WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1947

ENROLLED

SENATE BILL No. 270

(By Mr. )

PASSED March 8, 1947

In Effect April 1, 1947
AN ACT to amend and reenact section three, article one; section six-a, article two; sections five and six, article four; sections seven, ten and ten-b, article five; sections four and ten, article six; sections eight, nine, ten, and fifteen, article seven; and sections eleven and seventeen, article ten, all of chapter twenty-one-a of the code of West Virginia, one thousand nine hundred thirty-one, as enacted by chapter one, acts of the Legislature of West Virginia, second extraordinary session, one thousand nine hundred thirty-six, as amended, relating to unemployment compensation.

Be it enacted by the Legislature of West Virginia:

That section three, article one; section six-a, article two; sections five and six, article four; sections seven, ten and ten-b, article five; sections four and ten, article six; sections eight, nine, ten, and fifteen, article seven; and sections eleven and
seventeen, article ten, all of chapter twenty-one-a of the code of West Virginia, one thousand nine hundred thirty-one, as enacted by chapter one, acts of the Legislature, second extraordinary session, one thousand nine hundred thirty-six, as amended, be amended and reenacted to read as follows:

Article 1. Department of Unemployment Compensation.

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

1. “Administration fund” means the unemployment compensation administration fund, from which the administrative expenses under this chapter shall be paid;

2. “Annual payroll” means the total amount of wages for employment paid by an employer during a twelve month period ending with June thirty of any calendar year.

3. “Average annual payroll” means the average of the last three annual payrolls of an employer.

4. The “base period” for an individual who files an initial claim for benefits between April first and September thirtieth (both dates inclusive) of any year shall be the preceding calendar year; the base period for an individual who files an initial claim for benefits between October
first and the next following March thirty-first (both dates inclusive) shall be the twelve consecutive month period ending on the preceding June thirtieth;

"Base period employer" means any employer who in the base period for any benefit year paid wages to an individual who filed claim for unemployment compensation within such benefit year;

"Base period wages" means wages paid to an individual during the base period by all his base period employers;

"Benefit year" with respect to an individual means the one year period beginning with the day on which he filed a valid claim for benefits, and thereafter the one year period beginning with the day on which such individual next files a valid claim for benefits after the termination of his last preceding benefit year. An initial claim for benefits filed in accordance with the provisions of this chapter shall be deemed to be a valid claim within the purposes of this definition if the individual has been paid wages in his base period sufficient to make him eligible for benefits under the provisions of this chapter;
"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;

"Computation date" means June thirty of the year immediately preceding the January one, on which an employer's contribution rate becomes effective;

"Director" means the unemployment compensation director;

"Employing unit" means an individual, or type of organization, including any partnership, association, trust, estate, joint stock company, insurance company, corporation (domestic or foreign), or the receiver, trustee in bankruptcy, trustee or successor thereof, or the legal representative of a deceased person, which has on January first, one thousand nine hundred thirty-five, or subsequent thereto, had in its employ one or more individ-
of twenty different calendar weeks, which weeks need not be consecutive, within either the current calendar year, or the preceding calendar year, has had in employment eight or more individuals irrespective of whether the same individuals were or were not employed on each of such days, or who or which is or becomes a liable employer under any federal unemployment tax act;

“Employment”, subject to the other provisions of this section, means:

(1) Service, including service in interstate commerce, performed for wages or under any contract of hire, written or oral, express or implied.

(2) The term “employment” shall include an individual’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 con-
trolled, 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 per-
formed but the individual's residence is in this state.

(3) Service not covered under paragraph two of this
sub-section and performed entirely without this state,
with respect to no part of which contributions are re-
quired 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 chapter 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 chapter.

(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; or (c) the service is performed
both within and without such state, but the service per-
formed without such state is incidental to the individual's service within this 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 chapter 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.

(6) All service performed by an officer or member of the crew of an American vessel (as defined in section three hundred five of an act of Congress entitled "Social Security Act Amendment of 1946," approved August tenth, one thousand nine hundred forty-six) on or in
connection with such vessel, provided that the operating
office, from which the operations of such vessel operat-
ing on navigable waters within or within and without
the United States is ordinarily and regularly super-
vised, managed, directed and controlled, is within this
state.

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 subdivi-
sions.

(2) Service performed directly in the employ of an-
other 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 provi-
sions 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 administration under section one thousand six hundred three (c) of the federal internal revenue code, the payments 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 chapter 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 un-
der such an 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 unem-
ployment compensation under an act of Congress, ac-
qured rights to benefits under this chapter. Such agree-
ments shall become effective ten days after such publica-
tion as complies with the general rules of the department.

(5) Agricultural labor.

(6) Domestic service in a private home.

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

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

(9) Service performed in the employ of an employing unit organized and operated exclusively for religious, charitable, scientific, literary, or educational 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.
Service as an officer or member of a crew of an American vessel performed on or in connection with such vessel, if the operating office, from which the operations of the vessel operating on navigable waters within or without the United States are ordinarily and regularly supervised, managed, directed and controlled, is without this state.

Notwithstanding the foregoing exclusions from the definition of "employment", services, except agricultural labor and domestic service in a private home, shall be deemed to be in employment if with respect to such services a tax is required to be paid under any federal law imposing a tax against which credit may be taken for contributions required to be paid into a state unemployment compensation fund.

"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.

"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 he performs no services and with respect to which no wages are payable to him.

(2) An individual who has not been separated from work shall be deemed to be partially unemployed in any week in which he performs no services and with respect to which no wages are payable to him, or in any week in which due to lack of full time work wages payable to him are less than his weekly benefit amount plus three dollars.
“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, is paid after December thirty-one, one thousand nine hundred thirty-nine, and prior to January one, one thousand nine hundred forty-seven, to such individual by such employer with respect employment during such calendar year; or that part of the remuneration which, after remuneration equal to three thousand dollars with respect to employment after one thousand nine hundred thirty-eight has been paid to an individual by an employer during any calendar year after one thousand nine hundred forty-six, is paid to such individual by such employer during such calendar year, except that for the purposes of sections one, ten, eleven, and thirteen of article six of this chapter, all remuneration earned by an individual in employment
shall be credited to the individual and included in his computation of base period wages; and provided, that the remuneration paid to an individual by an employer with respect to employment in another state or other states upon which contributions were required of and paid by such employer under an unemployment compensation law of such other state or states shall be included as a part of remuneration equal to three thousand dollars herein referred to.

(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, That the individual in
its employ (i) has not the option to receive, instead of
provision for such death benefit, any part of such pay-
ment 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 pro-
visions of the plan or system or policy of insurance pro-
viding 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 sys-
tem providing for such benefit or upon termina-
tion of such plan or system or policy or of insurance
of his services with such employer.

(3) The payment by an employer (without de-
duction from the remuneration of the individual
in its employ) of the tax imposed upon an in-
dividual 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
287 States by any employer by which such individual was
288 formerly employed.
289 Gratuities customarily received by an individual in
290 the course of his employment from persons other than
291 his employing unit shall be treated as wages paid by his
292 employing unit, if accounted for and reported to such
293 employing unit.
294 The reasonable cash value of remuneration in any
295 medium other than cash shall be estimated and deter-
296 mined in accordance with rules prescribed by the di-
297 rector.
298 “Week” means a calendar week, ending at midnight
299 Saturday, or the equivalent thereof, as determined in
300 accordance with the regulations prescribed by the di-
301 rector.
302 “Weekly benefit rate” means the maximum amount of
303 benefit an eligible individual will receive for one week
304 of total unemployment.
305 “Year” means a calendar year or the equivalent there-
306 of, as determined by the director.
Article 2. The Director of Unemployment Compensation.

Section 6-a. Reciprocal Agreements.—(1) The director may enter into reciprocal arrangements with appropriate and duly authorized agencies of other states or the federal government, or both, whereby:

(a) Services performed by an individual for a single employing unit for which services are customarily performed by such individual in more than one state shall be deemed to be services performed entirely within any one of the states (i) in which any part of such individual's service is performed or (ii) in which such individual has his residence or (iii) in which the employing unit maintains a place of business, provided there is in effect, as to such services, an election by an employing unit, and approved by the agency charged with the administration of such state's unemployment compensation law pursuant to which services performed by such individual for such employing unit are deemed to be performed entirely within such state;

(b) Potential rights to benefits accumulated under the unemployment compensation laws of one or more
states or under one or more such laws of the federal government, or both, may constitute the basis for the payment of benefits through a single appropriate agency under terms which the director finds will be fair and reasonable as to all affected interests and will not result in any substantial loss to the fund;

(c) Wages or services, upon the basis of which an individual may become entitled to benefits under an unemployment compensation law of another state or of the federal government, shall be deemed to be wages for insured work for the purpose of determining his rights to benefits under this chapter, and wages for insured work, on the basis of which an individual may become entitled to benefits under this chapter and shall be deemed to be wages or services on the basis of which unemployment compensation under such law of another state or of the federal government is payable, but no such arrangement shall be entered into unless it contains provisions for reimbursements to the fund for such of the benefits paid under this chapter upon the basis of such wages or services, and provisions for reimburse-
ments from the fund for such of the compensation paid under such other law upon the basis of wages for insured work, as the director finds will be fair and reasonable as to all affected interests; and

(d) Contributions due under this chapter with respect to wages for insured work shall for the purposes of this chapter be deemed to have been paid to the fund as of the date payment was made as contributions therefor under another state or federal unemployment compensation law, but no such arrangement shall be entered into unless it contains provisions for such reimbursement to the fund of such contributions as the director finds will be fair and reasonable as to all affected interests.

(2) Reimbursements paid from the fund pursuant to paragraph (c) of subsection one of this section shall be deemed to be benefits for the purpose of this chapter. The director is authorized to make to other state or federal agencies and to receive from such other state or federal agencies, reimbursements from or to the fund, in accordance with arrangements entered into pursuant to subsection one of this section.
(3) To the extent permissible under the laws and Constitution of the United States, the director is authorized to enter into or cooperate in arrangements whereby facilities and services provided under this chapter and facilities and services provided under the unemployment compensation law of any foreign government, may be utilized for the taking of claims and the payment of benefits under the employment security law of this state or under a similar law of such government.

Article 4. Board of Review.

Section 5. Compensation.—Each member of the board shall receive an annual salary of five thousand dollars and the necessary traveling expenses incurred in the performance of his duties. Requisition for traveling expenses shall be accompanied by a sworn and itemized statement which shall be filed with the Auditor and permanently preserved as a public record.

The salaries and the expenses of the members shall be paid from the administration fund.
Sec. 6. Meetings.—The offices and meeting place of
the board shall be at the capitol; but the board may sit
at such other places as the prompt and efficient hearing
of claims may require. The board shall sit for hearing
of appeals at least every ten days.

Article 5. Employer Coverage and Responsibility.

Section 7. Separate Accounts.—(1) The director shall
maintain a separate account for each employer, and shall
credit his account with all contributions heretofore and
hereafter paid by him. Nothing in this chapter shall be
construed to grant any employer or individual in his
service prior claims or rights to the amounts paid by him
into the fund, either on his own behalf or on behalf of
such individuals. The account of any employer which
has been inactive for a period of four consecutive calen-
dar years shall be terminated for all purposes.

(2) Benefits paid to an eligible individual shall be
charged against the accounts of his base period employ-
ers. The amount of benefits so chargeable against each
base period employer's account shall bear the same ratio
to the total benefits paid to an individual as the base
period wages paid to such individual by such employer bear to the total amount of base period wages paid to such individual by all his base period employers: Provided, however, that benefits paid to an individual for partial unemployment shall be charged to the account of his last covered employer; and provided, further, that benefits paid for partial unemployment resulting solely from odd job and/or subsidiary work shall be charged in the same manner as benefits for total unemployment.

(3) The director shall, for the year one thousand nine hundred forty-eight and for each calendar year thereafter, classify employers in accordance with their actual experience in the payment of contributions on their own behalf and with respect to benefits charged against their accounts, with a view of 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 July thirty-one of the preceding calendar year, and any contributions thereafter paid, as well as benefits thereafter paid with respect to compensable weeks ending on or before June thirty
of the preceding calendar year, shall not be taken into account until the next annual date for fixing contribution rates: Provided, however, That if an employer has failed to furnish to the director on or before July thirty-one of such preceding calendar year the wage information for all past periods necessary for the computation of the contribution rate such employer’s rate shall be two and seven-tenths per cent: Provided further, That any payment made or any information necessary for the computation of a reduced rate furnished on or before the termination of an extension of time for such payment or reporting of such information granted pursuant to a regulation of the director authorizing such extension, shall be taken into account for the purposes of fixing contribution rates: Provided further, That whenever through mistake or inadvertence erroneous credits are found to have been made to or against the reserve account of any employer, the rate shall be adjusted as of January one of the calendar year in which such mistake or inadvertence is discovered; but payments made under any rate as-
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57 signed prior to January one of such year shall not be
58 deemed to be erroneously collected.

Sec. 10. **Experience Ratings; Decreased Rates.** — On
2 and after January one, one thousand nine hundred forty-
3 eight, after the requirements of section nine have been
4 complied with, an employer’s payment shall remain two
5 and seven-tenths per cent until: (1) There have elapsed
6 thirty-six consecutive months immediately preceding the
7 computation date throughout which an employer’s ac-
8 count was chargeable with benefits.
9 (2) His payments credited to his account for all past
10 years exceed the benefits charged to his account by an
11 amount equal to at least five and one-half per cent of his
12 average annual pay roll, in which case his rate shall be
13 two and four-tenths per cent.
14 (3) His payments credited to his account for all past
15 years exceed the benefits charged to his account by an
16 amount equal to at least six and one-half per cent of his
17 average annual pay roll, in which case his rate shall be
18 two and one-tenth per cent.
(4) His payments credited to his account for all past years exceed the benefits charged to his account by an 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.

(5) His payments credited to his account for all past years exceed the benefits charged to his account by an amount equal to at least eight and one-half per cent of his average annual pay roll, in which case his rate shall be one and four-tenths per cent.

(6) His payments credited to his account for all past years exceed the benefits charged to his account by an amount equal to at least nine per cent of his average annual pay roll, in which case his rate shall be one and two-tenths per cent.

(7) 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.
(8) His payments credited to his account for all past years exceed the benefits charged to his account by an amount equal to at least eleven per cent of his average annual pay roll, in which case his rate shall be seven-tenths of one per cent.

(9) His payments credited to his account for all past years exceed the benefits charged to his account by an amount equal to at least twelve per cent of his average annual pay roll, in which case his rate shall be five-tenths of one per cent.

(10) His payments credited to his account for all past years exceed the benefits charged to his account by an amount equal to at least thirteen per cent of his average annual pay roll, in which case his rate shall be three-tenths of one per cent.

(11) His payments credited to his account for all past years exceed the benefits charged to his account by an amount equal to at least thirteen and five-tenths per cent of his average annual pay roll, in which case his rate shall be one-tenth of one per cent.
His payments credited to his account for all past years exceed the benefits charged to his account by an amount equal to at least fourteen per cent of his average annual pay roll, in which case his rate shall be zero.

The director shall determine an employer's compliance with these requirements.

Sec. 10-b. If a subject employer shall transfer his entire organization, trade or business, or substantially all the assets thereof, to another employer, the director shall combine the contribution records and the benefit experience records of the transferring and acquiring employers. The acquiring employer's contribution rate for the remainder of the calendar year shall not be affected by the transfer but such rate shall apply to the whole of his business, including the portion acquired by the transfer, through the following December thirty-first. If a subject employer shall make such transfer to an employing unit which is not an employer on the date of the transfer, such subject employer's rate shall continue as the rate of the acquiring employing unit until the next effective rate date: Provided, however, That in case the transfer-
ring employer is delinquent in the payment of contributions or interest thereon the acquiring employer shall not be entitled to any benefit of the contribution record of the transferring employer unless payment of such delinquent contributions and interest thereon is assumed by the acquiring employer. The director shall upon joint request of the transferor and transferee, before the transfer, furnish the transferee a statement of the amount of any contribution and interest due and unpaid by the transferor, and shall, upon such transfer, furnish such statement to the transferee upon the transferee's request. A statement so furnished shall be controlling for the purposes of the foregoing proviso.

Article 6. Employee Eligibility; Benefits.

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

(1) For the week in which he left his most recent work voluntarily without good cause involving fault on the part of the employer and the six weeks immediately following such week. Such disqualification shall carry a
8. reduction in the maximum benefit amount equal to six
times the individual’s weekly benefit rate. However, if
the claimant returns to work in covered employment
during his benefit year the maximum benefit amount
shall be increased by the amount of the decrease imposed
under the disqualification.

(2) For the week in which he was discharged by his
last employing unit for misconduct and the six weeks
immediately following such week. Such disqualification
shall carry a reduction in the maximum benefit amount
equal to six times the individual’s weekly benefit rate.
However, if the claimant returns to work in covered em-
ployment during his benefit year the maximum benefit
amount shall be increased by the amount of the decrease
imposed under the disqualification.

(3) For the week in which he failed without good
cause, to apply for available suitable work, accept suit-
able work when offered, or return to his customary self-
employment when directed to do so by the director, and
for the four weeks which immediately follow and for
such additional period as any offer of suitable work shall
continue open for his acceptance, and his maximum benefit amount shall be reduced by an amount equal to his weekly benefit rate times the number of weeks of disqualification. However, if the claimant returns to work in covered employment during his benefit year the maximum benefit amount shall be increased by the amount of the decrease imposed under the disqualification.

(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 substantially less favorable than those prevailing for similar work in the locality, or if employees are denied the right of collective bargain-
ing under generally prevailing conditions, or if an em-
ployer 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 or payments under any
form of a separation wage plan.
(b) Compensation for temporary partial disability un-
der the workmen's compensation law of any state or
under a similar law of the United States.
(c) Remuneration in the form of a primary insurance
benefit under title two of the Social Security Act, as
amended, or similar payments under any act of Congress.
(d) Unemployment compensation benefits under the
laws of the United States or any other state.
(6) For the week in which an individual is not em-
ployed because of pregnancy, or has voluntarily quit
employment to marry or to perform any marital, paren-
tal, or family duty, or to attend to his or her personal
business or affairs, and until the individual returns to
covered employment and has been employed in covered
employment at least thirty working days.

(7) For each week in which an individual is unemployed because, having voluntarily left employment to
attend a school, college, university, or other educational
institution, he is attending such school, college, university,
or other educational institution, or is awaiting entrance
thereof or is awaiting the starting of a new term or ses-
sion thereof.

(8) For the purposes of this section an employer's
account shall not be charged under any of the following
conditions: (1) When benefits are paid without any dis-
qualification to an individual who has left his most recent
work for good cause not involving fault on the part of
the employer. (2) When benefits are paid for unemploy-
ment immediately after the expiration of a period of
disqualification for (a) leaving work voluntarily with-
out good cause involving fault on the part of the em-
ployer, (b) discharge for misconduct, (c) failing without
good cause to apply for available suitable work, accept
suitable work when offered, or return to his customary
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 the line on which in column (A) there is indicated the employee's wage class, except as otherwise 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 his base period wages 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. An individual who is totally unemployed but earns in excess of three dollars as a result of odd job or subsidiary work in any benefit week shall be paid benefits for such week in accordance with the provisions of this chapter pertaining to benefits for partial unemployment.
<table>
<thead>
<tr>
<th>Wage Class</th>
<th>Wages in Base Period</th>
<th>Weekly Benefit Rate</th>
<th>Maximum Benefit in Benefit Year for Total and/or Partial Unemployment</th>
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Article 7. Claim Procedure.

Section 8. Appeal from Deputy's Decision.—A claimant, last employer or any base period employer of a claimant, or other interested party, may file an appeal from the decision of the deputy within eight calendar days after notice of the decision has been delivered or mailed by registered mail to the claimant and last employer as provided in section four of this article. The period within which an appeal from the decision of the deputy may be filed shall be stated in such notice. The decision of the deputy shall be final and benefits shall be paid or denied in accordance therewith unless an appeal is filed within such time.

Upon appeal from the determination of a deputy, an individual shall be entitled to a fair hearing and reasonable opportunity to be heard before an appeal tribunal as provided in section seven of this article.

Within eight days after receipt by the board of notice of appeal from the decision of a deputy, the board shall fix the time and place for hearing such appeal, and notify the claimant, last employer, the director, and any base
period employer upon his request, ten days in advance of the date set for hearing.

Upon consideration of all evidence the appeal tribunal shall make a decision within twenty-one days after the date of the hearing and shall notify the claimant, last employer, the director, and any base period employer upon his request, of its findings and decision.

Sec. 9. Finality of Examiner's Decision.—A claimant, last employer or any base period employer of a claimant, or other interested party may file an appeal to the board from the decision of an appeal tribunal within eight calendar days after notice of the decision has been delivered or mailed to the claimant and last employer as provided in section eight of this article. The director shall of necessity be deemed an interested party. The decision of the appeal tribunal shall be final and benefits shall be paid or denied in accordance therewith unless an appeal is filed within such time.

Sec. 10. Board of Review.—The board may, after notice to the claimant, last employer, the director, and any base period employer, upon his request, eight days in advance, of the date set for hearing.
(1) On its own motion affirm, modify, or set aside a decision of an appeal tribunal;

(2) Direct the taking of additional evidence in a disputed claim;

(3) Permit parties to the decision of an appeal tribunal to initiate further appeals before it.

(4) Where it deems necessary in the interest of any party that additional testimony be taken, refer a case on its own motion or at the request of any party to a trial examiner for the expeditious taking of such additional testimony; but no such referral shall be made at the request of any party except for good cause shown: Provided further, That where all parties are present at the hearing such additional testimony may be taken before the board.

Sec. 15. Report of Decision.—The board shall, within fifteen days after the conclusion of the hearing, notify the claimant, last employer, the director, and any base period employer upon his request, of its findings and decision on an appeal.

Section 11. Information.—The director may require an employing unit to provide sworn or unsworn reports concerning:

1. The number of individuals in its employ.
2. Individually their hours of labor.
3. Individually the rate and amount of wages.
4. Such other information as is reasonably connected with the administration of this chapter.

Information thus obtained shall not be published or be open to public inspection so as to reveal the identity of the employing unit or the individual. However, a claimant of benefit or any other interested party shall, upon request, be supplied with information from such records to the extent necessary for the proper presentation or defense of a claim. Such information may be made available to any agency of this or any other state, or any federal agency, charged with the administration of an unemployment compensation law or the maintenance of a system of public employment offices.

A person who violates the provisions of this section shall be guilty of a misdemeanor, and upon conviction shall be fined not less than twenty dollars nor more than
two hundred dollars, or imprisoned not longer than ninety
days, or both.

No action for slander or libel, either criminal or civil,
shall be predicated upon information furnished by any
employer or any employee to the director in connection
with the administration of any of the provisions of this
chapter.

Sec. 17. The Legislature reserves the right to amend
or repeal all or any part of this chapter and no private
rights shall vest against any legislative amendment or
change or repeal. All rights, privileges, or immunities
conferred by this chapter or by acts done pursuant there-
to shall exist subject to the power of the Legislature to
amend or repeal this chapter at any time.

The provisions of this chapter relating to article one,
section three, definitions of “Annual payroll”, “Average
annual payroll”, and “Computation date”, and to article
five, sections seven, ten, and ten-b, shall apply for the
rate year one thousand nine hundred forty-eight and for
all rate years thereafter; for rate years prior to one thou-
sand nine hundred forty-eight the provisions then in ef-
fect shall apply.
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 Senate

Takes effect April 1, 1947

[Signature]
Clerk of the Senate

[Signature]
Clerk of the House of Delegates

[Signature]
President of the Senate

[Signature]
Speaker House of Delegates

The within approved this the 13 day of [Month], 1947.

[Signature]
Governor.

Filed in the Office of the Secretary of State of West Virginia [Date: March 3, 1947]

WM. S. O'BRIEN, SECRETARY OF STATE