Receiving, once and for all, a lump sum of twenty-four times  
18 the monthly compensation rate in effect on the date of remarriage  
19 allocable to the spouse for himself or herself pursuant to subsection  
20 (2)(a)(i) of this section and subject to any modifications specified  
21 under subsection (2)(d) of this section and RCW 51.32.075(~~(+3)~~) (1)(c)  
22 or fifty percent of the then remaining annuity value of his or her  
23 pension, whichever is the lesser: PROVIDED, That if the injury  
24 occurred prior to July 28, 1991, the remarriage benefit lump sum  
25 available shall be as provided in the remarriage benefit schedules then  
26 in effect; or

27 (ii) If a surviving spouse does not choose the option specified in  
28 subsection (2)(f)(i) of this section to accept the lump sum payment,  
29 the remarriage of the surviving spouse of a worker shall not bar him or  
30 her from claiming the lump sum payment authorized in subsection  
31 (2)(f)(i) of this section during the life of the remarriage, or shall  
32 not prevent subsequent monthly payments to him or to her if the  
33 remarriage has been terminated by death or has been dissolved or  
34 annulled by valid court decree provided he or she has not previously  
35 accepted the lump sum payment.

36 (g) If the surviving spouse during the remarriage should die  
37 without having previously received the lump sum payment provided in  
38 subsection (2)(f)(i) of this section, his or her estate shall be

1 entitled to receive the sum specified under subsection (2)(f)(i) of  
2 this section or fifty percent of the then remaining annuity value of  
3 his or her pension whichever is the lesser.

4 (h) The effective date of resumption of payments under subsection  
5 (2)(f)(ii) of this section to a surviving spouse based upon termination  
6 of a remarriage by death, annulment, or dissolution shall be the date  
7 of the death or the date the judicial decree of annulment or  
8 dissolution becomes final and when application for the payments has  
9 been received.

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

15 (3) If there is a child or children and no surviving spouse of the  
16 deceased worker or the surviving spouse is not eligible for benefits  
17 under this title, a sum equal to thirty-five percent of the wages of  
18 the deceased worker shall be paid monthly for one child and a sum  
19 equivalent to fifteen percent of such wage shall be paid monthly for  
20 each additional child, the total of such sum to be divided among such  
21 children, share and share alike(~~(:—PROVIDED, That)~~), subject to the  
22 following:

23 (a) For claims with date of injury or manifestation of occupational  
24 disease before July 1, 2005, benefits under this subsection or  
25 subsection (4) of this section shall not exceed the lesser of sixty-  
26 five percent of the wages of the deceased worker at the time of his or  
27 her death or the applicable percentage of the average monthly wage in  
28 the state as defined in RCW 51.08.018, as follows:

AFTER	PERCENTAGE
June 30, 1993	105%
June 30, 1994	110%
June 30, 1995	115%
June 30, 1996	120%

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34 (b) On July 1, 2005, and on each July 1st thereafter, the  
35 department shall determine the maximum amount of the monthly payment  
36 provided in this subsection for claims with date of injury or

1 manifestation of occupational disease in the twelve-month period  
2 beginning on the date of the department's determination. The  
3 department shall determine the maximum amount for the twelve-month  
4 period beginning on July 1st of each year by adjusting the maximum  
5 amount for the previous twelve-month period by the rate of inflation.

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

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

12 (i) For claims with date of injury or manifestation of occupational  
13 disease before July 1, 2005, the monthly payment shall be equal to  
14 fifty percent of the average monthly support actually received by such  
15 dependent from the worker during the twelve months next preceding the  
16 occurrence of the injury, but the total payment to all dependents in  
17 any case shall not exceed the lesser of sixty-five percent of the wages  
18 of the deceased worker at the time of his or her death or the  
19 applicable percentage of the average monthly wage in the state as  
20 defined in RCW 51.08.018 as follows:

AFTER	PERCENTAGE
June 30, 1993	105%
June 30, 1994	110%
June 30, 1995	115%
June 30, 1996	120%

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26 (ii) On July 1, 2005, and on each July 1st thereafter, the  
27 department shall determine the maximum amount of the monthly payment  
28 provided in this subsection for claims with date of injury or  
29 manifestation of occupational disease in the twelve-month period  
30 beginning on the date of the department's determination. The  
31 department shall determine the maximum amount for the twelve-month  
32 period beginning on July 1st of each year by adjusting the maximum  
33 amount for the previous twelve-month period by the rate of inflation.

34 (b) If any dependent is under the age of eighteen years at the time  
35 of the occurrence of the injury, the payment to such dependent shall  
36 cease when such dependent reaches the age of eighteen years except such

1 payments shall continue until the dependent reaches age twenty-three  
2 while permanently enrolled at a full time course in an accredited  
3 school. The payment to any dependent shall cease if and when, under  
4 the same circumstances, the necessity creating the dependency would  
5 have ceased if the injury had not happened.

6 (6) For claims filed prior to July 1, 1986, if the injured worker  
7 dies during the period of permanent total disability, whatever the  
8 cause of death, leaving a surviving spouse, or child, or children, the  
9 surviving spouse or child or children shall receive benefits as if  
10 death resulted from the injury as provided in subsections (2) through  
11 (4) of this section. Upon remarriage or death of such surviving  
12 spouse, the payments to such child or children shall be made as  
13 provided in subsection (2) of this section when the surviving spouse of  
14 a deceased worker remarries.

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

18 **Sec. 3.** RCW 51.32.060 and 1993 c 521 s 2 are each amended to read  
19 as follows:

20 (1) When the supervisor of industrial insurance (~~shall~~)  
21 determines that permanent total disability results from the injury, the  
22 worker shall receive monthly during the period of such disability:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

36 (5) ~~((In no event shall))~~ (a)(i) For claims filed before July 1,  
37 2005, the monthly payments provided in this section may not exceed the

1 applicable percentage of the average monthly wage in the state as  
2 computed under the provisions of 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) On July 1, 2005, and on each July 1st thereafter, the  
9 department shall determine the maximum amount of the monthly payment  
10 provided in this section for claims with date of injury or  
11 manifestation of occupational disease in the twelve-month period  
12 beginning on the date of the department's determination. The  
13 department shall determine the maximum amount for the twelve-month  
14 period beginning on July 1st of each year by adjusting the maximum  
15 amount for the previous twelve-month period by the rate of inflation.

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

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

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

24 **Sec. 4.** 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,  
33 and before July 1, 2005, be paid fifty percent of the average monthly  
34 wage in the state as computed under RCW 51.08.018 per month and an  
35 amount equal to five percent of such average monthly wage per month to

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

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

25 (2) On July 1, 2005, and on each July 1st thereafter, the  
26 department shall determine the amounts of the monthly payments and the  
27 additional payments for the injured worker's spouse or children  
28 provided in this section and made in the twelve-month period beginning  
29 on the date of the department's determination. The department shall  
30 determine the amounts for the twelve-month period beginning on July 1st  
31 of each year by adjusting the amounts for the previous twelve-month  
32 period by the rate of inflation.

33 (3)(a) If the character of the injury or occupational disease is  
34 such as to render the worker so physically helpless as to require the  
35 hiring of the services of an attendant, the department shall make  
36 monthly payments to such attendant for such services as long as such  
37 requirement continues but such payments shall not obtain or be  
38 operative while the worker is receiving care under or pursuant to the

1 provisions of this title except for care granted at the discretion of  
2 the supervisor pursuant to RCW 51.36.010: PROVIDED, That such payments  
3 shall not be considered compensation nor shall they be subject to any  
4 limitation upon total compensation payments.

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

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

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

15 **Sec. 5.** RCW 51.32.075 and 1988 c 161 s 7 are each amended to read  
16 as follows:

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

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

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

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

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

18 (2) On July 1, 2005, and on each July 1st thereafter, the  
19 department shall determine the amount of the annual adjustments  
20 provided for in this section for payments made in the twelve-month  
21 period beginning on the date of the department's determination. The  
22 department shall determine the amount for the twelve-month period  
23 beginning on July 1st of each year by adjusting the amount for the  
24 previous twelve-month period by the rate of inflation.

25 **Sec. 6.** RCW 51.32.080 and 1993 c 520 s 1 are each amended to read  
26 as follows:

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

30	LOSS BY AMPUTATION	
31	Of leg above the knee joint with short	
32	thigh stump (3" or less below the	
33	tuberosity of ischium).....	\$54,000.00
34	Of leg at or above knee joint with	
35	functional stump.....	48,600.00

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

1	Of index finger at distal interphalangeal	
2	joint . . . . .	5,346.00
3	Of middle finger at metacarpophalangeal	
4	joint or with resection of metacarpal	
5	bone . . . . .	9,720.00
6	Of middle finger at proximal	
7	interphalangeal joint . . . . .	7,776.00
8	Of middle finger at distal interphalangeal	
9	joint . . . . .	4,374.00
10	Of ring finger at metacarpophalangeal	
11	joint or with resection of metacarpal	
12	bone . . . . .	4,860.00
13	Of ring finger at proximal interphalangeal	
14	joint . . . . .	3,888.00
15	Of ring finger at distal interphalangeal	
16	joint . . . . .	2,430.00
17	Of little finger at metacarpophalangeal	
18	joint or with resection of metacarpal	
19	bone . . . . .	2,430.00
20	Of little finger at proximal interphalangeal	
21	joint . . . . .	1,944.00
22	Of little finger at distal interphalangeal	
23	joint . . . . .	972.00
24	MISCELLANEOUS	
25	Loss of one eye by enucleation . . . . .	21,600.00
26	Loss of central visual acuity in one eye . . .	18,000.00
27	Complete loss of hearing in both ears . . . .	43,200.00
28	Complete loss of hearing in one ear . . . . .	7,200.00

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

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

34 (ii) Beginning on July 1, 1994, and (~~each July 1 thereafter~~)  
35 ending on June 30, 2005, the compensation amounts for the specified  
36 disabilities listed in (a) of this subsection, as adjusted under (b)(i)

1 of this subsection, shall be readjusted to reflect the percentage  
2 change in the consumer price index, calculated as follows: The index  
3 for the calendar year preceding the year in which the July calculation  
4 is made, to be known as "calendar year A," is divided by the index for  
5 the calendar year preceding calendar year A, and the resulting ratio is  
6 multiplied by the compensation amount in effect on June 30 immediately  
7 preceding the July 1st on which the respective calculation is made.  
8 For the purposes of this subsection, "index" means the same as the  
9 definition in RCW 2.12.037(1); and

10 (iii) Beginning on July 1, 2005, and each July 1st thereafter, the  
11 compensation amounts of the specified disabilities listed in (a) of  
12 this subsection, as adjusted under (b)(ii) of this subsection, shall be  
13 adjusted to account for inflation.

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

22 (3)(a) Compensation for any other permanent partial disability not  
23 involving amputation shall be in the proportion which the extent of  
24 such other disability, called unspecified disability, shall bear to the  
25 disabilities specified in subsection (1) of this section, which most  
26 closely resembles and approximates in degree of disability such other  
27 disability, and compensation for any other unspecified permanent  
28 partial disability shall be in an amount as measured and compared to  
29 total bodily impairment. To reduce litigation and establish more  
30 certainty and uniformity in the rating of unspecified permanent partial  
31 disabilities, the department shall enact rules having the force of law  
32 classifying such disabilities in the proportion which the department  
33 shall determine such disabilities reasonably bear to total bodily  
34 impairment. In enacting such rules, the department shall give  
35 consideration to, but need not necessarily adopt, any nationally  
36 recognized medical standards or guides for determining various bodily  
37 impairments.

1 (b) Until July 1, 1993, for purposes of calculating monetary  
2 benefits under (a) of this subsection, the amount payable for total  
3 bodily impairment shall be deemed to be ninety thousand dollars.  
4 Beginning on July 1, 1993, for purposes of calculating monetary  
5 benefits under (a) of this subsection, the amount payable for total  
6 bodily impairment shall be adjusted as follows:

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

10 (ii) Beginning on July 1, 1994, and (~~each July 1 thereafter~~)  
11 ending on June 30, 2005, the amount payable for total bodily impairment  
12 prescribed in (b)(i) of this subsection shall be adjusted as provided  
13 in subsection (1)(b)(ii) of this section; and

14 (iii) Beginning on July 1, 2005, and each July 1st thereafter, the  
15 amount payable for total bodily impairment prescribed in (b)(i) of this  
16 subsection shall be adjusted as provided in subsection (1)(b)(iii) of  
17 this section.

18 (c) Until July 1, 1993, the total compensation for all unspecified  
19 permanent partial disabilities resulting from the same injury shall not  
20 exceed the sum of ninety thousand dollars. Beginning on July 1, 1993,  
21 total compensation for all unspecified permanent partial disabilities  
22 resulting from the same injury shall not exceed a sum calculated as  
23 follows:

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

26 (ii) Beginning on July 1, 1994, and (~~each July 1 thereafter~~)  
27 ending on June 30, 2005, the sum prescribed in (b)(i) of this  
28 subsection shall be adjusted as provided in subsection (1)(b)(ii) of  
29 this section; and

30 (iii) Beginning on July 1, 2005, and each July 1st thereafter, the  
31 sum prescribed in (b)(i) of this subsection shall be adjusted as  
32 provided in subsection (1)(b)(iii) of this section.

33 (4) If permanent partial disability compensation is followed by  
34 permanent total disability compensation, any portion of the permanent  
35 partial disability compensation which exceeds the amount that would  
36 have been paid the injured worker if permanent total disability  
37 compensation had been paid in the first instance, shall be deducted

1 from the pension reserve of such injured worker and his or her monthly  
2 compensation payments shall be reduced accordingly.

3 (5) Should a worker receive an injury to a member or part of his or  
4 her body already, from whatever cause, permanently partially disabled,  
5 resulting in the amputation thereof or in an aggravation or increase in  
6 such permanent partial disability but not resulting in the permanent  
7 total disability of such worker, his or her compensation for such  
8 partial disability shall be adjudged with regard to the previous  
9 disability of the injured member or part and the degree or extent of  
10 the aggravation or increase of disability thereof.

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

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

35 **Sec. 7.** RCW 51.32.090 and 2004 c 65 s 9 are each amended to read  
36 as follows:

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

4 (2) Any compensation payable under this section for children not in  
5 the custody of the injured worker as of the date of injury shall be  
6 payable only to such person as actually is providing the support for  
7 such child or children pursuant to the order of a court of record  
8 providing for support of such child or children.

9 (3)(a) As soon as recovery is so complete that the present earning  
10 power of the worker, at any kind of work, is restored to that existing  
11 at the time of the occurrence of the injury, the payments shall cease.  
12 If and so long as the present earning power is only partially restored,  
13 the payments shall:

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

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

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

29 (4)(a) Whenever the employer of injury requests that a worker who  
30 is entitled to temporary total disability under this chapter be  
31 certified by a physician or licensed advanced registered nurse  
32 practitioner as able to perform available work other than his or her  
33 usual work, the employer shall furnish to the physician or licensed  
34 advanced registered nurse practitioner, with a copy to the worker, a  
35 statement describing the work available with the employer of injury in  
36 terms that will enable the physician or licensed advanced registered  
37 nurse practitioner to relate the physical activities of the job to the  
38 worker's disability. The physician or licensed advanced registered

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

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 with date of injury or  
8 manifestation of occupational disease before July 1, 2005, the monthly  
9 payments provided in this section may not exceed the applicable  
10 percentage of the average monthly wage in the state as computed under  
11 the provisions of RCW 51.08.018 as follows:

AFTER	PERCENTAGE
June 30, 1993	105%
June 30, 1994	110%
June 30, 1995	115%
June 30, 1996	120%

12  
13  
14  
15  
16  
17 (b) On July 1, 2005, and on each July 1st thereafter, the  
18 department shall determine the maximum amount of the monthly payments  
19 provided in this section for claims with date of injury or  
20 manifestation of occupational disease in the twelve-month period  
21 beginning on the date of the department's determination. The  
22 department shall determine the maximum amount for the twelve-month  
23 period beginning on July 1st of each year by adjusting the maximum  
24 amount for the previous twelve-month period by the rate of 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. 8.** RCW 51.32.090 and 1993 c 521 s 3, 1993 c 299 s 1, and 1993  
29 c 271 s 1 are each reenacted and amended to read as follows:

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

33 (2) Any compensation payable under this section for children not in  
34 the custody of the injured worker as of the date of injury shall be

1 payable only to such person as actually is providing the support for  
2 such child or children pursuant to the order of a court of record  
3 providing for support of such child or children.

4 (3)(a) As soon as recovery is so complete that the present earning  
5 power of the worker, at any kind of work, is restored to that existing  
6 at the time of the occurrence of the injury, the payments shall cease.  
7 If and so long as the present earning power is only partially restored,  
8 the payments shall:

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

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

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

24 (4)(a) Whenever the employer of injury requests that a worker who  
25 is entitled to temporary total disability under this chapter be  
26 certified by a physician as able to perform available work other than  
27 his or her usual work, the employer shall furnish to the physician,  
28 with a copy to the worker, a statement describing the work available  
29 with the employer of injury in terms that will enable the physician to  
30 relate the physical activities of the job to the worker's disability.  
31 The physician shall then determine whether the worker is physically  
32 able to perform the work described. The worker's temporary total  
33 disability payments shall continue until the worker is released by his  
34 or her physician for the work, and begins the work with the employer of  
35 injury. If the work thereafter comes to an end before the worker's  
36 recovery is sufficient in the judgment of his or her physician to  
37 permit him or her to return to his or her usual job, or to perform  
38 other available work offered by the employer of injury, the worker's

1 temporary total disability payments shall be resumed. Should the  
2 available work described, once undertaken by the worker, impede his or  
3 her recovery to the extent that in the judgment of his or her physician  
4 he or she should not continue to work, the worker's temporary total  
5 disability payments shall be resumed when the worker ceases such work.

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

11 (c) If the worker returns to work under this subsection (4), any  
12 employee health and welfare benefits that the worker was receiving at  
13 the time of injury shall continue or be resumed at the level provided  
14 at the time of injury. Such benefits shall not be continued or resumed  
15 if to do so is inconsistent with the terms of the benefit program, or  
16 with the terms of the collective bargaining agreement currently in  
17 force.

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

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

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

34 (7) (~~In no event shall~~) (a) For claims with date of injury or  
35 manifestation of occupational disease before July 1, 2005, the monthly  
36 payments provided in this section may not exceed the applicable  
37 percentage of the average monthly wage in the state as computed under  
38 the provisions of RCW 51.08.018 as follows:

	AFTER	PERCENTAGE
1		
2	June 30, 1993	105%
3	June 30, 1994	110%
4	June 30, 1995	115%
5	June 30, 1996	120%

6       (b) On July 1, 2005, and on each July 1st thereafter, the  
7 department shall determine the maximum amount of the monthly payments  
8 provided in this section for claims with date of injury or  
9 manifestation of occupational disease in the twelve-month period  
10 beginning on the date of the department's determination. The  
11 department shall determine the maximum amount for the twelve-month  
12 period beginning on July 1st of each year by adjusting the maximum  
13 amount for the previous twelve-month period by the rate of inflation.

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

17       **Sec. 9.** RCW 51.36.020 and 1999 c 395 s 1 are each amended to read  
18 as follows:

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

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

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

33       (4) Every worker whose hearing aid or eyeglasses or lenses are  
34 damaged, destroyed, or lost as a result of an industrial accident shall

1 have the same restored or replaced. The department or self-insurer  
2 shall be liable only for the cost of restoring damaged hearing aids or  
3 eyeglasses to their condition at the time of the accident.

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

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

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

20 (a) For requests for residence modifications received before July  
21 1, 2005, the amount may not ((to)) exceed the state's average annual  
22 wage for one year as determined under RCW 50.04.355((, as now existing  
23 or hereafter amended,)) toward the cost of such modifications or  
24 construction. ((Such))

25 (b) On July 1, 2005, and on each July 1st thereafter, the  
26 department shall determine the maximum amount provided in this section  
27 for requests for residence modifications received in the twelve-month  
28 period beginning on the date of the department's determination. The  
29 department shall determine the maximum amount for the twelve-month  
30 period beginning on July 1st of each year by adjusting the maximum  
31 amount for the previous twelve-month period by the rate of inflation.  
32 Payment shall ((only)) be made under this subsection only for the  
33 construction or modification of a residence in which the injured worker  
34 resides. Only one residence of any worker may be modified or  
35 constructed under this subsection, although the supervisor may order  
36 more than one payment for any one home, up to the maximum amount  
37 permitted by this section.

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

6 (i) For requests for motor vehicle modifications received before  
7 July 1, 2005, up to fifty percent of the state's average annual wage  
8 for one year, as determined under RCW 50.04.355(~~(, to be paid by the~~  
9 ~~department or self-insurer))~~) toward the costs thereof.

10 (ii) On July 1, 2005, and on each July 1st thereafter, the  
11 department shall determine the maximum amount provided in this section  
12 for requests for motor vehicle modifications received in the twelve-  
13 month period beginning on the date of the department's determination.  
14 The department shall determine the maximum amount for the twelve-month  
15 period beginning on July 1st of each year by adjusting the maximum  
16 amount for the previous twelve-month period by the rate of inflation.

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

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

23 NEW SECTION. Sec. 10. Section 7 of this act expires June 30,  
24 2007.

25 NEW SECTION. Sec. 11. This act is necessary for the immediate  
26 preservation of the public peace, health, or safety, or support of the  
27 state government and its existing public institutions, and takes effect  
28 July 1, 2005, except for section 8 of this act which takes effect June  
29 30, 2007.

--- END ---