

the legislative budget committee, or any other legislative interim committee.

NEW SECTION. Sec. 2. There is hereby appropriated out of the state general fund, for the statute law committee, to carry out the provisions of section 6, chapter 257, Laws of 1953 and section 5, chapter 212, Laws of 1969 extraordinary session, salaries, wages and operations, the sum of forty-three thousand seven hundred fifty-one dollars (\$43,751) or so much thereof as is necessary, to pay additional costs related to preparing and drafting bills for the legislature and the legislative information system.

NEW SECTION. Sec. 3. There is hereby appropriated out of the state general fund, for the legislative budget committee, the sum of eight thousand seven hundred dollars (\$8,700) or so much thereof as is necessary for the support of data processing services in connection with the legislative review and analysis of the executive budget.

NEW SECTION. Sec. 4. This act is 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.

Passed the Senate January 21, 1971.

Passed the House January 25, 1971.

Approved by the Governor January 28, 1971.

Filed in Office of Secretary of State January 28, 1971.

CHAPTER 3

[Engrossed House Bill No. 199]

UNEMPLOYMENT COMPENSATION--

EXTENDING COVERAGE TO EMPLOYEES OF GOVERNMENT

AND CERTAIN NONPROFIT ORGANIZATIONS

AN ACT Relating to unemployment compensation; amending section 8, chapter 35, Laws of 1945 as amended by section 1, chapter 215, Laws of 1951 and RCW 50.04.070; amending section 8, chapter 266, Laws of 1959 and RCW 50.04.072; amending section 9, chapter 35, Laws of 1945 as amended by section 2, chapter 214, Laws of 1949 and RCW 50.04.080; amending section 12, chapter 35, Laws of 1945 and RCW 50.04.110; amending section 13, chapter 35, Laws of 1945 and RCW 50.04.115; amending section 21, chapter 35, Laws of 1945 as last amended by section 1, chapter 8, Laws of 1953 ex. sess. and RCW 50.04.200; amending section 31, chapter 35, Laws of 1945 and RCW 50.04.300; amending section 44, chapter 35, Laws of 1945 as last amended

by section 1, chapter 266, Laws of 1959 and RCW 50.12.050; amending section 89, chapter 35, Laws of 1945 as last amended by section 8, chapter 2, Laws of 1970 ex. sess. and RCW 50.24.010; amending section 104, chapter 35, Laws of 1945 as last amended by section 6, chapter 266, Laws of 1959 and RCW 50.24.160; amending section 10, chapter 2, Laws of 1970 ex. sess. and RCW 50.29.010; repealing section 20, chapter 35, Laws of 1945 and RCW 50.04.190; adding new sections to chapter 35, Laws of 1945 and to Title 50 RCW; establishing effective dates; and declaring an emergency.

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

Section 1. Section 8, chapter 35, Laws of 1945 as amended by section 1, chapter 215, Laws of 1951 and RCW 50.04.070 are each amended to read as follows:

"Contributions" means the money payments ((, including the application of experience rating credits,)) due to the state unemployment compensation fund as provided in RCW 50.24.010.

NEW SECTION. Sec. 2. There is added to chapter 35, Laws of 1945 and to Title 50 RCW a new section to read as follows:

"Payments in lieu of contributions" means money payments due to the state unemployment compensation fund as provided in section 23 of this 1971 amendatory act.

Sec. 3. Section 8, chapter 266, Laws of 1959 and RCW 50.04.072 are each amended to read as follows:

((Wherever and whenever in any of the sections of chapter 35, Laws of 1945, and of Title 50:04, the words "contribution" and/or "contributions" appear, said words shall be construed to mean taxes which are the money payments required by this title to be made to the state unemployment compensation fund.)) The terms "contributions" and "payments in lieu of contributions" used in this title, whether singular or plural, designate the money payments to be made to the state unemployment compensation fund and are deemed to be taxes due to the state of Washington.

NEW SECTION. Sec. 4. There is added to chapter 35, Laws of 1945 and to Title 50 RCW a new section to read as follows:

The term "contributions" as used in this title shall be deemed to include "payments in lieu of contributions" to the extent that such usage is consistent with the purposes of this title. Such construction shall include but not be limited to those portions of this title dealing with assessments, interest, liens, collection procedures and remedies, administrative and judicial review, and the imposition of administrative, civil and criminal sanctions.

Sec. 5. Section 9, chapter 35, Laws of 1945 as amended by section 2, chapter 214, Laws of 1949 and RCW 50.04.080 are each amended to read as follows:

"Employer" means any individual or type of organization, including any partnership, association, trust, estate, joint stock company, insurance company, or corporation, whether domestic or foreign, or the receiver, trustee in bankruptcy, trustee, or the legal representative of a deceased person, having any person in employment or, having become an employer, has not ceased to be an employer as provided in this title.

Irrespective of any other inconsistent provisions of this title, any employing unit shall also be deemed to be an employer for the purposes of this title to the same extent that services performed for such employing unit constitute subject employment under the provisions of any federal tax against which credit may be taken for contributions paid into a state unemployment compensation fund.

Irrespective of any provision in this title to the contrary any employing unit which employs individuals whose employment must be covered by the unemployment insurance laws of this state for services performed subsequent to December 31, 1971 as a condition of approval of the unemployment insurance laws of this state under section 3304 (a) of the Internal Revenue Code of 1954, as amended, will be considered an employer as to such individual and shall be subject to contributions on all wages paid subsequent to December 31, 1971, or reimbursement payments to cover benefits paid based on services performed subsequent to December 31, 1971, depending on the law applicable.

Sec. 6. Section 12, chapter 35, Laws of 1945 and RCW 50.04.110 are each amended to read as follows:

The term "employment" shall include an individual's entire service performed within or without or both within and without this state, if

- (1) The service is localized in this state; or
- (2) The service is not localized in any state, but some of the service is performed in this state, and
 - (a) the base of operations, or if there is no base of operations, then the place from which such service is directed or controlled is in this state; or
 - (b) the base of operations or place from which such service is directed or controlled is not in any state in which some part of the service is performed, but the individual's residence is in this state; or

(3) The service is performed within the United States, the Virgin Islands or Canada, if

(a) such service is not covered under the unemployment compensation law of any other state, the Virgin Islands or Canada, and

(b) the place from which the service is directed or controlled

is in this state.

NEW SECTION. Sec. 7. There is added to chapter 35, Laws of 1945 and to Title 50 RCW a new section to read as follows:

The term "employment" shall include the service of an individual who is a citizen of the United States, performed outside the United States (except in Canada or the Virgin Islands) in the employ of an American employer (other than service which is deemed "employment" under the provisions of RCW 50.04.110 or 50.04.120 or the parallel provisions of another state's law), if:

(1) The employer's principal place of business in the United States is located in this state; or

(2) The employer has no place of business in the United States but

(a) the employer is an individual who is a resident of this state; or

(b) the employer is a corporation which is organized under the laws of this state; or

(c) the employer is a partnership or a trust and the number of the partners or trustees who are residents of this state is greater than the number who are residents of any one other state; or

(3) None of the criteria [in] subsections (1) and (2) of this section is met but the employer has elected coverage in this state, or the employer having failed to elect coverage in any state, the individual has filed a claim for benefits, based on such service, under the laws of this state.

(4) An "American employer", for the purposes of this section, means a person who is

(a) an individual who is a resident of the United States; or

(b) a partnership if two-thirds or more of the partners are residents of the United States; or

(c) a trust, if all of the trustees are residents of the United States; or

(d) a corporation organized under the laws of the United States or of any state.

Sec. 8. Section 13, chapter 35, Laws of 1945 and RCW 50.04.115 are each amended to read as follows:

Services not covered under RCW 50.04.110 or section 7 of this 1971 amendatory act ((7 and)) which are performed entirely without this state, with respect to no part of which contributions are required and paid under an unemployment compensation law of any other state or of the federal government, shall be deemed to be employment subject to this title if the individual performing such services is a resident of this state and the commissioner approves the election ((7)) of the employing unit for whom such services are performed ((7)) that the entire service of such individual shall be deemed to

be employment subject to this title.

Sec. 9. Section 21, chapter 35, Laws of 1945 as last amended by section 1, chapter 8, Laws of 1953 ex. sess. and RCW 50.04.200 are each amended to read as follows:

The term "employment" shall not include service performed in the employ of (~~this state, or of any political subdivision thereof, or of any instrumentality of this state or its political subdivisions~~) any political subdivision of this state or of any instrumentality of a political subdivision: PROVIDED, That this exemption shall not be deemed to apply to public utility districts and public power authorities, nor shall this exemption be deemed to apply if (~~the state or any political subdivision thereof or any instrumentality of this state or its political subdivisions~~) any political subdivision of this state or of any instrumentality of a political subdivision voluntarily elects coverage for all or any distinct class or group of individuals in its employ: (~~AND PROVIDED FURTHER, That the state or any political subdivision thereof or any instrumentality of this state or its political subdivisions is hereby authorized to pay to the unemployment compensation division for the unemployment compensation fund contributions required of employers by the provisions of this title.~~) PROVIDED, FURTHER, That no political subdivision of this state or any instrumentality of a political subdivision may cover, under the provisions of this section, services performed in its employ subsequent to December 31, 1971; and that any election for such coverage shall be canceled as of December 31, 1971.

Any political subdivision of this state or any instrumentality of a political subdivision is hereby authorized to pay to the unemployment compensation division for the unemployment compensation fund contributions required of employers by the provisions of this title for services performed for such employer prior to January 1, 1972.

Sec. 10. Section 31, chapter 35, Laws of 1945 and RCW 50.04.300 are each amended to read as follows:

"State" includes, in addition to the states of the United States of America, (~~Alaska, Hawaii, and~~) the District of Columbia and the Commonwealth of Puerto Rico.

Sec. 11. Section 44, chapter 35, Laws of 1945 as last amended by section 1, chapter 266, Laws of 1959 and RCW 50.12.050 are each amended to read as follows:

As used in this section the terms "other state" and "another state" shall be deemed to include any state or territory of the United States, the District of Columbia and any foreign government and, where applicable, shall also be deemed to include the federal government or provisions of a law of the federal government, as the case may be.

As used in this section the term "claim" shall be deemed to include whichever of the following terms is applicable, to wit: "Application for initial determination", "claim for waiting period credit", or "claim for benefits".

The commissioner (~~may~~) shall enter into an agreement with any other state whereby in the event an individual files a claim in another state against wages earned in employment in this state, or against wage credits earned in this state and in any other state or who files a claim in this state against wage credits earned in employment in any other state, or against wages earned in this state and in any other state, the claim will be paid by this state or another state as designated by the agreement in accordance with a determination on the claim as provided by the agreement and pursuant to the qualification and disqualification provisions of this title or under the provisions of the law of the designated paying state (including another state) or under such a combination of the provisions of both laws as shall be determined by the commissioner as being fair and reasonable to all affected interests, and whereby the wages of such individual, if earned in two or more states (including another state) may be combined, and further, whereby this state or another state shall reimburse the paying state in an amount which shall bear the same ratio to the amount of benefits already paid as the amount of wage credits transferred by this state or another state, and used in the determination, bear to the total wage credits used in computing the claimant's maximum amount of benefits potentially payable.

Whenever any claim is filed by an individual involving the combination of wages or a reciprocal arrangement for the payment of benefits, which is governed by the provisions of this section, the employment security department of this state, when not designated as the paying state, shall promptly make a report to the other state making the determination, showing wages earned in employment in this state.

The commissioner is hereby authorized to make to another state and to receive from another state reimbursements from or to the unemployment compensation fund in accordance with arrangements made pursuant to the provisions of this section.

NEW SECTION. Sec. 12. There is added to chapter 35, Laws of 1945 and to Title 50 RCW a new section to read as follows:

No otherwise eligible individual shall be denied benefits for any week because he is in training with the approval of the commissioner, nor shall such individual be denied benefits with respect to any week in which he is in training with the approval of the commissioner by reason of the application of subdivision (3) of RCW 50.20.010 relating to availability for work and active search for

work, or RCW 50.20.080 relating to failure to apply for, or refusal to accept suitable work.

Sec. 13. Section 89, chapter 35, Laws of 1945 as last amended by section 8, chapter 2, Laws of 1970 ex. sess. and RCW 50.24.010 are each amended to read as follows:

Contributions shall accrue and become payable by each employer (except employers as described in section 18 of this 1971 amendatory act who have properly elected to make payments in lieu of contributions and those employers who are required to make payments in lieu of contributions) for each calendar year in which he is subject to this title at the rate of two and seven-tenths percent of wages paid each employee, except for such rates as determined for qualified employers according to chapter 50.29 RCW: PROVIDED, That if, as of any June 30th, the amount in the unemployment compensation fund is less than three and one-half percent of total remuneration paid by all employers during the preceding calendar year and reported on or before the March 31st following such year, contributions for the following calendar year for all employers shall be payable at the rate of three percent of wages subject to tax.

The amount of wages subject to tax for each individual as of January 1, 1971, shall be four thousand two hundred dollars. If the amount in the unemployment compensation fund on any June 30th, after January 1, 1971, is less than four and one-half percent of total remuneration paid by all employers during the preceding calendar year and reported on or before the March 31st following such year, the amount of wages subject to tax shall increase on the January 1st next following by six hundred dollars: PROVIDED, That the amount of wages subject to tax in any calendar year shall not exceed seventy-five percent of the "average annual wage" for the second preceding calendar year rounded to the next lower multiple of three hundred dollars.

In making computations under this section and RCW 50.29.010, wages paid based on services for employers making payments in lieu of contributions shall not be considered remuneration. Moneys paid from the fund, based on services performed for employers who make payments in lieu of contributions, which have not been reimbursed to the fund as of any June 30 shall be deemed an asset of the unemployment compensation fund, to the extent that such moneys exceed the amount of payments in lieu of contributions which the commissioner has previously determined to be uncollectible: PROVIDED, FURTHER, That the amount attributable to employment with the state shall also include interest as provided for in section 19 of this 1971 amendatory act.

Contributions shall become due and be paid by each employer to the treasurer for the unemployment compensation fund in accordance

with such regulations as the commissioner may prescribe, and shall not be deducted, in whole or in part, from the remuneration of individuals in employment of the employer. Any deduction in violation of the provisions of this section shall be unlawful.

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

Sec. 14. Section 104, chapter 35, Laws of 1945 as last amended by section 6, chapter 266, Laws of 1959 and RCW 50.24.160 are each amended to read as follows:

Any employing unit for which services that do not constitute employment as defined in this title are performed (~~or this state or any political subdivisions thereof or any instrumentality of this state or its political subdivisions~~) may file with the commissioner a written election that all such services performed by any distinct class or group of individuals or by all individuals in its employ in one or more distinct establishments or places of business shall be deemed to constitute employment for all the purposes of this title for not less than two calendar years. Upon the written approval of such election by the commissioner, such services shall be deemed to constitute employment subject to this title from and after the date stated in such approval; PROVIDED, HOWEVER, That any political subdivision of this state or any instrumentality of a political subdivision may elect coverage in accordance with the provisions of section 20 of this 1971 amendatory act as a matter of right. ((Such)) Services covered pursuant to this section shall cease to be deemed employment subject hereto as of January 1st of any calendar year subsequent to such two calendar years, only if the employing unit files with the commissioner prior to the fifteenth day of January of such year a written application for termination of coverage.

NEW SECTION. Sec. 15. There is added to chapter 35, Laws of 1945 and to Title 50 RCW a new section to read as follows:

Delinquent payments in lieu of contributions due the unemployment compensation fund and the interest thereon may be recovered from any of the political subdivisions of this state or any instrumentality of a political subdivision of this state by civil action. The governor is authorized to deduct the amount of delinquent payments in lieu of contributions and interest thereon from any moneys payable by the state to said political subdivisions or instrumentalities and pay such moneys to the commissioner for deposit in the appropriate account.

Sec. 16. Section 10, chapter 2, Laws of 1970 ex. sess. and RCW 50.29.010 are each amended to read as follows:

As used in this chapter:

"Computation date" means July 1st of any year;

"Cut-off date" means August 31st next following the computation date;

"Rate year" means the calendar year immediately following the computation date;

"Experience rating year" is the twelve-month period beginning with July 1st of one calendar year and ending on June 30th of the following calendar year;

"Payroll" means all wages (as defined for contribution purposes) paid by an employer to individuals in his employment;

"Acquire" means the right to occupy or use the operating assets formerly in the possession of a predecessor employer whether that acquisition be by purchase, lease, gift, or by any legal process;

"Qualified employer" means: (1) Any employer as of the computation date who had some employment in the twelve-month period immediately preceding April 1st of the first of the three consecutive calendar years immediately preceding the computation date and who had no period of four or more consecutive calendar quarters in such three years for which he reported no employment, except that no employer shall be deemed a qualified employer unless all contributions required under this title from him or his predecessors for the thirty-six month period immediately preceding the computation date have been paid prior to the cut-off date; or (2) Any employer as of the computation date who has not been subject to this title for a period of time sufficient to be classified as a qualified employer under the provision of subdivision (1) of this paragraph but who had some employment in the twelve-month period immediately preceding April 1st of the first of the two consecutive calendar years immediately preceding the computation date and who had no period of four or more consecutive calendar quarters in such two years for which he reported no employment, except that no employer shall be deemed a qualified employer unless all contributions required under this title from him or his predecessors for the twenty-four month period immediately preceding the computation date have been paid prior to the cut-off date: PROVIDED, That when an employer or prospective employer has acquired all or substantially all of the operating assets of an employer, or has acquired an operating department, section, division, or any substantial portion of the business or assets of any employer, which is clearly segregable and identifiable for experience rating purposes, the payroll record and benefit charges of the transferring employer shall be divided between the transferring and acquiring employers in proportion to the payrolls for the four preceding completed calendar quarters attributable to the operating assets retained and conveyed. The

successor employer shall be liable for contributions on the acquired business from the date the transfer of the business occurred. The separate account of a predecessor or that part thereof which is transferred shall become the separate account or part of separate account as the case may be of the successor employer.

"Surplus" is an amount of moneys in the unemployment compensation fund deemed in excess of the amount needed to insure the solvency of the fund. The "surplus" is determined in the following manner:

(1) For computations prior to January 1, 1974, the total remuneration paid during the calendar year preceding the computation date shall be multiplied by four percent and the product shall be subtracted from the amount in the fund as of the June 30th immediately preceding the computation date. If that balance is at least one-tenth of one percent of the total remuneration paid during the calendar year, that portion of the balance not exceeding forty one-hundredths of one percent of the total remuneration paid during the preceding calendar year shall be deemed "surplus". Total remuneration paid in this computation is limited to remuneration paid during the calendar year preceding the computation date and reported to the department of employment security on or before the March 31st immediately preceding the computation date.

(2) For computations subsequent to January 1, 1974, the allowable "surplus" shall be computed by use of the following table. Column A represents the ratio of the unemployment compensation fund as of the June 30th preceding the computation date to total remuneration for the preceding calendar year. The percentage figures in Column B represent the maximum percentage of total remuneration during the preceding calendar year which may be deemed as "surplus" in view of the corresponding figures in Column A. No amount of the fund shall be declared surplus if the balance in the fund as of the June 30th immediately preceding the computation date is not at least one-tenth of one percent of total remuneration paid during the preceding calendar year in excess of four percent of total remuneration paid during the preceding calendar year. The percentage amount of total remuneration during the preceding calendar year, Column B, may be deemed surplus only to the extent that the balance remaining in the unemployment compensation fund exceeds four percent of the total remuneration paid during the preceding calendar year. Total remuneration paid in this computation is limited to remuneration paid during the calendar year preceding the computation date and reported to the department of employment security on or before the March 31st immediately preceding the computation date.

Column A

4.1% but less than 4.8%

Column B

0.40%

4.8% but less than 5.2%	0.55%
5.2% or more	0.70%

(3) In all computations of "surplus" moneys paid from the fund, based on services performed for employers who make payments in lieu of contributions, which have not been reimbursed to the fund as of any June 30 shall be deemed an asset of the unemployment compensation fund, to the extent that such moneys exceed the amount of payments in lieu of contributions which the commissioner has previously determined to be uncollectible: PROVIDED, FURTHER, That the amount attributable to employment with the state shall also include interest as provided for in section 19 of this 1971 amendatory act.

NEW SECTION. Sec. 17. Sections 18 through 25 of this 1971 amendatory act are added to chapter 35, Laws of 1945 and to Title 50 RCW as a new chapter therein, such chapter to be entitled "Special Coverage Provisions".

NEW SECTION. Sec. 18. Services performed subsequent to December 31, 1971, by an individual in the employ of a religious, charitable, educational or other organization which is excluded from the term "employment" as defined in the federal unemployment tax act solely by reason of section 3306(c)(8) of that act shall be deemed services performed in employment unless such service is exempted under section 21 of this 1971 amendatory act.

Such organization shall make payments to the unemployment compensation fund based on such services in accordance with the provisions of section 23 of this 1971 amendatory act.

NEW SECTION. Sec. 19. Commencing with benefit years beginning on or after the effective date of this 1971 amendatory act, services performed subsequent to September 30, 1969 in the employ of this state or any of its wholly owned instrumentalities shall be deemed services in employment unless such services are excluded from the term employment by section 21 of this 1971 amendatory act.

The state shall make payments in lieu of contributions with respect to benefits attributable to such employment as provided with respect to nonprofit organizations in subsections (2) and (3) of section 23 of this 1971 amendatory act: PROVIDED, HOWEVER, That no payment will be required from the state until the expiration of the twelve-month period following the end of the biennium in which the benefits attributable to such employment were paid. The amount of this payment shall include an amount equal to the amount of interest that would have been realized for the benefit of the unemployment compensation trust fund had such payments been received within thirty days after the day of the quarterly billing provided for in section 23(2)(a) of this 1971 amendatory act.

NEW SECTION. Sec. 20. Any political subdivision of this

state or any instrumentality of a political subdivision may elect to cover the services of all or any distinct class or group of individuals in its employ: PROVIDED, HOWEVER, That public utility districts and public power authorities may not elect coverage under this section: PROVIDED, FURTHER, That any political subdivision of this state or any instrumentality of a political subdivision which elects to cover the services of any employees in an institution of higher education or hospital operated by said political subdivision or instrumentality shall cover the services of all employees in all institutions of higher education and all hospitals operated by said political subdivision or instrumentality.

For the purposes of this chapter the term "hospital" means any institution primarily engaged in the treatment of emotional or physical disability which provides, on a regular basis, twenty-four hour per day bed care under the supervision of licensed medical personnel and those components, of other institutions, which are primarily engaged in the treatment of emotional or physical disability and which provide, on a regular basis, twenty-four hour per day bed care under the supervision of licensed medical personnel.

For the purposes of this chapter, the term "institution of higher education" means an educational institution in this state which

(1) Admits as regular students only individuals having a certificate of graduation from a high school, or the recognized equivalent of such a certificate;

(2) Is legally authorized within this state to provide a program of education beyond high school;

(3) Provides an educational program for which it awards a bachelor's or higher degree, or provides a program which is acceptable for full credit toward such a degree, or offers a program of training to prepare students for gainful employment in a recognized occupation; and

(4) Is a public or other nonprofit institution;

(5) Notwithstanding any of the foregoing subsections, all colleges and universities in this state are "institutions of higher education".

Services covered by the election performed subsequent to the date of such election shall be deemed services in employment unless such services are excluded from the term "employment" by section 21 of this 1971 amendatory act.

Any political subdivision or instrumentality electing coverage shall make payments in lieu of contributions with respect to benefits attributable to such employment as provided with respect to nonprofit organizations in subsections (2) and (3) of section 23 of this 1971 amendatory act.

An election under the provisions of this section shall be for no less than two calendar years. A political subdivision or instrumentality of a political subdivision desiring to terminate coverage may do so by filing a written application for termination of coverage no later than the December fifteenth preceding the calendar year with respect to which such termination is to be effective. Termination of coverage will not relieve the political subdivision or instrumentality of a political subdivision of the obligation to reimburse the unemployment compensation fund for all benefits paid attributable to service performed during the covered period in the employ of such political subdivision or instrumentality of a political subdivision.

NEW SECTION. Sec. 21. The term "employment" as used in sections 18, 19, and 20 of this 1971 amendatory act 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 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.

NEW SECTION. Sec. 22. 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 that benefits based on service in an instructional, research or principal administrative capacity in an educational institution 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 institution or institutions for both such academic years or both such terms: PROVIDED, HOWEVER, That any employee of a common school district who is conclusively presumed to have been re-employed pursuant to RCW 28A.67.070 shall be deemed to have a contract for the ensuing term.

NEW SECTION. Sec. 23. Benefits paid to employees of "nonprofit organizations" shall be financed in accordance with the provisions of this section. For the purpose of this section and section 24 of this 1971 amendatory act, the term "nonprofit organization" is limited to those organizations described in section 18 of this 1971 amendatory act, and joint accounts composed

exclusively of such organizations.

(1) Any nonprofit organization which is, or becomes subject to this title on or after January 1, 1972 shall pay contributions under the provisions of RCW 50.24.010, unless it elects, in accordance with this subsection, to pay to the commissioner for the unemployment compensation fund an amount equal to the full amount of regular and additional benefits and one-half of the amount of extended benefits paid to individuals for weeks of unemployment which begin during the effective period of such election to the extent that such payments are attributable to service in the employ of such nonprofit organization.

(a) Any nonprofit organization which is, or becomes, subject to this title on January 1, 1972 may elect to become liable for payments in lieu of contributions for a period of not less than one taxable year beginning with January 1, 1972: PROVIDED, That it files with the commissioner a written notice of its election within the thirty-day period immediately following such date.

(b) Any nonprofit organization which becomes subject to this title after January 1, 1972 may elect to become liable for payments in lieu of contributions for a period of not less than twelve months beginning with the date on which such subjectivity begins by filing a written notice of its election with the commissioner not later than thirty days immediately following the date of the determination of such subjectivity.

(c) Any nonprofit organization which makes an election in accordance with paragraphs (a) or (b) of this subsection will continue to be liable for payments in lieu of contributions until it files with the commissioner a written notice terminating its election not later than thirty days prior to the beginning of the taxable year for which such termination shall first be effective.

(d) Any nonprofit organization which has been paying contributions under this title for a period subsequent to January 1, 1972 may change to a reimbursable basis by filing with the commissioner not later than thirty days prior to the beginning of any taxable year a written notice of election to become liable for payments in lieu of contributions. Such election shall not be terminable by the organization for that and the next year.

(e) The commissioner may for good cause extend the period within which a notice of election, or a notice of termination, must be filed and may permit an election to be retroactive but not any earlier than with respect to benefits paid after December 31, 1969.

(f) The commissioner, in accordance with such regulations as he may prescribe, shall notify each nonprofit organization of any determination which he may make of its status as an employer and of the effective date of any election which it makes and of any

termination of such election. Any nonprofit organization subject to such determination and dissatisfied with such determination may file a request for review and redetermination with the commissioner within thirty days of the mailing of the determination to the organization. Should such request for review and redetermination be denied, the organization may, within ten days of the mailing of such notice of denial, file with the appeal tribunal a petition for hearing which shall be heard in the same manner as a petition for denial of refund. The appellate procedure prescribed by this title for further appeal shall apply to all denials of review and redetermination under this paragraph.

(2) Payments in lieu of contributions shall be made in accordance with the provisions of this section including either paragraph (a) or (b) of this subsection.

(a) At the end of each calendar quarter, the commissioner shall bill each nonprofit organization or group of such organizations which has elected to make payments in lieu of contributions for an amount equal to the full amount of regular and additional benefits plus one-half of the amount of extended benefits paid during such quarter that is attributable to service in the employ of such organization.

(b) (i) Each nonprofit organization that has elected payments in lieu of contributions may request permission to make such payments as provided in this paragraph. Such method of payment shall become effective upon approval by the commissioner.

(ii) At the end of each calendar quarter, or at the end of such other period as determined by the commissioner, the commissioner shall bill each nonprofit organization for an amount representing one of the following:

(A) For 1972, six-tenths of one percent of its total payroll for 1971.

(B) For years after 1972, such percentage of its total payroll for the immediately preceding calendar year as the commissioner shall determine. Such determination shall be based each year on the average benefit costs attributable to service in the employ of nonprofit organizations during the preceding calendar year.

(C) For any organization which did not pay wages throughout the four calendar quarters of the preceding calendar year, such percentage of its payroll during such year as the commissioner shall determine.

(iii) At the end of each taxable year, the commissioner may modify the quarterly percentage of payroll thereafter payable by the nonprofit organization in order to minimize excess or insufficient payments.

(iv) At the end of each taxable year, the commissioner shall

determine whether the total of payments for such year made by a nonprofit organization is less than, or in excess of, the total amount of regular and additional benefits plus one-half of the amount of extended benefits paid to individuals during such taxable year based on wages attributable to service in the employ of such organization. Each nonprofit organization whose total payments for such year are less than the amount so determined shall be liable for payment of the unpaid balance to the fund in accordance with paragraph (c). If the total payments exceed the amount so determined for the taxable year, all of the excess payments will be retained in the fund as part of the payments which may be required for the next taxable year, or a part of the excess may, at the discretion of the commissioner, be refunded from the fund or retained in the fund as part of the payments which may be required for the next taxable year.

(c) Payment of any bill rendered under paragraph (a) or (b) shall be made not later than thirty days after such bill was mailed to the last known address of the nonprofit organization or was otherwise delivered to it, and if not paid within such thirty days, the reimbursement payments itemized in the bill shall be deemed to be delinquent and the whole or part thereof remaining unpaid shall bear interest from and after the end of such thirty days at the rate and in the manner set forth in RCW 50.24.040.

(d) Payments made by any nonprofit organization under the provisions of this section shall not be deducted or deductible, in whole or in part, from the remuneration of individuals in the employ of the organization. Any deduction in violation of the provisions of this paragraph shall be unlawful.

(3) Each employer that is liable for payments in lieu of contributions shall pay to the commissioner for the fund the total amount of regular and additional benefits plus the amount of one-half of extended benefits paid that are attributable to service in the employ of such employer. If benefits paid to an individual are based on wages paid by more than one employer and one or more of such employers are liable for payments in lieu of contributions, the amount [payable] to the fund by each employer that is liable for such payments shall be determined in accordance with the provisions of paragraph (a) or (b) of this subsection.

(a) If benefits paid to an individual are based on wages paid by one or more employers that are liable for payments in lieu of contributions and on wages paid by one or more employers who are liable for contributions, the amount of benefits payable by each employer that is liable for payments in lieu of contributions shall be an amount which bears the same ratio to the total benefits paid to the individual as the total base-period wages paid to the individual by such employer bear to the total base-period wages paid to the

individual by all of his base-period employers.

(b) If benefits paid to an individual are based on wages paid by two or more employers that are liable for payments in lieu of contributions, the amount of benefits payable by each such employer shall be an amount which bears the same ratio to the total benefits paid to the individual as the total base-period wages paid to the individual by such employer bear to the total base-period wages paid to the individual by all of his base-period employers.

(4) Notwithstanding any other provisions in this section, any nonprofit organization which prior to January 1, 1969, paid contributions into the unemployment compensation fund, and pursuant to this section, elects, within thirty days after January 1, 1972 to make payments in lieu of contributions, shall not be required to make any such payment on account of any regular, additional, or extended benefits paid, on the basis of wages paid by such organization to individuals for weeks of unemployment which begin on or after the effective date of such election until the total amount of such benefits equals the amount of the positive balance in the experience rating account of such organization.

NEW SECTION. Sec. 24. 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 section 18 of this 1971 amendatory act 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.

(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. 25. Sections 18 through 24 of this 1971 amendatory act have been enacted to meet the requirements imposed by the federal unemployment tax act as amended by PL 91-373. Internal references in any section of this 1971 amendatory act to the

provisions of that act are intended only to apply to those provisions as they existed as of the effective date of this 1971 amendatory act.

In view of the importance of compliance of this 1971 amendatory act with the federal unemployment tax act, any ambiguities contained herein should be resolved in a manner consistent with the provisions of that act. Considerable weight has been given to the commentary contained in that document entitled "Draft Legislation to Implement the Employment Security Amendments of 1970 . . . H.R.14705", published by the United States Department of Labor, Manpower Administration, and that commentary should be referred to when interpreting the provisions of this 1971 amendatory act.

Language in this 1971 amendatory act concerning the extension of coverage to employers entitled to make payments in lieu of contributions should, in a manner consistent with the foregoing paragraph, be construed so as to have a minimum financial impact on the employers subject to the experience rating provisions of this title.

NEW SECTION. Sec. 26. Section 20, chapter 35, Laws of 1945 and RCW 50.04.190 are each repealed effective December 31, 1971.

NEW SECTION. Sec. 27. This 1971 amendatory act is necessary for the immediate preservation of the public peace, health and safety, the support of state government and its existing institutions, and shall take effect immediately.

Passed the House January 26, 1971.

Passed the Senate January 27, 1971.

Approved by the Governor January 28, 1971.

Filed in Office of Secretary of State January 28, 1971.

CHAPTER 4

[Engrossed Senate Bill No. 312]

HIGHWAYS--

EMERGENCY PROTECTION AND RESTORATION

AN ACT Relating to emergency protection and restoration of highways; adding a new section to chapter 47.28 RCW; creating new sections; providing a terminal date; and declaring an emergency.

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

NEW SECTION. Section 1. There is added to chapter 47.28 RCW a new section to read as follows:

(1) Whenever the state highway commission finds that as a consequence of accident, natural disaster or other emergency, an existing state highway is in jeopardy, or is rendered impassible in