

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)**

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

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ok  
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 *ok*  
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

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.

*[Handwritten Signature]*  
.....  
Chairman Senate Committee

*[Handwritten Signature]*  
.....  
Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

*[Handwritten Signature]*  
.....  
Clerk of the Senate

*[Handwritten Signature]*  
.....  
Clerk of the House of Delegates

*[Handwritten Signature]*  
.....  
President of the Senate

*[Handwritten Signature]*  
.....  
Speaker House of Delegates

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

*[Handwritten Signature]*  
.....  
Governor



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