

## CHAPTER 73

[House Bill No. 436]

UNEMPLOYMENT COMPENSATION--  
FEDERAL LAW CONFORMANCE

AN ACT Relating to unemployment compensation; amending section 4, chapter 35, Laws of 1945 as last amended by section 2, chapter 2, Laws of 1970 ex. sess. and RCW 50.04.030; amending section 19, chapter 35, Laws of 1945 as amended by section 6, chapter 265, Laws of 1951 and RCW 50.04.180; amending section 6, chapter 2, Laws of 1970 ex. sess. and RCW 50.04.355; amending section 60, chapter 35, Laws of 1945 as last amended by section 27, chapter 199, Laws of 1969 ex. sess. and RCW 50.16.010; amending section 62, chapter 35, Laws of 1945 as last amended by section 1, chapter 201, Laws of 1969 ex. sess. and RCW 50.16.030; amending section 68, chapter 35, Laws of 1945 as last amended by section 4, chapter 2, Laws of 1970 ex. sess. and RCW 50.20.010; amending section 2, chapter 1, Laws of 1971 and RCW 50.22.010; amending section 120, chapter 35, Laws of 1945 and RCW 50.32.040; amending section 21, chapter 3, Laws of 1971 and RCW 50.44.040; amending section 22, chapter 3, Laws of 1971 and RCW 50.44.050; amending section 24, chapter 3, Laws of 1971 and RCW 50.44.070; repealing section 8, chapter 1, Laws of 1971 and RCW 50.22.070; repealing section 9, chapter 1, Laws of 1971 and RCW 50.22.080; establishing effective dates; and declaring an emergency.

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

Section 1. Section 4, chapter 35, Laws of 1945 as last amended by section 2, chapter 2, Laws of 1970 ex. sess. and RCW 50.04.030 are each amended to read as follows:

"Benefit year" with respect to each individual, means the fifty-two consecutive week period beginning with the first day of the calendar week with respect to which the individual files an application for an initial determination and thereafter the fifty-two consecutive week period beginning with the first day of the calendar week with respect to which the individual next files an application for an initial determination after the ~~((termination))~~ expiration of his last preceding benefit year: PROVIDED, HOWEVER, That ~~((an individual's benefit year is not established unless the determination shows the applicant to have met the wage and employment conditions fixed by law as the minimum for the receipt of benefits: PROVIDED; FURTHER, That))~~ the foregoing limitation shall not be deemed to preclude the establishment of a new benefit year under the laws of another state pursuant to any agreement providing for the interstate

combining of employment and wages and the interstate payment of benefits.

An individual's benefit year shall be extended to be fifty-three weeks when at the expiration of fifty-two weeks the establishment of a new benefit year would result in the use of a quarter of wages in the new base year that had been included in the individual's prior base year.

No benefit year will be established unless it is determined that the individual earned wages in "employment" during his base year of not less than the "qualifying annual wage" computed for the calendar year preceding the last June 30th immediately preceding his benefit year and either had "employment" in not less than sixteen weeks of his base year in each of which he earned the "qualifying weekly wage" computed for the second calendar year preceding the calendar year in which each such week ends or had "employment" in not less than six hundred hours of his base year: PROVIDED, HOWEVER, That a benefit year cannot be established if the base year wages include wages earned prior to the establishment of a prior benefit year unless the individual earned wages in "employment" during the last two quarters of the new base year of not less than six times the weekly benefit amount computed for his new benefit year.

As the change contained in the third paragraph of this section relating to the weeks worked qualification would invalidate basic data upon which benefit qualification determinations must be made the satisfaction of the weeks worked requirement will require as to base year weeks ending in the second two quarters of 1972 that the individual will have earned not less than the "qualifying weekly wage" computed for the calendar year 1971. Nothing in this paragraph or in the preceding paragraph shall be deemed to justify or support the redetermination of any monetary determination denying the establishment of a benefit year made prior to the effective date of this 1973 amendatory act.

If the wages of an individual are not based upon a fixed duration of time or if the individual's wages are paid at irregular intervals or in such manner as not to extend regularly over the period of employment, the wages for any week shall be determined in such manner as the commissioner may by regulation prescribe. Such regulation shall, so far as possible, secure results reasonably similar to those which would prevail if the individual were paid his wages at regular intervals.

Sec. 2. Section 19, chapter 35, Laws of 1945 as amended by section 6, chapter 265, Laws of 1951 and RCW 50.04.180 are each amended to read as follows:

The term "employment" shall not include service performed by an individual in the employ of his or her spouse, ~~((or by a child~~

under the age of twenty-one in the employ of his father or mother)) nor shall it include service performed by an unmarried individual under the age of eighteen years in the employ of his or her parent or step-parent.

Sec. 3. Section 6, chapter 2, Laws of 1970 ex. sess. and RCW 50.04.355 are each amended to read as follows:

On or before the fifteenth day of June of each year an "average annual wage" ~~((and))~~, an "average weekly wage", a "qualifying annual wage", and a "qualifying weekly wage" shall be computed ~~((for the preceding calendar year))~~ from information for the preceding calendar year reported by all employers as defined in RCW 50.04.080 on employers' contribution reports (including corrections thereof) filed within three months after the close of that year. The "average annual wage" is the quotient derived by dividing total remuneration reported by all employers by the average number of workers reported for all months if the result is not a multiple of one dollar, and rounding the result to the next lower multiple of one dollar. The "average annual wage" thus obtained shall be divided by fifty-two and ~~((rounded))~~ if the result is not a multiple of one dollar, rounding the result to the next lower multiple of one dollar to determine the "average weekly wage". The "qualifying annual wage" shall be computed by multiplying the "average annual wage" by fifteen percent and if the result is not a multiple of fifty dollars, rounding the result to the next lower multiple of fifty dollars. The "qualifying weekly wage" shall be computed by multiplying the "average weekly wage" by fifteen percent and if the result is not a multiple of one dollar, rounding the result to the next lower multiple of one dollar.

Sec. 4. Section 60, chapter 35, Laws of 1945 as last amended by section 27, chapter 199, Laws of 1969 ex. sess. and RCW 50.16.010 are each amended to read as follows:

There shall be maintained as special funds, separate and apart from all public moneys or funds of this state an unemployment compensation fund and an administrative contingency fund, which shall be administered by the commissioner exclusively for the purposes of this title, and to which RCW 43.01.050 shall not be applicable. The unemployment compensation fund shall consist of

- (1) all contributions and payments in lieu of contributions collected pursuant to the provisions of this title,
- (2) interest earned upon any moneys in the fund,
- (3) any property or securities acquired through the use of moneys belonging to the fund,
- (4) all earnings of such property or securities,
- (5) any moneys received from the federal unemployment account in the unemployment trust fund in accordance with Title XII of the

social security act, as amended,

(6) all money recovered on official bonds for losses sustained by the fund,

(7) all money credited to this state's account in the unemployment trust fund pursuant to section 903 of the social security act, as amended, ((and))

(8) all money received from the federal government as reimbursement pursuant to section 204 of the federal-state extended compensation act of 1970 (84 Stat. 708-712; 26 U.S.C. Sec. 3304), and  
(9) all moneys received for the fund from any other source.

All moneys in the unemployment compensation fund shall be commingled and undivided.

The administrative contingency fund shall consist of all interest on delinquent contributions collected pursuant to this title after June 20, 1953, all fines and penalties collected pursuant to the provisions of this title, and all sums recovered on official bonds for losses sustained by the fund: PROVIDED, That all fees, fines, forfeitures and penalties collected or assessed by a justice court because of the violation of a state law shall be remitted as provided in chapter 3.62 RCW as now exists or is later amended. The amount in this fund in excess of one hundred thousand dollars on the close of business of the last day of each calendar quarter shall be immediately transferred to this state's account in the unemployment trust fund. Moneys available in the administrative contingency fund shall be expended upon the direction of the commissioner, with the approval of the governor, whenever it appears to him that such expenditure is necessary for:

(a) The proper administration of this title and no federal funds are available for the specific purpose to which such expenditure is to be made, provided, the moneys are not substituted for appropriations from federal funds which, in the absence of such moneys, would be made available.

(b) The proper administration of this title for which purpose appropriations from federal funds have been requested but not yet received, provided, the administrative contingency fund will be reimbursed upon receipt of the requested federal appropriation.

Sec. 5. Section 62, chapter 35, Laws of 1945 as last amended by section 1, chapter 201, Laws of 1969 ex. sess. and RCW 50.16.030 are each amended to read as follows:

(1) Moneys shall be requisitioned from this state's account in the unemployment trust fund solely for the payment of benefits and repayment of loans from the federal government to guarantee solvency of the unemployment compensation fund in accordance with regulations prescribed by the commissioner, except that money credited to this state's account pursuant to section 903 of the social security act,

V as amended, shall be used exclusively as provided in RCW 50.16.030(5). The commissioner shall from time to time requisition from the unemployment trust fund such amounts, not exceeding the amounts standing to its account therein, as he deems necessary for the payment of benefits for a reasonable future period. Upon receipt thereof the treasurer shall deposit such moneys in the benefit account and shall issue his warrants for the payment of benefits solely from such benefits account.

(2) Expenditures of such moneys in the benefit account and refunds from the clearing account shall not be subject to any provisions of law requiring specific appropriations or other formal release by state officers of money in their custody, and RCW 43.01.050, as amended, shall not apply. All warrants issued by the treasurer for the payment of benefits and refunds shall bear the signature of the treasurer and the countersignature of the commissioner, or his duly authorized agent for that purpose.

(3) Any balance of moneys requisitioned from the unemployment trust fund which remains unclaimed or unpaid in the benefit account after the expiration of the period for which sums were requisitioned shall either be deducted from estimates for, and may be utilized for the payment of, benefits during succeeding periods, or, in the discretion of the commissioner, shall be redeposited with the secretary of the treasury of the United States of America to the credit of this state's account in the unemployment trust fund.

(4) Money credited to the account of this state in the unemployment trust fund by the secretary of the treasury of the United States of America pursuant to section 903 of the social security act, as amended, may be requisitioned and used for the payment of expenses incurred for the administration of this title pursuant to a specific appropriation by the legislature, provided that the expenses are incurred and the money is requisitioned after the enactment of an appropriation law which:

(a) specifies the purposes for which such money is appropriated and the amounts appropriated therefor,

(b) limits the period within which such money may be obligated to a period ending not more than two years after the date of the enactment of the appropriation law, and

(c) limits the amount which may be obligated during a twelve-month period beginning on July 1st and ending on the next June 30th to an amount which does not exceed the amount by which (i) the aggregate of the amounts credited to the account of this state pursuant to section 903 of the social security act, as amended, during the same twelve-month period and the ~~((fourteen))~~ twenty-four preceding twelve-month periods, exceeds (ii) the aggregate of the amounts obligated pursuant to RCW 50.16.030 (4), (5) and (6) and

charged against the amounts credited to the account of this state during any of such (~~fifteen~~) twenty-five twelve-month periods. For the purposes of RCW 50.16.030 (4), (5) and (6), amounts obligated during any such twelve-month period shall be charged against equivalent amounts which were first credited and which are not already so charged; except that no amount obligated for administration during any such twelve-month period may be charged against any amount credited during such a twelve-month period earlier than the (~~fourteenth~~) twenty-fourth preceding such period: PROVIDED, That any amount credited to this state's account under section 903 of the social security act, as amended, which has been appropriated for expenses of administration, whether or not withdrawn from the trust fund shall be excluded from the unemployment compensation fund balance for the purpose of experience rating credit determination.

(5) Money credited to the account of this state pursuant to section 903 of the social security act, as amended, may not be withdrawn or used except for the payment of benefits and for the payment of expenses of administration and of public employment offices pursuant to RCW 50.16.030(4), (5) and (6).

(6) Money requisitioned as provided in RCW 50.16.030 (4), (5) and (6) for the payment of expenses of administration shall be deposited in the unemployment compensation fund, but until expended, shall remain a part of the unemployment compensation fund. The commissioner shall maintain a separate record of the deposit, obligation, expenditure and return of funds so deposited. Any money so deposited which either will not be obligated within the period specified by the appropriation law or remains unobligated at the end of the period, and any money which has been obligated within the period but will not be expended, shall be returned promptly to the account of this state in the unemployment trust fund.

Sec. 6. Section 68, chapter 35, Laws of 1945 as last amended by section 4, chapter 2, Laws of 1970 ex. sess. and RCW 50.20.010 are each amended to read as follows:

An unemployed individual shall be eligible to receive waiting period credits or benefits with respect to any week in his eligibility period only if the commissioner finds that (1) he has registered for work at, and thereafter has continued to report at, an employment office in accordance with such regulation as the commissioner may prescribe, except that the commissioner may by regulation waive or alter either or both of the requirements of this subdivision as to individuals attached to regular jobs and as to such other types of cases or situations with respect to which he finds that the compliance with such requirements would be oppressive, or would be inconsistent with the purposes of this title;

(2) he has filed an application for an initial determination and made a claim for waiting period credit or for benefits in accordance with the provisions of this title;

(3) he is able to work, and is available for work in any trade, occupation, profession, or business for which he is reasonably fitted. To be available for work an individual must be ready, able, and willing, immediately to accept any suitable work which may be offered to him and must be actively seeking work pursuant to customary trade practices and through other methods when so directed by the commissioner or his agents; and

(4) he has been unemployed for a waiting period of one week(;

(5) he has within his base year

(a) had both employment in not less than sixteen weeks, in each of which he earned not less than fifteen percent of the "average weekly wage" rounded to the next lower multiple of one dollar, and earned total wages of not less than fifteen percent of the "average annual wage" rounded to the next lower multiple of fifty dollars; or, in the alternative,

(b) had not less than six hundred hours of employment, and earned total wages of not less than fifteen percent of the "average annual wage" rounded to the next lower multiple of fifty dollars: PROVIDED, HOWEVER, That if the base year wages of the individual's current benefit year, for any benefit year beginning after July 3, 1974, include wages earned prior to the establishment of a prior benefit year, the individual shall not be eligible for benefits, unless, in addition to the other requirements of this section, he has earned wages in the last six months of his base year equal to at least six times the weekly benefit amount to which he would otherwise have been entitled: PROVIDED FURTHER, That for benefit years beginning prior to July 4, 1974, any unemployed individual who earned wages of not less than fifteen percent of the "average annual wage" for calendar year 1969 in his base year shall be deemed to have met the eligibility requirements of this subsection.

If the wages of an individual are not based upon a fixed duration of time or if the individual's wages are paid at irregular intervals or in such manner as not to extend regularly over the period of employment, the wages for any week shall be determined in such manner as the commissioner may by regulation prescribe. Such regulation shall, so far as possible, secure results reasonably similar to those which would prevail if the individual were paid his wages at regular intervals).

An individual's eligibility period for regular benefits shall be coincident to his established benefit year. An individual's eligibility period for additional or extended benefits shall be the periods prescribed elsewhere in this title for such benefits.

Sec. 7. Section 2, chapter 1, Laws of 1971 and RCW 50.22.010 are each amended to read as follows:

As used in this chapter, unless the context clearly indicates otherwise:

(1) "Extended benefit period" means a period which:

(a) Begins with the third week after whichever of the following weeks occurs first:

(i) a week for which there is a national "on" indicator, or

(ii) a week for which there is a state "on" indicator: PROVIDED, That, as there was a state "on" indicator for the week which was three weeks prior to October 11, 1970, an extended benefit period began on that date.

(b) Ends with the third week after the first week for which there is both a national "off" indicator and a state "off" indicator: PROVIDED, That no extended benefit period shall last for a period of less than thirteen consecutive weeks, and further that no extended benefit period may begin by reason of a state "on" indicator before the fourteenth week after the close of a prior extended benefit period which was in effect with respect to this state: AND PROVIDED FURTHER, That prior to January 1, 1972, an extended benefit period may become effective and be terminated in this state solely by reason of a state "on" and a state "off" indicator, respectively.

(2) There is a "national 'on' indicator" for a week if the United States secretary of labor determines that for each of the three most recent calendar months ending before such week, the rate of insured unemployment (seasonally adjusted) for all states equaled or exceeded four and five-tenths percent.

(3) There is a "national 'off' indicator" for a week if the United States secretary of labor determines that for each of the three most recent calendar months ending before such week, the rate of insured unemployment (seasonally adjusted) for all states was less than four and five-tenths percent.

(4) There is a "state 'on' indicator" for this state for a week if the commissioner determines, in accordance with the regulations of the United States secretary of labor, that for the period consisting of such week and the immediately preceding twelve weeks, the rate of insured unemployment (not seasonally adjusted) as determined under the provisions of subsection (6) of this section:

(a) equaled or exceeded one hundred twenty percent of the average of such rates for the corresponding thirteen-week period ending in each of the preceding two calendar years, and

(b) equaled or exceeded four percent.

(5) There is a "state 'off' indicator" for this state for a week if the commissioner determines, in accordance with the regulations of the United States secretary of labor, that for the



period consisting of such week and the immediately preceding twelve weeks, the rate of insured unemployment (not seasonally adjusted) as determined under the provisions of subsection (6) of this section was either:

(a) Less than one hundred twenty percent of the average of such rates for the corresponding thirteen-week period ending in each of the preceding two calendar years; or

(b) Less than four percent.

(6) "Rate of insured unemployment", for purposes of subsections (4) and (5) of this section, means the percentage derived by dividing the average weekly number of individuals filing claims in this state for weeks of unemployment with respect to the most recent thirteen-consecutive-week period, as determined by the commissioner on the basis of his reports to the United States secretary of labor; by the average monthly employment covered under this title for the first four of the most recent six completed calendar quarters ending before the end of such thirteen-week period.

(7) "Regular benefits" means benefits payable to an individual under this title or, under any state law (including benefits payable to federal civilian employees and to ex-servicemen pursuant to 5 U.S.C. chapter 85) other than extended benefits or additional benefits.

(8) "Extended benefits" means benefits (including benefits payable to federal civilian employees and to ex-servicemen pursuant to 5 U.S.C. chapter 85) other than emergency benefits payable to an individual under the provisions of this chapter for weeks of unemployment in his eligibility period.

(9) "Additional benefits" are benefits other than regular benefits or extended benefits. ((The term includes benefits paid or payable pursuant to RCW 50:20-427 for weeks ending prior to October 14, 1970 and emergency benefits as provided for in this chapter.

{40} "Emergency benefits" are additional benefits payable only during the emergency benefit period. The entitlement and eligibility criteria for such benefits are contained in RCW 50:22-080.

{44} "Emergency benefit period" is the only period during which emergency benefits are payable. It is coincident to that extended benefit period which began on October 14, 1970, but in no event shall such emergency benefit period extend beyond October 27, 1971.

{42}) {10} "Eligibility period" of an individual means the period consisting of the weeks in his benefit year which begin in an extended benefit period that is in effect in this state and, if his benefit year ends within such extended benefit period, any weeks thereafter which begin in such period.

((43}) {11} "Exhaustee" means an individual who, with

respect to any week of unemployment in his eligibility period:

(a) Has received, prior to such week, all of the regular benefits that were ((available)) payable to him under this title or any other state law (including dependents' allowances and regular benefits payable to federal civilian employees and ex-servicemen under 5 U.S.C. chapter 85) in his current benefit year that includes such week ((: PROVIDED, That for the purposes of this subparagraph, an individual shall be deemed to have received all of the regular benefits that were available to him although, as a result of a pending appeal with respect to wages and/or employment that were not considered in the original monetary determination in his benefit year, he may subsequently be determined to be entitled to more regular benefits)); or

(b) ((His benefit year having expired prior to such week, has no, or insufficient, wages and/or employment on the basis of which he could establish a new benefit year that would include such week; and

(c) Has no rights to allowances or unemployment benefits, as the case may be, under the railroad unemployment insurance act, the trade expansion act of 1962, or the automotive products trade act of 1965 and such other federal laws as are specified in regulations issued by the United States secretary of labor; and

(d) Has not received and is not seeking unemployment benefits under the employment security law of the Virgin Islands or of Canada, but if he is seeking such benefits and the appropriate agency finally determines that he is not entitled to benefits under such law, he is an exhaustee:))

Has received, prior to such week, all of the regular benefits that were available to him under this title or any other state law (including dependents' allowances and regular benefits available to federal civilian employees and ex-servicemen under 5 U.S.C. chapter 85) in his current benefit year that includes such week, after the cancellation of some or all of his wage credits or the total or partial reduction of his rights to regular benefits: PROVIDED, That, for the purposes of (a) and (b), an individual shall be deemed to have received in his current benefit year all of the regular benefits that were payable to him, or available to him, as the case may be, even though (i) as a result of a pending appeal with respect to wages or employment, or both, that were not included in the original monetary determination with respect to his current benefit year, he may subsequently be determined to be entitled to more regular benefits; or (ii) by reason of the seasonal provisions of another state law, he is not entitled to regular benefits with respect to such week of unemployment (although he may be entitled to regular benefits with respect to future weeks of unemployment in the next season, as the case may be, in his current benefit year), and he is

otherwise an exhaustee within the meaning of this section with respect to his right to regular benefits under such state law seasonal provisions during the season or off season in which that week of unemployment occurs; or (iii) having established a benefit year, no regular benefits are payable to him during such year because his wage credits were canceled or his right to regular benefits was totally reduced as the result of the application of a disqualification; or

(c) His benefit year having ended prior to such week, he has insufficient wages or employment, or both, on the basis of which he could establish in any state a new benefit year that would include such week, or having established a new benefit year that includes such week, he is precluded from receiving regular benefits by reason of the provision in RCW 50.04.030 which meets the requirement of section 3304(a)(7) of the Federal Unemployment Tax Act, or the similar provision in any other state law; and

(d) (i) Has no right for such week to unemployment benefits or allowances, as the case may be, under the Railroad Unemployment Insurance Act, the Trade Expansion Act of 1962, and such other federal laws as are specified in regulations issued by the United States secretary of labor; and

(ii) has not received and is not seeking for such week unemployment benefits under the unemployment compensation law of the Virgin Islands or Canada, unless the appropriate agency finally determines that he is not entitled to unemployment benefits under such law for such week.

((14)) (12) "State law" means the unemployment insurance law of any state, approved by the United States secretary of labor under section 3304 of the internal revenue code of 1954'.

Sec. 8. Section 120, chapter 35, Laws of 1945 and RCW 50.32.040 are each amended to read as follows:

In any proceeding before an appeal tribunal involving a dispute of an individual's initial determination, all matters covered by such initial determination shall be deemed to be in issue irrespective of the particular ground or grounds set forth in the notice of appeal.

In any proceeding before an appeal tribunal involving a dispute of an individual's claim for waiting period credit or claim for benefits, all matters and provisions of this title relating to the individual's right to receive such credit or benefits for the period in question shall be deemed to be in issue irrespective of the particular ground or grounds set forth in the notice of appeal.

In any proceeding before an appeal tribunal involving an individual's right to benefits, all parties shall be afforded an opportunity for hearing after not less than seven days' notice. This

provision supersedes the twenty-day notice provision of RCW 34.04.090 as to such cases.

In any proceeding involving an appeal relating to benefit determinations or benefit claims, the appeal tribunal, after affording the parties reasonable opportunity for fair hearing, shall render its decision affirming, modifying, or setting aside the determination or decisions of the unemployment compensation division. The parties shall be duly notified of such appeal tribunal's decision together with its reasons therefor, which shall be deemed to be the final decision on the initial determination or the claim for waiting period credit or the claim for benefits unless, within ten days after the date of notification or mailing, whichever is the earlier, of such decision, further appeal is perfected pursuant to the provisions of this title relating to review by the commissioner.

Sec. 9. Section 21, chapter 3, Laws of 1971 and RCW 50.44.040 are each amended to read as follows:

The term "employment" as used in RCW 50.44.010, 50.44.020 and 50.44.030 shall not include service performed:

(1) In the employ of (a) a church or convention or association of churches, or (b) an organization which is operated primarily for religious purposes and which is operated, supervised, controlled, or principally supported by a church or convention or association of churches; or

(2) By a duly ordained, commissioned, or licensed minister of a church in the exercise of his ministry or by a member of a religious order in the exercise of duties required by such order; or

(3) In the employ of a nongovernmental educational institution, approved or accredited by the state board of education, which is not an "institution of higher education"; or

(4) In a facility conducted for the purpose of carrying out a program of (a) rehabilitation for individuals whose earning capacity is impaired by age or physical or mental deficiency or injury, or (b) providing remunerative work for individuals who because of their impaired physical or mental capacity cannot be readily absorbed in the competitive labor market, by an individual receiving such rehabilitation or remunerative work; or

(5) As part of an unemployment work-relief or work-training program assisted or financed in whole or in part by a federal agency or an agency of a state or political subdivision thereof, by an individual receiving such work-relief or work-training; ~~((or an agency of a state or political subdivision thereof, by an individual receiving such work-relief or work-training;))~~ or

(6) For a hospital in a state prison or other state correctional institution by an inmate of the prison or correctional institution; or

(7) In the employ of a hospital, if such service is performed by a patient of such hospital; or

(8) In the employ of a school, college, or university, if such service is performed (a) by a student who is enrolled and is regularly attending classes at such school, college, or university, or (b) by the spouse of such a student, if such spouse is advised, at the time such spouse commences to perform such service, that (i) the employment of such spouse to perform such service is provided under a program to provide financial assistance to such student by such school, college, or university, and (ii) such employment will not be covered by any program of unemployment insurance; or

(9) By an individual under the age of twenty-two who is enrolled at a nonprofit or public educational institution which normally maintains a regular faculty and curriculum and normally has a regularly organized body of students in attendance at the place where its educational activities are carried on as a student in a full time program, taken for credit at such institution, which combines academic instruction with work experience, if such service is an integral part of such program, and such institution has so certified to the employee, except that this subsection shall not apply to service performed in a program established for or on behalf of an employer or group of employers.

(10) In the employ of the state or one of its instrumentalities or a political subdivision or one of its instrumentalities by an individual who is (a) occupying an elective office, or (b) who is compensated solely on a fee or per diem basis.

Sec. 10. Section 22, chapter 3, Laws of 1971 and RCW 50.44.050 are each amended to read as follows:

Benefits based on services in employment covered by or pursuant to this chapter shall be payable on the same terms and subject to the same conditions as compensation payable on the basis of other service subject to this title(~~;~~ ~~except~~): PROVIDED, HOWEVER, That benefits based on service in an instructional, research or principal administrative capacity in an ((educational)) institution of higher education shall not be paid to an individual for any week of unemployment which begins during the period between two successive academic years, or during a similar period between two regular terms, whether or not successive, or during a period of paid sabbatical leave provided for in the individual's contract, if the individual has a contract or contracts to perform services in any such capacity for ((any educational)) an institution or institutions of higher education for both such academic years or both such terms: PROVIDED, FURTHER, That benefits based on service in an instructional, research, or principal administrative capacity in an educational institution other than an institution of higher education

shall not be paid to an individual for any week of unemployment which begins during the period between two successive academic years, or during a similar period between two regular terms, whether or not successive, or during a period of paid sabbatical leave provided for in the individual's contract, if the individual has a contract or contracts to perform services in any such capacity in an educational institution or institutions other than an institution of higher education for both such academic years or both such terms; PROVIDED, ((HOWEVER)) FURTHER, That any employee of a common school district who is conclusively presumed to have been reemployed pursuant to RCW 28A.67.070 shall be deemed to have a contract for the ensuing term.

Sec. 11. Section 24, chapter 3, Laws of 1971 and RCW 50.44.070 are each amended to read as follows:

In the discretion of the commissioner, any nonprofit organization that elects to become liable for payments in lieu of contributions shall be required within thirty days after the effective date of its election, to execute and file with the commissioner a surety bond approved by the commissioner or it may elect instead to deposit with the commissioner money or securities. The amount of such bond or deposit shall be determined in accordance with the provisions of this section.

(1) The amount of the bond or deposit required by this subsection shall be ((equal to two and four-tenths percent of the organization's total wages paid for employment as defined in RCW 50.44.040 for the four calendar quarters immediately preceding the effective date of the election; the renewal date in the case of a bond; or the biennial anniversary of the effective date of election in the case of a deposit of money or securities; whichever date shall be most recent and applicable; if the nonprofit organization did not pay wages in each of such four calendar quarters; the amount of the bond or deposit shall be as determined by the commissioner)) an amount deemed by the commissioner to be sufficient to cover any reimbursement payments which may be required from the employer attributable to employment during any year for which the election is in effect but in no event shall such amount be in excess of the amount which said employer would pay for such year if he were subject to the contribution provisions of this title. The determination made pursuant to this subsection shall be based on payroll information, employment experience, and such other factors as the commissioner deems pertinent.

(2) Any bond deposited under this section shall be in force for a period of not less than two taxable years and shall be renewed with the approval of the commissioner, at such times as the commissioner may prescribe, but not less frequently than at two-year intervals as long as the organization continues to be liable for

payments in lieu of contributions. The commissioner shall require adjustments to be made in a previously filed bond as he deems appropriate. If the bond is to be increased, the adjusted bond shall be filed by the organization within thirty days of the date notice of the required adjustment was mailed or otherwise delivered to it. Failure by any organization covered by such bond to pay the full amount of payments in lieu of contributions when due, together with any applicable interest and penalties provided for in this title, shall render the surety liable on said bond to the extent of the bond, as though the surety was such organization.

(3) Any deposit of money or securities in accordance with this section shall be retained by the commissioner in an escrow account until liability under the election is terminated, at which time it shall be returned to the organization, less any deductions as hereinafter provided. The commissioner may deduct from the money deposited under this section by a nonprofit organization or sell the securities it has so deposited to the extent necessary to satisfy any due and unpaid payments in lieu of contributions and any applicable interest and penalties provided for in this act. The commissioner shall require the organization within thirty days following any deduction from a money deposit or sale of deposited securities under the provisions of this subsection to deposit sufficient additional money or securities to make whole the organization's deposit at the prior level. Any cash remaining from the sale of such securities shall be a part of the organization's escrow account. The commissioner may, at any time review the adequacy of the deposit made by any organization. If, as a result of such review, he determines that an adjustment is necessary he shall require the organization to make an additional deposit within thirty days of written notice of his determination or shall return to it such portion of the deposit as he no longer considers necessary, whichever action is appropriate. Disposition of income from securities held in escrow shall be governed by the applicable provisions of the state law.

(4) If any nonprofit organization fails to file a bond or make a deposit, or to file a bond in an increased amount or to increase or make whole the amount of a previously made deposit, as provided under this section, the commissioner may terminate such organization's election to make payments in lieu of contributions and such termination shall continue for not less than the four-consecutive-calendar-quarter period beginning with the quarter in which termination becomes effective: PROVIDED, That the commissioner may extend for good cause the applicable filing, deposit or adjustment period by not more than thirty days.

NEW SECTION. Sec. 12. The following acts or parts of acts are each repealed:

- (1) Section 8, chapter 1, Laws of 1971 and RCW 50.22.070; and  
(2) Section 9, chapter 1, Laws of 1971 and RCW 50.22.080.

NEW SECTION. Sec. 13. Sections 7, 8, 10, 11, and 12 of this 1973 amendatory act are necessary for the immediate preservation of the public peace, health and safety, the support of the state government and its existing public institutions, and shall take effect immediately. Sections 1, 2, 3, 4, 5, 6, and 9 of this 1973 amendatory act shall take effect on July 1, 1973.

Passed the House February 19, 1973.

Passed the Senate February 28, 1973.

Approved by the Governor March 8, 1973, with the exception of Section 5 which is vetoed.

Filed in Office of Secretary of State March 8, 1973.

Note: Governor's explanation of partial veto is as follows:

"I am returning herewith without my approval as to a certain item House Bill No. 436 entitled:

"AN ACT Relating to unemployment compensation."

Section 5 of this bill amends RCW 50.16.030 allowing the Employment Security Department to avail itself of certain credits in the unemployment compensation fund provided that such credits were given within the past 25 as opposed to 15 years. It was necessary that this particular provision be enacted prior to legislative action on the balance of House Bill 436 in order to implement the pay increases provided for Employment Security employees in the supplemental budget. That provision was introduced and passed as Senate Bill 2618 and is now chapter 6, Laws of 1973. The language of chapter 6, Laws of 1973, is a slightly later and improved version of the material in section 5. Retention of the material in section 5 would be duplicative therefore I deem it appropriate to veto section 5 of this bill.

The remainder of House Bill No. 436 is approved."