

No: 174

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OFFICE OF THE GOVERNOR

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1983



ENROLLED

SENATE BILL NO. 174

(By Mrs. Sears)



PASSED March 11, 1983

In Effect ninty days for Passage



ENROLLED
Senate Bill No. 174
(BY MRS. SPEARS)

[Passed March 11, 1983; in effect ninety days from passage.]

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Sec

AN ACT to amend and reenact sections three, ten, eleven and fifteen, article six, chapter twenty-one-a of the code of West Virginia, one thousand nine hundred thirty-one, as amended, and to further amend said article by adding thereto one new section, designated section four-a; and to amend and reenact section five-a, article nine of said chapter twenty-one-a, all relating to unemployment compensation; disqualification of benefits; benefit rates; partial unemployment; benefit payments for service with nonprofit organizations, state hospitals, institutions of higher education, and educational institutions and governmental entities; the special administration fund; providing that for purposes of computation of unemployment compensation benefits an individual's national guard or reserve inactive duty for training shall not be considered to be employment; providing that such individual may not be considered unavailable for work; and providing that remuneration received for such training may not be deducted from the unemployment compensation benefit to which such individual is entitled.

Be it enacted by the Legislature of West Virginia:

That sections three, ten, eleven and fifteen, article six, chapter twenty-one-a of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted;

that said article be further amended by adding thereto a new section, designated section four-a; and that section five-a, article nine, chapter twenty-one-a of said code be amended and reenacted, all to read as follows:

ARTICLE 6. EMPLOYEE ELIGIBILITY; BENEFITS.

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

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

3 (1) For the week in which he left his most recent work
4 voluntarily without good cause involving fault on the part
5 of the employer and until the individual returns to covered
6 employment and has been employed in covered
7 employment at least thirty working days.

8 For the purpose of this subdivision (1), an individual shall
9 not be deemed to have left his most recent work voluntarily
10 without good cause involving fault on the part of the
11 employer, if such individual leaves his work with an
12 employer with whom he has been employed at least thirty
13 working days or more for the purpose of returning to, and if
14 he in fact, within a fourteen-day calendar period, does
15 return to, employment with the last preceding employer
16 with whom he was previously employed within the past
17 year prior to his return to work day, and which last
18 preceding employer, after having previously employed such
19 individual for thirty working days or more, laid off such
20 individual because of lack of work, which layoff occasioned
21 the payment of benefits under this chapter or could have
22 occasioned the payment of benefits under this chapter had
23 such individual applied for such benefits. It is the intent of
24 this paragraph to cause no disqualification for benefits for
25 such an individual who complies with the foregoing set of
26 requirements and conditions. Benefits paid to such
27 individual under the provisions of this chapter shall,
28 notwithstanding the provisions of subsection (2), section
29 seven, article five of this chapter, and of subdivision (12) of
30 this section three, be charged to the account of such last
31 preceding employer with whom such individual was
32 previously employed for thirty working days.

33 (2) For the week in which he was discharged from his
34 most recent work for misconduct and the six weeks
35 immediately following such week; or for the week in which
36 he was discharged from his last thirty-day employing unit

37 for misconduct and the six weeks immediately following
38 such week. Such disqualification shall carry a reduction in
39 the maximum benefit amount equal to six times the
40 individual's weekly benefit. However, if the claimant
41 returns to work in covered employment for thirty days
42 during his benefit year, whether or not such days are
43 consecutive, the maximum benefit amount shall be
44 increased by the amount of the decrease imposed under the
45 disqualification; except that:

46 If he were discharged from his most recent work for one of
47 the following reasons, or if he were discharged from his last
48 thirty days employing unit for one of the following reasons:
49 Misconduct consisting of willful destruction of his
50 employer's property; assault upon the person of his
51 employer or any employee of his employer; if such assault is
52 committed at such individual's place of employment or in
53 the course of employment; reporting to work in an
54 intoxicated condition, or being intoxicated while at work;
55 arson, theft, larceny, fraud or embezzlement in connection
56 with his work; or any other gross misconduct; he shall be
57 and remain disqualified for benefits until he has thereafter
58 worked for at least thirty days in covered employment:
59 *Provided*, That for the purpose of this subdivision the words
60 "any other gross misconduct" shall include, but not be
61 limited to, any act or acts of misconduct where the
62 individual has received prior written warning that
63 termination of employment may result from such act or
64 acts.

65 (3) For the week in which he failed without good cause
66 to apply for available, suitable work, accept suitable work
67 when offered, or return to his customary self-employment
68 when directed to do so by the commissioner, and for the four
69 weeks which immediately follow for such additional period
70 as any offer of suitable work shall continue open for his
71 acceptance. Such disqualification shall carry a reduction in
72 the maximum benefit amount equal to four times the
73 individual's weekly benefit amount.

74 (4) For a week in which his total or partial
75 unemployment is due to a stoppage of work which exists
76 because of a labor dispute at the factory, establishment or
77 other premises at which he was last employed, unless the
78 commissioner is satisfied that he was not (one)

79 participating, financing, or directly interested in such
80 dispute, and (two) did not belong to a grade or class of
81 workers who were participating, financing, or directly
82 interested in the labor dispute which resulted in the
83 stoppage of work. No disqualification under this
84 subdivision shall be imposed if the employees are required
85 to accept wages, hours or conditions of employment
86 substantially less favorable than those prevailing for
87 similar work in the locality, or if employees are denied the
88 right of collective bargaining under generally prevailing
89 conditions, or if an employer shuts down his plant or
90 operation or dismisses his employees in order to force wage
91 reduction, changes in hours or working conditions.

92 For the purpose of this subdivision, if any stoppage of
93 work continues longer than four weeks after the
94 termination of the labor dispute which caused stoppage of
95 work, there shall be a rebuttable presumption that that part
96 of the stoppage of work which exists after said period of
97 four weeks after the termination of said labor dispute did
98 not exist because of said labor dispute; and in such event the
99 burden shall be upon the employer or other interested party
100 to show otherwise.

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

103 (a) Wages in lieu of notice;

104 (b) Compensation for temporary total disability under
105 the workers' compensation law of any state or under a
106 similar law of the United States;

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

109 (6) For the week in which an individual has voluntarily
110 quit employment to marry or to perform any marital,
111 parental or family duty, or to attend to his or her personal
112 business or affairs and until the individual returns to
113 covered employment and has been employed in covered
114 employment at least thirty working days.

115 (7) Benefits shall not be paid to any individual on the
116 basis of any services, substantially all of which consist of
117 participating in sports or athletic events or training or
118 preparing to so participate, for any week which commences
119 during the period between two successive sport seasons (or
120 similar periods) if such individual performed such services

121 in the first of such seasons (or similar periods) and there is a
122 reasonable assurance that such individual will perform
123 such services in the later of such seasons (or similar
124 periods).

125 (8) (a) Benefits shall not be paid on the basis of
126 services performed by an alien unless such alien is an
127 individual who has been lawfully admitted for permanent
128 residence or otherwise is permanently residing in the
129 United States under color of law (including an alien who is
130 lawfully present in the United States as a result of the
131 application of the provisions of section 203 (a) (7) or section
132 212 (d) (5) of the Immigration and Nationality Act:
133 *Provided*, That any modifications to the provisions of
134 section 3304 (a) (14) of the Federal Unemployment Tax Act
135 as provided by Public Law 94-566 which specify other
136 conditions or other effective date than stated herein for the
137 denial of benefits based on services performed by aliens and
138 which modifications are required to be implemented under
139 state law as a condition for full tax credit against the tax
140 imposed by the Federal Unemployment Tax Act shall be
141 deemed applicable under the provisions of this section;

142 (b) Any data or information required of individuals
143 applying for benefits to determine whether benefits are not
144 payable to them because of their alien status shall be
145 uniformly required from all applicants for benefits;

146 (c) In the case of an individual whose application for
147 benefits would otherwise be approved, no determination
148 that benefits to such individual are not payable because of
149 his alien status shall be made except upon a preponderance
150 of the evidence.

151 (9) For each week in which an individual is unemployed
152 because, having voluntarily left employment to attend a
153 school, college, university or other educational institution,
154 he is attending such school, college, university or other
155 educational institution, or is awaiting entrance thereto or is
156 awaiting the starting of a new term or session thereof, and
157 until the individual returns to covered employment.

158 (10) For each week in which he is unemployed because
159 of his request, or that of his duly authorized agent, for a
160 vacation period at a specified time that would leave the
161 employer no other alternative but to suspend operations.

162 (11) For each week in which he is receiving or has
163 received benefits under Title II of the Social Security Act or
164 similar payments under any act of Congress and/or
165 remuneration in the form of an annuity, pension, or other
166 retirement pay from a base period and/or chargeable
167 employer or from any trust or fund contributed to by a base
168 period and/or chargeable employer. But if such
169 remuneration for any week is less than the benefits which
170 would otherwise be due him for such week under this
171 chapter, he shall be entitled to receive for such week, if
172 otherwise eligible, benefits reduced by the amount of such
173 remuneration: *Provided*, That if such amount of benefits is
174 not a multiple of one dollar, it shall be computed to the next
175 lowest multiple of one dollar: *Provided, however*, That
176 there shall be no disqualification if in the individual's base
177 period there are no wages which were paid by the base
178 period and/or chargeable employer paying such
179 remuneration, or by a fund into which the employer has
180 paid during said base period. Claimant may be required to
181 certify as to whether or not he is receiving or has been
182 receiving remuneration in the form of an annuity, pension,
183 or other retirement pay from a base period and/or
184 chargeable employer or from a trust fund contributed to by
185 a base period and/or chargeable employer.

186 (12) For fifty-two weeks, beginning with the date of the
187 decision, if the commissioner finds such individual who
188 within twenty-four calendar months immediately
189 preceding such decision, has made a false statement or
190 representation knowing it to be false or knowingly fails to
191 disclose a material fact, to obtain or increase any benefit or
192 payment under this article: *Provided*, That disqualification
193 under this subdivision shall not preclude prosecution under
194 section seven, article ten of this chapter.

195 (13) For the purposes of this section, an employer's
196 account shall not be charged under any of the following
197 conditions: When benefits are paid for unemployment
198 immediately after the expiration of a period of
199 disqualification for (a) discharge for any of the causes set
200 forth in subdivision (2) of this section, or (b) failing without
201 good cause to apply for available suitable work, accept
202 suitable work when offered, or to return to his customary
203 self-employment when directed to do so by the
204 commissioner.

ARTICLE 6. EMPLOYEE ELIGIBILITY; BENEFITS.**§21A-6-4a. National guard or reserve training not to be considered employment; such individual not unavailable for work; remuneration for training not to be deducted from unemployment compensation benefit.**

1 Notwithstanding any other provision of this chapter to
2 the contrary, the following provisions apply to an
3 individual who is a member of the state national guard or
4 other reserve component of the United States armed forces;

5 (1) If such individual is otherwise unemployed under
6 the provisions of this chapter, he may not be considered to
7 be employed because he is engaged in inactive duty for
8 training;

9 (2) Such individual may not be considered unavailable
10 for work by reason of his inactive duty for training; and

11 (3) Remuneration which the individual receives for
12 participating in inactive duty for training may not be
13 deducted from the unemployment compensation benefit to
14 which he is otherwise entitled.

§21A-6-10. Benefit rate—Total unemployment; annual computation and publication of rates.

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

TABLE A

| Wage Class | | Wages in Base Period | | Weekly Benefit Rate | Maximum Benefit in Benefit Year for Total and/or Partial Unemployment |
|------------|----|----------------------|----------|---------------------|---|
| (Column A) | | (Column B) | | (Column C) | (Column D) |
| 19 | | Under | \$700.00 | Ineligible | |
| 20 | 1 | 700.00 | 799.99 | \$12.00 | \$312.00 |
| 21 | 2 | 800.00 | 899.99 | 13.00 | 338.00 |
| 22 | 3 | 900.00 | 999.99 | 14.00 | 364.00 |
| 23 | 4 | 1,000.00 | 1,149.99 | 15.00 | 390.00 |
| 24 | 5 | 1,150.00 | 1,299.99 | 16.00 | 416.00 |
| 25 | 6 | 1,300.00 | 1,449.99 | 17.00 | 442.00 |
| 26 | 7 | 1,450.00 | 1,599.99 | 18.00 | 468.00 |
| 27 | 8 | 1,600.00 | 1,749.99 | 19.00 | 494.00 |
| 28 | 9 | 1,750.00 | 1,899.99 | 20.00 | 520.00 |
| 29 | 10 | 1,900.00 | 2,049.99 | 21.00 | 546.00 |
| 30 | 11 | 2,050.00 | 2,199.99 | 22.00 | 572.00 |
| 31 | 12 | 2,200.00 | 2,349.99 | 23.00 | 598.00 |
| 32 | 13 | 2,350.00 | 2,499.99 | 24.00 | 624.00 |
| 33 | 14 | 2,500.00 | 2,599.99 | 25.00 | 650.00 |
| 34 | 15 | 2,600.00 | 2,699.99 | 26.00 | 676.00 |
| 35 | 16 | 2,700.00 | 2,799.99 | 27.00 | 702.00 |
| 36 | 17 | 2,800.00 | 2,899.99 | 28.00 | 728.00 |
| 37 | 18 | 2,900.00 | 2,999.99 | 29.00 | 754.00 |
| 38 | 19 | 3,000.00 | 3,099.99 | 30.00 | 780.00 |
| 39 | 20 | 3,100.00 | 3,199.99 | 31.00 | 806.00 |
| 40 | 21 | 3,200.00 | 3,349.99 | 32.00 | 832.00 |
| 41 | 22 | 3,350.00 | 3,499.99 | 33.00 | 858.00 |
| 42 | 23 | 3,500.00 | 3,649.99 | 34.00 | 884.00 |
| 43 | 24 | 3,650.00 | 3,799.99 | 35.00 | 910.00 |

44 Notwithstanding any of the foregoing provisions of this
 45 section, on and after July one, one thousand nine hundred
 46 sixty-seven, the maximum weekly benefit rate shall be forty
 47 percent of the average weekly wage in West Virginia.

48 Notwithstanding any of the foregoing provisions of this
 49 section, on and after July one, one thousand nine hundred

50 seventy, the maximum weekly benefit rate shall be forty-
51 five percent of the average weekly wage in West Virginia.

52 Notwithstanding any of the foregoing provisions of this
53 section, on and after July one, one thousand nine hundred
54 seventy-one, the maximum weekly benefit rate shall be fifty
55 percent of the average weekly wage in West Virginia.

56 Notwithstanding any of the foregoing provisions of this
57 section, on and after July one, one thousand nine hundred
58 seventy-three, the maximum weekly benefit rate shall be
59 fifty-five percent of the average weekly wage in West
60 Virginia.

61 The commissioner, after he has determined the maximum
62 weekly benefit rate upon the basis of the above formula,
63 shall establish as many additional wage classes as are
64 required, increasing the amount of ~~the~~ base period wages
65 required for each class by one hundred fifty dollars, the
66 weekly benefit rate for each class by one dollar, and the
67 maximum benefit by twenty-six dollars. The maximum
68 weekly benefit rate, when computed by the commissioner,
69 in accordance with the foregoing provisions, shall be
70 rounded to the next lowest multiple of one dollar.

71 Notwithstanding any of the foregoing provisions of this
72 section, including Table A, on and after July one, one
73 thousand nine hundred seventy-four:

74 (1) The maximum weekly benefit rate shall be seventy
75 percent of the average weekly wage in West Virginia.

76 (2) The weekly benefit rate (Column (C) of said Table A)
77 in each and every wage class, one through twenty-four, both
78 inclusive (Column (A) of said Table A), shall be increased
79 two dollars, and the maximum benefit in benefit year for
80 total and/or partial unemployment (Column (D) of said
81 Table A) in each and every wage class (Column (A) of said
82 Table A), shall be increased fifty-two dollars.

83 (3) The commissioner, after he has determined the
84 maximum weekly benefit rate upon the basis of the formula
85 set forth in subdivision (1) above, shall establish as many
86 additional wage classes as are required, increasing the
87 amount of the base period wages required for each wage
88 class by one hundred fifty dollars, establishing the weekly
89 benefit rate for each wage class by rounded dollar amount
90 to be fifty percent of one fifty-second of the median dollar
91 amount of wages in base period for such wage class, and

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92 establishing the maximum benefit for each wage class as an
 93 amount equal to twenty-eight times the weekly benefit rate.
 94 The maximum weekly benefit rate, when computed by the
 95 commissioner, in accordance with the foregoing provisions,
 96 shall be rounded to the next lowest multiple of one dollar.
 97 Notwithstanding any of the foregoing provisions of this
 98 section, on and after July one, one thousand nine hundred
 99 seventy-nine the weekly benefit rate for each wage class by
 100 rounded dollar amount shall be fifty-five percent of one
 101 fifty-second of the median dollar amount of wages in base
 102 period for such wage class except that the weekly benefit
 103 rate for classifications one through twenty shall remain
 104 unchanged, but in any case the weekly benefit rate on or
 105 after July one, one thousand nine hundred eighty-three,
 106 shall be in accordance with Table B below.

TABLE B

| | Wage Class | Wages in Base Period | Weekly Benefit Rate | Maximum Benefit in Benefit Year for Total and/or Partial Un-employment |
|-----|------------|------------------------|---------------------|--|
| 107 | | Under \$ 1,150.00 | Ineligible | |
| 108 | 1 | \$ 1,150.00 - 1,299.99 | \$ 18.00 | \$ 504.00 |
| 109 | 2 | 1,300.00 - 1,449.99 | 19.00 | 532.00 |
| 110 | 3 | 1,450.00 - 1,599.99 | 20.00 | 560.00 |
| 111 | 4 | 1,600.00 - 1,749.99 | 21.00 | 588.00 |
| 112 | 5 | 1,750.00 - 1,899.99 | 22.00 | 616.00 |
| 113 | 6 | 1,900.00 - 2,049.99 | 23.00 | 644.00 |
| 114 | 7 | 2,050.00 - 2,199.99 | 24.00 | 672.00 |
| 115 | 8 | 2,200.00 - 2,349.99 | 25.00 | 700.00 |
| 116 | 9 | 2,350.00 - 2,499.99 | 26.00 | 728.00 |
| 117 | 10 | 2,500.00 - 2,599.99 | 27.00 | 756.00 |
| 118 | 11 | 2,600.00 - 2,699.99 | 28.00 | 784.00 |
| 119 | 12 | 2,700.00 - 2,799.99 | 29.00 | 812.00 |
| 120 | 13 | 2,800.00 - 2,899.99 | 30.00 | 840.00 |
| 121 | 14 | 2,900.00 - 2,999.99 | 31.00 | 868.00 |
| 122 | 15 | 3,000.00 - 3,099.99 | 32.00 | 896.00 |
| 123 | 16 | 3,100.00 - 3,199.99 | 33.00 | 924.00 |
| 124 | 17 | 3,200.00 - 3,349.99 | 35.00 | 980.00 |

| | | | | |
|-----|----|---------------------|--------|----------|
| 125 | 18 | 3,350.00 - 3,499.99 | 37.00 | 1,036.00 |
| 126 | 19 | 3,500.00 - 3,649.99 | 38.00 | 1,064.00 |
| 127 | 20 | 3,650.00 - 3,799.99 | 40.00 | 1,120.00 |
| 128 | 21 | 3,800.00 - 3,949.99 | 41.00 | 1,148.00 |
| 129 | 22 | 3,950.00 - 4,099.99 | 43.00 | 1,204.00 |
| 130 | 23 | 4,100.00 - 4,249.99 | 45.00 | 1,260.00 |
| 131 | 24 | 4,250.00 - 4,399.99 | 46.00 | 1,288.00 |
| 132 | 25 | 4,400.00 - 4,549.99 | 47.00 | 1,316.00 |
| 133 | 26 | 4,550.00 - 4,699.99 | 48.00 | 1,344.00 |
| 134 | 27 | 4,700.00 - 4,849.99 | 50.00 | 1,400.00 |
| 135 | 28 | 4,850.00 - 4,999.99 | 52.00 | 1,456.00 |
| 136 | 29 | 5,000.00 - 5,149.99 | 53.00 | 1,484.00 |
| 137 | 30 | 5,150.00 - 5,299.99 | 55.00 | 1,540.00 |
| 138 | 31 | 5,300.00 - 5,449.99 | 56.00 | 1,568.00 |
| 139 | 32 | 5,450.00 - 5,599.99 | 58.00 | 1,624.00 |
| 140 | 33 | 5,600.00 - 5,749.99 | 60.00 | 1,680.00 |
| 141 | 34 | 5,750.00 - 5,899.99 | 61.00 | 1,708.00 |
| 142 | 35 | 5,900.00 - 6,049.99 | 63.00 | 1,764.00 |
| 143 | 36 | 6,050.00 - 6,199.99 | 64.00 | 1,792.00 |
| 144 | 37 | 6,200.00 - 6,349.99 | 66.00 | 1,848.00 |
| 145 | 38 | 6,350.00 - 6,499.99 | 67.00 | 1,876.00 |
| 146 | 39 | 6,500.00 - 6,649.99 | 69.00 | 1,932.00 |
| 147 | 40 | 6,650.00 - 6,799.99 | 71.00 | 1,988.00 |
| 148 | 41 | 6,800.00 - 6,949.99 | 72.00 | 2,016.00 |
| 149 | 42 | 6,950.00 - 7,099.99 | 74.00 | 2,072.00 |
| 150 | 43 | 7,100.00 - 7,249.99 | 75.00 | 2,100.00 |
| 151 | 44 | 7,250.00 - 7,399.99 | 77.00 | 2,156.00 |
| 152 | 45 | 7,400.00 - 7,549.99 | 79.00 | 2,212.00 |
| 153 | 46 | 7,550.00 - 7,699.99 | 80.00 | 2,240.00 |
| 154 | 47 | 7,700.00 - 7,849.99 | 82.00 | 2,296.00 |
| 155 | 48 | 7,850.00 - 7,999.99 | 83.00 | 2,324.00 |
| 156 | 49 | 8,000.00 - 8,149.99 | 85.00 | 2,380.00 |
| 157 | 50 | 8,150.00 - 8,299.99 | 86.00 | 2,408.00 |
| 158 | 51 | 8,300.00 - 8,449.99 | 88.00 | 2,464.00 |
| 159 | 52 | 8,450.00 - 8,599.99 | 90.00 | 2,520.00 |
| 160 | 53 | 8,600.00 - 8,749.99 | 91.00 | 2,548.00 |
| 161 | 54 | 8,750.00 - 8,899.99 | 93.00 | 2,604.00 |
| 162 | 55 | 8,900.00 - 9,049.99 | 94.00 | 2,632.00 |
| 163 | 56 | 9,050.00 - 9,199.99 | 96.00 | 2,688.00 |
| 164 | 57 | 9,200.00 - 9,349.99 | 98.00 | 2,744.00 |
| 165 | 58 | 9,350.00 - 9,499.99 | 99.00 | 2,772.00 |
| 166 | 59 | 9,500.00 - 9,649.99 | 101.00 | 2,828.00 |

| | | | | | |
|-----|-----|-----------|------------|--------|----------|
| 167 | 60 | 9,650.00 | - 9,799.99 | 102.00 | 2,856.00 |
| 168 | 61 | 9,800.00 | - 9,949.99 | 104.00 | 2,912.00 |
| 169 | 62 | 9,950.00 | -10,099.99 | 106.00 | 2,968.00 |
| 170 | 63 | 10,100.00 | -10,249.99 | 107.00 | 2,996.00 |
| 171 | 64 | 10,250.00 | -10,399.99 | 109.00 | 3,052.00 |
| 172 | 65 | 10,400.00 | -10,549.99 | 110.00 | 3,080.00 |
| 173 | 66 | 10,550.00 | -10,699.99 | 112.00 | 3,136.00 |
| 174 | 67 | 10,700.00 | -10,849.99 | 113.00 | 3,164.00 |
| 175 | 68 | 10,850.00 | -10,999.99 | 115.00 | 3,220.00 |
| 176 | 69 | 11,000.00 | -11,149.99 | 117.00 | 3,276.00 |
| 177 | 70 | 11,150.00 | -11,299.99 | 118.00 | 3,304.00 |
| 178 | 71 | 11,300.00 | -11,449.99 | 120.00 | 3,360.00 |
| 179 | 72 | 11,450.00 | -11,599.99 | 121.00 | 3,388.00 |
| 180 | 73 | 11,600.00 | -11,749.99 | 123.00 | 3,444.00 |
| 181 | 74 | 11,750.00 | -11,899.99 | 125.00 | 3,500.00 |
| 182 | 75 | 11,900.00 | -12,049.99 | 126.00 | 3,528.00 |
| 183 | 76 | 12,050.00 | -12,199.99 | 128.00 | 3,584.00 |
| 184 | 77 | 12,200.00 | -12,349.99 | 129.00 | 3,612.00 |
| 185 | 78 | 12,350.00 | -12,499.99 | 131.00 | 3,668.00 |
| 186 | 79 | 12,500.00 | -12,649.99 | 132.00 | 3,696.00 |
| 187 | 80 | 12,650.00 | -12,799.99 | 134.00 | 3,752.00 |
| 188 | 81 | 12,800.00 | -12,949.99 | 136.00 | 3,808.00 |
| 189 | 82 | 12,950.00 | -13,099.99 | 137.00 | 3,836.00 |
| 190 | 83 | 13,100.00 | -13,249.99 | 139.00 | 3,892.00 |
| 191 | 84 | 13,250.00 | -13,399.99 | 140.00 | 3,920.00 |
| 192 | 85 | 13,400.00 | -13,549.99 | 142.00 | 3,976.00 |
| 193 | 86 | 13,550.00 | -13,699.99 | 144.00 | 4,032.00 |
| 194 | 87 | 13,700.00 | -13,849.99 | 145.00 | 4,060.00 |
| 195 | 88 | 13,850.00 | -13,999.99 | 147.00 | 4,116.00 |
| 196 | 89 | 14,000.00 | -14,149.99 | 148.00 | 4,144.00 |
| 197 | 90 | 14,150.00 | -14,299.99 | 149.00 | 4,172.00 |
| 198 | 91 | 14,300.00 | -14,449.99 | 151.00 | 4,228.00 |
| 199 | 92 | 14,450.00 | -14,599.99 | 153.00 | 4,284.00 |
| 200 | 93 | 14,600.00 | -14,749.99 | 154.00 | 4,312.00 |
| 201 | 94 | 14,750.00 | -14,899.99 | 156.00 | 4,368.00 |
| 202 | 95 | 14,900.00 | -15,049.99 | 157.00 | 4,396.00 |
| 203 | 96 | 15,050.00 | -15,199.99 | 159.00 | 4,452.00 |
| 204 | 97 | 15,200.00 | -15,349.99 | 161.00 | 4,508.00 |
| 205 | 98 | 15,350.00 | -15,499.99 | 163.00 | 4,564.00 |
| 206 | 99 | 15,500.00 | -15,649.99 | 164.00 | 4,592.00 |
| 207 | 100 | 15,650.00 | -15,799.99 | 166.00 | 4,648.00 |
| 208 | 101 | 15,800.00 | -15,949.99 | 167.00 | 4,676.00 |

| | | | | | |
|-----|-----|-----------|------------|--------|----------|
| 209 | 102 | 15,950.00 | -16,099.99 | 169.00 | 4,732.00 |
| 210 | 103 | 16,100.00 | -16,249.99 | 171.00 | 4,788.00 |
| 211 | 104 | 16,250.00 | -16,399.99 | 172.00 | 4,816.00 |
| 212 | 105 | 16,400.00 | -16,549.99 | 174.00 | 4,872.00 |
| 213 | 106 | 16,550.00 | -16,699.99 | 175.00 | 4,900.00 |
| 214 | 107 | 16,700.00 | -16,849.99 | 177.00 | 4,956.00 |
| 215 | 108 | 16,850.00 | -16,999.99 | 179.00 | 5,012.00 |
| 216 | 109 | 17,000.00 | -17,149.99 | 180.00 | 5,040.00 |
| 217 | 110 | 17,150.00 | -17,299.99 | 182.00 | 5,096.00 |
| 218 | 111 | 17,300.00 | -17,449.99 | 183.00 | 5,124.00 |
| 219 | 112 | 17,450.00 | -17,599.99 | 185.00 | 5,180.00 |
| 220 | 113 | 17,600.00 | -17,749.99 | 186.00 | 5,208.00 |
| 221 | 114 | 17,750.00 | -17,899.99 | 188.00 | 5,264.00 |
| 222 | 115 | 17,900.00 | -18,049.99 | 190.00 | 5,320.00 |
| 223 | 116 | 18,050.00 | -18,199.99 | 191.00 | 5,348.00 |
| 224 | 117 | 18,200.00 | -18,349.99 | 193.00 | 5,404.00 |
| 225 | 118 | 18,350.00 | -18,499.99 | 194.00 | 5,432.00 |
| 226 | 119 | 18,500.00 | -18,649.99 | 195.00 | 5,460.00 |
| 227 | 120 | 18,650.00 | -18,799.99 | 197.00 | 5,516.00 |
| 228 | 121 | 18,800.00 | -18,949.99 | 199.00 | 5,572.00 |
| 229 | 122 | 18,950.00 | -19,099.99 | 200.00 | 5,600.00 |
| 230 | 123 | 19,100.00 | -19,249.99 | 202.00 | 5,656.00 |
| 231 | 124 | 19,250.00 | -19,399.99 | 203.00 | 5,684.00 |
| 232 | 125 | 19,400.00 | -19,549.99 | 205.00 | 5,740.00 |
| 233 | 126 | 19,550.00 | -19,699.99 | 207.00 | 5,796.00 |
| 234 | 127 | 19,700.00 | -19,849.99 | 209.00 | 5,852.00 |
| 235 | 128 | 19,850.00 | And Over | 211.00 | 5,908.00 |

236 After he has established such additional wage classes, the
 237 commissioner shall prepare and publish a table setting
 238 forth such information.

239 Average weekly wage shall be computed by dividing the
 240 number of employees in West Virginia earning wages in
 241 covered employment into the total wages paid to employees
 242 in West Virginia in covered employment, and by further
 243 dividing said result by fifty-two, and shall be determined
 244 from employer wage and contribution reports for the
 245 previous calendar year which are furnished to the
 246 department on or before June one following such calendar
 247 year. The average weekly wage, as determined by the
 248 commissioner, shall be rounded to the next higher dollar.

249 The computation and determination of rates as aforesaid
 250 shall be completed annually before July one, and any such

251 new wage class, with its corresponding wages in base
252 period, weekly benefit rate, and maximum benefit in a
253 benefit year established by the commissioner in the
254 foregoing manner effective on a July one, shall apply only to
255 a new claim established by a claimant on and after said July
256 one, and shall not apply to continued claims of a claimant
257 based on his new claim established before said July one.

§21A-6-11. Benefit rate—Partial unemployment.

1 An eligible individual who is partially unemployed in any
2 week shall, upon claim therefor filed within such time and
3 in such manner as the commissioner may by regulation
4 prescribe, be paid benefits for such partial unemployment
5 in an amount equal to his weekly benefits rate, as
6 determined in accordance with section ten of this article,
7 less that part of wages from any source payable to him with
8 respect to such week which is in excess of twenty-five
9 dollars (notwithstanding the reference to fifteen dollars in
10 the definition of partial unemployment contained in section
11 three, article one of this chapter): *Provided*, That such
12 amount of benefits if not a multiple of one dollar shall be
13 computed to the next lowest multiple of one dollar. Such
14 partial benefits shall be paid to such individual for the week
15 for which he is claiming benefits without regard to the
16 provisions of subdivision one, section one of this article.

§21A-6-15. Benefit payments for service with nonprofit organizations, state hospitals, institutions of higher education, educational institutions and governmental entities.

1 (1) Benefits based on service in employment as defined
2 in subdivisions (9) and (10) of the definition of
3 “employment” in section three, article one of this chapter,
4 shall be payable in the same amount, on the same terms and
5 subject to the same conditions as compensation payable on
6 the basis of other service subject to this chapter; except that
7 benefits based on service in an instructional, research, or
8 principal administrative capacity in an institution of higher
9 education shall not be paid to an individual for any week of
10 unemployment which begins during the period between
11 two successive academic years, or during a similar period
12 between two regular terms, whether or not successive, or

13 during a period of paid sabbatical leave provided for in the
14 individual's contract, if the individual has a contract or
15 contracts to perform services in any such capacity for any
16 institution or institutions of higher education for both such
17 academic years or both such terms.

18 (2) Benefits based on service in employment defined in
19 subdivisions (9) and (10) of the definition of "employment"
20 in section three, article one of this chapter, shall be payable
21 in the same amount, on the same terms and subject to the
22 same conditions as benefits payable on the basis of other
23 service subject to this act, except that:

24 (a) With respect to service performed after December
25 thirty-one, one thousand nine hundred seventy-seven, in an
26 instructional, research, or principal administrative
27 capacity for an educational institution, benefits shall not be
28 paid based on such services for any week of unemployment
29 commencing during the period between two successive
30 academic years, or during a similar period between two
31 regular but not successive terms, or during any holiday or
32 vacation period, or during a period of paid sabbatical leave
33 provided for in the individual's contract, to any individual
34 if such individual performs such services in the first of such
35 academic years (or terms) or prior to the beginning of such
36 holiday or vacation period and if there is a contract or a
37 reasonable assurance that such individual will perform
38 services in any such capacity for any educational institution
39 in the second of such academic years or terms or after such
40 holiday or vacation period: *Provided*, That subsection (1) of
41 this section shall apply with respect to such services prior to
42 January one, one thousand nine hundred seventy-eight;

43 (b) With respect to services performed after April one,
44 one thousand nine hundred eighty-three, in any other
45 capacity for an educational institution, benefits shall not be
46 paid on the basis of such services to any individual for any
47 week which commences during any holiday or vacation
48 period, or during a period between two successive academic
49 years or terms if such individual performs such services in
50 the first of such academic years or terms or prior to the
51 beginning of such holiday or vacation period and there is a
52 reasonable assurance that such individual will perform
53 such services in the second of such academic years or terms

54 or after such holiday or vacation periods, except that if
55 compensation is denied to any individual under this
56 subsection and such individual was not offered an
57 opportunity to perform such services for the educational
58 institution for the second of such academic years or terms,
59 such individual shall be entitled to a retroactive payment of
60 compensation for each week for which the individual filed a
61 timely claim for compensation and for which compensation
62 was denied solely by reason of this clause.

ARTICLE 9. EMPLOYMENT SECURITY ADMINISTRATION FUND.

§21A-9-5a. Special administration fund.

1 There is hereby created in the state treasury a fund to be
2 known as the employment security special administration
3 fund, which shall consist of interest collected on delinquent
4 payments pursuant to section seventeen, article five of this
5 chapter. The moneys deposited with this fund are hereby
6 appropriated and made available to the order of the
7 commissioner for the purpose of (a) replacements in the
8 employment security administration fund as provided in
9 section eight of this article, (b) to meet special,
10 extraordinary, and contingent expenses not provided for in
11 the employment security administration fund, and (c)
12 refunds pursuant to section nineteen of article five, of
13 interest erroneously collected, and (d) cover expenditures
14 for which federal funds have been authorized but not yet
15 received, subject to repayment to the fund. This fund shall
16 be administered and disbursed in the same manner and
17 under the same conditions as other special funds of the state
18 treasury. Balances to the credit of the special
19 administration fund shall not lapse at any time but shall be
20 continuously available to the commissioner for
21 expenditures consistent with this chapter: *Provided*, That
22 (1) not more than five hundred thousand dollars shall be
23 expended from said fund in any fiscal year; (2) that at the
24 beginning of each calendar quarter the commissioner shall
25 estimate the amount that may be required in that quarter
26 for refunds of interest erroneously collected; (3) that
27 thereupon the excess, if any, over the amounts provided to
28 be expended under this section shall be paid into the
29 unemployment compensation trust fund.

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

Harold E. Eshen
.....
Chairman Senate Committee

Donald Anello
.....
Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

Judd C. Wallin
.....
Clerk of the Senate

Donald L. Stopp
.....
Clerk of the House of Delegates

Walter P. McHew
.....
President of the Senate

John M. Lee, Jr.
.....
Speaker House of Delegates

The within *is approved* this the *29*
day of *March*, 19*88*.

..... *John P. Relyea*
Governor



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SECY. OF STATE