WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1941

ENROLLED
SENATE BILL No. 401

(By Mr. Randolph, W. President)

PASSED March 8, 1941

In Effect April 1, 1941

JARRETT PRINTING COMPANY, CHARLESTON, W. VA.
ENROLLED
Senate Bill No. 101
(BY MR. RANDOLPH, MR. PRESIDENT)

[Passed March 8, 1941; in effect April 1, 1941.]

AN ACT to amend and reenact section three, article one; section six, article two; sections nine and ten, article four; sections two, three, four, five, seven, ten and nineteen, article five; sections one, two, four, ten, eleven and thirteen, article six; section one, article nine; and section thirteen, article ten; to add section eight to article nine; to repeal section eleven, article five; all of chapter twenty-one-A of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to unemployment compensation.
Be it enacted by the Legislature of West Virginia:

That section three, article one; section six, article two; sections nine and ten, article four; sections two, three, four, five, seven, ten and nineteen, article five; sections one, two, four, ten, eleven and thirteen, article six; section one, article nine; and section thirteen, article ten be amended and reenacted; that section eight be added to article nine; and that section eleven, article five be repealed; all in chapter twenty-one-A of the code of West Virginia, one thousand nine hundred thirty-one, as amended, to read as follows:

Article 1. Department of Unemployment Compensation.

Section 3. Definitions. As used in this chapter, unless the context clearly requires otherwise:

"Administration fund" means the Unemployment Compensation Administration Fund, from which the administrative expenses under this chapter shall be paid.

"Annual payroll" means the total amount of wages for employment paid by an employer during one year.

"Average annual payroll" means the average of the annual payrolls of an employer for the last three years.

"Base period" means the twelve consecutive month
period ending on the December thirty-first next preceding an individual's benefit year.

"Benefit unit" means the amount of benefit an eligible individual will receive for each shift of no work available in excess of one-half normal shift expectancy.

"Benefit year" with respect to an individual means the twelve-month period beginning with April first and ending with March thirty-first, which includes the period for which claim for benefit is made by such individual.

"Benefits" means the money payable to an individual with respect to his unemployment.

"Board" means Board of Review.

"Calendar quarter" means the period of three consecutive calendar months ending on March thirty-one, June thirty, September thirty, or December thirty-one, or the equivalent thereof as the director may by regulation prescribe.

"Director" means the Unemployment Compensation Director.

"Employing unit" means an individual, or type of organization, including any partnership, association, trust,
Enrolled S. B. No. 101] 4

32 estate, joint stock company, insurance company, corpora-
33 tion (domestic or foreign), or the receiver, trustee in
34 bankruptcy, trustee or successor thereof, or the legal rep-
35 resentative of a deceased person which has on January
36 first, one thousand nine hundred thirty-five, or subsequent
37 thereto, had in its employ one or more individuals per-
38 forming service within this state.
39 “Employer” means an employing unit which for some
40 portion of a day, not necessarily simultaneously, in each
41 of twenty different weeks, which weeks need not be con-
42 secutive within either the current year or the preceding
43 year, has had in employment eight or more individuals
43a irrespective of whether the same individuals were or
44 were not employed on each of such days.)
45 “Employment”, subject to the other provisions of this
46 subsection, means:
47 (1) Service, including service in interstate commerce,
48 performed for wages or under any contract of hire,
49 written or oral, express or implied.
50 (2) The term “employment” shall include an indivi-
51 dual’s entire service, performed within or both within and
without this state if: (a) The service is localized in this state; or (b) The service is not localized in any state but some of the service is performed in this state and (i) 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 (ii) 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.

(3) Service not covered under paragraph (2) of this subsection and 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 act if the individual performing such services is a resident of this state and the director approves the election of the employing unit for whom such services are performed that the entire service of such individual shall be deemed to be employment subject to this act.
(4) Service shall be deemed to be localized within a state if: (a) The service is performed entirely within such state; or (b) the service is performed both within and without such state, but the service performed without such state is incidental to the individual's service within the state: For example, is temporary or transitory in nature or consists of isolated transactions.

(5) Services performed by an individual for wages shall be deemed to be employment subject to this act unless and until it is shown to the satisfaction of the director that: (a) Such individual has been and will continue to be free from control or direction over the performance of such services, both under his contract of service and in fact; and (b) such service is either outside the usual course of the business for which such service is performed or that such service is performed outside of all the places of business of the enterprise for which such service is performed; and (c) such individual is customarily engaged in an independently established trade, occupation, profession, or business.
The term "employment" shall not include:

(1) Services performed in the employ of this state or any political subdivision thereof, or any instrumentality of this state or its subdivisions.

(2) Service performed directly in the employ of another state, or its political subdivisions.

(3) Service performed in the employ of the United States or an instrumentality of the United States exempt under the Constitution of the United States from the payments imposed by this law, except that to the extent that the Congress of the United States shall permit states to require any instrumentalities of the United States to make payments into an unemployment fund under a state unemployment compensation law, all of the provisions of this law shall be applicable to such instrumentalities, and to service performed for such instrumentalities, in the same manner, to the same extent and on the same terms as to all other employers, employing units, individuals and services; provided that if this state shall not be certified for any year by the Social Security Board under section 1603 (c) of the Federal Internal Revenue Code, the pay-
ments required of such instrumentalities with respect to such year shall be refunded by the director from the fund in the same manner and within the same period as is provided in section nineteen of article five of this law with respect to payments erroneously collected.

(4) Service performed after June thirty, one thousand nine hundred thirty-nine, with respect to which unemployment compensation is payable under the Railroad Unemployment Insurance Act (fifty-two Stat. one thousand ninety-four), and service with respect to which unemployment benefits are payable under an unemployment compensation system for maritime employees established by an Act of Congress. The director may enter into agreements with the proper agency established under such act of congress to provide reciprocal treatment to individuals who, after acquiring potential rights to unemployment compensation under an act of congress, or who have, after acquiring potential rights to unemployment compensation under an act of congress, acquired rights to benefits under this chapter. Such agreements
shall become effective ten days after such publication as
complies with the general rules of the department.

(5) Agricultural labor.

(6) Domestic service in a private home.

(7) Service performed as an officer or member of a
crew of a vessel on the navigable waters of the United
States.

(8) Service performed by an individual in the employ
of his son, daughter, or spouse.

(9) Service performed by a child under the age of
twenty-one years in the employ of his father or mother.

(10) Service performed in the employ of an employing
unit organized and operated exclusively for religious,
charitable, scientific, literary, or education purposes or
for prevention of cruelty to children or animals, no part
of the net earnings of which inure to the benefit of any
private shareholder or individual.

“Employment office” means a free employment office or
branch thereof, operated by this state, or any free public
employment office maintained as a part of a state-
controlled system of public employment offices in any other state.

"Fund" means the unemployment compensation fund established by this chapter.

"Normal shift expectancy" means the customary number of shifts or their equivalent that constitute full time operation of the business in which the claimant is regularly employed.

"Normal shift" means the customary number of hours constituting a full shift at the operation of the claimant's regular employer.

"Payments" means the money required to be paid into the state unemployment compensation fund as provided by article five of this chapter.

"State" includes in addition to the states of the United States, Alaska, Hawaii, and the District of Columbia.

"Total and partial unemployment":

(1) An individual shall be deemed "totally unemployed" in any week in which such individual is separated from employment for an employing unit and during which
(2) An individual shall be deemed "partially unemployed" in any pay period in which the total number of normal shifts available are less than one-half the normal shift expectancy in such period. Odd job and/or subsidiary work is deemed partial unemployment in any week in which such service is performed and wages are paid or payable for more than eight hours. In cases involving partial unemployment as a result of odd job and/or subsidiary work the pay period, normal shift, normal shift expectancy and period for filing claim will be such as the Director may by regulation prescribe.

(3) An individual's week of unemployment shall be deemed to commence only after his registration at an employment office, except as the director may by regulation otherwise prescribe.

"Wages" means all remuneration for personal service, including commissions and bonuses and the cash value of all remuneration in any medium other than cash; provided that the term "wages" shall not include:
(1) That part of the remuneration which, after remuneration equal to three thousand dollars has been paid to an individual by an employer with respect to employment during any calendar year beginning with the calendar year one thousand nine hundred forty, is paid to such individual by such employer with respect to employment during such calendar year.

(2) The amount of any payment made to, or on behalf of, an individual in its employ (without deduction from the remuneration of the individual in its employ) under a plan or system established by an employer which makes provision for individuals in its employ generally or for a class or classes of such individuals (including any amount paid by an employer for insurance or annuities, or into a fund, to provide for any such payment), on account of (A) retirement, or (B) sickness or accident disability, or (C) medical and hospitalization expenses in connection with sickness or accident disability, or (D) death, provided the individual in its employ (i) has not the option to receive, instead of provision for such death benefit, any part of such payment or, if such death benefit is
insured, any part of the premiums (or contributions to
premiums) paid by his employer, and (ii) has not the
right, under the provisions of the plan or system or policy
of insurance providing for such death benefit, to assign
such benefit, or to receive such consideration in lieu of
such benefit either upon his withdrawal from the plan or
system providing for such benefit or upon termination of
such plan or system or policy or of insurance of his serv-
ices with such employer.

(3) The payment by an employer (without deduction
from the remuneration of the individual in its employ) of
the tax imposed upon an individual in its employ under
section one thousand four hundred of the Federal Internal
Revenue Code; or

(4) Payments, not required under any contract of hire,
made to an individual with respect to his period of
training or service in the armed forces of the United
States by any employer by which such individual was
formerly employed.

Gratuities customarily received by an individual in the
course of his employment from persons other than his em-
ploying unit shall be treated as wages paid by his em-
ploying unit, if accounted for and reported to such em-
ploying unit.

The reasonable cash value of remuneration in any
medium other than cash shall be estimated and de-
termined in accordance with rules prescribed by the di-
rector.

"Week" means a calendar week, ending at midnight
Saturday, or the equivalent thereof, as determined in
accordance with the regulations prescribed by the di-
rector.

"Weekly benefit rate" means the maximum amount of
benefit an eligible individual will receive for one week of
total unemployment.

"Year" means a calendar year, or the equivalent thereof
as determined by the director.

Article 2. The Director of Unemployment Compensation.

Section 6. Powers and Duties. The director shall be
the executive and administrative head of the department
and shall have the power and duty, to:
(1) Exercise general supervision of and make regulations for the government of the department.

(2) Prescribe uniform rules pertaining to investigations, departmental hearings, and promulgate rules and regulations.

(3) Supervise fiscal affairs and responsibilities of the department.

(4) Prescribe the qualifications of, appoint, remove, and fix the compensation of the officers and employees of the department, subject to the provisions of section ten, article four, of this chapter, relating to the board of review.

(5) Organize and administer the department so as to comply with the requirements of this chapter and to satisfy any conditions established in applicable federal legislation.

(6) Make reports in such form and containing such information as the federal social security board may from time to time require, and comply with such provisions as the federal social security board may from time to time find necessary to assure the correctness and verification of such reports.
(7) Make available to any agency of the United States charged with the administration of public works or assistance through public employment, upon its request, the name, address, ordinary occupation and employment status of each recipient of unemployment compensation, and a statement of the recipient's rights to further compensation under this chapter.

(8) Keep an accurate and complete record of all departmental proceedings; record and file all bonds and contracts and assume responsibility for the custody and preservation of all papers and documents of the department.

(9) Sign and execute in the name of the state, by "The State department of unemployment compensation," any contract or agreement with the federal government, its agencies, other states, their subdivisions, or private persons.

(10) Prescribe a salary scale to govern compensation of appointees and employees of the department.

(11) Make the original determination of right in claims for benefits.
(12) Make recommendations, and an annual report to the governor concerning the condition, operation, and functioning of the department.

(13) Invoke any legal, equitable or special remedy for the enforcement of orders or the provisions of this chapter.

(14) Exercise any other power necessary to standardize administration, expedite departmental business, assure the establishment of fair rules and regulations and promote the efficiency of the service.

Article 4. Board of Review.

Section 9. Powers and Duties. The board shall have the following powers and duties, to:

(1) Hear and determine all disputed claims presented to it in accordance with the provisions of article seven.

(2) Organize from salaried examiners such appeal tribunals as are necessary for the expedition of disputed claim procedure.

(3) Establish procedure for the hearing of disputed claims.
(4) Take oaths, examine witnesses, and issue sub-
poenas.

(5) Establish the amount of witness fees.

(6) Keep such records and make such reports as are
necessary for disputed claims.

(7) Exercise such additional powers as may be neces-
sary for the proper conduct of a system of administrative
review of disputed claims.

Sec. 10. Appointment and Supervision of Personnel.

By and with the consent and approval of the director,
the board shall appoint such examiners as are necessary
to hear appeals from determinations of deputies, and such
other personnel as is necessary for the proper conduct of
a system of administrative review of disputed claims.
Subject to the provisions of the merit system and with
the consent and approval of the director, the board
shall prescribe the qualifications of, fix the compensation
of, and remove the employees of the board. No person
who is identified with the interests of either employers
or employees shall be appointed examiner.

The administrative expense of the board of review shall
be paid from the administration fund. The board, with
the assistance of the fiscal officer of the department, shall
prepare and submit to the director the budget of the
board of review.

The chairman of the board shall fix the time and place
for hearing appeals and shall assign such hearings to
members of the board, appeal tribunals, or the full board,
as the case may require, subject, however, to the pro-
visions of article seven of this chapter.

Article 5. Employer Coverage and Responsibility.

Section 2. Duration. Except as provided in section
tree of this article, an employing unit shall cease to be
an employer subject to this chapter only as of the first
day of January of any calendar year, and only if it files
with the director, during January of such year, a written
application for termination of coverage, and the director
finds that there were no twenty different days, each day
being in a different week within the preceding calendar
year, within which such employing unit employed eight
or more individuals in employment subject to this chap-
ter.
Sec. 3. **Voluntary Coverage.** (1) An employing unit, not otherwise subject to the provisions of this chapter, which files with the director its written election to become an employer subject hereto for not less than two calendar years, shall, with the written approval of such election by the director, become an employer subject hereto to the same extent as all other employers, as of the date stated in such approval, and shall cease to be subject hereto as of January one of any calendar year subsequent to such two calendar years, only if during January of such year it has filed with the director a written notice to that effect.

(2) Any employing unit for which services that do not constitute employment as defined in this act are performed, may file with the director a written election that all such services performed by 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 act for not less than two calendar years. Upon the written approval of such election by the director, such services shall be deemed to constitute em-
ployment subject to this act from and after the date stated in such approval. Such services shall cease to be deemed employment subject hereto as of January first of any calendar year subsequent to such two calendar years, only if during January of such year such employing unit has filed with the director a written notice to that effect.

(3) An employing unit which is or becomes an employer subject to this act within any calendar year shall be subject to this act during the whole of such calendar year.

Sec. 4. Payments. On and after January first, one thousand nine hundred forty-one, an employer shall be liable for payments in respect to wages paid for employment occurring during each year in which he is subject to this act.

Sec. 5. Rate of Contribution. On and after January first, one thousand nine hundred forty-one, an employer shall make payments to the unemployment compensation fund equal to two and seven-tenths per cent of wages paid by him with respect to employment during each
6 calendar year beginning with the calendar year one
calendaryearone
7 thousand nine hundred forty-one, subject however to the
8 provisions of sections nine to thirteen of this article.
9
Sec. 7. Separate Accounts. (1) The director shall
2 maintain a separate account for each employer, and shall
3 credit his account with all contributions heretofore and
4 hereafter paid by him. Nothing in this act shall be con-
5 strued to grant any employer or individual in his serv-
6 ice prior claims or rights to the amounts paid by him into
7 the fund, either on his own behalf or on behalf of such
8 individuals.
9 Benefits paid to an eligible individual shall be charged
10 against the accounts of his base period employers. The
11 amount of benefits so chargeable against each base period
12 employer's account shall bear the same ratio to the
13 total benefits paid to an individual as the base period
14 wages paid to such individual by such employer bear to
15 the total amount of base period wages paid to such indi-
16 vidual by all his base period employers.
17 (2) The director may prescribe regulations for the
18 establishment, maintenance, and dissolution of joint ac-
counts by two or more employers, and shall, in accordance
with such regulations and upon application by two or
more employers to establish such an account, or to
merge their several individual accounts in a joint account,
maintain such joint account as if it constituted a single
employer's account.

(3) The director shall, for the year one thousand nine
hundred forty-one and for each calendar year thereafter,
classify employers in accordance with their actual ex-
perience in the payment of contributions on their own
behalf and with respect to benefits charged against their
accounts, with a view to fixing such contribution rates
as will reflect such experience. For the purpose of
fixing such contribution rates for each calendar year the
books of the department shall be closed on January thirty-
one of such year and any contributions thereafter paid
with respect to wages paid for employment during pre-
ceding calendar years, as well as benefits thereafter paid
with respect to compensable weeks ending on or before
December thirty-one of the preceding year, shall not be
taken into account until the time for fixing contribution
rates for the succeeding calendar year.
Sec. 10. Merit Rating: Decreased Rates. After the requirements of section nine have been complied with, an employer's payment shall remain two and seven-tenths per cent, until: (1) There has elapsed three consecutive years throughout which an individual in his employ could have received benefits if unemployed and eligible. (2) His payments credited to his account for all past years exceed the benefits charged to his account by an amount equal to at least seven and one-half per cent of his average annual pay roll, in which case his rate shall be one and eight-tenths per cent. (3) His payments credited to his account for all past years exceed the benefits charged to his account by an amount equal to at least ten per cent of his average annual pay roll, in which case his rate shall be nine-tenths of one per cent. The director shall determine an employer's compliance with these requirements.

Sec. 11. This section is hereby repealed.

Sec. 19. Refunds. Within two years after the date on which payment of contribution, or interest thereon,
If the director determines that payments and interest were erroneously collected, he shall make the adjustment without interest, in connection with subsequent payments of the employer, or if such adjustment cannot be made, refund the amount without interest from the clearing account of the unemployment compensation fund.

For like cause and within the same period the director, on his own initiative, may make an adjustment or refund: Provided, That nothing in this chapter shall be construed as permitting a cash refund of any contribution required under the law in effect when such contribution became due.

Article 6. Employee Eligibility; Benefits.

Section 1. Eligibility Qualifications. An unemployed individual shall be eligible to receive benefits, only if the director finds that:
(1) He has registered for work at and thereafter continues to report at an employment office in accordance with the regulations of the director.

(2) He has made a claim for benefits in accordance with the provisions of article seven of this chapter.

(3) He is able to work, and is available for work.

(4) He has been totally unemployed during his benefit year for a waiting period of one week prior to the week for which he claims benefits for total unemployment.

(5) He has within his base period earned wages for employment equal to not less than one hundred fifty dollars, of which amount he had earned as much as seventy-five dollars in each of two quarters or fifty dollars in each of three quarters.

Sec. 2. Waiting Period Concluded. If the benefit year ends during a period of total unemployment for any individual, such individual shall serve a new waiting period of one week before benefits accruing in the new benefit year shall be payable.

During the waiting period, the individual must be eligible in all respects, except for the requirements of
subsection (2) of section one of this article. No week shall be counted as the waiting period week if benefits have been paid with respect to such week.

Sec. 4. Disqualification for Benefits. Upon the determination of the facts by the director an individual shall be disqualified for benefits:

(1) For the six weeks immediately following the date on which he left work voluntarily without good cause. Such disqualification shall carry a reduction in the maximum benefit amount equal to six times the individual's weekly benefit rate. If he returns to work prior to the expiration of the disqualification period, he will be credited with such part of the unexpired portion as his employment continues and an equivalent portion of his maximum benefit reduction will be reinstated.

(2) For the three weeks immediately following the date on which he was discharged for proved misconduct. Such disqualification shall carry a reduction in the maximum benefit amount equal to three times the individual's weekly benefit rate. If he returns to work prior to the expiration of the disqualification period, he will be
credited with such part of the unexpired portion as his employment continues and an equivalent portion of his maximum benefit reduction will be reinstated.

(3) For the week in which he failed without good cause, to apply for available suitable work, accept suitable work when offered, or return to his customary self-employment when directed to do so by the director and for three weeks which immediately follow.

(4) For a week in which his total or partial unemployment is due to a stoppage of work which exists because of a labor dispute at the factory, establishment, or other premises at which he was last employed, unless the director is satisfied that he was not (one) participating, financing, or directly interested in such dispute, and (two) did not belong to a grade or class of workers who were participating, financing, or directly interested in the labor dispute which resulted in the stoppage of work. No disqualification under this subsection shall be imposed if the employees are required to accept wages, hours or conditions of employment, less favorable than those prevailing for similar work in the
locality, or if employees are denied the right of collective bargaining under generally prevailing conditions, or if an employer shuts down his plant or operation or dismisses his employees in order to force wage reduction, changes in hours or working conditions.

(5) For a week with respect to which he is receiving or has received:

(a) Wages in lieu of notice;

(b) Compensation for temporary partial disability under the workmen's compensation law of any state or under a similar law of the United States;

(c) Old age benefits under title II of the social security act or similar payments under any act of congress.

(d) Unemployment compensation benefits under the laws of the United States or any other state.

Sec. 10. Benefit Rate; Total Unemployment. Each eligible individual who is totally unemployed in any week shall be paid benefits with respect to that week at the weekly rate appearing in column (C) in table A in this paragraph, on line on which in column (A) there is indicated the employee's wage class, except as other-
wise provided under the term "total and partial unemployment" in section three, article one of this chapter. The employee's wage class shall be determined by the total amount of wages earned by him in covered employment in his base period as shown in column (B) in table A. The right of an employee to receive benefits shall not be prejudiced nor the amount thereof be diminished by reason of failure by an employer to pay either the wages earned by the employee or the contribution due on such wages.
## TABLE A

<table>
<thead>
<tr>
<th>Wage Class</th>
<th>Wages in Base Period (Column A)</th>
<th>Weekly Benefit Rate (Column C)</th>
<th>Maximum Benefit in Benefit Year for Total and/or Partial Unemployment (Column D)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Under $ 150.00</td>
<td>(Ineligible)</td>
<td>Amount (Ineligible)</td>
</tr>
<tr>
<td>1</td>
<td>$ 150.00 - 399.99</td>
<td>$ 6.00</td>
<td>$ 96.00</td>
</tr>
<tr>
<td>2</td>
<td>400.00 - 499.99</td>
<td>7.00</td>
<td>112.00</td>
</tr>
<tr>
<td>3</td>
<td>500.00 - 599.99</td>
<td>8.00</td>
<td>128.00</td>
</tr>
<tr>
<td>4</td>
<td>600.00 - 699.99</td>
<td>9.00</td>
<td>144.00</td>
</tr>
<tr>
<td>5</td>
<td>700.00 - 749.99</td>
<td>9.50</td>
<td>152.00</td>
</tr>
<tr>
<td>6</td>
<td>750.00 - 799.99</td>
<td>10.00</td>
<td>160.00</td>
</tr>
<tr>
<td>7</td>
<td>800.00 - 849.99</td>
<td>10.50</td>
<td>168.00</td>
</tr>
<tr>
<td>8</td>
<td>850.00 - 899.99</td>
<td>11.00</td>
<td>176.00</td>
</tr>
<tr>
<td>9</td>
<td>900.00 - 949.99</td>
<td>11.50</td>
<td>184.00</td>
</tr>
<tr>
<td>10</td>
<td>950.00 - 999.99</td>
<td>12.00</td>
<td>192.00</td>
</tr>
<tr>
<td>11</td>
<td>1000.00 - 1049.99</td>
<td>12.50</td>
<td>200.00</td>
</tr>
<tr>
<td>12</td>
<td>1050.00 - 1099.99</td>
<td>13.00</td>
<td>208.00</td>
</tr>
<tr>
<td>13</td>
<td>1100.00 - 1149.99</td>
<td>13.50</td>
<td>216.00</td>
</tr>
<tr>
<td>14</td>
<td>1150.00 - 1199.99</td>
<td>14.00</td>
<td>224.00</td>
</tr>
<tr>
<td>15</td>
<td>1200.00 - 1249.99</td>
<td>14.50</td>
<td>232.00</td>
</tr>
<tr>
<td>16</td>
<td>1250.00 and over</td>
<td>15.00</td>
<td>240.00</td>
</tr>
</tbody>
</table>
Sec. 11. *Rate of Benefit; Partial Unemployment.* An eligible individual who is partially unemployed in any pay period shall, upon claim therefor filed within such time and in such manner as the director may by regulation prescribe, be paid benefits for such partial unemployment in an amount for such pay period in accordance with his wage class and the number of normal shifts or their equivalent, during the pay period, that no work was available as shown in Table B in this paragraph hereinafter contained, less any benefits paid or payable and any waiting period credit allowed to such individual for total unemployment in such pay period. Such partial benefits shall be paid without regard to the current employment status of such individual and shall be paid without regard to the provisions of sub-sections one, three and four of section one of this article.
**TABLE B**

If the total work available during a pay period is less than one-half of the normal shift expectancy during such pay period, the claimant is entitled to receive as partial benefit for the pay period the amount appearing opposite his wage class in the column headed by the number representing the difference between normal shift expectancy and double the number of full shifts and fractions thereof that work was available for the claimant during such pay period. If the number representing such difference is greater than twelve, the amount of benefit payable will be the amount obtained by multiplying such number by the benefit unit appearing on the line opposite the claimant’s wage class.

<table>
<thead>
<tr>
<th>Wage Class</th>
<th>Wages in Base Period</th>
<th>Benefit Unit</th>
<th>AMOUNT OF BENEFITS PAYABLE</th>
</tr>
</thead>
<tbody>
<tr>
<td>Column A</td>
<td>Column C</td>
<td>Column 1</td>
<td>2</td>
</tr>
<tr>
<td>1</td>
<td>$150</td>
<td>399.99</td>
<td>1.20</td>
</tr>
<tr>
<td>2</td>
<td>400</td>
<td>499.99</td>
<td>1.40</td>
</tr>
<tr>
<td>3</td>
<td>500</td>
<td>599.99</td>
<td>1.60</td>
</tr>
<tr>
<td>4</td>
<td>600</td>
<td>699.99</td>
<td>1.80</td>
</tr>
<tr>
<td>5</td>
<td>700</td>
<td>749.99</td>
<td>1.90</td>
</tr>
<tr>
<td>6</td>
<td>750</td>
<td>799.99</td>
<td>2.00</td>
</tr>
<tr>
<td>7</td>
<td>800</td>
<td>849.99</td>
<td>2.10</td>
</tr>
<tr>
<td>8</td>
<td>850</td>
<td>899.99</td>
<td>2.20</td>
</tr>
<tr>
<td>9</td>
<td>900</td>
<td>949.99</td>
<td>2.30</td>
</tr>
<tr>
<td>10</td>
<td>950</td>
<td>999.99</td>
<td>2.40</td>
</tr>
<tr>
<td>11</td>
<td>1000</td>
<td>1049.99</td>
<td>2.50</td>
</tr>
<tr>
<td>12</td>
<td>1050</td>
<td>1099.99</td>
<td>2.60</td>
</tr>
<tr>
<td>13</td>
<td>1100</td>
<td>1149.99</td>
<td>2.70</td>
</tr>
<tr>
<td>14</td>
<td>1150</td>
<td>1199.99</td>
<td>2.80</td>
</tr>
<tr>
<td>15</td>
<td>1200</td>
<td>1249.99</td>
<td>2.90</td>
</tr>
<tr>
<td>16</td>
<td>1250 and over</td>
<td>3.00</td>
<td>3.00</td>
</tr>
</tbody>
</table>
Sec. 13. **Computation of Wage Credits; Determination of Maximum Benefits.** The director shall compute wage credits for each individual by crediting him with the wages earned by him for employment by employers during his base period. The maximum total amount of benefits payable to any eligible individual during any benefit year shall not exceed the amount appearing in column (D) on line indicating individual's wage class, of Table A, in this article hereinabove contained.

**Article 9. Unemployment Compensation Administration Fund.**

Section 1. **Administration Fund.** There is hereby created in the state treasury a special fund to be known as the unemployment compensation administration fund. All moneys in this fund which are received from the federal government or any agency thereof or which are appropriated by this state for the purposes described in section seven of this article shall be expended solely for the purposes and in the amounts found necessary by the social security board for the proper and efficient administration of this chapter.
Sec. 8. Reimbursement of Fund. If any moneys received after June thirty, one thousand nine hundred forty-one, from the Social Security Board under title three of the Social Security Act, or any unencumbered balances in the unemployment compensation administration fund as of that date, or any moneys granted after that date to this state pursuant to the provisions of the Wagner-Peyser Act, or any moneys made available by this state or its political subdivisions and matched by such moneys granted to this state pursuant to the provisions of the Wagner-Peyser Act, are found by the Social Security Board, because of any action or contingency, to have been lost or been expended for purposes other than, or in amounts in excess of, those found necessary by the Social Security Board for the proper administration of this law, it is the policy of this state that such moneys shall be replaced by moneys appropriated for such purpose from the general funds of this state to the unemployment compensation administration fund for expenditure as provided by the unemployment compensation law. Upon receipt of notice of such a
finding by the Social Security Board, the director shall promptly report the amount required for such replacement to the Governor and the Governor shall at the earliest opportunity, submit to the Legislature a request for the appropriation of such amount. This article shall not be construed to relieve this state of its obligation with respect to funds received prior to July one, one thousand nine hundred forty-one, pursuant to the provisions of title three of the Social Security Act.


Section 13. Criminal Actions. Criminal actions to enforce the provisions of this chapter, or rules and regulations issued thereunder, shall be prosecuted by the attorney general, or at his request by the prosecuting attorney of any county in which the defendant resides, or by an attorney of the department.

The director may cause complaints to be made and proceedings to be instituted and prosecuted against any person violating any provisions of this chapter and in all such cases no security for costs shall be required of the director.
12 Justices of the peace shall have **concurrent jurisdiction**
13 with the circuit or other criminal courts of all mis-
14 demeanors arising under this chapter.
The Joint Committee on Enrolled Bills hereby certifies that
the foregoing bill is correctly enrolled.

[Signature]
Chairman Senate Committee

[Signature]
Chairman House Committee

Originated in the

[Signature]
Clerk of the Senate

[Signature]
Clerk of the House of Delegates

[Signature]
President of the Senate

[Signature]
Speaker House of Delegates

The within bill approved this the 14th day of March, 1941.

[Signature]
Governor

Filed in the office of the Secretary of State of West Virginia, MAR 17, 1941

Wm. S. O'Brien,
Secretary of State