WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1990

ENROLLED

SENATE BILL NO. 301
(Originating in the Committee
(By Senator on the Judiciary)

PASSED February 16, 1990
In Effect from Passage
ENROLLED

Senate Bill No. 301

(Originating in the Committee on the Judiciary.)

[Passed February 16, 1990; in effect from passage.]

AN ACT to amend and reenact section six, article four, chapter twenty-one-a of the code of West Virginia, one thousand nine hundred thirty-one, as amended; to amend and reenact sections ten and ten-a, article five; section three, article six; and section eight, article eight-a, all of chapter twenty-one-a; to amend article nine, chapter twenty-one-a by adding thereto a new section, designated section nine; and to amend and reenact sections seven, eight, eleven and nineteen, article ten, chapter twenty-one-a of said code, all relating to unemployment compensation generally; providing for meetings of the board of review; establishing formulas and tables to determine payment rates; providing for the termination of solvency assessments on employers and employees; describing the conditions under which an individual is disqualified for benefits; providing for assessments on employers and employees to retire bonds and notes and pay interest owing to the federal government; defining the felony offense of failing to remit assessments, and establishing the penalty therefor; appropriating certain funds made available to the state under federal law; defining the misdemeanor offense of fraudulently obtaining or attempting to
obtain benefits, and establishing the penalty therefor; providing for the recovery of benefits paid on misrepresentation; authorizing the commissioner to require certain information, and providing for the dissemination or confidentiality of information; and providing for the disclosure of information to child support agencies.

Be it enacted by the Legislature of West Virginia:

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

ARTICLE 4. BOARD OF REVIEW.

§21A-4-6. Offices; meetings.

1 The offices and meeting place of the board shall be
2 at the capital; but the board may sit at such other
3 places as the prompt and efficient hearing of claims
4 may require. The board shall sit for hearing of appeals
5 at least every ten days.

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

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

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

8 (2) His payments credited to his account for all past
9 years exceed the benefits charged to his account by an
10 amount equal to at least the percent of his average
11 annual payroll as shown in Column B of Table II. His
12 rate shall be the amount appearing in Column C of
13 Table II on line with the percentage in Column B.
14
15 When the total assets of the fund as of January first
16 of a calendar year equal or exceed one hundred
17 percent but are less than one hundred twenty-five
18 percent of the average benefit payments from the
19 trust fund for the three preceding calendar years, an
20 employer’s rate shall be the amount appearing in
21 Column D of Table II on line with the percentage in
22 Column B.
23
24 When the total assets of the fund as of January first
25 of a calendar year equal or exceed one hundred
26 twenty-five percent but are less than one hundred
27 fifty percent, an employer’s rate shall be the amount
28 appearing in Column E of Table II on line with the
29 percentage in Column B.
30
31 When the total assets of the fund as of January first
32 of a calendar year equal or exceed one hundred fifty
33 percent, an employer’s rate shall be the amount
34 appearing in Column F of Table II on line with the
35 percentage in Column B.
36
37 TABLE II
38
40 |-------|-------|-------|-------|-------|-------|
41 Percentage of
42 Average
43 Annual Payroll
44 By which
45 Rate
46 Credits Exceed
47 Employer's
48 Class
49 Charges
50 Rate
51
52 41 (1) 0.0 to 6.0 4.5 3.5 2.5 1.5
53 42 (2) 6.0 4.1 3.1 2.1 1.1
54 43 (3) 7.0 3.9 2.9 1.9 0.9
55 44 (4) 8.0 3.7 2.7 1.7 0.7
56 45 (5) 9.0 3.5 2.5 1.5 0.5
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All employer accounts in which charges for all past years exceed credits for such past years shall be adjusted effective June thirtieth, one thousand nine hundred sixty-seven, so that as of said date, for the purpose of determining such employer's rate of contribution, the credits for all past years shall be deemed to equal the charges to such accounts.

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

Effective on and after the computation date of June thirtieth, one thousand nine hundred sixty-seven, all employers with a debit balance account in which the benefits charged to their account for all past years exceed the payments credited to their account for such past years by an amount up to and including ten percent of their average annual payroll, shall make payments to the unemployment compensation fund at the rate of three percent of wages paid by them with respect to employment; except that effective on and after July first, one thousand nine hundred eighty-one, all employers with a debit balance account in which the benefits charged to their account for all past years exceed the payments credited to their account for such past years by an amount up to and including five percent of their average annual payroll, shall make payments to the unemployment compensation fund at the rate of five and five-tenths percent of wages paid by them with respect to employment.

Effective on or after July first, one thousand nine
hundred eighty-one, all employers with a debit balance account in which the benefits charged to their account for all past years exceed the payments credited to their account for such past years by an amount in excess of five percent but less than ten percent of their average annual payroll, shall make payments to the unemployment compensation fund at the rate of six and five-tenths percent of wages paid by them with respect to employment.

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

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

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

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

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

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

(c) Effective June thirtieth, one thousand nine hundred eighty-five, and each computation date thereafter, the reserve balance of a debit balance employer shall be reduced to fifteen percent if such balance exceeds fifteen percent. The amount of non-credited tax shall be reduced by an amount equal to the eliminated charges. If the eliminated charges exceed the amount of noncredited tax, the noncredited tax shall be reduced to zero.

(d) On and after January first, one thousand nine hundred ninety-one, an employer's payment shall remain two and seven-tenths percent, until:

(1) There have elapsed thirty-six consecutive months immediately preceding the computation date through-out which an employer's account was chargeable with benefits; and

(2) The payments credited to the account for all past years exceed the benefits charged to the account by an amount equal to at least the percent of the average annual payroll as shown in Column B of Table III. The rate shall be the amount appearing in Column C of Table II on line with the percentage in Column B.

When the total assets of the fund as of January first of a calendar year equal or exceed one and seventy-five one-hundredths percent but are less than two and
twenty-five one-hundredths percent of gross covered wages for the twelve-month period ending on June thirtieth of the preceding year, an employer's rate shall be the amount appearing in Column D of Table III on line with the percentage in Column B.

When the total assets of the fund as of January first of a calendar year equal or exceed two and twenty-five one-hundredths percent but are less than two and seventy-five one-hundredths percent of gross covered wages for the twelve-month period ending on June thirtieth of the preceding year, an employer's rate shall be the amount appearing in Column E of Table III on line with the percentage of Column B.

When the total assets of the fund as of January first of a calendar year equal or exceed two and seventy-five one-hundredths percent but are less than three percent of gross covered wages for the twelve-month period ending on June thirtieth of the preceding year, an employer's rate shall be the amount appearing in Column F of Table III on line with the percentage in Column B.

When the total assets of the fund as of January first of a calendar year equal or exceed three percent of gross covered wages for the twelve-month period ending on June thirtieth of the preceding year, an employer's rate shall be the amount appearing in Column G of Table III on line with the percentage in Column B.

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(e) Notwithstanding any other provision of this section, all employers' rates for the calendar year beginning January first, one thousand nine hundred ninety and ending on the thirty-first day of December, one thousand nine hundred ninety, shall be the amount in Column D of Table II on line with the percentage in Column B.

§21A-5-10a. Optional assessments on employers and employees.

(a) On and after the first day of July, one thousand nine hundred eighty-seven, if the commissioner determines for a given projected quarter that the rates established under the provisions of section ten of this article will not result in payments being made to the unemployment compensation fund in an amount sufficient to finance the payment of benefits during such quarter, the commissioner shall certify such fact to the governor, and the governor shall, by executive order, direct the commissioner to establish a level of assessment for employees and employers in accordance with the provisions of this section which is sufficient to prevent, to the extent possible, a deficit in the funds available to pay benefits to eligible individuals.

(b) Pursuant to such executive order, every employer, contributing and reimbursable, subject to this chapter, shall be required to withhold from all persons in his employment an assessment which shall
be in an amount not to exceed fifteen one-hundredths (15/100) of one percent of an employee’s gross wages, which amount, together with an assessment contributed by the employer in an amount as determined in accordance with the provisions of subsection (c) of this section, except for reimbursable employers who shall not be assessed, shall be paid to the department of employment security on a form prescribed by the commissioner, at the same time and under the same conditions as the quarterly contribution payments required under the provisions of section seven, article five, chapter twenty-one-a of this code. The commissioner shall have the right to collect any delinquent assessments under this section in the same manner as provided for in section sixteen, article five, chapter twenty-one-a of this code; and in addition, any delinquency hereunder shall bear interest as set forth in section seventeen, article five, chapter twenty-one-a of this code.

(c) The commissioner shall establish the exact amounts of the employers’ and employees’ assessments at a level sufficient to generate the revenues needed to prevent a deficit which would otherwise result from the payment of benefits to eligible individuals, subject only to the limitation established in the preceding subsection (b) of this section. After determining the level of assessment on the gross wages of employees, the commissioner shall determine a rate of assessment to be imposed upon employers, except reimbursable employers, which rate shall be expressed as a percentage of wages as defined in section three, article one of this chapter, and which is sufficient to cause the total statewide assessment on such employers to equal the total statewide assessment imposed upon employees.

Notwithstanding any other provision of this section to the contrary, the solvency assessments on employers and employees established by this section hereby terminate on the first day of April, one thousand nine hundred ninety.
§21A-6-3. Disqualification for benefits.

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

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

9 For the purpose of this subdivision (1), an individual
10 shall not be deemed to have left his most recent work
11 voluntarily without good cause involving fault on the
12 part of the employer, if such individual leaves his most
13 recent work with an employer and if he in fact, within
14 a fourteen-day calendar period, does return to employ-
15 ment with the last preceding employer with whom he
16 was previously employed within the past year prior to
17 his return to work day, and which last preceding
18 employer, after having previously employed such
19 individual for thirty working days or more, laid off
20 such individual because of lack of work, which layoff
21 occasioned the payment of benefits under this chapter
22 or could have occasioned the payment of benefits
23 under this chapter had such individual applied for
24 such benefits. It is the intent of this paragraph to
25 cause no disqualification for benefits for such an
26 individual who complies with the foregoing set of
27 requirements and conditions. Further, for the purpose
28 of this subdivision, an individual shall not be deemed
29 to have left his most recent work voluntarily without
30 good cause involving fault on the part of the employer,
31 if such individual was compelled to leave his work for
32 his own health-related reasons and presents certifica-
33 tion from a licensed physician that his work aggra-
34 vated, worsened, or will worsen the individual’s health
35 problem.

36 (2) For the week in which he was discharged from
37 his most recent work for misconduct and the six weeks
38 immediately following such week; or for the week in
39 which he was discharged from his last thirty-day
employing unit for misconduct and the six weeks immediately following such week. Such disqualification shall carry a reduction in the maximum benefit amount equal to six times the individual’s weekly benefit. However, if the claimant returns to work in covered employment for thirty days during his benefit year, whether or not such days are consecutive, the maximum benefit amount shall be increased by the amount of the decrease imposed under the disqualification; except that:

If he were discharged from his most recent work for one of the following reasons, or if he were discharged from his last thirty days employing unit for one of the following reasons: Misconduct consisting of willful destruction of his employer’s property; assault upon the person of his employer or any employee of his employer; if such assault is committed at such individual’s place of employment or in the course of employment; reporting to work in an intoxicated condition, or being intoxicated while at work; reporting to work under the influence of any controlled substance, or being under the influence of any controlled substance while at work; arson, theft, larceny, fraud or embezzlement in connection with his work; or any other gross misconduct; he shall be and remain disqualified for benefits until he has thereafter worked for at least thirty days in covered employment: Provided, That for the purpose of this subdivision the words “any other gross misconduct” shall include, but not be limited to, any act or acts of misconduct where the individual has received prior written warning that termination of employment may result from such act or acts.

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

(4) For a week in which his total or partial unemployment is due to a stoppage of work which exists because of a labor dispute at the factory, establishment or other premises at which he was last employed, unless the commissioner is satisfied that he was not (1) participating, financing, or directly interested in such dispute, and (2) did not belong to a grade or class of workers who were participating, financing or directly interested in the labor dispute which resulted in the stoppage of work. No disqualification under this subdivision shall be imposed if the employees are required to accept wages, hours or conditions of employment substantially less favorable than those prevailing for similar work in the locality, or if employees are denied the right of collective bargaining under generally prevailing conditions, or if an employer shuts down his plant or operation or dismisses his employees in order to force wage reduction, changes in hours or working conditions.

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

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

(a) Wages in lieu of notice;

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

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

(6) For the week in which an individual has volun-
tarily quit employment to marry or to perform any
marital, parental or family duty, or to attend to his or
her personal business or affairs and until the individ-
ual returns to covered employment and has been
employed in covered employment at least thirty
working days.

(7) Benefits shall not be paid to any individual on
the basis of any services, substantially all of which
consist of participating in sports or athletic events or
training or preparing to so participate, for any week
which commences during the period between two
successive sport seasons (or similar periods) if such
individual performed such services in the first of such
seasons (or similar periods) and there is a reasonable
assurance that such individual will perform such
services in the later of such seasons (or similar
periods).

(8)(a) Benefits shall not be paid on the basis of
services performed by an alien unless such alien is an
individual who was lawfully admitted for permanent
residence at the time such services were performed,
was lawfully present for purposes of performing such
services, or was permanently residing in the United
States under color of law at the time such services
were performed (including an alien who is lawfully
present in the United States as a result of the applica-
tion of the provisions of section 203(a)(7) or section
212(d)(5) of the Immigration and Nationality Act):
Provided, That any modifications to the provisions of
section 3304(a)(14) of the federal unemployment tax act
as provided by Public Law 94-566 which specify other
conditions or other effective date than stated herein
for the denial of benefits based on services performed
by aliens and which modifications are required to be
implemented under state law as a condition for full
tax credit against the tax imposed by the federal
unemployment tax act shall be deemed applicable
under the provisions of this section;

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

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

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

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

(11) For each week with respect to which he is receiving or has received benefits under Title II of the social security act or similar payments under any act of Congress and/or remuneration in the form of an annuity, pension or other retirement pay from a base period and/or chargeable employer or from any trust or fund contributed to by a base period and/or chargeable employer, the weekly benefit amount payable to such individual for such week shall be reduced (but not below zero) by the prorated weekly amount of said benefits, payments and/or remuneration: Provided, That if such amount of benefits is not a multiple of one dollar, it shall be computed to the next lowest multiple of one dollar: Provided, however, That there shall be no disqualification if in the individual's base period there are no wages which were paid by the base period and/or chargeable employer paying such remuneration, or by a fund into which the employer has paid during said base period. Claimant may be required to certify as to whether or not he is receiving
or has been receiving remuneration in the form of an annuity, pension or other retirement pay from a base period and/or chargeable employer or from a trust fund contributed to by a base period and/or chargeable employer.

(12) For each week in which and for fifty-two weeks thereafter, beginning with the date of the decision, if the commissioner finds such individual who within twenty-four calendar months immediately preceding such decision, has made a false statement or representation knowing it to be false or knowingly fails to disclose a material fact, to obtain or increase any benefit or payment under this article: Provided, That disqualification under this subdivision shall not preclude prosecution under section seven, article ten of this chapter.

ARTICLE 8A. EMPLOYMENT SECURITY DEBT FUNDS.

§21A-8A-8. Assessments; dedication of assessments; commissioner's authority to adjust assessments.

(a) On and after the first day of July, one thousand nine hundred eighty-seven, every employer, contributing and reimbursable, subject to this chapter, shall be required to withhold from all persons in his employment an assessment which shall be in an amount not to exceed thirty-five one-hundredths (35/100) of one percent of said employee's gross wages, which amount, together with an assessment contributed by the employer in an amount as determined in accordance with the provisions of subsection (b) of this section, except for reimbursable employers who shall not be assessed, shall be paid to the department of employment security on a form prescribed by the commissioner, at the same time and under the same conditions as the quarterly contribution payments required under the provisions of section seven, article five, chapter twenty-one-a of this code. The commissioner shall have the right to collect any delinquent assessments under this section in the same manner as provided for in section sixteen, article five, chapter
twenty-one-a of this code; and in addition, any delin-
quency hereunder shall bear interest as set forth in
section seventeen, article five, chapter twenty-one-a of
this code.

(b) The commissioner shall establish the exact
amounts of the employers' and employees' assess-
ments at a level sufficient to generate the revenues
needed to retire the bonds or notes issued pursuant to
this article and to pay deferred interest owed to the
federal government when due, subject only to the
limitation established in the preceding subsection (a)
of this section. After determining the level of assess-
ment on the gross wages of employees, the commis-
sioner shall determine a rate of assessment to be
imposed upon employers, except reimbursable
employers, which rate shall be expressed as a percent-
age of wages, as defined in section three, article one of
this chapter, except that for purposes of this section
such wages shall include all of that part of the
remuneration paid to an employee that is less than
twenty-one thousand dollars during any calendar year,
and which is sufficient to cause the total statewide
assessment on such employers to equal the total
statewide assessment imposed upon employees.

(c) The proceeds derived from the assessments
provided for in this section shall be placed in the
special nonrevolving revenue funds established pursuant
to the provisions of section two of this article to be
held by the commissioner separate and apart from all
other funds and accounts created under this chapter
and the funds, together with the interest derived
therefrom, shall be pledged and utilized only for the
repayment of bonds or notes issued under the provi-
sions of this article and the payment of deferred
interest owed to the federal government as the same
becomes due. At such time as there are no longer any
bonds, notes or other evidences of indebtedness
outstanding which are payable from the special nonre-
volving revenue funds, any remaining balance in these
special accounts shall be paid into the unemployment
compensation trust fund. The commissioner may
establish additional special accounts and subaccounts with the employment security administration fund for the purpose of identifying more precisely the sources of payments into and disbursements from the employment security administration fund.

(d) Prior to the beginning of any quarter during which bonds or notes authorized by this article will be outstanding, the commissioner may adjust the amount of the assessment set forth in subsection (a) of this section; however, the amount is never to exceed thirty-five one-hundredths (35/100) of one percent of each said employee's gross wages. The assessment shall cease when all the bonds or notes are repaid.

(e) Any employer or corporate officer if employer is a corporation, who fails to remit to the division of employment security the assessments provided for under this section shall be guilty of a felony and upon conviction, shall be punished by a fine of not less than five thousand dollars nor more than ten thousand dollars, or by imprisonment of not less than one year, or both.

ARTICLE 9. EMPLOYMENT SECURITY ADMINISTRATION FUND.


1 (1) There is hereby appropriated out of funds made available to this state under section 903 of the social security act, as amended, the sum of one million, two hundred eighty-nine thousand, eight hundred thirty-nine dollars, or so much thereof as may be necessary, to be used, for the purpose of property improvements and/or automation enhancements of the unemployment insurance or job service activities within the division of employment security.

2 (2) No part of the money hereby appropriated may be obligated after the expiration of the two-year period beginning on the date of enactment of this act.

3 (3) The amount obligated pursuant to this act during any twelve-month period beginning on the first day of July and ending on June thirtieth shall not exceed the
amount by which (a) the aggregate of the amounts
credited to the account of this state pursuant to section
903 of the social security act during such twelve-month
period and the thirty-four preceding twelve-month
periods exceeds (b) the aggregate of the amounts
obligated for administration and paid out for benefits
and charged against the amounts credited to the
account of this state during such thirty-five twelve-
month periods.

ARTICLE 10. GENERAL PROVISIONS.

§21A-10-7. False representations; penalties.

A person who makes a false statement or representa-
tion knowing it to be false or who knowingly fails to
disclose a material fact in order to obtain or attempt
to obtain or increase a benefit, either for himself or
another, under this chapter, or under an employment
security law of any other state or of the federal
government for either of which jurisdictions this state
is acting as an agent, shall be guilty of a misdemeanor,
and, upon conviction, punished by a fine of not less
than one hundred dollars nor more than one thousand
dollars, or by imprisonment for not longer than thirty
days, or both, and by full repayment of all benefits so
obtained fraudulently. Each false statement or repre-
sentation, or failure to disclose a material fact, shall
constitute a separate offense.

§21A-10-8. Recovery of benefits paid on misrepresenta-
tion; limitations.

A person who, by reason of nondisclosure or misrep-
resentation, either by himself or another (irrespective
of whether such nondisclosure or misrepresentation
was known or fraudulent) has received a sum as a
benefit under this chapter, shall either have such sum
deducted from a future benefit payable to him or shall
repay to the commissioner the amount which he has
received. Collection shall be made in the same manner
as collection of past-due payments against employers
as set forth in section sixteen of article five of this
chapter, which specifically includes the institution of
civil action and collection procedures thereon enumer-
ated in said section: Provided, That such collection or
deduction of benefits shall be barred after the expira-
tion of five years, except for known or fraudulent
nondisclosure or misrepresentation which shall be
barred after the expiration of ten years, from the date
of the filing of the claim in connection with which
such nondisclosure or misrepresentation occurred.

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

(a) The commissioner may require an employing
unit to provide sworn or unworn reports concerning:

(1) The number of individuals in its employ.

(2) Individually their hours of labor.

(3) Individually the rate and amount of wages.

(4) Such other information as is reasonably con-
nected with the administration of this chapter.

(b) Information thus obtained shall not be published
or be open to public inspection so as to reveal the
identity of the employing unit or the individual.

(c) Notwithstanding the provisions of subsection (b)
of this section, the commissioner may provide infor-
mation thus obtained to the following governmental
entities for purposes consistent with state and federal
laws:

(1) The United States department of agriculture;

(2) The state agency responsible for enforcement of
the medicaid program under Title Nineteen of the
social security act;

(3) The United States department of health and
human services or any state or federal program
operating and approved under Title One, Title Two,
Title Ten, Title Fourteen or Title Sixteen of the social
security act;

(4) Those agencies of state government responsible
for economic and community development; secondary,
post-secondary and vocational education; vocational
28 rehabilitation, employment and training, including, 
29 but not limited to, the administration of the perkins 
30 act and the job training and partnership act; 
31 (5) The tax division, but only for the purposes of 
32 collection and enforcement; 
33 (6) The division of labor for purposes of enforcing 
34 the wage bond provisions of chapter twenty-one of this 
35 code; 
36 (7) Any agency of this or any other state, or any 
37 federal agency, charged with the administration of an 
38 unemployment compensation law or the maintenance 
39 of a system of public employment offices; 
40 (8) Any claimant for benefits or any other interested 
41 party to the extent necessary for the proper presenta-
42 tion or defense of a claim. 
43 (d) The agencies or organizations which receive 
44 information under subsection (c) shall agree that such 
45 information shall remain confidential so as not to 
46 reveal the identity of the employing unit or the 
47 individual consistent with the provisions of this 
48 chapter. 
49 (e) The commissioner may, before furnishing any 
50 information permitted under this section, require that 
51 those who request the information shall reimburse the 
52 division of employment security for any cost associated 
53 therewith. 
54 (f) The commissioner may refuse to provide any 
55 information requested under this section if the agency 
56 or organization making the request does not certify 
57 that it will comply with the state and federal law 
58 protecting the confidentiality of such information. 
59 A person who violates the provisions of this section 
60 shall be guilty of a misdemeanor, and, upon convic-
61 tion, shall be fined not less than twenty dollars nor 
62 more than two hundred dollars, or imprisoned not 
63 longer than ninety days, or both. 
64 No action for slander or libel, either criminal or 
65 civil, shall be predicated upon information furnished
by any employer or any employee to the commissioner
in connection with the administration of any of the
provisions of this chapter.

§21A-10-19. Disclosure of information to child support
agencies.

1 (1) The department of employment security shall
disclose, upon request, to officers or employees of any
state or local child support enforcement agency, to
employees of the secretary of health and human
services, any wage and benefit information with
respect to an identified individual which is contained
in its records.

8 The term "state or local child support enforcement
agency" means any agency of a state or political
subdivision thereof operating pursuant to a plan
described in sections 453 and 454 of the social security
act, which has been approved by the secretary of
health and human services under Part D, Title IV of
the social security act.

15 (2) The requesting agency shall agree that such
information is to be used only for the purpose of
establishing and collecting child support obligations
from, and locating, individuals owing such obligations
which are being enforced pursuant to a plan described
in sections 453 and 454 of the social security act which
has been approved by the secretary of health and
human services under Part D, Title IV of the social
security act.

24 (3) The information shall not be released unless the
requesting agency agrees to reimburse the costs
involved for furnishing such information.

27 (4) In addition to the requirements of this section, all
other requirements with respect to confidentiality of
information obtained in the administration of this
chapter and the sanctions imposed on improper disclo-
sure shall apply to the use of such information by
officers and employees of child support agencies.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originated in the Senate.

In effect from passage.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker House of Delegates

The within is approved this the 22nd day of December, 1990.

Governor