

No. 1904

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OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1985



ENROLLED

HOUSE BILL No. 1904.....

(By Mr. *Speaker, Mr. Albright, & Del. Swann*)
(By request of the Executive)



Passed *April 13,* 1985

In Effect *From* Passage



ENROLLED
H. B. 1904

(By MR. SPEAKER, MR. ALBRIGHT, and DELEGATE SWANN)
[By request of the Executive]

[Passed April 13, 1985; in effect from passage.]

AN ACT to amend and reenact section three, article one; section ten, article five; sections one, one-b and fifteen, article six; section one, article eight; and section eleven, article ten, all of chapter twenty-one-a of the code of West Virginia, one thousand nine hundred thirty-one, as amended, all relating to the employment security generally, the unemployment compensation trust fund and the employee contributions thereto; employee eligibility for benefits and the qualifications therefor; requalification requirements; disqualification for such benefits; benefit payments for service with educational institutions; and the establishment and use of certain information provided.

Be it enacted by the Legislature of West Virginia:

That section three, article one; section ten, article five; sections one, one-b and fifteen, article six; section one, article eight; and section eleven, article ten, all of chapter twenty-one-a of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted, all to read as follows:

ARTICLE 1. DEPARTMENT OF EMPLOYMENT SECURITY.

§21A-1-3. Definitions.

- 1 As used in this chapter, unless the context clearly requires
- 2 otherwise:
- 3 "Administration fund" means the employment security

4 administration fund, from which the administrative expenses
5 under this chapter shall be paid.

6 "Annual payroll" means the total amount of wages for
7 employment paid by an employer during a twelve-month
8 period ending with June thirty of any calendar year.

9 "Average annual payroll" means the average of the last three
10 annual payrolls of an employer.

11 "Base period" means the first four out of the last five
12 completed calendar quarters immediately preceding the first
13 day of the individual benefit year.

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

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

20 "Benefit year" with respect to an individual means the fifty-
21 two-week period beginning with the first day of the calendar
22 week in which a valid claim is effective, and thereafter the fifty-
23 two-week period beginning with the first day of the calendar
24 week in which such individual next files a valid claim for
25 benefits after the termination of his last preceding benefit year.
26 An initial claim for benefits filed in accordance with the
27 provision of this chapter shall be deemed to be a valid claim
28 within the purposes of this definition if the individual has been
29 paid wages in his base period sufficient to make him eligible
30 for benefits under the provisions of this chapter.

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

33 "Board" means board of review.

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

38 "Commissioner" means the employment security
39 commissioner.

40 "Computation date" means June thirty of the year

41 immediately preceding the January one on which an employ-
42 er's contribution rate becomes effective.

43 "Employing unit" means an individual, or type of organi-
44 zation, including any partnership, association, trust, estate,
45 joint-stock company, insurance company, corporation (domes-
46 tic or foreign), state or political subdivision thereof, or their
47 instrumentalities, as provided in paragraph (b), subdivision (9)
48 of the definition of "employment" in this section, institution
49 of higher education, or the receiver, trustee in bankruptcy,
50 trustee or successor thereof, or the legal representative of a
51 deceased person, which has on January first, one thousand
52 nine hundred thirty-five, or subsequent thereto, had in its
53 employ one or more individuals performing service within this
54 state.

55 "Employer" means:

56 (1) Until January one, one thousand nine hundred seventy-
57 two, any employing unit which for some portion of a day, not
58 necessarily simultaneously, in each of twenty different calendar
59 weeks, which weeks need not be consecutive, within either the
60 current calendar year, or the preceding calendar year, has had
61 in employment four or more individuals irrespective of
62 whether the same individuals were or were not employed on
63 each of such days;

64 (2) Any employing unit which is or becomes a liable
65 employer under any federal unemployment tax act;

66 (3) Any employing unit which has acquired or acquires the
67 organization, trade or business, or substantially all the assets
68 thereof, of an employing unit which at the time of such
69 acquisition was an employer subject to this chapter;

70 (4) Any employing unit which, after December thirty-one,
71 one thousand nine hundred sixty-three, and until January one,
72 one thousand nine hundred seventy-two, in any one calendar
73 quarter, in any calendar year, has in employment four or more
74 individuals and has paid wages for employment in the total
75 sum of five thousand dollars or more, or which, after such
76 date, has paid wages for employment in any calendar year in
77 the sum total of twenty thousand dollars or more;

78 (5) Any employing unit which, after December thirty-one,
79 one thousand nine hundred sixty-three, and until January one,

80 one thousand nine hundred seventy-two, in any three-week
81 period, in any calendar year, has in employment ten or more
82 individuals;

83 (6) For the effective period of its election pursuant to
84 section three, article five of this chapter, any employing unit
85 which has elected to become subject to this chapter;

86 (7) Any employing unit which, after December thirty-one,
87 one thousand nine hundred seventy-one, (i) in any calendar
88 quarter in either the current or preceding calendar year paid
89 for service in employment wages of one thousand five hundred
90 dollars or more, or (ii) for some portion of a day in each of
91 twenty different calendar weeks, whether or not such weeks
92 were consecutive, in either the current or the preceding
93 calendar year had in employment at least one individual
94 (irrespective of whether the same individual was in employ-
95 ment in each such day) except as provided in subdivisions
96 eleven and twelve hereof;

97 (8) Any employing unit for which service in employment,
98 as defined in subdivision (9) of the definition of "employment"
99 in this section, is performed after December thirty-one, one
100 thousand nine hundred seventy-one;

101 (9) Any employing unit for which service in employment,
102 as defined in subdivision (10) of the definition of "employ-
103 ment" in this section, is performed after December thirty-one,
104 one thousand nine hundred seventy-one;

105 (10) Any employing unit for which service in employment,
106 as defined in paragraphs (b) and (c) of subdivision (9) of the
107 definition of "employment" in this section, is performed after
108 December thirty-one, one thousand nine hundred seventy-
109 seven;

110 (11) Any employing unit for which agricultural labor, as
111 defined in subdivision (12) of the definition of "employment"
112 in this section, is performed after December thirty-one, one
113 thousand nine hundred seventy-seven;

114 (12) Any employing unit for which domestic service in
115 employment, as defined in subdivision (13) of the definition
116 of "employment" in this section, is performed after December
117 thirty-one, one thousand nine hundred seventy-seven.

118 "Employment," subject to the other provisions of this
119 section, means:

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

123 (2) Any service performed prior to January one, one
124 thousand nine hundred seventy-two, which was employment
125 as defined in this section prior to such date and, subject to
126 the other provisions of this section, service performed after
127 December thirty-one, one thousand nine hundred seventy-one,
128 by an employee, as defined in section 3306(i) of the Federal
129 Unemployment Tax Act, including service in interstate
130 commerce;

131 (3) Any service performed prior to January one, one
132 thousand nine hundred seventy-two, which was employment
133 as defined in this section prior to such date and, subject to
134 the other provisions of this section, service performed after
135 December thirty-one, one thousand nine hundred seventy-one,
136 including service in interstate commerce, by any officer of a
137 corporation;

138 (4) An individual's entire service, performed within or both
139 within and without this state if: (a) The service is localized in
140 this state or (b) the service is not localized in any state but
141 some of the service is performed in this state and (i) the base
142 of operations, or, if there is no base of operations, then the
143 place from which such service is directed or controlled, is in
144 this state or (ii) the base of operations or place from which
145 such service is directed or controlled is not in any state in
146 which some part of the service is performed but the
147 individual's residence is in this state;

148 (5) Service not covered under paragraph four of this
149 subdivision and performed entirely without this state with
150 respect to no part of which contributions are required and paid
151 under an unemployment compensation law of any other state
152 or of the federal government, shall be deemed to be
153 employment subject to this chapter if the individual perform-
154 ing such services is a resident of this state and the commis-
155 sioner approves the election of the employing unit for whom
156 such services are performed that the entire service of such
157 individual shall be deemed to be employment subject to this

158 chapter;

159 (6) Service shall be deemed to be localized within a state,
160 if: (a) The service is performed entirely within such state; or
161 (b) the service is performed both within and without such state,
162 but the service performed without such state is incidental to
163 the individual's service within this state, as, for example, is
164 temporary or transitory in nature or consists of isolated
165 transactions;

166 (7) Services performed by an individual for wages shall be
167 deemed to be employment subject to this chapter unless and
168 until it is shown to the satisfaction of the commissioner that:
169 (a) Such individual has been and will continue to be free from
170 control or direction over the performance of such services,
171 both under his contract of service and in fact; and (b) such
172 service is either outside the usual course of the business for
173 which such service is performed or that such service is
174 performed outside of all the places of business of the enterprise
175 for which such service is performed; and (c) such individual
176 is customarily engaged in an independently established trade,
177 occupation, profession or business;

178 (8) All service performed by an officer or member of the
179 crew of an American vessel (as defined in section three
180 hundred five of an act of Congress entitled Social Security Act
181 Amendment of 1946, approved August tenth, one thousand
182 nine hundred forty-six), on or in connection with such vessel,
183 provided that the operating office, from which the operations
184 of such vessel operating on navigable waters within and
185 without the United States is ordinarily and regularly
186 supervised, managed, directed and controlled, is within this
187 state.

188 (9) (a) Service performed after December thirty-one, one
189 thousand nine hundred seventy-one, by an individual in the
190 employ of this state or any of its instrumentalities (or in the
191 employ of this state and one or more other states or their
192 instrumentalities) for a hospital or institution of higher
193 education located in this state: *Provided*, That such service is
194 excluded from "employment" as defined in the Federal
195 Unemployment Tax Act solely by reason of section 3306(c) (7)
196 of that act and is not excluded from "employment" under
197 subdivision (11) of the exclusion from employment;

198 (b) Service performed after December thirty-one, one
199 thousand nine hundred seventy-seven, in the employ of this
200 state or any of its instrumentalities or political subdivisions
201 thereof or any of its instrumentalities or any instrumentality
202 of more than one of the foregoing or any instrumentality of
203 any foregoing and one or more other states or political
204 subdivisions: *Provided*, That such service is excluded from
205 "employment" as defined in the Federal Unemployment Tax
206 Act by section 3306(c)(7) of that act and is not excluded from
207 "employment" under subdivision (15) of the exclusion from
208 employment in this section; and

209 (c) Service performed after December thirty-one, one
210 thousand nine hundred seventy-seven, in the employ of a
211 nonprofit educational institution which is not an institution of
212 higher education;

213 (10) Service performed after December thirty-one, one
214 thousand nine hundred seventy-one, by an individual in the
215 employ of a religious, charitable, educational or other
216 organization but only if the following conditions are met:

217 (a) The service is excluded from "employment" as defined
218 in the Federal Unemployment Tax Act solely by reason of
219 section 3306(c)(8) of that act; and

220 (b) The organization had four or more individuals in
221 employment for some portion of a day in each of twenty
222 different weeks, whether or not such weeks were consecutive,
223 within either the current or preceding calendar year, regardless
224 of whether they were employed at the same moment of time;

225 (11) Service of an individual who is a citizen of the United
226 States, performed outside the United States after December
227 thirty-one, one thousand nine hundred seventy-one, (except in
228 Canada and in the case of Virgin Islands after December
229 thirty-one, one thousand nine hundred seventy-one, and before
230 January one of the year following the year in which the
231 secretary of labor approves for the first time an unemployment
232 insurance law submitted to him by the Virgin Islands for
233 approval) in the employ of an American employer (other than
234 service which is deemed "employment" under the provisions
235 of subdivision (4), (5) or (6) of this definition of "employment"
236 or the parallel provisions of another state's law) if:

237 (a) The employer's principal place of business in the United
238 States is located in this state; or

239 (b) The employer has no place of business in the United
240 States, but (i) the employer is an individual who is a resident
241 of this state; or (ii) the employer is a corporation which is
242 organized under the laws of this state; or (iii) the employer
243 is a partnership or a trust and the number of the partners or
244 trustees who are residents of this state is greater than the
245 number who are residents of any one other state; or

246 (c) None of the criteria of subparagraphs (a) and (b) of this
247 subdivision (11) is met but the employer has elected coverage
248 in this state or, the employer having failed to elect coverage
249 in any state, the individual has filed a claim for benefits, based
250 on such service, under the law of this state.

251 An "American employer," for purposes of this subdivision
252 (11) means a person who is (i) an individual who is a resident
253 of the United States; or (ii) a partnership if two thirds or more
254 of the partners are residents of the United States; or (iii) a
255 trust, if all of the trustees are residents of the United States;
256 or (iv) a corporation organized under the laws of the United
257 States or of any state;

258 (12) Service performed after December thirty-one, one
259 thousand nine hundred seventy-seven, by an individual in
260 agricultural labor as defined in subdivision (5) of the
261 exclusions from employment in this section when:

262 (a) Such service is performed for a person who (i) during
263 any calendar quarter in either the current or the preceding
264 calendar year paid remuneration in cash of twenty thousand
265 dollars or more to individuals employed in agricultural labor
266 or (ii) for some portion of a day in each of twenty different
267 calendar weeks, whether or not such weeks were consecutive,
268 in either the current or the preceding calendar year, employed
269 in agricultural labor ten or more individuals, regardless of
270 whether they were employed at the same moment of time;

271 (b) Such service is not performed in agricultural labor if
272 performed before January one, one thousand nine hundred
273 eighty-six, by an individual who is an alien admitted to the
274 United States to perform service in agricultural labor pursuant
275 to sections 214(c) and 101(a)(15)(H) of the Immigration and

276 Nationality Act;

277 (c) For the purposes of the definition of employment, any
278 individual who is a member of a crew furnished by a crew
279 leader to perform service in agricultural labor for any other
280 person shall be treated as an employee of such crew leader
281 (i) if such crew leader holds a valid certificate of registration
282 under the Farm Labor Contractor Registration Act of 1963;
283 or substantially all the members of such crew operate or
284 maintain tractors, mechanized harvesting or crop-dusting
285 equipment, or any other mechanized equipment, which is
286 provided by such crew leader; and (ii) if such individual is not
287 an employee of such other person within the meaning of
288 subdivision (7) of the definition of employer;

289 (d) For the purposes of this subdivision (12), in the case of
290 any individual who is furnished by a crew leader to perform
291 service in agricultural labor for any other person and who is
292 not treated as an employee of such crew leader under
293 subparagraph (c) of this subdivision (12), (i) such other person
294 and not the crew leader shall be treated as the employer of
295 such individual; and (ii) such other person shall be treated as
296 having paid cash remuneration to such individual in an
297 amount equal to the amount of cash remuneration paid to
298 such individual by the crew leader (either on his own behalf
299 or on behalf of such other person) for the service in
300 agricultural labor performed for such other person;

301 (e) For the purposes of this subdivision (12), the term "crew
302 leader" means an individual who (i) furnishes individuals to
303 perform service in agricultural labor for any other person, (ii)
304 pays (either on his own behalf or on behalf of such other
305 person) the individuals so furnished by him for the service in
306 agricultural labor performed by them, and (iii) has not entered
307 into a written agreement with such other person under which
308 such individual is designated as an employee of such other
309 person;

310 (13) The term "employment" shall include domestic service
311 after December thirty-one, one thousand nine hundred
312 seventy-seven, in a private home, local college club or local
313 chapter of a college fraternity or sorority performed for a
314 person who paid cash remuneration of one thousand dollars
315 or more after December thirty-one, one thousand nine

316 hundred seventy-seven, in any calendar quarter in the current
317 calendar year or the preceding calendar year to individuals
318 employed in such domestic service.

319 Notwithstanding the foregoing definition of "employment,"
320 if the services performed during one half or more of any pay
321 period by an employee for the person employing him
322 constitute employment, all the services of such employee for
323 such period shall be deemed to be employment; but if the
324 services performed during more than one half of any such pay
325 period by an employee for the person employing him do not
326 constitute employment, then none of the services of such
327 employee for such period shall be deemed to be employment.

328 The term "employment" shall not include:

329 (1) Service performed in the employ of this state or any
330 political subdivision thereof, or any instrumentality of this
331 state or its subdivisions, except as otherwise provided herein
332 until December thirty-one, one thousand nine hundred
333 seventy-seven;

334 (2) Service performed directly in the employ of another
335 state, or its political subdivisions, except as otherwise provided
336 in paragraph (a), subdivision (9) of the definition of
337 "employment," until December thirty-one, one thousand nine
338 hundred seventy-seven;

339 (3) Service performed in the employ of the United States
340 or any instrumentality of the United States exempt under the
341 Constitution of the United States from the payments imposed
342 by this law, except that to the extent that the Congress of the
343 United States shall permit states to require any instrumental-
344 ities of the United States to make payments into an
345 unemployment fund under a state unemployment compensa-
346 tion law, all of the provisions of this law shall be applicable
347 to such instrumentalities and to service performed for such
348 instrumentalities, in the same manner, to the same extent and
349 on the same terms as to all other employers, employing units,
350 individuals and services: *Provided*, That if this state shall not
351 be certified for any year by the secretary of labor under section
352 1603(c) of the Federal Internal Revenue Code, the payments
353 required of such instrumentalities with respect to such year
354 shall be refunded by the commissioner from the fund in the
355 same manner and within the same period as is provided in

356 section nineteen, article five of this chapter, with respect to
357 payments erroneously collected;

358 (4) Service performed after June thirty, one thousand nine
359 hundred thirty-nine, with respect to which unemployment
360 compensation is payable under the Railroad Unemployment
361 Insurance Act and service with respect to which unemployment
362 benefits are payable under an unemployment compensation
363 system for maritime employees established by an act of
364 Congress. The commissioner may enter into agreements with
365 the proper agency established under such an act of Congress
366 to provide reciprocal treatment to individuals who, after
367 acquiring potential rights to unemployment compensation
368 under an act of Congress, or who have, after acquiring
369 potential rights to unemployment compensation under an act
370 of Congress, acquired rights to benefit under this chapter.
371 Such agreement shall become effective ten days after such
372 publications which shall comply with the general rules of the
373 department;

374 (5) Service performed by an individual in agricultural labor,
375 except as provided in subdivision (12) of the definition of
376 "employment" in this section. For purposes of this subdivision
377 (5), the term "agricultural labor" includes all services
378 performed:

379 (a) On a farm, in the employ of any person, in connection
380 with cultivating the soil, or in connection with raising or
381 harvesting any agricultural or horticultural commodity,
382 including the raising, shearing, feeding, caring for, training and
383 management of livestock, bees, poultry and fur-bearing
384 animals and wildlife;

385 (b) In the employ of the owner or tenant or other operator
386 of a farm, in connection with the operation, management,
387 conservation, improvement or maintenance of such farm and
388 its tools and equipment, or in salvaging timber or clearing land
389 of brush and other debris left by a hurricane, if the major part
390 of such service is performed on a farm;

391 (c) In connection with the production or harvesting of any
392 commodity defined as an agricultural commodity in section
393 fifteen (g) of the Agricultural Marketing Act, as amended, or
394 in connection with the ginning of cotton, or in connection with
395 the operation or maintenance of ditches, canals, reservoirs or

396 waterways, not owned or operated for profit, used exclusively
397 for supplying and storing water for farming purposes;

398 (d) (i) In the employ of the operator of a farm in handling,
399 planting, drying, packing, packaging, processing, freezing,
400 grading, storing or delivering to storage or to market or to
401 a carrier for transportation to market, in its unmanufactured
402 state, any agricultural or horticultural commodity; but only if
403 such operator produced more than one half of the commodity
404 with respect to which such service is performed; or (ii) in the
405 employ of a group of operators of farms (or a cooperative
406 organization of which such operators are members) in the
407 performance of service described in clause (i), but only if such
408 operators produced more than one half of the commodity with
409 respect to which such service is performed; but the provisions
410 of clauses (i) and (ii) shall not be deemed to be applicable with
411 respect to service performed in connection with commercial
412 canning or commercial freezing or in connection with any
413 agricultural or horticultural commodity after its delivery to a
414 terminal market for distribution for consumption;

415 (e) On a farm operated for profit if such service is not in
416 the course of the employer's trade or business or is domestic
417 service in a private home of the employer. As used in this
418 subdivision (5), the term "farm" includes stock, dairy, poultry,
419 fruit, fur-bearing animals, truck farms, plantations, ranches,
420 greenhouses, ranges and nurseries, or other similar land areas
421 or structures used primarily for the raising of any agricultural
422 or horticultural commodities;

423 (6) Domestic service in a private home except as provided
424 in subdivision (13) of the definition of "employment" in this
425 section;

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

428 (8) Service performed by a child under the age of eighteen
429 years in the employ of his father or mother;

430 (9) Service as an officer or member of a crew of an
431 American vessel, performed on or in connection with such
432 vessel, if the operating office, from which the operations of
433 the vessel operating on navigable waters within or without the
434 United States are ordinarily and regularly supervised,

435 managed, directed and controlled, is without this state;

436 (10) Service performed by agents of mutual fund broker-
437 dealers or insurance companies, exclusive of industrial
438 insurance agents, or by agents of investment companies, who
439 are compensated wholly on a commission basis;

440 (11) Service performed (i) in the employ of a church or
441 convention or association of churches, or an organization
442 which is operated primarily for religious purposes and which
443 is operated, supervised, controlled or principally supported by
444 a church or convention or association of churches; or (ii) by
445 a duly ordained, commissioned or licensed minister of a church
446 in the exercise of his ministry or by a member of a religious
447 order in the exercise of duties required by such order; or (iii)
448 prior to January one, one thousand nine hundred seventy-
449 eight, in the employ of a school which is not an institution
450 of higher education; or (iv) in a facility conducted for the
451 purpose of carrying out a program of rehabilitation for
452 individuals whose earning capacity is impaired by age or
453 physical or mental deficiency or injury or providing
454 remunerative work for individuals who because of their
455 impaired physical or mental capacity cannot be readily
456 absorbed in the competitive labor market by an individual
457 receiving such rehabilitation or remunerative work; or (v) as
458 part of an unemployment work-relief or work-training
459 program assisted or financed in whole or in part by any federal
460 agency or an agency of a state or political subdivision thereof,
461 by an individual receiving such work relief or work training;
462 or (vi) prior to January one, one thousand nine hundred
463 seventy-eight, for a hospital in a state prison or other state
464 correctional institution by an inmate of the prison or
465 correctional institution, and after December thirty-one, one
466 thousand nine hundred seventy-seven, by an inmate of a
467 custodial or penal institution;

468 (12) Service performed in the employ of a school, college
469 or university, if such service is performed (i) by a student who
470 is enrolled and is regularly attending classes at such school,
471 college or university, or (ii) by the spouse of such a student,
472 if such spouse is advised, at the time such spouse commences
473 to perform such service, that (I) the employment of such
474 spouse to perform such service is provided under a program
475 to provide financial assistance to such student by such school,

476 college or university, and (II) such employment will not be
477 covered by any program of unemployment insurance;

478 (13) Service performed by an individual under the age of
479 twenty-two who is enrolled at a nonprofit or public educa-
480 tional institution which normally maintains a regular faculty
481 and curriculum and normally has a regularly organized body
482 of students in attendance at the place where its educational
483 activities are carried on as a student in a full-time program,
484 taken for credit at such institution, which combines academic
485 instruction with work experience, if such service is an integral
486 part of such program, and such institution has so certified to
487 the employer, except that this subdivision shall not apply to
488 service performed in a program established for or on behalf
489 of an employer or group of employers;

490 (14) Service performed in the employ of a hospital, if such
491 service is performed by a patient of the hospital, as defined
492 in this section;

493 (15) Service in the employ of a governmental entity referred
494 to in subdivision (9) of the definition of "employment" in this
495 section if such service is performed by an individual in the
496 exercise of duties (i) as an elected official; (ii) as a member
497 of a legislative body, or a member of the judiciary, of a state
498 or political subdivision; (iii) as a member of the state national
499 guard or air national guard; (iv) as an employee serving on
500 a temporary basis in case of fire, storm, snow, earthquake,
501 flood or similar emergency; (v) in a position which, under or
502 pursuant to the laws of this state, is designated as (I) a major
503 nontenured policy-making or advisory position, or (II) a
504 policy-making or advisory position the performance of the
505 duties of which ordinarily does not require more than eight
506 hours per week.

507 Notwithstanding the foregoing exclusions from the defini-
508 tion of "employment," services, except agricultural labor and
509 domestic service in a private home, shall be deemed to be in
510 employment if with respect to such services a tax is required
511 to be paid under any federal law imposing a tax against which
512 credit may be taken for contributions required to be paid into
513 a state unemployment compensation fund, or which as a
514 condition for full tax credit against the tax imposed by the
515 Federal Unemployment Tax Act are required to be covered

516 under this chapter.

517 "Employment office" means a free employment office or
518 branch thereof, operated by this state, or any free public
519 employment office maintained as a part of a state controlled
520 system of public employment offices in any other state.

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

523 "Hospital" means an institution which has been licensed,
524 certified or approved by the state department of health as a
525 hospital.

526 "Institution of higher education" means an educational
527 institution which:

528 (1) Admits as regular students only individuals having a
529 certificate of graduation from a high school, or the recognized
530 equivalent of such a certificate;

531 (2) Is legally authorized in this state to provide a program
532 of education beyond high school;

533 (3) Provides an educational program for which it awards a
534 bachelor's or higher degree, or provides a program which is
535 acceptable for full credit toward such a degree, or provides
536 a program of post-graduate or post-doctoral studies, or
537 provides a program of training to prepare students for gainful
538 employment in a recognized occupation; and

539 (4) Is a public or other nonprofit institution.

540 Notwithstanding any of the foregoing provisions of this
541 definition all colleges and universities in this state are
542 institutions of higher education for purposes of this section.

543 "Payments" means the money required to be paid or that
544 may be voluntarily paid into the state unemployment
545 compensation fund as provided in article five of this chapter.

546 "Separated from employment" means, for the purposes of
547 this chapter, the total severance, whether by quitting, discharge
548 or otherwise, of the employer-employee relationship.

549 "State" includes, in addition to the states of the United
550 States, Puerto Rico, District of Columbia and the Virgin
551 Islands.

552 "Total and partial unemployment" means:

553 (1) An individual shall be deemed totally unemployed in any
554 week in which such individual is separated from employment
555 for an employing unit and during which he performs no
556 services and with respect to which no wages are payable to
557 him.

558 (2) An individual who has not been separated from
559 employment shall be deemed to be partially unemployed in any
560 week in which due to lack of full-time work wages payable
561 to him are less than his weekly benefit amount plus twenty-
562 five dollars: *Provided*, That said individual must have earnings
563 of at least twenty-six dollars.

564 "Wages" means all remuneration for personal service,
565 including commissions and bonuses, and the cash value of all
566 remuneration in any medium other than cash except for
567 agricultural labor and domestic service: *Provided*, That the
568 term "wages" shall not include:

569 (1) That part of the remuneration which, after remuneration
570 equal to three thousand dollars has been paid to an individual
571 by an employer with respect to employment during any
572 calendar year, is paid after December thirty-one, one thousand
573 nine hundred thirty-nine, and prior to January one, one
574 thousand nine hundred forty-seven, to such individual by such
575 employer with respect to employment during such calendar
576 year; or that part of the remuneration which, after remuner-
577 ation equal to three thousand dollars with respect to
578 employment after one thousand nine hundred thirty-eight, has
579 been paid to an individual by an employer during any calendar
580 year after one thousand nine hundred forty-six, is paid to such
581 individual by such employer during such calendar year, except
582 that for the purposes of sections one, ten, eleven and thirteen,
583 article six of this chapter, all remuneration earned by an
584 individual in employment shall be credited to the individual
585 and included in his computation of base period wages:
586 *Provided*, That notwithstanding the foregoing provisions, on
587 and after January one, one thousand nine hundred sixty-two,
588 the term "wages" shall not include:

589 That part of the remuneration which, after remuneration
590 equal to three thousand six hundred dollars has been paid to
591 an individual by an employer with respect to employment

592 during any calendar year, is paid during any calendar year
593 after one thousand nine hundred sixty-one; and shall not
594 include that part of remuneration which, after remuneration
595 equal to four thousand two hundred dollars is paid during a
596 calendar year after one thousand nine hundred seventy-one;
597 and shall not include that part of remuneration which, after
598 remuneration equal to six thousand dollars is paid during a
599 calendar year after one thousand nine hundred seventy-seven;
600 and shall not include that part of remuneration which, after
601 remuneration equal to eight thousand dollars is paid during
602 a calendar year after one thousand nine hundred eighty, to an
603 individual by an employer or his predecessor with respect to
604 employment during any calendar year, is paid to such
605 individual by such employee during such calendar year unless
606 that part of the remuneration is subject to a tax under a federal
607 law imposing a tax against which credit may be taken for
608 contributions required to be paid into a state unemployment
609 fund. For the purposes of this subdivision (1), the term
610 "employment" shall include service constituting employment
611 under any unemployment compensation law of another state;
612 or which as a condition for full tax credit against the tax
613 imposed by the Federal Unemployment Tax Act is required
614 to be covered under this chapter; and, except, that for the
615 purposes of sections one, ten, eleven and thirteen, article six
616 of this chapter, all remuneration earned by an individual in
617 employment shall be credited to the individual and included
618 in his computation of base period wages: *Provided*, That the
619 remuneration paid to an individual by an employer with
620 respect to employment in another state or other states upon
621 which contributions were required of and paid by such
622 employer under an unemployment compensation law of such
623 other state or states shall be included as a part of the
624 remuneration equal to the amounts of three thousand six
625 hundred dollars or four thousand two hundred dollars or six
626 thousand dollars or eight thousand dollars herein referred to.
627 In applying such limitation on the amount of remuneration
628 that is taxable, an employer shall be accorded the benefit of
629 all or any portion of such amount which may have been paid
630 by its predecessor or predecessors: *Provided however*, That if
631 the definition of the term "wages" as contained in section
632 3306(b) of the Internal Revenue Code of 1954, as amended:
633 (a) Effective prior to January one, one thousand nine hundred

634 sixty-two, to include remuneration in excess of three thousand
635 dollars, or (b) effective on or after January one, one thousand
636 nine hundred sixty-two, to include remuneration in excess of
637 three thousand six hundred dollars, or (c) effective on or after
638 January one, one thousand nine hundred seventy-two, to
639 include remuneration in excess of four thousand two hundred
640 dollars, or (d) effective on or after January one, one thousand
641 nine hundred seventy-eight, to include remuneration in excess
642 of six thousand dollars, or (e) effective on or after January
643 one, one thousand nine hundred eighty, to include remuner-
644 ation in excess of eight thousand dollars, paid to an individual
645 by an employer under the Federal Unemployment Tax Act
646 during any calendar year, wages for the purposes of this
647 definition shall include remuneration paid in a calendar year
648 to an individual by an employer subject to this article or his
649 predecessor with respect to employment during any calendar
650 year up to an amount equal to the amount of remuneration
651 taxable under the Federal Unemployment Tax Act;

652 (2) The amount of any payment made after December
653 thirty-one, one thousand nine hundred fifty-two (including any
654 amount paid by an employer for insurance or annuities, or into
655 a fund, to provide for any such payment), to, or on behalf
656 of, an individual in its employ or any of his dependents, under
657 a plan or system established by an employer which makes
658 provision for individuals in its employ generally (or for such
659 individuals and their dependents), or for a class or classes of
660 such individuals (or for a class or classes of such individuals
661 and their dependents), on account of (A) retirement, or (B)
662 sickness or accident disability, or (C) medical or hospitaliza-
663 tion expenses in connection with sickness or accident
664 disability, or (D) death;

665 (3) Any payment made after December thirty-one, one
666 thousand nine hundred fifty-two, by an employer to an
667 individual in its employ (including any amount paid by an
668 employer for insurance or annuities, or into a fund, to provide
669 for any such payment) on account of retirement;

670 (4) Any payment made after December thirty-one, one
671 thousand nine hundred fifty-two, by an employer on account
672 of sickness or accident disability, or medical or hospitalization
673 expenses in connection with sickness or accident disability, to,
674 or on behalf of, an individual in its employ after the expiration

675 of six calendar months following the last calendar month in
676 which such individual worked for such employer;

677 (5) Any payment made after December thirty-one, one
678 thousand nine hundred fifty-two, by an employer to, or on
679 behalf of, an individual in its employ or his beneficiary (A)
680 from or to a trust described in section 401(a) which is exempt
681 from tax under section 501(a) of the Federal Internal Revenue
682 Code at the time of such payments unless such payment is
683 made to such individual as an employee of the trust as
684 remuneration for services rendered by such individual and not
685 as a beneficiary of the trust, or (B) under or to an annuity
686 plan which, at the time of such payment, is a plan described
687 in section 403(a) of the Federal Internal Revenue Code;

688 (6) The payment by an employer of the tax imposed upon
689 an employer under section 3101 of the Federal Internal
690 Revenue Code with respect to remuneration paid to an
691 employee for domestic service in a private home of the
692 employer of agricultural labor;

693 (7) Remuneration paid by an employer after December
694 thirty-one, one thousand nine hundred fifty-two, in any
695 medium other than cash to an individual in its employ for
696 service not in the course of the employer's trade or business;

697 (8) Any payment (other than vacation or sick pay) made by
698 an employer after December thirty-one, one thousand nine
699 hundred fifty-two, to an individual in its employ after the
700 month in which he attains the age of sixty-five, if he did not
701 work for the employer in the period for which such payment
702 is made;

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

707 (10) Vacation pay, severance pay or savings plans received
708 by an individual before or after becoming totally or partially
709 unemployed but earned prior to becoming totally or partially
710 unemployed: *Provided*, That the term totally or partially
711 unemployed shall not be interpreted to include (1) employees
712 who are on vacation by reason of the request of the employee
713 or their duly authorized agent, for a vacation at a specific time,

714 and which request by the employees or their agent is acceded
715 to by their employer, (2) employees who are on vacation by
716 reason of the employer's request provided they are so informed
717 at least ninety days prior to such vacation, or (3) employees
718 who are on vacation by reason of the employer's request where
719 such vacation is in addition to the regular vacation and the
720 employer compensates such employee at a rate equal to or
721 exceeding their regular daily rate of pay during the vacation
722 period.

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

727 The reasonable cash value of remuneration in any medium
728 other than cash shall be estimated and determined in
729 accordance with rules prescribed by the commissioner, except
730 for remuneration other than cash for services performed in
731 agricultural labor and domestic service.

732 "Week" means a calendar week, ending at midnight
733 Saturday, or the equivalent thereof, as determined in
734 accordance with the regulations prescribed by the
735 commissioner.

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

739 "Year" means a calendar year or the equivalent thereof, as
740 determined by the commissioner.

ARTICLE 5. EMPLOYER COVERAGE AND RESPONSIBILITY.

§21A-5-10. Experience ratings; decreased rates; adjustment of accounts and rates; debit balance account rates.

1 On and after July one, one thousand nine hundred eighty-
2 one, an employer's payment shall remain two and seven-tenths
3 percent, until:

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

7 (2) His payments credited to his account for all past years

8 exceed the benefits charged to his account by an amount equal
 9 to at least the percent of his average annual payroll as shown
 10 in Column B of Table II. His rate shall be the amount
 11 appearing in Column C of Table II on line with the percentage
 12 in Column B.

13 When the total assets of the fund as of January one of the
 14 calendar year equal or exceed one hundred percent but are less
 15 than one hundred twenty-five percent of the average benefit
 16 payments from the trust fund for the three preceding calendar
 17 years, an employer's rate shall be the amount appearing in
 18 Column D of Table II on line with the percentage in Column
 19 B.

20 When the total assets of the fund as of January one of a
 21 calendar year equal or exceed one hundred twenty-five percent
 22 but are less than one hundred fifty percent, an employer's rate
 23 shall be the amount appearing in Column E of Table II on
 24 line with the percentage in Column B.

25 When the total assets of the fund as of January one of a
 26 calendar year equal or exceed one hundred fifty percent, an
 27 employer's rate shall be the amount appearing in Column F
 28 of Table II on line with the percentage in Column B.

29

TABLE II

| 30 | Col. A | Col. B | Col. C | Col. D | Col. E | Col. F |
|----|--------|----------------|------------|--------|--------|--------|
| 31 | | Percentage of | | | | |
| 32 | | Average | | | | |
| 33 | | Annual Payroll | | | | |
| 34 | | By Which | | | | |
| 35 | Rate | Credits Exceed | Employer's | | | |
| 36 | Class | Charges | Rate | | | |
| 37 | (1) | 0.0 to 6.0 | 4.5 | 3.5 | 2.5 | 1.5 |
| 38 | (2) | 6.0 | 4.1 | 3.1 | 2.1 | 1.1 |
| 39 | (3) | 7.0 | 3.9 | 2.9 | 1.9 | 0.9 |
| 40 | (4) | 8.0 | 3.7 | 2.7 | 1.7 | 0.7 |
| 41 | (5) | 9.0 | 3.5 | 2.5 | 1.5 | 0.5 |
| 42 | (6) | 10.0 | 3.3 | 2.3 | 1.3 | 0.3 |
| 43 | (7) | 10.5 | 3.1 | 2.1 | 1.1 | 0.1 |
| 44 | (8) | 11.0 | 2.9 | 1.9 | 0.9 | 0.0 |
| 45 | (9) | 11.5 | 2.7 | 1.7 | 0.7 | 0.0 |
| 46 | (10) | 12.0 | 2.5 | 1.5 | 0.5 | 0.0 |

| | | | | | | |
|----|------|---------------|-----|-----|-----|-----|
| 47 | (11) | 12.5 | 2.3 | 1.3 | 0.3 | 0.0 |
| 48 | (12) | 13.0 | 2.1 | 1.1 | 0.1 | 0.0 |
| 49 | (13) | 14.0 | 1.9 | 0.9 | 0.0 | 0.0 |
| 50 | (14) | 16.0 | 1.7 | 0.7 | 0.0 | 0.0 |
| 51 | (15) | 18.0 and over | 1.5 | 0.5 | 0.0 | 0.0 |

52 All employer accounts in which charges for all past years
 53 exceed credits for such past years shall be adjusted effective
 54 June thirty, one thousand nine hundred sixty-seven, so that
 55 as of said date, for the purpose of determining such employer's
 56 rate of contribution, the credits for all past years shall be
 57 deemed to equal the charges to such accounts.

58 Effective on and after the computation date of June thirty,
 59 one thousand nine hundred eighty-four, the noncredited
 60 contribution identified in section seven of this article shall not
 61 be added to the employer's debit balance to determine the
 62 employer contribution rate.

63 Effective on and after the computation date of June thirty,
 64 one thousand nine hundred sixty-seven, all employers with a
 65 debit balance account in which the benefits charged to their
 66 account for all past years exceed the payments credited to their
 67 account for such past years by an amount up to and including
 68 ten percent of their average annual payroll, shall make
 69 payments to the unemployment compensation fund at the rate
 70 of three percent of wages paid by them with respect to
 71 employment; except that effective on and after July one, one
 72 thousand nine hundred eighty-one, all employers with a debit
 73 balance account in which the benefits charged to their account
 74 for all past years exceed the payments credited to their account
 75 for such past years by an amount up to and including five
 76 percent of their average annual payroll, shall make payments
 77 to the unemployment compensation fund at the rate of five
 78 and five-tenths percent of wages paid by them with respect to
 79 employment.

80 Effective on or after July one, one thousand nine hundred
 81 eighty-one, all employers with a debit balance account in
 82 which the benefits charged to their account for all past years
 83 exceed the payments credited to their account for such past
 84 years by an amount in excess of five percent but less than ten
 85 percent of their average annual payroll, shall make payments
 86 to the unemployment compensation fund at the rate of six and

87 five-tenths percent of wages paid by them with respect to
88 employment.

89 Effective on and after the computation date of June thirty,
90 one thousand nine hundred sixty-seven, all employers with a
91 debit balance account in which the benefits charged to their
92 account for all past years exceed the payments credited to their
93 account for such past years by an amount of ten percent or
94 above of their average annual payroll, shall make payments
95 to the unemployment compensation fund at the rate of three
96 and three-tenths percent of wages paid by them with respect
97 to employment; except that effective on and after July one,
98 one thousand nine hundred eighty-one, such payments to the
99 unemployment compensation fund shall be at the rate of seven
100 and five-tenths percent of wages paid by them with respect to
101 employment or at such other rate authorized by this article.

102 "Debit balance account" for the purpose of this section
103 means an account in which the benefits charged for all past
104 years exceed the payments credited for such past years.

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

108 Once a debit balance account rate is established for an
109 employer's account for a year, it shall apply for the entire year.

110 "Due date" means the last day of the month next following
111 a calendar quarter. In determining the amount in the fund on
112 any due date, contributions received, but not benefits paid, for
113 such month next following the end of a calendar quarter shall
114 be included.

115 (a) Notwithstanding any other provision of this section,
116 every employer subject to the provisions of this chapter shall,
117 in addition to any other tax provided for in this section, pay
118 contributions at the rate of one percent surtax on wages paid
119 by him with respect to employment, beginning January first,
120 one thousand nine hundred eighty-one, until such time that
121 the commissioner determines that the fund assets equal or
122 exceed the average benefits payments from the fund for the
123 preceding three calendar years at which time such surtax shall
124 be discontinued, and the commissioner shall so notify the
125 employers subject to the provisions of this chapter.

126 (b) Notwithstanding any other provision of this section,
127 every debit balance employer subject to the provisions of this
128 chapter, and any foreign corporation or business entity
129 engaged in the constuction trades which has not been an
130 employer in the state of West Virginia for thirty-six consec-
131 utive months ending on the computation date, shall, in
132 addition to any other tax provided for in this section, pay
133 contributions at the rate of one percent surtax on wages paid
134 by him with respect to employment for a period of three years,
135 beginning January first, one thousand nine hundred eighty-six.

136 (c) Effective June thirty, one thousand nine hundred eighty-
137 five, and each computation date thereafter, the reserve balance
138 of a debit balance employer shall be reduced to fifteen percent
139 if such balance exceeds fifteen percent. The amount of
140 noncredited tax shall be reduced by an amount equal to the
141 eliminated charges. If the eliminated charges exceed the
142 amount of noncredited tax, the noncredited tax shall be
143 reduced to zero.

ARTICLE 6. EMPLOYEE ELIGIBILITY; BENEFITS.

§21A-6-1. Eligibility qualifications.

1 An unemployed individual shall be eligible to receive
2 benefits only if the commissioner finds that:

3 (1) He has registered for work at and thereafter continues
4 to report at an employment office in accordance with the
5 regulations of the commissioner, and provides accurate
6 verification of his social security number.

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

9 (3) He is able to work and is available for full-time work
10 for which he is fitted by prior training or experience and is
11 doing that which a reasonably prudent person in his
12 circumstances would do in seeking work.

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

16 (5) He has within his base period earned wages for
17 employment equal to not less than two thousand two hundred
18 dollars and must have earned wages in more than one quarter

19 of his base period.

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

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

**§21A-6-15. Benefit payments for service with nonprofit organiza-
 tions, state hospitals, institutions of higher educa-
 tion, educational institutions and governmental
 entities.**

1 (1) Benefits based on service in employment as defined in
 2 subdivisions (9) and (10) of the definition of "employment" in
 3 section three, article one of this chapter, shall be payable in
 4 the same amount, on the same terms and subject to the same
 5 conditions as compensation payable on the basis of other
 6 service subject to this chapter; except that benefits based on
 7 service in an instructional, research or principal administrative
 8 capacity in an institution of higher education shall not be paid
 9 to an individual for any week of unemployment which begins
 10 during the period between two successive academic years, or
 11 during a similar period between two regular terms, whether
 12 or not successive, or during a period of paid sabbatical leave
 13 provided for in the individual's contract, if the individual has
 14 a contract or contracts to perform services, in any such
 15 capacity for any institution or institutions of higher education
 16 for both such academic years or both such terms.

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

23 (a) With respect to service performed after December thirty-
 24 one, one thousand nine hundred seventy-seven, in an

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

42 (b) With respect to services performed after April one, one
43 thousand nine hundred eighty-three, in any other capacity for
44 an educational institution, benefits shall not be paid on the
45 basis of such services to any individual for any week which
46 commences during any holiday or vacation period, or during
47 a period between two successive academic years or terms if
48 such individual performs such services in the first of such
49 academic years or terms or prior to the beginning of such
50 holiday or vacation period and there is a reasonable assurance
51 that such individual will perform such services in the second
52 of such academic years or terms or after such holiday or
53 vacation periods, except that if compensation is denied to any
54 individual under this subsection and such individual was not
55 offered an opportunity to perform such services for the
56 educational institution for the second of such academic years
57 or terms, such individual shall be entitled to a retroactive
58 payment of compensation for each week for which the
59 individual filed a timely claim for compensation and for which
60 compensation was denied solely by reason of this clause.

61 (c) On and after April one, one thousand nine hundred
62 eighty-four, benefits shall not be payable on the basis of
63 services in any such capacities as specified in subdivisions (a)
64 and (b) of this section, to any individual who performed such
65 services in an educational institution while in the employ of

66 an educational service agency. For purposes of this subdivision
 67 the term “educational service agency” means a governmental
 68 agency or governmental entity which is established and
 69 operated exclusively for the purpose of providing such services
 70 to one or more educational institutions.

ARTICLE 8. UNEMPLOYMENT COMPENSATION FUND.

§21A-8-1. Establishment .

1 There is hereby established as a special fund, separate and
 2 apart from all public moneys or funds of the state, an
 3 unemployment compensation fund. The fund shall consist of:

- 4 (1) All payments collected under this chapter.
- 5 (2) Interest earned upon money in the fund.
- 6 (3) Property or securities acquired through the use of the
 7 fund.
- 8 (4) Earnings of such property or securities.
- 9 (5) Amounts transferred from the employment security
 10 special administration fund.
- 11 (6) Any moneys received from the federal unemployment
 12 account in the unemployment trust fund in accordance with
 13 Title XII of the Social Security Act, as amended.

14 All money in the funds shall be mingled and undivided.

15 Any interest required to be paid on advances under Title
 16 XII of the Social Security Act, as amended, shall be paid by
 17 the date on which such interest is due. No interest shall be
 18 paid directly or indirectly from amounts in the unemployment
 19 compensation trust fund.

**§21A-10-11. Requiring information; use of information; libel and
 slander actions prohibited.**

1 The commissioner may require an employing unit to provide
 2 sworn or unsworn reports concerning:

- 3 (1) The number of individuals in its employ.
- 4 (2) Individually their hours of labor.
- 5 (3) Individually the rate and amount of wages.
- 6 (4) Such other information as is reasonably connected with

7 the administration of this chapter.

8 Information thus obtained shall not be published or be open
9 to public inspection so as to reveal the identity of the
10 employing unit of the individual, with the exception of
11 information furnished to the department of welfare as required
12 under the provisions of section sixteen, article six of this
13 chapter, information furnished to the United States depart-
14 ment of agriculture, information provided to the department
15 of human services for enforcement of the Medicaid program
16 under Title Nineteen of the Social Security Act and informa-
17 tion furnished to the United States department of health and
18 human services or any state or federal program operating and
19 approved under Title One, Title Ten, Title Fourteen or Title
20 Sixteen of the Social Security Act. However, a claimant of
21 benefit or any other interested party shall, upon request, be
22 supplied with information from such records to the extent
23 necessary for the proper presentation or defense of a claim.
24 Such information may be made available to any agency of this
25 or any other state, or any federal agency, charged with the
26 administration of an unemployment compensation law or the
27 maintenance of a system of public employment offices.

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

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

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

Samuel R. Roblee
Chairman Senate Committee

Floyd Fuller
Chairman House Committee

Originating in the House.

Takes effect from passage.

Jedd C. Villi
Clerk of the Senate

Donald L. Koff
Clerk of the House of Delegates

Don Tonkumil
President of the Senate

Joseph P. Albright
Speaker of the House of Delegates

The within *approved* this the *2nd*
May day of _____, 1985.

Richard P. Mason, Jr.
Governor



PRESENTED TO THE

GOVERNOR

Date

4/30/85

Time

6:43 p.m.