

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1967

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ENROLLED

Com. Sub. for
HOUSE BILL No. *762*

(By Mr. *Speaker, Mr. White and Mr. Kopp*)

—●—

PASSED *March 11,* 1967

In Effect *April 1, 1967* Passage *—*



FILED IN THE OFFICE
ROBERT D. BAILEY
SECRETARY OF STATE
THIS DATE *3-20-67*

762

ENROLLED

Com. Sub. for House Bill No. 762

(By MR. SPEAKER, MR. WHITE and MR. KOPP)

[Passed March 11, 1967; in effect April 1, 1967.]

AN ACT to repeal section twenty-two, article seven, chapter twenty-one-a of the code of West Virginia, one thousand nine hundred thirty-one, as amended, and to amend and reenact section five, article two; section seven, article three; section five, article four; section five, section seven, section ten, and section ten-a, article five; section three and section ten, article six; section eleven and section seventeen, article seven, all of said chapter twenty-one-a, and to further amend article six of said chapter by adding thereto a new section, designated section one-b, all relating to unemployment compensation.

Be it enacted by the Legislature of West Virginia:

That section twenty-two, article seven, chapter twenty-one-a of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be repealed; that section five, article two; section seven, article three; section five, article four; section five, section seven, section ten and section ten-a, article five; section three and section ten, article six; section eleven and section seventeen, article seven, all of said chapter twenty-one-a be amended and reenacted; and that said article six of said chapter be further amended by adding thereto a new section, designated section one-b, all to read as follows:

ARTICLE 2. THE COMMISSIONER OF EMPLOYMENT SECURITY.

§21A-2-5. Compensation; traveling expenses.

1 Notwithstanding the provisions of section two-a, article
2 seven, chapter six of the Code of West Virginia, one
3 thousand nine hundred thirty-one, as amended, the com-
4 missioner of employment security shall receive a yearly
5 salary of sixteen thousand dollars and the necessary
6 traveling expenses incident to the performance of his
7 duties. Requisition for traveling expenses shall be ac-

8 accompanied by a sworn itemized statement which shall
9 be filed with the auditor and preserved as a public record.

ARTICLE 3. ADVISORY COUNCIL.

§21A-3-7. Honorarium and traveling expenses.

1 Each member of the council shall receive an honor-
2 arium of thirty-five dollars for each day actually
3 served in attendance at meetings of the council and
4 such traveling expenses as are incurred in the perfor-
5 mance of his duties under the provisions of this chapter.

6 Requisition for traveling expenses shall be accompanied
7 by a sworn and itemized statement which shall be filed
8 with the auditor and permanently preserved as a public
9 record.

10 Members shall not be compensated for more than thirty
11 days' service in any year.

ARTICLE 4. BOARD OF REVIEW.

§21A-4-5. Compensation.

1 Notwithstanding the provisions of section two-a, article
2 seven, chapter six of the code of West Virginia, one thou-
3 sand nine hundred thirty-one, as amended, each member
4 of the board shall receive an annual salary of nine thou-

5 sand dollars and the necessary traveling expenses in-
6 curred in the performance of his duties.

7 Requisition for traveling expenses shall be accom-
8 panied by a sworn and itemized statement which shall
9 be filed with the auditor and permanently preserved as
10 a public record.

11 The salaries and the expenses of the members shall
12 be paid from the administration fund.

ARTICLE 5. EMPLOYER COVERAGE AND RESPONSIBILITY.

§21A-5-5. Rate of contribution.

1 On and after January first, one thousand nine hundred
2 forty-one, an employer shall make payments to the unem-
3 ployment compensation fund equal to two and seven-
4 tenths per cent of wages paid by him with respect to
5 employment during each calendar year beginning with
6 the calendar year one thousand nine hundred forty-one,
7 subject, however, to other provisions of this article.

§21A-5-7. Joint and separate accounts.

1 (1) The commisssioner shall maintain a separate
2 account for each employer, and shall credit his account
3 with all contributions paid by him prior to July first,

4 one thousand nine hundred sixty-one. On and after July
5 first, one thousand nine hundred sixty-one, the commis-
6 sioner shall maintain a separate account for each em-
7 ployer, and shall credit said employer's account with all
8 contributions of such employer in excess of seven tenths
9 of one per cent of taxable wages: *Provided*, That any ad-
10 justment made in an employer's account after the com-
11 putation date shall not be used in the computation of
12 the balance of an employer until the next following
13 computation date: *Provided further*, That nothing in
14 this chapter shall be construed to grant an employer
15 or individual in his service prior claims or rights to
16 the amounts paid by him into the fund, either on his
17 behalf or on behalf of such individuals. The account of
18 any employer which has been inactive for a period of
19 four consecutive calendar years shall be terminated for
20 all purposes.

21 (2) Benefits paid to an eligible individual for total
22 unemployment beginning after the effective date of
23 this act shall be charged to the account of the last em-
24 ployer with whom he has been employed as much as

25 thirty working days, whether or not such days are con-
26 secutive: *Provided*, That no employer's account shall
27 be charged with benefits paid to any individual who has
28 been separated from a noncovered employing unit in
29 which he was employed as much as thirty days, whether
30 or not such days are consecutive: *And provided further*,
31 That benefits paid to an eligible individual for partial
32 unemployment beginning after the effective date of
33 of this act shall be charged to the account of the claim-
34 ant's current employer.

35 (3) The commissioner shall, for each calendar year here-
36 after, classify employers in accordance with their actual
37 experience in the payment of contributions on their own
38 behalf and with respect to benefits charged against
39 their accounts, with a view of fixing such contribution
40 rates as will reflect such experiences. For the purpose
41 of fixing such contribution rates for each calendar year,
42 the books of the department shall be closed on July
43 thirty-one of the preceding calendar year, and any con-
44 tributions thereafter paid, as well as benefits thereafter
45 paid with respect to compensable weeks ending on or

46 before June thirty of the preceding calendar year, shall
47 not be taken into account until the next annual date
48 for fixing contribution rates: *Provided, however, That*
49 if an employer has failed to furnish to the commissioner
50 on or before July thirty-one of such preceding calendar
51 year the wage information for all past periods necessary
52 for the computation of the contribution rate, such em-
53 ployer's rate shall be, if it is immediately prior to such
54 July thirty-one, less than three and three-tenths per cent,
55 increased to three and three tenths per cent: *Provided*
56 *further, That* any payment made or any information
57 necessary for the computation of a reduced rate furnished
58 on or before the termination of an extension of time
59 for such payment or reporting of such information
60 granted pursuant to a regulation of the commissioner
61 authorizing such extension, shall be taken into account
62 for the purposes of fixing contribution rates: *Provided*
63 *further, That* when the time for filing any report or
64 making any payment required hereunder falls on Satur-
65 day, Sunday, or a legal holiday, the due date shall be
66 deemed to be the next succeeding business day: And

67 *provided further*, That whenever through mistake or
68 inadvertence erroneous credits or charges are found to
69 have been made to or against the reserve account of any
70 employer, the rate shall be adjusted as of January
71 one of the calendar year in which such mistake or in-
72 advertence is discovered, but payments made under any
73 rate assigned prior to January one of such year shall
74 not be deemed to be erroneously collected.

75 (4) The commissioner may prescribe regulations for
76 the establishment, maintenance, and dissolution of joint
77 accounts by two or more employers, and shall, in ac-
78 cordance with such regulations and upon application by
79 two or more employers to establish such an account, or
80 to merge their several individual accounts in a joint ac-
81 count, maintain such joint account as if it constituted a
82 single employer's account.

§21A-5-10. Experience ratings; decreased rates.

1 On and after January one, one thousand nine hundred
2 fifty-four, after the requirements of section nine have
3 been complied with, an employer's payment shall remain
4 two and seven-tenths per cent until:

5 (1) There have elapsed thirty-six consecutive months
 6 immediately preceding the computation date throughout
 7 which an employer's account was chargeable with bene-
 8 fits.

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 the per cent of his average annual
 12 pay roll as shown in Column B of Table II. His rate
 13 shall be the amount appearing in Column C of Table II
 14 on line with the percentage in Column B.

15 The commissioner shall determine an employer's com-
 16 pliance with these requirements.

17 TABLE II

18	Col. A	Col. B	Col. Co.
19	Per Cent of Average		
20	Rate	Annual Pay Roll by Which	Employer's
21	Class	Credits Exceed Charges	Rate
22	(1)	6.0	2.5
23	(2)	7.0	2.3
24	(3)	8.0	2.1
25	(4)	9.0	1.9

26	(5)	10.0	1.7
27	(6)	10.5	1.5
28	(7)	11.0	1.3
29	(8)	11.5	1.1
30	(9)	12.0	0.9
31	(10)	12.5	0.7
32	(11)	13.0	0.5
33	(12)	14.0	0.3
34	(13)	16.0	0.1
35	(14)	18.0 and over	0.0

36 (3) All employer accounts in which charges for all past
37 years exceed credits for such past years shall be ad-
38 justed effective June thirty, one thousand nine hundred
39 sixty-seven, so that as of said date, for the purpose of
40 determining such employer's rate of contribution, the
41 credits for all past years shall be deemed to equal the
42 charges to such accounts.

43 Effective on and after the computation date of June
44 thirty, one thousand nine hundred sixty-eight, and not-
45 withstanding the provisions of subsection one of section
46 seven of article five relating to the non-crediting of em-

47 employers' accounts with the first seven-tenths of one per
48 cent of contributions paid; for the purpose of determin-
49 ing whether or not an employer shall pay contributions
50 at a rate in excess of two and seven-tenths per cent as
51 hereinafter set forth, but not for the purpose of deter-
52 mining such rate, the department shall, only for the
53 purpose set forth herein and not as a credit to such
54 account, add to the accounts of all employers having a
55 debit balance, contribution payments made by such em-
56 ployers on and after July one, one thousand nine hun-
57 dred sixty-seven, which payments are not credited to
58 employers' accounts by reason of the provisions con-
59 tained in subsection one of section seven of article five.
60 If, after such contribution payments have been added
61 to such employers' accounts, such accounts continue to
62 show a debit balance, such employers shall make pay-
63 ments at a rate in excess of two and seven-tenths per
64 cent. If, after such contribution payments have been
65 added to such employer accounts, such accounts show
66 a credit balance, such employers shall make payments at
67 the rate of two and seven-tenths per cent. If, under the

68 conditions set forth in this paragraph, it is determined
69 that an employer shall pay contributions at a rate in
70 excess of two and seven-tenths per cent, the rate in
71 excess of two and seven-tenths per cent at which an
72 employer shall pay contributions shall then be deter-
73 mined solely under the conditions set forth in the follow-
74 ing paragraphs of this subsection. The provisions con-
75 tained in this paragraph shall in no way be considered
76 as providing for the crediting to an employer's account,
77 of amounts of employer contribution payments which are
78 expressly not credited to employers' accounts in sub-
79 section one of section seven of article five.

80 Effective on and after the computation date of June
81 thirty, one thousand nine hundred sixty-seven, all em-
82 ployers with a debit balance account in which the bene-
83 fits charged to their account for all past years exceed
84 the payments credited to their account for such past
85 years by an amount up to and including ten per cent
86 of their average annual payroll, shall make payments to
87 the unemployment compensation fund at the rate of

88 three per cent of wages paid by them with respect to
89 employment.

90 Effective on and after the computation date of June
91 thirty, one thousand nine hundred sixty-seven, all em-
92 ployers with a debit balance account in which the bene-
93 fits charged to their account for all past years exceed
94 the payments credited to their account for such past years
95 by an amount in excess of ten per cent of their average
96 annual payroll, shall make payments to the unemploy-
97 ment compensation fund at the rate of three and three-
98 tenths per cent of wages paid by them with respect to
99 employment.

100 "Debit Balance Account" for the purposes of this sub-
101 section means an account in which the benefits charged
102 for all past years exceed the payments credited for such
103 past years.

104 "Credit Balance Account" for the purposes of this sub-
105 section means an account in which the payments credited
106 for all past years exceed the benefits charged for such
107 past years.

108 Once a debit balance account rate is established for

109 an employer's account for a year, it shall apply for the
110 entire year notwithstanding the provisions of section
111 ten-a of this article.

§21A-5-10a. Modification or suspension of decreased rates.

1 (1) As used in this section, unless the context clearly
2 requires otherwise:

3 "Due date" means the last day of the month next fol-
4 lowing a calendar quarter. In determining the amount
5 in the fund on any due date, contributions received, but
6 not benefits paid, for such month next following the end
7 of a calendar quarter shall be included.

8 (2) The commissioner shall as of the due date for
9 the payment of contributions for each calendar quarter
10 determine the amount in the unemployment compensa-
11 tion fund, including the trust fund, the clearing account,
12 and the benefit account; and if, at any such time or times
13 the fund is below the sum of sixty-five million dollars,
14 the commissioner shall, effective at the commencement
15 of the next calendar quarter, increase each employer's
16 rate one step, and if, at any time or times the fund is
17 below the sum of sixty million dollars, the commissioner

18 shall further increase each employer's rate one additional
 19 step; and if, at any such time or times the fund is be-
 20 low the sum of fifty-five million dollars, the commis-
 21 sioner shall further increase each employer's rate one
 22 additional step.

23 Where the employer rates have been increased by vir-
 24 tue of the provisions of this section, they shall be cor-
 25 respondingly decreased in the same manner when the
 26 balance in the fund returns to the successive levels here-
 27 inabove set forth.

28 For purposes of this subsection the term "one step" or
 29 "one additional step" shall mean four-tenths of one per
 30 cent, except that, for an employer whose rate is zero the
 31 term "one step" shall mean three-tenths of one per cent:
 32 *Provided, however,* That under no circumstances shall
 33 an employer's rate be increased above two and seven-
 34 tenths per cent if such employer's contribution rate, as
 35 computed by the commissioner in compliance with sub-
 36 section three, section seven, article five, this chapter is
 37 two and seven-tenths per cent or less: *Provided further,*
 38 That if the contribution rate of such employer as com-

39 puted by the commissioner in compliance with subsec-
40 tion three, section seven, article five, this chapter, is
41 three per cent or higher, then such employer's rate shall
42 not be increased above three and three-tenths per cent.

43 (3) If, as of the due date for the payment of contribu-
44 tions for any calendar quarter the unemployment com-
45 pensation fund, including the trust fund, clearing ac-
46 count and benefit account, is below the sum of fifty
47 million dollars, the commissioner shall, effective at the
48 commencement of the next calendar quarter suspend
49 the decreased rates as provided in this chapter, and all
50 contributions of employers due thereafter whose con-
51 tribution rate as computed by the commissioner in com-
52 pliance with subsection three, section seven of this
53 article, is two and seven-tenths per cent or less, shall be
54 paid at the rate of two and seven-tenths per cent; and
55 all contributions of employers due thereafter whose con-
56 tribution rate as computed by the commissioner in com-
57 pliance with subsection three, section ten of this article,
58 is over two and seven-tenths per cent, shall remain and
59 be paid at said rate over two and seven-tenths per cent.

60 (4) As of January first of the year next following the
 61 date on which the unemployment compensation fund,
 62 including the trust fund, clearing account and benefit
 63 account, reaches and remains above the sum of fifty-
 64 five million dollars, the commissioner shall supersede
 65 the suspension of the decreased rates as provided for
 66 in subsection three.

ARTICLE 6. EMPLOYEE ELIGIBILITY; BENEFITS.

§21A-6-1b. Requalification requirement.

1 An individual filing a claim for benefits which, if other-
 2 wise valid, would establish a subsequent benefit year,
 3 in order to be eligible for benefits for such subsequent
 4 benefit year, must have earned wages in covered em-
 5 ployment after the beginning of his previous benefit
 6 year equal to or exceeding an amount eight times his
 7 weekly benefit rate amount established for the previous
 8 benefit year, and be otherwise eligible under the pro-
 9 visions of this article and of this chapter.

§21A-6-3. Disqualification for benefits.

1 Upon the determination of the facts by the commis-
 2 sioner, an individual shall be disqualified for benefits:

3 (1) For the week in which he left his most recent
4 work voluntarily without good cause involving fault
5 on the part of the employer and the six weeks im-
6 mediately following such week. Such disqualification
7 shall carry a reduction in the maximum benefit amount
8 equal to six times the individual's weekly benefit rate.
9 However, if the claimant returns to work in covered
10 employment during his benefit year, the maximum
11 benefit amount shall be increased by the amount of
12 the decrease imposed under the disqualification. For
13 the purpose of this subsection, the term "work" means
14 employment with the last employing unit with whom
15 such individual was employed as much as thirty days,
16 whether or not such days are consecutive.

17 (2) For the week in which he was discharged from
18 his most recent work for misconduct and the six weeks
19 immediately following such week, such disqualifica-
20 tion shall carry a reduction in the maximum benefit
21 amount equal to six times the individual's weekly bene-
22 fit. However, if the claimant returns to work in cov-
23 ered employment for thirty days during his benefit

24 year, whether or not such days are consecutive, the
 25 maximum benefit amount shall be increased by the
 26 amount of the decrease imposed under the disqualifica-
 27 tion; except that:

28 If he were discharged from his most recent work
 29 for one of the following reasons: Misconduct consist-
 30 ing of wilful destruction of his employer's property;
 31 assault upon the person of his employer or any em-
 32 ployee of his employer, if such assault is committed
 33 at such individual's place of employment or in the course
 34 of employment; reporting to work in an intoxicated
 35 condition, or being intoxicated while at work; arson,
 36 theft, larceny, fraud or embezzlement in connection
 37 with his work; or any other gross misconduct; he shall
 38 be and remain disqualified for benefits until he has
 39 thereafter worked for at least thirty days in covered
 40 employment.

41 (3) For the week in which he failed without good
 42 cause to apply for available suitable work, accept suit-
 43 able work when offered, or return to his customary
 44 self-employment when directed to do so by the com-

45 missioner, and for the four weeks which immediately
46 follow and for such an additional period as any offer
47 of suitable work shall continue open for his acceptance,
48 and his maximum benefit amount shall be reduced by
49 an amount equal to his weekly benefit rate times the
50 number of weeks of disqualification. However, if the
51 claimant returns to work in covered employment dur-
52 ing his benefit year, the maximum benefit amount shall
53 be increased by the amount of the decrease imposed
54 under the disqualification.

55 (4) For a week in which his total or partial un-
56 employment is due to a stoppage of work which exists
57 because of a labor dispute at the factory, establish-
58 ment, or other premises at which he was last employed,
59 unless the commissioner is satisfied that he was not
60 (one) participating, financing, or directly interested in
61 such dispute, and (two) did not belong to a grade or
62 class of workers who were participating, financing,
63 or directly interested in the labor dispute which re-
64 sulted in the stoppage of work. No disqualification
65 under this subsection shall be imposed if the employees

66 are required to accept wages, hours or conditions of
 67 employment substantially less favorable than those
 68 prevailing for similar work in the locality, or if em-
 69 ployees are denied the right of collective bargaining
 70 under generally prevailing conditions, or if an employer
 71 shuts down his plant or operation or dismisses his em-
 72 ployees in order to force wage reduction, changes in
 73 hours or working conditions.

74 For the purposes of this subsection, if any stoppage
 75 of work continues longer than four weeks after the
 76 termination of the labor dispute which caused stoppage
 77 of work, there shall be a rebuttable presumption that
 78 that part of the stoppage of work which exists after
 79 said period of four weeks after the termination of said
 80 labor dispute, did not exist because of said labor dis-
 81 pute; and in such event the burden shall be upon the
 82 employer or other interested party to show other-
 83 wise.

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

86 (a) Wages in lieu of notice or payments under any
 87 form of a separation wage plan.

88 (b) Compensation for temporary total disability
89 under the workmen's compensation law of any state
90 or under a similar law of the United States.

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

93 (6) For the week in which an individual has volun-
94 tarily quit employment to marry or to perform any
95 marital, parental or family duty, or to attend to his or
96 her personal business or affairs, and until the individual
97 returns to covered employment and has been em-
98 ployed in covered employment at least thirty working
99 days.

100 (7) For the week in which an individual:

101 (a) Voluntarily quit her employment because of
102 pregnancy, whether or not upon a physician's advice,
103 and until she returns to covered employment and has
104 been employed therein at least thirty working days;
105 except that such disqualification shall last no longer
106 than six weeks subsequent to the birth of her child,
107 provided such individual furnishes to the department
108 a certificate from a physician that she is physically able
109 to work;

110 (b) Was discharged or laid off from her employment
111 because of pregnancy and until she returns to cov-
112 ered employment and has been employed therein at
113 least thirty working days; except that such disqualifi-
114 cation shall last no longer than six weeks prior to and
115 six weeks subsequent to the date of birth of the child,
116 provided such individual furnishes to the department
117 certificates from a physician that she is physically able
118 to work.

119 (8) For each week in which an individual is un-
120 employed because, having voluntarily left employment
121 to attend a school, college, university, or other edu-
122 cational institution, he is attending such school, college,
123 university, or other educational institution, or is await-
124 ing entrance thereto or is awaiting the starting of a
125 new term or session thereof, and until the individual
126 returns to covered employment.

127 (9) For each week in which he is unemployed be-
128 cause of his request, or that of his duly authorized
129 agent, for a vacation period at a specified time that
130 would leave the employer no other alternative but to
131 suspend operations.

132 (10) For each week in which he is receiving or
133 has received remuneration in the form of an annuity,
134 pension, or other retirement pay, from an employer
135 or from any trust or fund contributed to by an em-
136 ployer. But if such remuneration for any week is less
137 than the benefits which would otherwise be due him
138 for such week under this chapter, he shall be entitled
139 to receive for such week, if otherwise eligible, benefits
140 reduced by the amount of such remuneration: *Pro-*
141 *vided*, That if such amount of benefits is not a multiple
142 of one dollar, it shall be computed to the next higher
143 multiple of one dollar: *Provided further*, That there
144 shall be no disqualification if in the individual's base
145 period there are no wages which were paid by the
146 employer paying such remuneration, or by a fund into
147 which the employer has paid during said base period.
148 Claimant may be required to certify as to whether or
149 not he is receiving or has received remuneration in the
150 form of an annuity, pension, or other retirement pay
151 from an employer or from a trust fund contributed to
152 by an employer.

153 (11) For each week in which he knowingly made a
154 false statement or representation knowing it to be false
155 or knowingly failed to disclose a material fact in order
156 to obtain or increase a benefit under this article. For
157 each such week of disqualification he shall be disquali-
158 fied an additional five weeks and his maximum benefit
159 amount shall be reduced by an amount equal to five
160 times his weekly benefit rate. Such five weeks disquali-
161 fication periods are to run consecutively beginning with
162 the first week in which it is determined a fraudulent
163 claim was filed: *Provided*, That an individual shall not
164 be disqualified under this subsection for a period of
165 more than fifty-two consecutive weeks: *Provided further*,
166 That disqualification under this subsection shall not
167 preclude prosecution under article ten, section seven.

168 (12) For the purposes of this section an employer's
169 account shall not be charged under any of the follow-
170 ing conditions: When benefits are paid for unemploy-
171 ment immediately after the expiration of a period of
172 disqualification for (a) leaving work voluntarily with-
173 out good cause involving fault on the part of the em-

174 ployer, (b) discharge for any of the causes set forth in
175 subsection (2) of this section, (c) failing without good
176 cause to apply for available suitable work, accept suit-
177 able work, when offered, or return to his customary self-
178 employment when directed to do so by the commissioner.

§21A-6-10. Benefit rate; total unemployment.

1 Each eligible individual who is totally unemployed in
2 any week shall be paid benefits with respect to that
3 week at the weekly rate appearing in column (C) in
4 Table A in this paragraph, on the line on which in Column
5 (A) there is indicated the employee's wage class, except
6 as otherwise provided under the term "total and partial
7 unemployment" in section three, article one of this chap-
8 ter. The employee's wage class shall be determined by
9 his base period wages as shown in column (B) in Table
10 A. The right of an employee to receive benefits shall
11 not be prejudiced nor the amount thereof be diminished
12 by reason of failure by an employer to pay either the
13 wages earned by the employee or the contribution due
14 on such wages. An individual who is totally unemployed
15 but earns in excess of ten dollars as a result of odd-job

16 or subsidiary work in any benefit week shall be paid
 17 benefits for such week in accordance with the provisions
 18 of this chapter pertaining to benefits for partial unem-
 19 ployment. The provisions of this section shall apply to
 20 all benefit weeks occurring in benefit years beginning
 21 after the effective date of this act; for benefit weeks
 22 occurring in benefit years beginning prior thereto the
 23 provisions then in effect shall apply.

24 **TABLE A**

25				Maximum Benefit
26			Weekly	in Benefit Year for
27	Wage	Wages in	Benefit	Total and/or Partial
28	Class	Base Period	Rate	Unemployment
29	(Column A)	(Column B)	(Column C)	(Column D)
30		Under \$700.00	Ineligible	-----
31	1	700.00- 799.99	\$12.00	\$312.00
32	2	800.00- 899.99	13.00	338.00
33	3	900.00- 999.99	14.00	364.00
34	4	1000.00-1149.99	15.00	390.00
35	5	1150.00-1299.99	16.00	416.00
36	6	1300.00-1449.99	17.00	442.00
37	7	1450.00-1599.99	18.00	468.00

38	8	1600.00-1749.99	19.00	494.00
39	9	1750.00-1899.99	20.00	520.00
40	10	1900.00-2049.99	21.00	546.00
41	11	2050.00-2199.99	22.00	572.00
42	12	2200.00-2349.99	23.00	598.00
43	13	2350.00-2499.99	24.00	624.00
44	14	2500.00-2599.99	25.00	650.00
45	15	2600.00-2699.99	26.00	676.00
46	16	2700.00-2799.99	27.00	702.00
47	17	2800.00-2899.99	28.00	728.00
48	18	2900.00-2999.99	29.00	754.00
49	19	3000.00-3099.99	30.00	780.00
50	20	3100.00-3199.99	31.00	806.00
51	21	3200.00-3349.99	32.00	832.00
52	22	3350.00-3499.99	33.00	858.00
53	23	3500.00-3649.99	34.00	884.00
54	24	3650.00-3799.99	35.00	910.00

55 Notwithstanding any of the foregoing provisions of
56 this section, on and after July one, one thousand nine
57 hundred sixty-seven, the maximum weekly benefit rate
58 shall be forty per cent of the average weekly wage in
59 West Virginia.

60 The commissioner, after he has determined the maxi-
 61 mum weekly benefit rate upon the basis of the above
 62 formula, shall establish as many additional wage classes
 63 as are required, increasing the amount of base period
 64 wages required for each class by one hundred fifty dol-
 65 lars, the weekly benefit rate for each class by one dollar,
 66 and the maximum benefit by twenty-six dollars.

67 After he has established such additional wage classes,
 68 the commissioner shall prepare and publish a table set-
 69 ting forth such information.

70 Average weekly wage shall be computed by dividing
 71 the number of employees in West Virginia earning wages
 72 in covered employment into the total wages paid to em-
 73 ployees in West Virginia in covered employment, and
 74 by further dividing said result by fifty-two, and shall be
 75 determined from employer wage and contribution reports
 76 for the previous calendar year which are furnished to the
 77 department on or before June one following such calen-
 78 dar year. The average weekly wage, as determined by
 79 the commissioner, shall be rounded to the next higher
 80 dollar.

81 The computation and determination of rates as afore-
82 said shall be completed annually before July one, and
83 any such new wage class, with its corresponding wages
84 in base period, weekly benefit rate, and maximum bene-
85 fit in a benefit year established by the commissioner in
86 the foregoing manner effective on a July one, shall ap-
87 ply only to a new claim established by a claimant on and
88 after said July one, and shall not apply to continued
89 claims of a claimant based on his new claim established
90 before said July one.

ARTICLE 7. CLAIM PROCEDURE.

§21A-7-11. Benefits pending appeal.

1 If an appeal is filed, benefits for the period prior to
2 final determination of the board shall be paid only after
3 such determination. If benefits are allowed by the deci-
4 sion of the board on appeal from the decision of the ap-
5 peal tribunal the benefits shall be paid whether such
6 decision reverses or affirms the decision of the appeal
7 tribunal and regardless of any further appeal: *Provided,*
8 That such decision does not relate to a disqualification
9 under subsection (4) of section three of article six; but

10 if the decision of the board is reversed on appeal an
11 employer's account shall not be charged with the benefits
12 so paid.

§21A-7-17. Finality of board's decision—judicial review.

1 The decision of the board shall be final and benefits
2 shall be paid or denied in accordance therewith, unless
3 a claimant, last employer, or other interested party ap-
4 peals to the circuit court of Kanawha county within
5 thirty days after mailing of notification of the board's
6 decision: *Provided, That*, in cases relating to a disqual-
7 ification under subsection (4) of section three of article
8 six the decision of the board shall be final and benefits
9 shall be paid or denied in accordance therewith, unless
10 a claimant, last employer, or other interested party ap-
11 peals to the circuit court of Kanawha county within
12 twenty days after mailing of notification of the board's
13 decision.

14 Parties to the proceedings before the board shall be
15 made defendants in any such appeal; and the commis-
16 sioner shall be a necessary party to such judicial review.

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

William Tempa
Chairman Senate Committee

Clayton C. Davidson
Chairman House Committee

Originated in the House.

Takes effect April 1, 1967.

Thomas Meyer
Clerk of the Senate

C. A. Blankenship
Clerk of the House of Delegates

Howard E. Carson
President of the Senate

H. Laban White
Speaker House of Delegates

The within approved this the 17
day of March, 1967.

Walter C. Smith
Governor



PRESENTED TO THE
GOVERNOR

Date 3/17/67

Time 3:07 p.m.