

CHAPTER 35.

[S. S. B. 183.]

UNEMPLOYMENT COMPENSATION.

AN ACT providing for relief from unemployment, a disability study, and declaring public policy; defining terms; establishing the office of Unemployment Compensation and Placement; providing for officers and their powers and duties; providing for contributions, funds, claims, the receipt of moneys, reciprocal arrangements, and cooperation with states and governments; accepting provisions of certain Federal enactments; declaring an emergency and fixing the effective date of this act; and repealing certain acts and parts of acts.

Be it enacted by the Legislature of the State of Washington:

CHAPTER I. GENERAL PROVISIONS.

Citation.

SECTION 1. *Citation.* This act shall be known and may be cited as the "Unemployment Compensation Act."

Preamble.

SEC. 2. *Preamble.* Whereas, economic insecurity due to unemployment is a serious menace to the health, morals and welfare of the people of this state; involuntary unemployment is, therefore, a subject of general interest and concern which requires appropriate action by the legislature to prevent its spread and to lighten its burden which now so often falls with crushing force upon the unemployed worker and his family. Social security requires protection against this greatest hazard of our economic life. This can be provided only by application of the insurance principle of sharing the risks, and by the systematic accumulation of funds during periods of employment to provide benefits for periods of unemployment, thus maintaining purchasing powers and limiting the serious social consequences of relief assistance. The state of Washington, therefore, exercising herein its police and sovereign power endeavors by this act to remedy any widespread unemployment situation which may

occur and to set up safeguards to prevent its recurrence in the years to come. The legislature, therefore, declares that in its considered judgment the public good, and the general welfare of the citizens of this state require the enactment of this measure, under the police powers of the state, for the compulsory setting aside of unemployment reserves to be used for the benefit of persons unemployed through no fault of their own, and that this act shall be liberally construed for the purpose of reducing involuntary unemployment and the suffering caused thereby to the minimum.

CHAPTER II. DEFINITIONS.

Definitions.

SEC. 3. *Base Year.* "Base year" means the last calendar year preceding the first day of the benefit year.

Base year.

SEC. 4. *Benefit Year.* "Benefit year" means the period beginning with the first full calendar week in July and ending the following calendar year with the last calendar week beginning in June and all unexpired individual benefit years as of June 30, 1945, shall be deemed to end with that date: *Provided, however,* That the weekly benefit amount and the maximum benefits payable with respect to each individual whose benefit year has been so terminated shall be redetermined by the Commissioner after July 1, 1945, for the new benefit year in a manner which shall be equitable to the individual and his employer or employers in accordance with the purposes and provisions of this act.

Benefit year.

Notice of the redetermination provided by this section shall be promptly delivered or mailed to the individual affected and all other interested parties at their last known addresses and appeal may be had from the redetermination in the same manner and to the same extent as provided by this act for appeals relating to determinations in respect to claims for benefits. If no such appeal is taken to

the appeal tribunal within ten days of the date of delivery or mailing of the redetermination, whichever is the earlier, said redetermination shall be deemed to be conclusive and final.

Benefits.

SEC. 5. *Benefits.* "Benefits" means the compensation payable to an individual, as provided in this act, with respect to his unemployment.

Calendar year.

SEC. 6. *Calendar Quarter.* "Calendar quarter" means the period of three consecutive calendar months ending on March 31, June 30, September 30, or December 31.

Comms-
sioner.

SEC. 7. *Commissioner.* "Commissioner" means the administrative head of the state Office of Unemployment Compensation and Placement referred to in this act.

Contribu-
tions.

SEC. 8. *Contributions.* "Contributions" means the money payments to the state Unemployment Compensation Fund required by this act.

Employer.

SEC. 9. *Employer.* "Employer" means any individual or type of organization, including any partnership, association, trust, estate, joint-stock company, insurance company, or corporation, whether domestic or foreign, or the receiver, trustee in bankruptcy, trustee or successor of any of the foregoing, or the legal representative of a deceased person, having any person in employment or, having become an employer, has not ceased to be an employer as provided in this act.

Irrespective of any other inconsistent provisions of this act, any employing unit shall also be deemed to be an employer for the purposes of this act to the same extent that services performed for such employing unit constitute subject employment under the provisions of any Federal tax against which credit may be taken for contributions paid into a state unemployment compensation fund.

SEC. 10. *Employing Unit.* "Employing unit" means any individual or any type of organization, including any partnership, association, trust, estate, joint-stock company, insurance company, or corporation, whether domestic or foreign, or the receiver, trustee in bankruptcy, trustee or successor thereof, or the legal representative of a deceased person, having in employment, or subsequent to January 1, 1937, having had in employment, one or more individuals performing services within this state. All individuals performing services within this state for any employing unit which maintains two or more separate establishments within this state shall be deemed to be employed by a single employing unit for the purposes of this act.

Employing
unit.

SEC. 11. *Employment.* "Employment," subject only to the other provisions of this act, means personal service, of whatever nature, unlimited by the relationship of master and servant as known to the common law or any other legal relationship, including service in interstate commerce, performed for wages or under any contract calling for the performance of personal services, written or oral, express or implied.

Employ-
ment.

Personal services performed for an employing unit by one or more contractors or sub-contractors acting individually or as a partnership, which do not meet the provisions of section 15 of this act, shall be considered employment of the employing unit: *Provided, however,* That such contractor or sub-contractor shall be an employer under the provisions of this act in respect to personal services performed by individuals for such contractor or sub-contractor.

SEC. 12. *Situs of Services.* The term "employment" shall include an individual's entire service performed within or both within and without this state, if

Situs of
services.

- (a) the service is localized in this state; or
- (b) the service is not localized in any state, but some of the service is performed in this state, and
 - (1) the base of operations, or if there is no base of operations, then the place from which such service is directed or controlled is in this state; or
 - (2) the base of operations or place from which such service is directed or controlled is not in any state in which some part of the service is performed, but the individual's residence is in this state.

Out-of-state
service.

SEC. 13. *Out-of-State Service, Election.* Services not covered under section 12 of this act, and performed entirely without this state, with respect to no part of which contributions are required and paid under an unemployment compensation law of any other state or of the Federal government, shall be deemed to be employment subject to this act if the individual performing such services is a resident of this state and the Commissioner approves the election, of the employing unit for whom such services are performed, that the entire service of such individual shall be deemed to be employment subject to this act.

Election.

Localized
service.

SEC. 14. *Localized Service.* Service shall be deemed to be localized within a state, if

- (a) the service is performed entirely within the state; or
- (b) the service is performed both within and without the state, but the service performed without the state is incidental to the individual's service within the state; for example, is temporary or transitory in nature or consists of isolated transactions.

SEC. 15. *Exception Tests.* Services performed by an individual for remuneration shall be deemed to

be employment subject to this act unless and until it is shown to the satisfaction of the commissioner that

Exception tests.

- (a) such individual has been and will continue to be free from control or direction over the performance of such service, both under his contract of service and in fact; and
- (b) such service is either outside the usual course of business for which such service is performed, or that such service is performed outside of all the places of business of the enterprises for which such service is performed; and
- (c) such individual is customarily engaged in an independently established trade, occupation, profession, or business, of the same nature as that involved in the contract of service.

SEC. 16. *Agricultural Labor.* The term "employment" shall not include service performed

Agricultural labor.

- (a) on a farm, in the employ of any person, in connection with the cultivating of the soil, or in connection with raising or harvesting any agricultural or horticultural commodity, including raising, shearing, feeding, caring for, training, and management of livestock, bees, poultry, and furbearing animals and wildlife, or in the employ of the owner or tenant or other operator of a farm in connection with the operation, management, conservation, improvement, or maintenance of such farm and its tools and equipment; or
- (b) in handling, planting, packing, packaging, grading, storing, or delivering to storage, or to market or to a carrier for transportation to market, any agricultural or horticultural commodity; but only if such service is performed as an incident to ordinary farming operations or, in the case of fruits and

vegetables in their raw and natural state, as an incident to the preparation of such fruits and vegetables for market. The provisions of this paragraph shall not be deemed to be applicable with respect to services performed in connection with commercial canning or commercial freezing or in connection with any agricultural or horticultural commodity after its delivery to a terminal market for distribution for consumption.

Domestic
service.

SEC. 17. *Domestic Service.* The term "employment" shall not include domestic service in a private home.

SEC. 18. The term "employment" shall not include service performed as an officer or member of any vessel primarily engaged in interstate or foreign trade requiring the vessel to navigate coastwise and on the high seas until the date and to the extent permission is given by the Congress of the United States. If and when such permission is granted the term "employment" shall include an individual's entire service as an officer or member of a crew of an American vessel wherever performed and whether in intrastate or interstate or foreign commerce, if the employer maintains within the state at the beginning of the pay period an operating office from which the employment of officers and members of the crew of such vessel is ordinarily and regularly supervised, managed, directed and controlled. In such event the term "employment" shall not include an individual's entire services performed as an officer or member of the crew of a vessel not an American vessel and services on or in connection with an American vessel under a contract of service which is not entered into within the United States and during the performance of which the vessel does not touch at a port of the United States: *Provided*, That irrespective of the foregoing provisions of this sec-

tion; the term "employment" shall apply to an individual's entire service performed as an officer or member of the crew of any vessel or other craft having its home port in Washington or operated by a Washington employing unit, and primarily engaged in navigation or otherwise primarily used on the navigable tide water or tide water connected harbors, sound, inlets, bays, lakes or rivers of the state, or on land-locked inland waters of the state, or on the strait of Juan de Fuca, or the connecting inland waters south of the fiftieth parallel of latitude in British Columbia, or on the Columbia river or tributary navigable rivers.

Maritime Service. "American Vessel," means any vessel documented or numbered under the laws of the United States; and includes any vessel which is neither documented or numbered under the laws of the United States nor documented under the laws of any foreign country if its crew is employed solely by one or more citizens or residents of the United States or corporations organized under the laws of the United States or of any state.

Maritime
service.

SEC. 19. *Family Employment.* The term "employment" shall not include service performed by an individual in the employ of his son or daughter, or the community of which his son or daughter is a member, or his or her spouse, or by a child under the age of twenty-one in the employ of his father or mother.

Family
employment.

SEC. 20. *Eleemosynary Services.* The term "employment" shall not include service performed in the employ of a corporation, community chest, fund, or foundation, organized and operated exclusively for religious, charitable, scientific, literary, or educational purposes, or for the prevention of cruelty to children or animals, no part of the net earnings of which inures to the benefit of any private shareholder or individual.

Eleemo-
synary
services

Local
govern-
mental
services.

SEC. 21. *Local Governmental Services.* The term "employment" shall not include service performed in the employ of this state, or of any political subdivision thereof, or of any instrumentality of this state or its political subdivisions: *Provided*, That this exemption shall not be deemed to apply to public utility districts and public power authorities, which districts and authorities are hereby authorized to pay to the Unemployment Compensation Division for the Unemployment Compensation Fund contributions required of employers by the provisions of this act.

Foreign
govern-
mental
services.

SEC. 22. *Foreign Governmental Services.* The term "employment" shall not include service performed in the employ of any other state or its political subdivisions, or of the United States government, or of any instrumentality of any other state or states or their political subdivisions, or the United States; except that if the Congress of the United States shall permit states to require any instrumentality of the United States to make payments into an unemployment fund under a state unemployment compensation act, then, to the extent permitted by Congress, and from and after the date when such permission becomes effective all the provisions of this act shall be applicable to such instrumentalities and to services performed for such instrumentalities in the same manner, to the same extent and on the same terms as to all other employers, employing units, individuals and services: *Provided*, That if this state should not be certified by the Social Security Board under section 903 of the Social Security Act, as amended, for any year, then the payment required of such instrumentalities with respect to such year shall be deemed to be erroneously collected and shall be refunded by the Commissioner from the fund in accordance with the provisions of this act relating to adjustments and refunds of contributions or interest which have been paid.

SEC. 23. *Services Covered by Federal Act.* The term "employment" shall not include service with respect to which unemployment compensation is payable under an unemployment compensation system established by an act of Congress: *Provided,* That the Commissioner is hereby authorized to enter into agreements with the proper agencies under such act of Congress, which agreements shall become effective ten days after publication thereof in the manner provided in this act for publication of general rules, to provide reciprocal treatment to individuals who have, after acquiring potential rights to benefits under this act, acquired right to unemployment compensation under such act of Congress, or who have, after acquiring potential rights to unemployment compensation under such act of Congress, acquired rights to benefits under this act.

Services covered by Federal act.

SEC. 24. *Services of Insurance Agents and Solicitors, Real Estate Brokers and Real Estate Salesmen.* The term "employment" shall not include service performed by an insurance agent or insurance solicitor or a real estate broker or a real estate salesman to the extent he is compensated by commission and service performed by an investment company agent or solicitor to the extent he is compensated by commission, the term "investment company," as used in this sub-section, to be construed as meaning an investment company as defined in the Act of Congress entitled "Investment Company Act of 1940."

Vetoed.

SEC. 25. *Newsboys' Services.* The term "employment" shall not include service as a newsboy selling or distributing newspapers on the street or from house to house.

Newsboys.

SEC. 26. *Services Regarding Mushrooms.* The term "employment" shall not include service in connection with the raising or harvesting of mushrooms.

Mushroom growers.

SEC. 27. *Specially Excepted Services.* The term "employment" shall not include service performed

Excepted
services.

in any calendar quarter in the employ of any of the following organizations, if (1) the remuneration for such services does not exceed forty-five dollars; or (2) such service is in connection with the collection of dues or premiums for a fraternal benefit society, order, or association and is performed away from the home office or is ritualistic service in connection with any such society, order, or association; or (3) such service is performed by a student who is enrolled and who is regularly attending classes at a school, college or university:

- (a) labor organizations;
- (b) mutual savings banks not having a capital stock represented by shares;
- (c) fraternal beneficiary societies, orders, or associations,
 - (1) operating under the lodge system or for the exclusive benefit of the members of a fraternity itself operating under the lodge system; and
 - (2) providing for the payment of life, sick, accident, or other benefits to the members of such society, order, or association or their dependents;
- (d) domestic saving and loan associations substantially all the business of which is confined to making loans to members; and co-operative banks without capital stock organized and operated for mutual purposes and without profit;
- (e) cemetery companies owned and operated exclusively for the benefit of their members or which are not operated for profit; and any corporation chartered solely for burial purposes as a cemetery corporation and not permitted by its charter to engage in any business not necessarily incident to that purpose, no part of the net earnings of which inures

to the benefit of any private shareholder or individual;

- (f) business leagues, chambers of commerce, real estate boards, or boards of trade, not organized for profit and no part of the net earnings of which inures to the benefit of any private shareholder or individual;
- (g) civic leagues or organizations not organized for profit but operated exclusively for the promotion of social welfare, or local associations of employees, the membership of which is limited to individuals in the employment of a designated person or persons in a particular municipality, and the net earnings of which are devoted exclusively to charitable, educational, or recreational purposes; Excepted services.
- (h) clubs organized and operated exclusively for pleasure, recreation, and other non-profitable purposes, no part of the net earnings of which inures to the benefit of any private shareholder;
- (i) benevolent life insurance associations of a purely local character, mutual ditch or irrigation companies, mutual or cooperative telephone companies, or like organizations; but only if eighty-five per centum or more of the income consists of amounts collected from members for the sole purpose of meeting losses and expenses;
- (j) farmers' or other mutual hail, cyclone, casualty, or fire insurance companies or associations (including inter-insurers and reciprocal underwriters) the income of which is used or held for the purpose of paying losses or expenses;
- (k) farmers', fruit growers', or like associations organized and operated on a cooperative basis, (1) for the purpose of marketing the products of members or other producers,

and turning back to them the proceeds of sales, less the necessary marketing expenses, on the basis of either the quantity or the value of the products furnished by them; or (2) for the purpose of purchasing supplies and equipment for the use of members or other persons, and turning over such supplies and equipment to them at actual cost, plus necessary expenses. Exemption shall not be denied any such association because it has capital stock, if the dividend rate of such stock is fixed at not to exceed the legal rate of interest in the state of incorporation or eight per centum per annum, whichever is greater, on the value of the consideration for which the stock was issued, and if substantially all such stock (other than non-voting preferred stock, the owners of which are not entitled or permitted to participate, directly or indirectly, in the profits of the association, upon dissolution or otherwise, beyond the fixed dividends) is owned by producers who market their products or purchase their supplies and equipment through the association; nor shall exemption be denied any such association because there is accumulated and maintained by it a reserve required by state law or a reasonable reserve for any necessary purpose. Such an association may market the products of non-members in an amount the value of which does not exceed the value of the products marketed for members, and may purchase supplies and equipment for non-members in an amount the value of which does not exceed the value of the supplies and equipment purchased for members, providing the value of the purchases made for persons who are neither members nor producers does not

Excepted
services.

exceed fifteen per centum of the value of all its purchases. Business done for the United States or any of its agencies shall be disregarded in determining the right to exemption under this paragraph;

- (l) corporations organized by an association exempt under the provisions of paragraph (k) or members thereof, for the purpose of financing the ordinary crop operations of such members or other producers, and operated in conjunction with such association. Exemption shall not be denied any such corporation because it has capital stock, if the dividend rate of such stock is fixed not to exceed the legal rate of interest in the state of incorporation or eight per centum per annum, whichever is greater, on the value of the consideration for which the stock was issued, and if substantially all such stock (other than non-voting preferred stock, the owners of which are not entitled or permitted to participate, directly or indirectly, in the profits of the corporation, upon dissolution or otherwise, beyond the fixed dividends) is owned by such association, or members thereof; nor shall exemption be denied any such corporation because there is accumulated and maintained by it a reserve required by state law or a reasonable reserve for any necessary purpose;
- (m) corporations organized for the exclusive purpose of holding title to property, collecting income therefrom, and turning over the entire amount thereof, less expenses, to an organization which itself is exempt from the tax imposed by this act;
- (n) corporations organized under Act of Congress, if such corporations are instrumentalities of the United States and if, under such

Excepted
services.

act, as amended and supplemented, such corporations are exempt from Federal income taxes;

- (o) teachers' retirement fund associations of a purely local character, if (1) no part of their net earnings inures (other than through payment of retirement benefits) to the benefit of any private shareholder or individual; and (2) the income consists solely of amounts received from public taxation, amounts received from assessments upon the teaching salaries of members, and income in respect of investments;
- (p) religious or apostolic associations or corporations, if such associations or corporations have a common treasury or community treasury, even if such association or corporations engage in business for the common benefit of the members, but only if the members thereof include (at the time of filing their returns) in their gross income their entire pro rata shares, whether distributed or not, of the net income of the association or corporation for such year. Any amount so included in the gross income of a member shall be treated as a dividend received.

Excepted services.

Casual labor.

SEC. 28. *Casual Labor.* The term "employment" shall not include casual labor not in the course of the employer's trade or business (labor which does not promote or advance the trade or business of the employer). Temporary labor in the usual course of an employer's trade or business shall not be deemed to be casual labor.

Pay period.

SEC. 29. *"Pay Period" Determination.* If the services performed during one-half or more of any pay period by an individual for an employing unit constitute employment, all of the services of such indi-

vidual for such period shall be deemed to be employment, but if the services performed during more than one-half of any such pay period by an individual for an employing unit do not constitute employment, then none of the services of such individual on behalf of such employing unit for such period shall be deemed to be employment. As used in this paragraph, the term "pay period" means a period of not more than thirty-one consecutive days for which a payment of remuneration is ordinarily made to an individual by the employing unit.

SEC. 30. *Employment Office.* "Employment Office" means a free public employment office, or branch thereof, operated by this or any other state as a part of a state-controlled system of public employment offices, or by a Federal agency or any agency of a foreign government charged with the administration of an unemployment compensation program or free public employment offices. All claims for unemployment compensation benefits, registrations for employment, and all job or placement referrals received or made by any of the employment offices as above defined and pursuant to regulation of the Commissioner subsequent to December 31, 1941, are hereby declared in all respects to be valid. The Commissioner is authorized to make such investigation, secure and transmit such information, make available such services and facilities and exercise such of the other powers provided herein with respect to the administration of the act as he deems necessary or appropriate to facilitate the administration of any state or Federal unemployment compensation or public employment service law and in like manner to accept and utilize information, services and facilities made available to the state by the agency charged with the administration of any such unemployment compensation or public employment service law. Any such action taken by the

Employment
office.

Commissioner subsequent to December 31, 1941, is hereby declared to be in all respects valid.

State.

SEC. 31. *State.* "State" includes, in addition to the states of the United States of America, Alaska, Hawaii, and the District of Columbia.

Unemployed individual.

SEC. 32. *Unemployed Individual.* An individual shall be deemed to be "unemployed" in any week during which he performs no services and with respect to which no remuneration is payable to him, or in any week of less than full-time work, if the remuneration payable to him with respect to such week is less than his weekly benefit amount. The Commissioner shall prescribe regulations applicable to unemployed individuals making such distinctions in the procedures as to such types of unemployment as the Commissioner deems necessary.

Wages.

SEC. 33. *Wages.* "Wages" means the first three thousand dollars of remuneration paid by one employer to an individual in its employment for services performed during one calendar year.

Remuneration.

"Remuneration" means all compensation paid for personal services, including commissions and bonuses and the cash value of all compensation paid in any medium other than cash. The reasonable cash value of compensation paid in any medium other than cash and the reasonable value of gratuities shall be estimated and determined in accordance with rules prescribed by the Commissioner.

Wage credits.

"Wage credits" applicable to eligibility for benefits means the same as "wages."

Retirement and disability payments.

SEC. 34. *Retirement and Disability Payments Excepted.* The term "wages" shall not include the amount of any payment by an employing unit with respect to services performed after July 1, 1941, for or on behalf of an individual in its employ under a plan or system established by such employing unit which makes provision for individuals in its employ generally, or for a class or classes of such individuals

(including any amount paid by an employing unit for insurance or annuities or into a fund to provide for any payment) on account of retirement, sickness or accident disability, or medical and hospitalization expenses in connection with sickness or accident disability.

SEC. 35. *Death Benefits Excepted.* The term "wages" shall not include the amount of any payment by an employing unit with respect to services performed after July 1, 1941, for or on behalf of an individual in its employ under a plan or system established by such employing unit which makes provision for individuals in its employ generally, or for a class or classes of such individuals (including any amount paid by an employing unit for insurance or annuities or into a fund to provide for any payment) on account of death, provided the individual in its employ

Death
benefits
excepted.

- (a) has not the option to receive instead of provisions for such death benefits, any part of such payment, or, if such death benefit is insured, any part of the premium (or contributions to premiums) paid by his employing unit; and
- (b) has not the right under the provision of the plan or system or policy of insurance providing for such death benefits to assign such benefits or to receive a cash consideration in lieu of such benefits, either upon his withdrawal from the plan or system providing for such benefits or upon termination of such plan or system or policy of insurance or of his services with such employing unit.

SEC. 36. *Excepted Payments.* The term "wages" shall not include the payment by an employing unit (without deduction from the remuneration of the individual in its employ) of the tax imposed upon an individual in employment under section 1400 of

Excepted
payments.

the Federal Internal Revenue Code, as amended, or dismissal payments which the employing unit is not legally required to make, or any amount paid to a person in the military service for any pay period during which he performs no service for the employer, or disability compensation contributions.

Week.

SEC. 37. *Week.* "Week" means any period of seven consecutive calendar days ending at midnight as the Commissioner may by regulation prescribe.

CHAPTER III. ESTABLISHMENT OF OFFICE.

Office established.

SEC. 38. *Office Established.* There is hereby established the Office of Unemployment Compensation and Placement for the State of Washington, to be administered by a Commissioner of Unemployment Compensation and Placement. The Commissioner shall be appointed by the Governor with the consent of the senate, and shall hold office at the pleasure of, and receive such compensation for his services as may be fixed by, the Governor.

Divisions established.

SEC. 39. *Divisions Established.* There are hereby established in the Office of Unemployment Compensation and Placement two coordinate divisions to be known as the Unemployment Compensation Division, and the Washington State Employment Service Division, each of which shall be administered by a full-time salaried supervisor who shall be an assistant to the Commissioner and shall be appointed by him. Each division shall be responsible to the Commissioner for the dispatch of its distinctive functions. Each division shall be a separate administrative unit with respect to personnel, budget, and duties, except in so far as the Commissioner may find that such separation is impracticable. The Commissioner is authorized to appoint and fix the compensation of such officers, accountants, experts and other personnel as may be necessary to carry out the provisions of this act: *Provided, That such appoint-*

ment shall be made on a non-partisan merit basis in accordance with the provisions of this act relating to the selection of personnel.

It is hereby further provided that the Governor in his discretion may delegate any or all of the organization, administration and functions of the said Washington State Employment Service Division to any Federal agency.

CHAPTER IV. ORGANIZATION AND ADMINISTRATION.

SEC. 40. *Commissioner's Duties and Powers.* It shall be the duty of the Commissioner to administer this act. He shall have the power and authority to adopt, amend, or rescind such rules and regulations, to employ such persons, make such expenditures, require such reports, make such investigations, and to take such other action as he deems necessary or suitable to that end. Such rules and regulations shall be effective upon publication in the manner, not inconsistent with the provisions of this act, which the Commissioner shall prescribe. The Commissioner, in accordance with the provisions of this act, shall determine the organization and methods of procedure of the divisions referred to in this act, and shall have an official seal which shall be judicially noticed. Not later than the 1st day of February of each year, he shall submit to the Governor a report covering the administration and operation of this act during the preceding calendar year and shall make such recommendations for amendments to this act as he deems proper. Such report shall include a balance sheet of the moneys in the fund in which there shall be provided, if possible, a reserve against the liability in future years to pay benefits in excess of the then current contributions, which reserve shall be set up by the Commissioner in accordance with accepted actuarial principles on the basis of statistics of employment, business activity, and other relevant factors for the longest possible period.

Commissioner's powers and duties.

Whenever the Commissioner believes that a change in contribution or benefit rates will become necessary to protect the solvency of the fund, he shall promptly so inform the Governor and legislature and make recommendations with respect thereto.

Personnel.

SEC. 41. *Personnel Appointed by Commissioner.* The Commissioner is authorized to appoint, fix the compensation of, and prescribe the duties of the staff of each of said divisions. The Commissioner may delegate to any person appointed such power and authority as he deems reasonable and proper for the effective administration of this act, including the right to decide matters placed in his discretion under this act, and may in his discretion bond any person handling moneys or signing checks hereunder.

The Commissioner shall not appoint or employ any person who is an officer or committee member of any political party organization or who holds or is a candidate for any elective public office.

Personnel board.

SEC. 42. *Personnel Board and Commissioner's Regulations.* For the purpose of insuring the impartial selection of personnel on the basis of merit, the Governor shall appoint a personnel board of three members who are known to be interested in the selection of efficient government personnel, and who are not officers or employees of any department or office of the state or elected public officials. All appointments shall be for a term of six years, except that the terms of the members first taking office shall be two, four and six years, respectively. All personnel of the Office of Unemployment Compensation and Placement, and such other departments or offices of the state as the Governor may designate, or as provided by law, shall be selected from registers established by the personnel board. The Commissioner is authorized to adopt such regulations as may be necessary to meet personnel standards promulgated by the Social Security Board pursuant to

Commissioner's regulations.

the Social Security Act, as amended, and the Act of Congress entitled "An Act to provide for the establishment of a national employment system and for cooperation with the state in promotion of such system, and for other purposes," as approved June 6, 1933, as amended, and to provide for the maintenance of the merit system required under this section in conjunction with any merit system applicable to any other state agency, or agencies, which meets the personnel standards promulgated by the Social Security Board and the personnel board in making up registers for the Office of Unemployment Compensation and Placement shall be governed by such regulations.

SEC. 43. *Rules and Regulations.* General and special rules may be adopted, amended, or rescinded by the Commissioner only after public hearing or opportunity to be heard thereon, of which proper notice has been given. General rules shall become effective ten days after filing with the Secretary of State and publication in one or more newspapers of general circulation in the state. Special rules shall become effective ten days after notification to, or mailing to, the last known address of the individuals or concerns affected thereby. Regulations may be adopted, amended, or rescinded by the Commissioner and shall become effective in the manner and at the time prescribed by him.

Rules and regulations.

SEC. 44. *Reciprocal Benefit Arrangements.* As used in this section the terms "other state" and "another state" shall be deemed to include any state or territory of the United States, the District of Columbia and any foreign government and, where applicable, shall also be deemed to include the Federal government or provisions of a law of the Federal government, as the case may be.

Reciprocal benefits.

As used in this section the term "claim" shall be deemed to include whichever of the following terms

is applicable, to wit: "application for initial determination," "claim for waiting period credit," or "claim for benefits."

Claim
defined,

The Commissioner may enter into agreement with any other state whereby in the event an individual files a claim in another state against wages earned in employment in this state, or against wage credits earned in this state and in any other state or who files a claim in this state against wage credits earned in employment in any other state, or against wages earned in this state and in any other state, the claim will be paid by this state or another state as designated by the agreement in accordance with a determination on the claim as provided by the agreement and pursuant to the qualification and disqualification provisions of the law of the designated paying state (including another state) and whereby the wages of such individual, if earned in two or more states (including another state) may be combined, and further, whereby this state or another state shall reimburse the paying state in an amount which shall bear the same ratio to the amount of benefits already paid as the amount of wage credits transferred by this state or another state, and used in the determination, bear to the total wage credits used in computing the claimant's maximum amount of benefits potentially payable.

Reciprocal
arrange-
ments.

Whenever any claim is filed by an individual involving the combination of wages or a reciprocal arrangement for the payment of benefits, which is governed by the provisions of this section, the Unemployment Compensation Division of this state, when not designated as the paying state, shall promptly make a report to the other state making the determination, showing wages earned in employment in this state. A copy of such report shall be sent to the individual's most recent employing unit as stated by the individual, if such employing unit is in this state. Re-examination of such report

shall promptly be made upon receipt of a request therefor made by the individual or employing unit entitled to such report and a determination thereon be issued. No wages earned in this state shall be used as a basis for paying benefits pursuant to an application for initial determination, in respect to which any disqualification under the provisions of this act shall apply. Such wages, however, may be used for paying any claim for weeks subsequent to the termination of any such disqualification. Appeal from any determination by the Unemployment Compensation Division of this state may be had pursuant to the provisions of this act dealing with appeals relating to benefits.

Reciprocal
arrange-
ments.

Experience rating investigation, study, and report provided by this act shall not include any charge against or reflection in the record of any employer in this state by reason of payment, or reimbursement on any payment, of any part of any claim governed by the provisions of this section unless the only wages against which such claim is filed were earned in this state.

The Commissioner is hereby authorized to make to another state and to receive from another state reimbursements from or to the Unemployment Compensation Fund in accordance with arrangements made pursuant to the provisions of this section.

SEC. 45. *Reciprocal Coverage Arrangements.* The Commissioner is hereby authorized to enter into arrangements with the appropriate agencies of other states, foreign governments or the Federal government whereby services performed by an individual for a single employing unit for which services are customarily performed in more than one state shall be deemed to be services performed entirely within any one of the states (a) in which any part of such individual's service is performed, or (b) in which such individual has his residence, or (c) in which the employing unit maintains a place of business: Pro-

Reciprocal
coverage
arrange-
ments.

vided, That there is in effect, as to such services, an election by the employing unit with the acquiescence of such individual, approved by the agency charged with the administration of such state's unemployment compensation law, pursuant to which all the services performed by such individual for such employing unit are deemed to be performed entirely within such state.

Employing
unit
records.

SEC. 46. *Employing Unit Records.* Each employing unit shall keep true and accurate work records, containing such information as the Commissioner may prescribe. Such records shall be open to inspection and be subject to being copied by the Commissioner or his authorized representatives at any reasonable time and as often as may be necessary. The Commissioner may require from any employing unit any sworn or unsworn reports with respect to persons employed by it, which he deems necessary for the effective administration of this act. Each employer shall make periodic reports at such intervals as the Commissioner may by regulation prescribe, setting forth the remuneration paid for employment to workers in its employ, the names of all such workers and such other information as the Commissioner may by regulation prescribe.

Arbitrary
reports.

SEC. 47. *Arbitrary Reports.* If any employing unit shall fail or neglect to make or file any report or return required by this act, or any regulation made pursuant hereto, the Commissioner may, upon the basis of such knowledge as may be available to him, arbitrarily make a report on behalf of such employing unit and the report so made shall be deemed to be *prima facie* correct.

Interstate
use.

SEC. 48. *Interstate Use of Employing Unit Records.* The records of an employer maintained in this state pertaining to employment of persons in another state shall be open to representatives of the commissioner to permit cooperation with other state un-

employment compensation agencies in ascertaining information necessary to administer the unemployment compensation acts of such other states.

SEC. 49. *Compulsory Production of Records and Information.* In case of contumacy or refusal to obey subpoenas issued to any person, any court of the state within the jurisdiction of which the inquiry is carried on, or within the jurisdiction of which said person guilty of contumacy or refusal to obey is found or resides or transacts business, upon application by any duly authorized representative of the Commissioner, shall have jurisdiction to issue to such person an order requiring such person to appear before such authorized representative, there to produce evidence, if so ordered, or there to give testimony touching the matter under investigation, or in question. Failure to obey such order of the court may be punished by said court as a contempt thereof.

Production
of records.

SEC. 50. *Information from Employing Unit Records Confidential.* Information obtained from employing unit records under the provisions of this act or obtained from any individual pursuant to the administration of this act shall be deemed confidential and shall not be published or be open to public inspection (other than to public employees in the performance of their public duties and then only at the discretion of and in accordance with regulations prescribed by the Commissioner) in any manner revealing an individual's or employing unit's identity, but any interested party at a hearing before the appeal tribunal or the Commissioner shall be supplied with information from such records to the extent necessary for the proper presentation of the case in question.

Information
confidential.

SEC. 51. *Protection Against Self-incrimination.* No person shall be excused from attending and testifying or from producing books, papers, correspondence, memoranda, and other records before any

Self in-
crimination.

duly authorized representative of the Commissioner or any appeal tribunal in obedience to the subpoena of such representative of the Commissioner or such appeal tribunal, on the ground that the testimony or evidence, documentary or otherwise, required of him may tend to incriminate him or subject him to a penalty or forfeiture; but no individual shall be prosecuted or subjected to any penalty or forfeiture for or on account of any transaction, matter, or thing concerning which he is compelled, after having claimed his privilege against self-incrimination, to testify or produce evidence, documentary or otherwise, except that such individual so testifying shall not be exempt from prosecution and punishment for perjury committed in so testifying.

Oaths and
witnesses.

SEC. 52. *Oaths and Witnesses.* In the discharge of the duties imposed by this act, the appeal tribunal and any duly authorized representative of the Commissioner shall have power to administer oaths and affirmations, take depositions, certify to official acts and issue subpoenas to compel the attendance of witnesses and the production of books, papers, correspondence, memoranda, and other records deemed to be necessary as evidence in connection with any dispute or the administration of this act. It shall be unlawful for any person, without just cause, to fail to comply with subpoenas issued pursuant to the provisions of this section.

Destruction
of records.

SEC. 53. *Destruction of Office Records.* The Commissioner may destroy any form, claim, ledger, check, letter, or other record of the Office of Unemployment Compensation and Placement at the expiration of two years after such record was originated by or filed with the Office of Unemployment Compensation and Placement, except that warrants and claims, claim determinations, employer liability forms and contribution reports may be destroyed at the expiration of six years after such form is origi-

nated by or filed with the Office of Unemployment Compensation and Placement, and except that this section shall not apply to records pertaining to grants, accounts or expenditures for administration, records of the Unemployment Compensation Fund and the Unemployment Compensation Administration Fund.

SEC. 54. *Representation by Attorney General.* The Attorney General shall be the general counsel of each and all divisions and departments under this act and it shall be his duty to institute and prosecute all actions and proceedings which may be necessary in the enforcement and carrying out of each, every, and all of the provisions of this act, and it shall be the duty of the Attorney General to assign such assistants and attorneys as may be necessary to the exclusive duty of assisting each, every, and all divisions and departments created under this act in the enforcement of this act. The salaries of such assistants shall be paid out of the Unemployment Compensation Administration Fund, together with their expenses fixed by the Attorney General and allowed by the treasurer of the Unemployment Compensation Administration Fund when approved upon vouchers by the Attorney General.

Attorney
general.

SEC. 55. *Publication of Act, Rules and Regulations, Reports, Etc.* The Commissioner shall cause to be printed for distribution to the public the text of this act, the regulations and general rules, his annual reports to the Governor, and any other material which he deems relevant and suitable and shall furnish the same to any person upon application therefor.

Publication
of act—rules.

SEC. 56. *Services and Fees of Sheriffs.* The Sheriff of any county, upon request of the Commissioner or his duly authorized representative, or upon request of the Attorney General, shall, for and on behalf of the Commissioner, perform the functions of service, distraint, seizure, and sale, authority for

Sheriffs'
fees.

which is granted to the Commissioner or his duly authorized representative. No bond shall be required by the Sheriff of any county for services rendered for the Commissioner, his duly authorized representative, or the Attorney General. The Sheriff shall be allowed such fees as may be prescribed for like or similar official services.

State
Federal
cooperation.

SEC. 57. *State-Federal Cooperation.* The Commissioner, through the Washington State Employment Service Division, shall establish and maintain free public employment offices in such places as may be necessary for the proper administration of this act and for the purpose of performing such duties as are within the purview of the Act of Congress entitled "An Act to provide for the establishment of a national employment system and for other purposes," approved June 6, 1933 (48 Stat. 113; U. S. C. Title 29, Sec. 49(c), as amended).

In the administration of this act the Commissioner shall cooperate to the fullest extent consistent with the provisions of this act, with any official or agency of the United States having powers or duties under the provisions of the said Act of Congress, as amended, and to do and perform all things necessary to secure to this state the benefits of the said Act of Congress, as amended, in the promotion and maintenance of a system of public employment offices. The provisions of the said Act of Congress, as amended, are hereby accepted by this state, in conformity with section 4 of said act and there shall be observance of and compliance with the requirements thereof. The Commissioner may cooperate with or enter into agreements with the Railroad Retirement Board with respect to the establishment, maintenance, and use of free employment service facilities, and make available to said Board the state's records relating to the administration of this act, and furnish such copies thereof, at the expense of the Board, as it may deem necessary for its purposes.

The Commissioner shall comply with such provisions as the Social Security Board, created by the Social Security Act, approved August 14, 1935, as amended, may from time to time require, regarding reports and the correctness and verification thereof, and shall comply with the regulations of the Social Security Board governing the expenditures of such sums as may be allotted and paid to this state under Title III of the Social Security Act for the purpose of assisting the administration of this act. The Commissioner may afford reasonable cooperation with every agency of the United States charged with the administration of any unemployment insurance law.

State
Federal
cooperation.

The Commissioner is also authorized to apply for an advance to the state unemployment fund and to accept the responsibility for the repayment of such advance in accordance with the conditions specified in Title XII of the Social Security Act, as amended, in order to secure to this state and its citizens the advantages available under the provisions of such title.

Upon request therefor the Commissioner shall furnish to any agency of the United States charged with the administration of public works or assistance through public employment, the name, address, ordinary occupation, and employment status of each recipient of benefits and such recipient's rights to further benefits under this act.

SEC. 58. *Employment Stabilization.* The Commissioner shall take all appropriate steps to reduce and prevent unemployment; to encourage and assist in the adoption of practical methods of vocational training, retraining and vocational guidance; to investigate, recommend, advise, and assist in the establishment and operation by municipalities, counties, school districts, and the state, of reserves for public works to be used in times of business depression and unemployment; to promote the re-employment of

Employment
stabilization.

unemployed workers throughout the state in every other way that may be feasible; and to these ends to carry and publish the results of investigations and research studies.

State
advisory
council.

SEC. 59. *State Advisory Council.* The Commissioner shall appoint a state advisory council composed of an equal number of employer representatives and employee representatives who may fairly be regarded as representatives because of their vocations, employment or affiliation, and of such members representing the general public as the Commissioner may designate. Such council shall aid the Commissioner in formulating policies and discussing problems related to the administration of this act and of assuring impartiality and freedom from political influence in the solution of such problems. Such advisory council shall serve without compensation, other than compensation for wage loss sustained for attendance at formal meetings of the council or of duly constituted committees. Members shall be reimbursed for any travel expense incurred in accordance with the travel regulations applicable to employees of the Office of Unemployment Compensation and Placement. The Commissioner may also appoint industry or other special councils to perform appropriate services.

CHAPTER V. FUNDS.

Funds.

SEC. 60. *Maintenance of Unemployment Compensation Fund.* There shall be maintained as a special fund, separate and apart from all public moneys or funds of this state, an Unemployment Compensation Fund, which shall be administered by the Commissioner exclusively for the purposes of this act, and to which section 5501 of Remington's Revised Statutes, as amended, shall not be applicable. This fund shall consist of

- (a) all contributions and interest collected pursuant to the provisions of this act,

- (b) all fines and penalties collected pursuant to the provisions of this act,
- (c) interest earned upon any moneys in the fund,
- (d) any property or securities acquired through the use of moneys belonging to the fund,
- (e) all earnings of such property or securities,
- (f) any moneys received from the Federal Unemployment Account in the Unemployment Trust Fund in accordance with Title XII of the Social Security Act, as amended, and
- (g) all moneys received for the fund from any other source.

Maintenance
of Unemploy-
ment Com-
pensation
Fund.

All moneys in the fund shall be commingled and undivided. All moneys received for the Unemployment Compensation Fund prior to the effective date of this act shall be a part of this fund.

SEC. 61. *Administration of Unemployment Compensation Fund.* The Commissioner shall designate a treasurer and custodian of the Unemployment Compensation Fund, who shall administer such fund in accordance with the directions of the Commissioner and shall issue his warrants upon it in accordance with such regulations as the Commissioner shall prescribe. He shall maintain within the fund three separate accounts as follows:

Administra-
tion of Un-
employment
Compensa-
tion Fund.

- (a) a clearing account,
- (b) an unemployment trust fund account, and
- (c) a benefit account.

All moneys payable to the fund, upon receipt thereof by the Commissioner, shall be forwarded to the Treasurer, who shall immediately deposit them in the clearing account. Refunds payable pursuant to the provisions of this act may be paid from the clearing account upon warrants issued by the Treasurer under the direction of the Commissioner. After clearance thereof, all other moneys in the clearing account shall be immediately deposited with the

Secretary of the Treasury of the United States of America to the credit of the account of this state in the Unemployment Trust Fund, established and maintained pursuant to section 904 of the Social Security Act, as amended, any provisions of law in this state relating to the deposit, administration, release, or disbursement of moneys in the possession or custody of this state to the contrary notwithstanding. The benefit account shall consist of all moneys requisitioned from this state's account in the Unemployment Trust Fund. Moneys in the clearing and benefit accounts shall not be commingled with other state funds, but shall be deposited by the Treasurer, under the direction of the Commissioner, in any bank or public depository in which general funds of the state may be deposited, but no public deposit insurance charge or premium shall be paid out of the fund. Such moneys shall be secured by said bank or public depository to the same extent and in the same manner as required by the general depository law of the state and collateral pledged shall be maintained in a separate custody account. The Treasurer shall give a bond conditioned upon the faithful performance of his duties as custodian of the fund in an amount fixed by the State Administrative Board and in a form prescribed by law or approved by the Attorney General. Premiums for said bond shall be paid from the administration fund. All sums recovered on official bonds for losses sustained by the Unemployment Compensation Fund shall be deposited in such fund. All moneys received for the Unemployment Compensation Fund prior to the effective date of this act are subject to the provisions of this section.

Administra-
tion of Un-
employment
Compensa-
tion Fund.

SEC. 62. *Withdrawals From Federal Unemployment Trust Fund.* Moneys shall be requisitioned from this state's account in the Unemployment Trust Fund solely for the payment of benefits and repay-

ment of loans from the Federal government to guarantee solvency of the Unemployment Compensation Fund in accordance with regulations prescribed by the Commissioner. The Commissioner shall from time to time requisition from the Unemployment Trust Fund such amounts, not exceeding the amounts standing to its account therein, as he deems necessary for the payment of benefits for a reasonable future period. Upon receipt thereof the Treasurer shall deposit such moneys in the benefit account and shall issue his warrants for the payment of benefits solely from such benefit account. Expenditures of such moneys in the benefit account and refunds from the clearing account shall not be subject to any provisions of law requiring specific appropriations or other formal release by state officers of money in their custody, and section 5501 of Remington's Revised Statutes, as amended, shall not apply. All warrants issued by the Treasurer for the payment of benefits and refunds shall bear the signature of the Treasurer and the counter-signature of the Commissioner, or his duly authorized agent for that purpose. Any balance of moneys requisitioned from the Unemployment Trust Fund which remains unclaimed or unpaid in the benefit account after the expiration of the period for which sums were requisitioned shall either be deducted from estimates for, and may be utilized for the payment of, benefits during succeeding periods, or, in the discretion of the Commissioner, shall be redeposited with the Secretary of the Treasury of the United States of America to the credit of this state's account in the Unemployment Trust Fund.

Withdrawals
from
Federal Un-
employment
Trust Fund.

SEC. 63. *Management of Funds Upon Discontinuance of Federal Unemployment Trust Fund.* The provisions of this act, to the extent that they relate to the Unemployment Trust Fund, shall be operative only so long as such Unemployment Trust

Fund continues to exist and so long as the Secretary of the Treasury of the United States of America continues to maintain for this state a separate book account of all funds deposited therein for this state for benefit purposes, together with this state's proportionate share of the earnings of such Unemployment Trust Fund, from which no other state is permitted to make withdrawals. If and when such Unemployment Trust Fund ceases to exist, or such separate book account is no longer maintained, all moneys, properties or securities therein, belonging to the Unemployment Compensation Fund of this state shall be transferred to the Treasurer of the Unemployment Compensation Fund, who shall hold, invest, transfer, sell, deposit, and release such moneys, properties, or securities in a manner approved by the Commissioner, in accordance with the provisions of this act: *Provided*, That such moneys shall be invested in the following readily marketable classes of securities: Bonds or other interest-bearing obligations of the United States of America: *And provided further*, That such investment shall at all times be made so that all the assets of the fund shall always be readily convertible into cash when needed for the payment of benefits. The Treasurer shall dispose of securities or other properties belonging to the Unemployment Compensation Fund only under the direction of the Commissioner.

Management
of funds.

SEC. 64. *Unemployment Compensation Administration Fund.* There is hereby established a revolving fund to be known as the Unemployment Compensation Administration Fund. All moneys which are deposited or paid into this fund are hereby made available to the Commissioner. All moneys in this fund shall be expended solely for the purpose of defraying the cost of the administration of this act, and for no other purpose whatsoever, and all moneys received from the Social Security Board

for said fund pursuant to section 302 of the Social Security Act, as amended, shall be expended solely for the purposes and in the amounts found necessary by the Social Security Board for the proper and efficient administration of this act. The Unemployment Compensation Administration Fund shall consist of all moneys received from the United States of America or any agency thereof, including the Social Security Board, the Railroad Retirement Board, or from any other source, for such purpose. Moneys received from the Railroad Retirement Board as compensation for services or facilities supplied to said Board shall be paid into this fund or the "employment service account" as the Commissioner shall prescribe. All moneys in this fund shall be deposited, administered, and disbursed by the Treasurer of the Unemployment Compensation Fund under rules and regulations of the Commissioner and none of the provisions of section 5501 of Remington's Revised Statutes, as amended, shall be applicable to this revolving fund. The Treasurer last named shall be the Treasurer of the Unemployment Compensation Administration Fund and shall give a bond conditioned upon the faithful performance of his duties in connection with that fund. All sums recovered on the official bond for losses sustained by the Unemployment Compensation Administration Fund shall be deposited in said fund.

Unemployment
Compensation
Administration
Fund.

SEC. 65. *Employment Service Account.* A special "employment service account" shall be maintained in the State Treasury for the purpose of maintaining the public employment offices established pursuant to the provisions of this act. Any sum appropriated by this state for the purpose of cooperating with the United States Employment Service shall be placed in said account. In addition, there shall be paid into such account moneys received pursuant to the Act of Congress entitled, "An Act to provide for the establishment of a national

Employment
service
account.

employment system and for cooperation with the states in the promotion of such system and for other purposes," approved June 6, 1933 (48 Stat. 113; U. S. C., Title 29, section 49(c), as amended).

Employment
service
financing.

SEC. 66. *Employment Service Financing.* All moneys received by this state under the Act of Congress entitled, "An Act to provide for the establishment of a national employment system and for cooperation with the states in the promotion of such system and for other purposes," approved June 6, 1933 (48 Stat. 113; U. S. C., Title 29, section 49 (c), as amended), shall be paid into the special "employment service account" in the State Treasury, and said moneys are hereby made available to the Commissioner for the Washington State Employment Service Division to be expended as provided by this section and by said Act of Congress. For the purpose of establishing and maintaining free public employment offices, the Commissioner is authorized to enter into agreements with the Railroad Retirement Board, or any other agency of the United States charged with the administration of any unemployment compensation law, with any political subdivisions of this state, or with any private non-profit organization, and as a part of any such agreement the Commissioner may accept moneys, services, or quarters as a contribution to the "employment service account."

Replacement
of Federal
funds.

SEC. 67. *Replacement of Federal Funds.* The State of Washington hereby pledges that effective July 1, 1941, it will replace within a reasonable time any moneys received pursuant to section 302 of the Federal Social Security Act, as amended, which, because of any action or contingency, have been lost or have been expended for purposes other than, or in amounts in excess of, those found necessary by the Federal Social Security Board for the proper administration of the Washington Unemployment Compensation Act.

CHAPTER VI. BENEFITS AND CLAIMS.

Benefits and
claims.

SEC. 68. *Benefit Eligibility Conditions.* An unemployed individual shall be eligible to receive waiting period credit or benefits with respect to any week only if the Commissioner finds that

Benefit
eligibility
conditions.

- (a) he has registered for work at, and thereafter has continued to report at, an employment office in accordance with such regulation as the Commissioner may prescribe, except that the Commissioner may by regulation waive or alter either or both of the requirements of this subdivision as to individuals attached to regular jobs and as to such other types of cases or situations with respect to which he finds that the compliance with such requirements would be oppressive, or would be inconsistent with the purposes of this act;
- (b) he has filed an application for an initial determination and made a claim for waiting period credit or for benefits in accordance with the provisions of this act;
- (c) he is able to work, and is available for work in any trade, occupation, profession, or business for which he is reasonably fitted. To be available for work an individual must be ready, able, and willing, immediately to accept any suitable work which may be offered to him and must be actively seeking work;
- (d) he has been unemployed for a waiting period of one week; and
- (e) he has within the base year been paid wages of not less than three hundred dollars.

SEC. 69. *Waiting Period Credit Limitation.* No week shall be counted as a waiting period week,

Waiting
period
limitation.

- (a) if benefits have been paid with respect thereto, and

- (b) unless the individual was otherwise eligible for benefits with respect thereto, and
- (c) unless it occurs within the benefit year which includes the week with respect to which he claims payment of benefits, and
- (d) in the case of a seasonal worker, unless it falls within the season established pursuant to the provisions of this act.

Pregnancy limitation.

SEC. 70. *Pregnancy Limitation.* A woman who quits or is required to terminate employment because of pregnancy shall be presumed not to be able or available for work during such period in respect to said pregnancy as is provided by such regulation as the Commissioner may prescribe.

This presumption may be overcome only by such evidence as complies with such regulation as the Commissioner may prescribe.

Student provision.

SEC. 71. *Student Provision.* The word "available" as used in this act shall not be construed to exclude one who, though otherwise eligible, may be pursuing in any institution of learning or training a course of study which he may optionally discontinue at any stage for an indefinite period, with refund of prepaid tuition, and which he may at any time thereafter optionally resume at the previously discontinued stage.

Seasonal worker.

SEC. 72. *Seasonal Worker Provision.* No seasonal worker shall receive waiting period credit or benefits for any period outside of the season established for him pursuant to the provisions of this act relating to seasonal employment, nor for any period during such season, unless he meets all eligibility requirements and is free from all disqualification provisions for receipt of benefits as provided in this act.

Disqualification for quitting.

SEC. 73. *Disqualification for Voluntary Quit.* An individual shall be disqualified for benefits for the calendar week in which he has left work voluntarily without good cause, if so found by the Commissioner,

and for a period ensuing immediately thereafter of not more than four weeks as the Commissioner shall determine.

SEC. 74. *Disqualification for Unemployment Due to Misconduct.* An individual shall be disqualified for benefits for the calendar week in which he has been discharged or suspended for misconduct connected with his work, if so found by the Commissioner, and for not more than the four weeks which immediately follow such week as determined by the Commissioner in each case according to the seriousness of the misconduct. Disqualification for misconduct.

SEC. 75. *Disqualification for Misrepresentation.* An individual shall be disqualified for benefits for the calendar week in which he has willfully made a false statement or representation or willfully failed to report a material fact to obtain any benefits under the provisions of this act and for not more than the twenty-six next following weeks as determined by the Commissioner according to the circumstances in each case. Misrepresentation.

SEC. 76. *Disqualification for Refusal to Work.* An individual shall be disqualified for benefits, if the Commissioner finds that he has failed without good cause, either to apply for available, suitable work when so directed by the employment office or the Commissioner, or to accept suitable work when offered him, or to return to his customary self-employment (if any) when so directed by the Commissioner. Such disqualification shall continue for the calendar week in which such failure occurred and for not more than the four weeks which immediately follow such week as determined by the Commissioner according to the circumstances in each case. Refusal to work.

SEC. 77. *Labor Dispute Disqualification.* An individual shall be disqualified for benefits for any week with respect to which the Commissioner finds that his unemployment is due to a stoppage of work Labor dispute.

Labor
disputes.

which exists because of a labor dispute at the factory, establishment, or other premises at which he is or was last employed: *Provided*, That this section shall not apply if it is shown to the satisfaction of the Commissioner that

- (a) he is not participating in or financing or directly interested in the labor dispute which caused the stoppage of work; and
- (b) he does not belong to a grade or class of workers of which, immediately before the commencement of the stoppage, there were members employed at the premises at which the stoppage occurs, any of whom are participating in or financing or directly interested in the dispute: *Provided*, That if in any case separate branches of work which are commonly conducted as separate businesses in separate premises are conducted in separate departments of the same premises, each such department shall, for the purpose of this subdivision, be deemed to be a separate factory, establishment, or other premises.

Suitable
work factors.

SEC. 78. *Suitable Work Factors.* In determining whether or not any such work is suitable for an individual or whether or not an individual has left work voluntarily without good cause, the Commissioner shall consider the degree of risk involved to his health, safety and morals, his physical fitness and prior training, his experience and prior earnings, his length of unemployment and prospects for securing local work in his customary occupation, the distance of the available work from his residence, and such other factors as the Commissioner may deem pertinent, including state and national emergencies.

SEC. 79. *Suitable Work Exceptions.* Notwithstanding any other provisions of this act, no work

shall be deemed to be suitable and benefits shall not be denied under this act to any otherwise eligible individual for refusing to accept new work under any of the following conditions:

- (a) if the position offered is vacant due directly to a strike, lockout, or other labor dispute; Suitable work exceptions.
or
- (b) if the remuneration, hours, or other conditions of the work offered are substantially less favorable to the individual than those prevailing for similar work in the locality; or
- (c) if as a condition of being employed the individual would be required by the employing unit to join a company union or to resign from or refrain from joining any bona fide labor organization.

SEC. 80. *Amount of Benefits.* Subject to the other provisions of this act benefits shall be payable to any eligible individual during the benefit year in accordance with the weekly benefit amount and the maximum benefits potentially payable shown in the following schedule for such base year wages shown in the schedule as are applicable to such individual: Amount of benefits.

Benefit schedules.	Base Year Wages	Weekly Benefit Amount	Maximum Benefits Potentially Payable
	\$000- 299.99	\$00	\$000
	300- 399.99	10	120
	400- 499.99	10	130
	500- 599.99	10	140
	600- 699.99	10	150
	700- 799.99	10	160
	800- 899.99	11	187
	900- 999.99	12	216
	1000-1099.99	13	247
	1100-1199.99	14	280
	1200-1299.99	15	315
	1300-1399.99	16	352
	1400-1499.99	17	391
	1500-1599.99	18	432
	1600-1699.99	19	456
	1700-1799.99	20	500
	1800-1899.99	21	525
	1900-1999.99	22	572
	2000-2099.99	23	598
	2100-2199.99	24	624
	2200 and over.....	25	650

Deductions
from weekly
benefit.

SEC. 81. *Deduction From Weekly Benefit Amount.*

If an eligible individual is available for work for less than a full week, he shall be paid his weekly benefit amount reduced by one-sixth of such amount for each day that he is unavailable for work: *Provided*, That if he is unavailable for work for three days or more of a week, he shall be considered unavailable for the entire week.

Each eligible individual who is unemployed in any week shall be paid with respect to such week a benefit in an amount equal to his weekly benefit amount less that part of the remuneration (if any) payable to him with respect to such week which is in excess of five dollars. Such benefit, if not a multiple of one dollar, shall be computed to the next higher multiple of one dollar.

SEC. 82. *Filing Applications and Claims.* An application for initial determination, a claim for waiting period, or a claim for benefits shall be filed in accordance with such regulations as the Commis-

sioner may prescribe. An application for an initial determination may be made by any individual whether unemployed or not. Each employer shall post and maintain printed statements of such regulations in places readily accessible to individuals in his employment and shall make available to each such individual at the time he becomes unemployed, a printed statement of such regulations and such notices, instructions and other material as the Commissioner may by regulation prescribe. Such printed material shall be supplied by the Commissioner to each employer without cost to him.

Applications
and claims.

The term "application for initial determination" shall mean a request in writing for an initial determination. The term "claim for waiting period" shall mean a certification, after the close of a given week, that the requirements stated herein for eligibility for waiting period have been met. The term "claim for benefits" shall mean a certification, after the close of a given week, that the requirements stated herein for eligibility for receipt of benefits have been met.

SEC. 83. *Initial Determination and Notices.* A representative designated by the Commissioner shall take the application for initial determination and the claim for waiting period credit or for benefits. When an application for initial determination has been made, the Unemployment Compensation Division shall promptly make an initial determination thereon which shall be a statement of the applicant's base year wages, his weekly benefit amount, his maximum amount of benefits potentially payable and his benefit year. Such determination shall fix the general conditions under which waiting period credit shall be granted and under which benefits shall be paid during any period of unemployment occurring within the benefit year fixed by such determination. The applicant for initial determination, his most recent employing unit as stated by the applicant, and any other interested party which the

Initial deter-
mination
and notices.

Commissioner by regulation prescribes, shall be notified promptly by the delivery or mailing of written notice of the initial determination.

Redeter-
mination.

SEC. 84. *Redetermination.* The Commissioner may reconsider an initial determination or a determination of denial of benefits whenever he finds that there has been an error in identity, computation, or statement of amount of wages earned, or an error or omission with respect to the facts, or in order to comply with a final court decision applicable to an initial determination or determination of denial of benefits. Written notice of any such redetermination shall be promptly given by mail or delivered to such interested parties as were notified of the initial determination or determination of denial of benefits and any new interested party or parties who, pursuant to such regulation as the Commissioner may prescribe, would be an interested party. No such redetermination shall be so construed, however, as to permit the recovery of any benefits except in accordance with the provisions of this act relating to recovery of benefit payments.

Payment of
benefits.

SEC. 85. *Payment of Benefits.* An individual who has received an initial determination finding that he is potentially entitled to receive waiting period credit or benefits shall, during the benefit year, be given waiting period credit or be paid benefits in accordance with such initial determination for any week with respect to which the conditions of eligibility for such credit or benefits, as prescribed by this act, are met, unless the individual is denied waiting period credit or benefits under the disqualification provisions of this act.

All benefits shall be paid through employment offices in accordance with such regulations as the Commissioner may prescribe.

SEC. 86. *Denial of Benefits.* If waiting period credit or the payment of benefits shall be denied to

any individual for any week within the benefit year, the claimant shall be promptly notified by mail or delivery of written notice of the denial and the reasons therefor. Notice that benefits are denied shall suffice for the particular weeks stated in the notice or until the condition upon which the denial was based has been removed.

Denial of
benefits.

SEC. 87. *Recovery of Benefit Payments.* Any individual who has received any sum as benefits from the Unemployment Compensation Fund, when not entitled thereto under the provisions of this act, shall be liable to the fund for the sum improperly paid to him.

Recovery of
benefits.

As soon as the Commissioner has knowledge of payment of benefits to an individual under the circumstances mentioned in this section, he shall promptly prepare and deliver or mail to the individual at his last known address a notice of determination of liability declaring that the individual has been determined liable to refund the amount of benefits paid under the circumstances mentioned in this section. Such amount, if not previously collected, shall be deducted from any future benefits payable to the individual and the notice of determination required by this section shall so advise.

Appeal from the determination of liability herein provided may be had in the same manner and to the same extent as provided by this act for appeals relating to determinations in respect to claims for benefits. If no such appeal is taken to the appeal tribunal by the individual within ten days of the delivery of the notice of determination of liability, or within ten days of the mailing of the notice of determination, whichever is the earlier, said determination of liability shall be deemed conclusive and final.

SEC. 88. *Nonliability of State.* Benefits shall be deemed to be due and payable under this act only to the extent provided in this act and to the extent

Nonliability
of state.

that moneys are available therefor to the credit of the Unemployment Compensation Fund, and neither the state nor the Commissioner shall be liable for any amount in excess of such sums.

CHAPTER VII. CONTRIBUTIONS BY EMPLOYERS.

Payment of
contributions

SEC. 89. *Payment of Contributions.* On and after January 1, 1938, to and including December 31, 1945, contributions shall accrue and become payable by each employer for each calendar year in which he is subject to this act at the rate of two and seven-tenths per centum of wages payable for employment occurring during each calendar year.

On and after January 1, 1946, contributions shall accrue and become payable by each employer for each calendar year in which he is subject to this act at the rate of two and seven-tenths per centum of wages paid for employment occurring during each calendar year.

Contributions shall become due and be paid by each employer to the Treasurer for the Unemployment Compensation Fund in accordance with such regulations as the Commissioner may prescribe, and shall not be deducted, in whole or in part, from the remuneration of individuals in employment of the employer. Any deduction in violation of the provisions of this section shall be unlawful.

In the payment of any contributions, a fractional part of a cent shall be disregarded unless it amounts to one-half cent or more, in which case it shall be increased to one cent.

SEC. 90. *Authority to Compromise.* The Commissioner may compromise any claim for contributions, interest, or penalties existing or arising under this act in any case where collection of the full claim would result in the insolvency of the employing unit or individual from whom such contributions, interest, or penalties are claimed.

Whenever a compromise is made by the Commissioner in any case, there shall be placed on file in the office of the Unemployment Compensation Division a statement of the amount of contributions, interest and penalties imposed by law and claimed due, a complete record of the compromise agreement and the amount actually paid in accordance with the terms of the compromise agreement.

Authority to compromise.

If any such compromise is accepted by the Commissioner, within such time as may be stated in the compromise or agreed to, such compromise shall be final and conclusive and except upon showing of fraud or malfeasance or misrepresentation of a material fact the case shall not be reopened as to the matters agreed upon. In any suit, action, or proceeding, such agreement or any determination, collection, payment, adjustment, refund, or credit made in accordance therewith shall not be annulled, modified, set aside, or disregarded.

SEC. 91. *Contributions Erroneously Paid to Another State.* Payments of contributions erroneously paid to an unemployment compensation fund of another state which should have been paid to this state and which thereafter shall be refunded by such other state and paid by the employer to this state, shall be deemed to have been paid to this state at the date of payment to such other state.

Erroneous payments.

SEC. 92. *Interest on Delinquent Contributions.* If contributions are not paid on the date on which they are due and payable as prescribed by the Commissioner, the whole or part thereof remaining unpaid shall bear interest at the rate of one per centum per month from and after such date until payment plus accrued interest is received by him. In computing interest for any period less than a full month, the rate shall be one-thirtieth of one per centum for each day or fraction thereof. Interest shall not accrue in excess of twenty-four per centum for delin-

Interest.

Interest.

quent contributions for any one contributions period. The date as of which payment of contributions, if mailed, is deemed to have been received may be determined by such regulations as the Commissioner may prescribe. Interest collected pursuant to this section shall be paid into the Unemployment Compensation Fund. Interest shall not accrue on contributions from any estate in the hands of a receiver, executor, administrator, trustee in bankruptcy, common law assignee or other liquidating officer subsequent to the date when such receiver, executor, administrator, trustee in bankruptcy, common law assignee or other liquidating officer qualifies as such, but contributions accruing with respect to employment of persons by any receiver, executor, administrator, trustee in bankruptcy, common law assignee or other liquidating officer shall become due and shall draw interest in the same manner as contributions due from other employers. Where adequate information has been furnished the department and the department has failed to act or has advised the employer of no liability or inability to decide the issue, interest may be waived.

Lien for contributions.

SEC. 93. *Lien for Contributions Generally.* The claim of the Unemployment Compensation Division for any contributions, including interest thereon, not paid when due, shall be a lien prior to all other liens, except taxes, not only against the interest of any employer, but against the interest of all others, in the plant, works, equipment, and buildings, improved, operated or constructed by such employer, and also upon any products or articles manufactured by such employer. Said lien shall date from the commencement of the period with respect to which said delinquent contributions are due, and shall be prior to all other liens except tax liens. In order to avail itself of the lien hereby created, the Unemployment Compensation Division shall file with the County Auditor of the county in which such prop-

erty shall then be situated a statement in writing describing in general terms the specific property upon which a lien is claimed and stating the amount of the lien claimed by the division. Any such lien claimed against the interests of others than the employers shall be filed within four months after the employer shall have made report of his payroll and shall have defaulted in the payment of his contributions thereon. This lien shall be separate and apart from, and in addition to, any other lien or claim created by, or provided for in, this act. When any such notice of lien has been so filed, the Commissioner may release the same by the filing of a certificate of release when it shall appear that the amount of delinquent contributions together with all interest thereon have been paid, or when such assurance of payment shall be made as the Commissioner may deem to be adequate. Any lien filed as provided in this section may also be filed in the office of the Secretary of State. Filing in the office of the Secretary of State shall be of no effect, however, until the lien or copy thereof shall have been filed with the County Auditor in the county where the property is located. When a lien is filed in compliance herewith and with the Secretary of State, such filing shall have the same effect as if the lien had been duly filed for record in the office of the Auditor in each county of this state.

Lien for contributions.

SEC. 94. *Lien in Event of Insolvency or Dissolution.* In the event of any distribution of an employer's assets pursuant to an order of any Court, including any receivership, probate, legal dissolution, or similar proceeding, or in case of any assignment for the benefit of creditors, composition, or similar proceeding, contributions then or thereafter due shall be a lien upon all the assets of such employer. Said lien will be prior to all other liens or claims except prior tax liens, other liens provided by this act, and claims for remuneration for services of not

Lien in event of insolvency.

more than two hundred and fifty dollars to each claimant earned within six months of the commencement of the proceeding. The mere existence of a condition of insolvency or the institution of any judicial proceeding for legal dissolution or of any proceeding for distribution of assets shall cause such a lien to attach without action on behalf of the Commissioner or the state. In the event of an employer's adjudication in bankruptcy, judicially confirmed extension proposal, or composition, under the Federal Bankruptcy Act of 1898, as amended, contributions then or thereafter due shall be entitled to such priority as provided in that act, as amended.

Order and
notice of
assessment.

SEC. 95. *Order and Notice of Assessment.* At any time after the Commissioner shall find that any contribution or the interest thereon has become delinquent, the Commissioner may issue an order and notice of assessment specifying the amount due, which order and notice of assessment shall be served upon the delinquent employer in the manner prescribed for the service of a summons in a civil action, except that if the employer cannot be found within the state, said order and notice will be deemed to be served when mailed to the delinquent employer at his last known address by registered mail.

Jeopardy
assessment.

SEC. 96. *Jeopardy Assessment.* If the Commissioner shall have reason to believe that an employer is insolvent or if any reason exists why the collection of any contributions accrued will be jeopardized by delaying collection, he may make an immediate assessment thereof and may proceed to enforce collection immediately, but interest shall not begin to accrue upon any contributions until the date when such contributions would normally have become delinquent.

SEC. 97. *Distrain, Seizure, and Sale.* If the amount of contributions or interest assessed by the Commissioner by order and notice of assessment pro-

vided in this act is not paid within ten days after the service or mailing of the order and notice of assessment, the Commissioner or his duly authorized representative may collect the amount stated in said assessment by the distraint, seizure, and sale of the property, goods, chattels, and effects of said delinquent employer. There shall be exempt from distraint and sale under this section such goods and property as are exempt from execution under the laws of this state.

Distraint,
seizure, and
sale.

SEC. 98. *Distraint Procedure.* The Commissioner, upon making a distraint, shall seize the property and shall make an inventory of the property distrained, a copy of which shall be mailed to the owner of such property or personally delivered to him, and shall specify the time and place when said property shall be sold. A notice specifying the property to be sold and the time and place of sale shall be posted in at least two public places in the county wherein the seizure has been made. The time of sale shall be not less than ten nor more than twenty days from the date of posting of such notices. Said sale may be adjourned from time to time at the discretion of the Commissioner, but not for a time to exceed in all sixty days. Said sale shall be conducted by the Commissioner or his authorized representative who shall proceed to sell such property by parcel or by lot at a public auction, and who may set a minimum price to include the expenses of making a levy and of advertising the sale, and if the amount bid for such property at the sale is not equal to the minimum price so fixed, the Commissioner or his representative may declare such property to be purchased by the Unemployment Compensation Division for such minimum price. In such event the delinquent account shall be credited with the amount for which the property has been sold. Property acquired by the Unemployment Compensation Division as herein prescribed may be sold by the Commissioner or his

Distraint
procedure.

representative at public or private sale, and the amount realized shall be placed in the Unemployment Compensation Trust Fund.

Distrain
procedure.

In all cases of sale, as aforesaid, the Commissioner shall issue a bill of sale or a deed to the purchaser and said bill of sale or deed shall be *prima facie* evidence of the right of the Commissioner to make such sale and conclusive evidence of the regularity of his proceeding in making the sale, and shall transfer to the purchaser all right, title, and interest of the delinquent employer in said property. The proceeds of any such sale, except in those cases wherein the property has been acquired by the Unemployment Compensation Division, shall be first applied by the Commissioner in satisfaction of the delinquent account, and out of any sum received in excess of the amount of delinquent contributions and interest the administration fund shall be reimbursed for the costs of distraint and sale. Any excess which shall thereafter remain in the hands of the Commissioner shall be refunded to the delinquent employer. Sums so refundable to a delinquent employer may be subject to seizure or distraint in the hands of the Commissioner by any other taxing authority of the state or its political subdivisions.

Notice to
withhold
property.

SEC. 99. *Notice and Order to Withhold and Deliver.* The Commissioner is hereby authorized to issue to any person, firm, or corporation a notice and order to withhold and deliver property of any kind whatsoever when he has reason to believe that there is in the possession of such person, firm, or corporation, property which is due, owing, or belonging to any person, firm, or corporation upon whom a notice and order of assessment has been served by the Office of Unemployment Compensation and Placement of the state for unemployment compensation contributions or interest.

The notice and order to withhold and deliver shall be served by the Sheriff of the county wherein

the service is made, or by his deputy, or by any duly authorized representative of the Commissioner. Any person, firm, or corporation upon whom service has been made is hereby required to answer the notice, under oath and in writing, and shall make true answers to the matters inquired of in the notice.

In the event there is in the possession of any such person, firm, or corporation, any property which may be subject to the claim of the Office of Unemployment Compensation and Placement of the state, such property shall be delivered forthwith to the Commissioner or his duly authorized representative upon demand to be held in trust by the Commissioner for application on the indebtedness involved or for return, without interest, in accordance with final determination of liability or non-liability, or in the alternative, there shall be furnished a good and sufficient bond satisfactory to the Commissioner conditioned upon final determination of liability.

SEC. 100. *Collection by Civil Action.* If after due notice, any employer defaults in any payment of contributions or interest thereon, the amount due may be collected by civil action in the name of the State of Washington, and the employer adjudged in default shall pay the cost of such action. Any lien created by this act may be foreclosed by decree of the court in any such action. Civil actions brought under this section to collect contributions or interest thereon from an employer shall be heard by the Court at the earliest possible date and shall be entitled to preference upon the calendar of the Court over all other civil actions except petitions for judicial review under this act and cases arising under the industrial insurance laws of this state.

Collection
by civil
action.

SEC. 101. *Contractor's and Principal's Liability for Contributions.* No employing unit which contracts with or has under it any contractor or subcontractor who is an employer under the provisions

Contractor's
liability.

of this act shall make any payment to such contractor or sub-contractor for any indebtedness due until after the contractor or sub-contractor has paid, or has furnished a good and sufficient bond acceptable to the Commissioner for payment of contributions, including interest, due or to become due in respect to personal services which have been performed by individuals for such contractor or sub-contractor. Failure to comply with the provisions of this section shall render said employing unit directly liable for such contributions and the Commissioner shall have all of the remedies of collection against said employing unit under the provisions of this act as though the services in question were performed directly for said employing unit.

Collection
remedies
cumulative.

SEC. 102. *Collection Remedies Cumulative.* Remedies given to the state under this act for the collection of contributions and interest shall be cumulative and no action taken by the Commissioner or his duly authorized representative, the Attorney General, or any other officer shall be construed to be an election on the part of the state or any of its officers to pursue any remedy to the exclusion of any other.

Contributions
adjustments
refunds.

SEC. 103. *Contributions Adjustments and Refunds.* No later than three years after the date on which any contributions or interest have been paid, an employer who has paid such contributions or interest may file with the Commissioner a petition in writing for an adjustment thereof in connection with subsequent contribution payments or for a refund thereof when such adjustment cannot be made. If the Commissioner upon an ex parte consideration shall determine that such contributions or interest, or portion thereof, were erroneously collected, he shall allow such employer to make an adjustment thereof without interest in connection with subsequent contribution payments by him, or if such adjustment cannot be made, the Commissioner shall

refund said amount without interest from the fund. For like cause and within the same period, adjustment or refund may be made on the Commissioner's own initiative. If the Commissioner finds that upon ex parte consideration he cannot readily determine that such adjustment or refund should be allowed, he shall deny such application and notify the employer in writing.

SEC. 104. *Election of Coverage.* Any employing unit for which services that do not constitute employment as defined in this act are performed, may file with the Commissioner a written election that all such services performed by any distinct class or group of individuals or by all individuals in its employ in one or more distinct establishments or places of business shall be deemed to constitute employment for all the purposes of this act for not less than two calendar years. Upon the written approval of such election by the Commissioner, such services shall be deemed to constitute employment subject to this act from and after the date stated in such approval. Such services shall cease to be deemed employment subject hereto as of January 1 of any calendar year subsequent to such two calendar years, only if such employing unit files with the Commissioner prior to the 15th day of January of such year a written application for termination of the coverage of such services.

Election of coverage.

SEC. 105. *Joint Accounts.* The Commissioner shall prescribe regulations for the establishment, maintenance, and dissolution of joint accounts by two or more employers, and shall, in accordance with such regulations and upon application by two or more employers to establish such account, or to merge their several individual accounts in a joint account, maintain such joint account as if it constituted a single employer's account.

Joint accounts.

SEC. 106. *Injunction Proceedings.* Any employer

Injunction
proceedings.

who shall be delinquent in the payment of contributions or interest may be enjoined upon the suit of the State of Washington from continuing in business in this state or employing persons herein until the delinquent contributions and interest shall have been paid, or until the employer shall have furnished a good and sufficient bond in a sum equal to double the amount of contributions and interest already delinquent, plus such further sum as the Court shall deem adequate to protect the Unemployment Compensation Division in the collection of contributions and interest which will become due from such employer during the next ensuing calendar year, said bond to be conditioned upon payment of all contributions and interest due and owing within thirty days after the expiration of the next ensuing calendar year or at such earlier date as the Court may fix.

Action pursuant to the provisions of this section may be instituted in the Superior Court of any county of the state wherein the employer resides, has its principal place of business, or where it has anyone performing services for it, whether or not such services constitute employment.

Limitation
of actions.

SEC. 107. *Limitation of Actions and Uncollectible Accounts.* The Commissioner shall commence action for the collection of contributions and interest imposed by this act by assessment or suit within three years after a return is filed. No proceedings for the collection of such amounts shall be begun after the expiration of such period.

In case of a false or fraudulent return with intent to evade contributions or interest, or in the event of a failure to file a return, the contributions and interest may be assessed or a proceeding in Court for the collection thereof may be begun at any time.

The Commissioner is hereby authorized to charge off as uncollectible and no longer an asset of the

Unemployment Compensation Fund any delinquent contributions, interest, or credits at any time after three years from the date of delinquency, if the Commissioner and the Attorney General are satisfied that there is no available and lawful means by which such contributions or interest may thereafter be collected.

CHAPTER VIII. EXPERIENCE RATING.

SEC. 108. *Experience Rating Study and Report.*

The Commissioner shall make a study of the principle of experience rating and shall report to the Governor and to the legislature of the state not later than January 10, 1947, the results of this study. This report shall include an analysis of experience rating plans, the principles of which are in conformity with Federal requirements, together with the results of the operation of experience rating plans in other states. The report shall further include a draft of a bill which incorporates the experience rating plan that in the opinion of the Commissioner would be most adaptable to the unemployment problem of this state in the event the Governor and the legislature favorably consider the adoption of an experience rating plan. The report may include conclusions or recommendations as to the soundness of the experience rating principle, its adaptability to employment conditions in this state, or on any other point that may be of interest or assistance to the Governor or to the legislature at the election of the Commissioner.

Experience
rating study
and report.

SEC. 109. *Experience Rating Classification.*

The Commissioner shall set up and maintain separate records for each employer of the amounts paid into the fund by it in its own behalf with respect to employment occurring on or after January 1, 1942, and of all benefit payments made and properly chargeable to such employer annually, commencing January 1, 1942. Benefits paid to an unemployed

Experience
rating classi-
fication.

individual during any benefit year shall be charged against the account of the employer from whom the individual earned the most wages during his base year, except that if an individual had an equal amount of base year wages from each of two or more employers, the benefit charge shall be divided equally among such employers: *Provided*, That if such individual performed services in employment for more than one employer during his base year, benefits paid to such individual for unemployment occurring on or before January 2, 1943, shall be charged against the respective accounts of such employers in the proportion that the total wages earned by such individual in employment for each such employer bears to the total wages earned by such individuals in employment for all such employers during the base year. In charging employers' accounts, proper consideration shall be given to limitations set out in this section with respect to benefit payments properly chargeable against the employer's account.

CHAPTER IX. SEASONAL EMPLOYMENT.

SEC. 110. *Determination of Seasonal Employer.*

Seasonal
employer.

As used in this section the term "seasonal employer" means an employer or operating unit of an employer which, because of the seasonal nature of its operations, reduces its employment to such an extent that its monthly payroll for each of three consecutive months and for the same three months in either of two consecutive calendar or operating years immediately preceding the year for which the determination is made, is less than one-half the average monthly payroll for the three consecutive months of highest payroll in the same calendar or operating years. No employer or operating unit shall be deemed to be seasonal unless and until so determined by the Commissioner. A successor in interest of a seasonal employer or operating unit shall be

deemed seasonal upon the same basis as the predecessor unless determined otherwise by the Commissioner.

SEC. 111. *Seasonal Period and Duration of Determination.* Prior to any determination declaring an employer or operating unit seasonal the Commissioner shall hold a public hearing in accordance with such regulation as the Commissioner may prescribe. Written notice of such hearing shall be delivered or mailed to the employer involved and such representatives of individuals in the employment of such employer as may be known to the Commissioner. In addition thereto the Commissioner shall publish one notice in a newspaper of general circulation in the county wherein the employer maintains the operation in question. Said notice herein required shall be given and published at least ten days prior to the date fixed for such hearing.

Seasonal period.

If pursuant to a hearing, as provided herein, an employer is found to be seasonal, a written determination declaring the employer to be seasonal and specifying the period or periods of seasonal operation shall be forwarded to the employer involved. Notice of the determined season shall be forwarded to any representative of individuals in the employment of such employer and of whom the Commissioner has knowledge and shall be published once in a newspaper of general circulation in the county wherein the employer maintains the operation in question.

Period of determination.

Within ten days after the date of publication of such determined season the employer or other interested party may appeal from such determination in the same manner and to the same extent as provided for by this act on an appeal from an order and notice of assessment. If no appeal is taken to an appeal tribunal within the time prescribed by this section, the determination shall be deemed to be conclusive and final.

Any determination once made shall remain in effect during a period of two years from the date the determination becomes effective, but the Commissioner on his own motion may make a redetermination after investigation and a hearing prior to the expiration of such period.

Seasonal employment.

SEC. 112. *Seasonal Employment Defined.* "Seasonal employment" means all employment for a seasonal employer or operating unit within the season determined by the Commissioner as its operating season. All wages or salaries paid by a seasonal employer within such operating season shall be deemed seasonal wages.

Operating unit.

SEC. 113. *Operating Unit.* For the purposes of this act relating to seasonal employment, an "operating unit" is any unit of an employer's business which frequently is conducted as a separate and independent operation.

Seasonal worker.

SEC. 114. *Seasonal Worker.* "Seasonal worker" means an individual who has base year credits of which at least eighty per centum have been earned in seasonal employment from one seasonal employer.

Benefit payments.

SEC. 115. *Benefit Payments to Seasonal Workers.* When the Commissioner has designated the operations of an employer or an operating unit as seasonal, then benefits shall be payable to seasonal workers employed thereby only on account of unemployment occurring during the regular period of such seasonal employment.

Seasonal employment study.

SEC. 116. *Seasonal Employment Study.* The Commissioner shall study and investigate seasonal employment with respect to the administrative practicability of this act and its effect upon the payment of benefits to persons in seasonal industries. In the event that the Commissioner should determine, as a result of such study and investigation, that changes should be made, he shall prepare and submit to the

Governor not later than December 1, 1946, recommendations in keeping with his findings and conclusions.

CHAPTER X. REVIEW, HEARINGS, AND APPEALS.

SEC. 117. *Appeal Tribunals.* The Commissioner shall establish one or more impartial appeal tribunals, each of which shall consist of a salaried examiner who shall decide the issues submitted to the tribunal. No examiner shall hear or decide any disputed claim in any case in which he is an interested party. Wherever the term "appeal tribunal" or "the appeal tribunal" is used in this act the same refers to an appeal tribunal established under the provisions of this section. Notice of any appeal or petition for hearing taken to an appeal tribunal in any proceeding under this act may be filed with such agency as the Commissioner may by regulation prescribe.

Appeal
tribunals.

SEC. 118. *Filing of Benefit Appeals.* The applicant, his most recent employing unit or any interested party to the initial determination or redetermination which the Commissioner by regulation prescribes, may file an appeal from such determination or redetermination with the appeal tribunal within ten days after the date of notification or mailing, whichever is earlier, of such initial determination or redetermination to his last known address: *Provided*, That in the event an appeal with respect to the initial determination or redetermination of denial of benefits is pending as of the date when a redetermination thereof is issued, such appeal, unless withdrawn, shall be treated as an appeal from such redetermination. Any claimant denied benefits in accordance with the provisions of this act may file an appeal within ten days from the date of notification or mailing of the notice of denial to his last known address, whichever is earlier. Any appeal from a determination of denial of benefits which is

Filing of
benefit
appeals.

effective for an indefinite period shall be deemed to be an appeal as to all weeks subsequent to the effective date of the denial for which benefits have already been denied. If no appeal is taken from the initial determination, or a redetermination thereon, or a notice of denial of benefits or redetermination thereon, within the time allowed by the provisions of this section for appeal therefrom, said initial determination, redeterminations, or notice of denial of benefits, as the case may be, shall be conclusively deemed to be correct except as hereinbefore provided in respect to reconsideration by the Commissioner of an initial determination or a determination of denial of benefits.

Appeals
from order
and notice of
assessment.

SEC. 119. *Appeal From Order and Notice of Assessment.* When an order and notice of assessment has been served upon or mailed to a delinquent employer, as heretofore provided, such employer may within ten days thereafter file a petition in writing with the appeal tribunal, stating that such assessment is unjust or incorrect and requesting a hearing thereon. Such petition shall set forth the reasons why the assessment is objected to and the amount of contributions, if any, which said employer admits to be due the Unemployment Compensation Division. If no such petition be filed with the appeal tribunal within said ten days, said assessment shall be conclusively deemed to be just and correct: *Provided*, That in such cases, and in cases where payment of contributions or interest has been made pursuant to a jeopardy assessment, the Commissioner may properly entertain a subsequent application for refund. The filing of a petition on a disputed assessment with the appeal tribunal shall stay the distraint and sale proceeding provided for in this act until a final decision thereon shall have been made, but the filing of such petition shall not affect the right of the Commissioner to perfect a lien, as provided by this act, upon the property of the employer.

Within ten days after notice of denial of refund or adjustment has been mailed or delivered (whichever is the earlier) to an employer, the employer may file a petition in writing with the appeal tribunal for a hearing thereon: *Provided*, That this right shall not apply in those cases in which assessments have been appealed from and have become final. The petitioner shall set forth the reasons why such hearing should be granted and the amount which the petitioner believes should be adjusted or refunded. If no such petition be filed within said ten days, the determination of the Commissioner as stated in said notice shall be final.

SEC. 120. *Benefit Appeals Procedure.* In any proceeding before an appeal tribunal involving a dispute of an individual's initial determination, all matters covered by such initial determination shall be deemed to be in issue irrespective of the particular ground or grounds set forth in the notice of appeal. Benefit
appeals
procedure.

In any proceeding before an appeal tribunal involving a dispute of an individual's claim for waiting period credit or claim for benefits, all matters and provisions of this act relating to the individual's right to receive such credit or benefits for the period in question shall be deemed to be in issue irrespective of the particular ground or grounds set forth in the notice of appeal.

In any proceeding involving an appeal relating to benefit determinations or benefit claims, the appeal tribunal, after affording the parties reasonable opportunity for fair hearing, shall render its decision affirming, modifying, or setting aside the determination or decisions of the Unemployment Compensation Division. The parties shall be duly notified of such appeal tribunal's decision together with its reasons therefor, which shall be deemed to be the final decision on the initial determination or the claim for

waiting period credit or the claim for benefits unless, within ten days after the date of notification or mailing, whichever is the earlier, of such decision, further appeal is perfected pursuant to the provisions of this act relating to review by the Commissioner.

Contributions appeals procedure.

SEC. 121. *Contributions Appeals Procedure.* In any proceeding before an appeal tribunal involving an appeal from a disputed order and notice of assessment (for contributions or interest due), or disputed denial of refund or adjustment (of contributions or interest paid), the appeal tribunal, after affording the parties a reasonable opportunity for hearing, shall affirm, modify or set aside the notice of assessment or denial of refund. The parties shall be duly notified of such appeal tribunal's decision together with its reasons therefor which shall be deemed to be the final decision on the order and notice of assessment or denial of refund, as the case may be, unless within ten days after the date of notification or mailing, whichever is the earlier, of such decision, further appeal is perfected pursuant to the provisions of this act relating to review by the Commissioner.

Conduct of appeal hearings.

SEC. 122. *Conduct of Appeal Hearings.* The manner in which any dispute shall be presented to the appeal tribunal, and the conduct of hearings and appeals, shall be in accordance with regulations prescribed by the Commissioner for determining the rights of the parties, whether or not such regulations conform to common law or statutory rules of evidence and other technical rules of procedure. A full and complete record shall be kept of all appeal tribunal proceedings. All testimony at any appeal tribunal hearing shall be recorded, but need not be transcribed unless further appeal is taken.

Petition for review by Commissioner.

SEC. 123. *Petition for Review by Commissioner.* Within ten days from the date of notification or mailing, whichever is the earlier, of any decision of an appeal tribunal, the Commissioner on his own

order may, or upon petition of any interested party shall, take jurisdiction of the proceedings for the purpose of review thereof. Appeal from any decision of an appeal tribunal may be perfected so as to prevent finality of such decision if, within ten days from the date of mailing the appeal tribunal decision, or notification thereof, whichever is the earlier, a petition for review by the Commissioner is received by the Commissioner or by such representative of the Commissioner as the Commissioner by regulation shall prescribe. The Commissioner may also prevent finality of any decision of an appeal tribunal and take jurisdiction of the proceedings for his review thereof by entering an order so providing on his own motion and mailing a copy thereof to the interested parties within the same period allowed herein for receipt of a petition for review. The time limit provided herein for seeking review by the Commissioner and for the Commissioner's assumption of jurisdiction on his own motion for review shall be deemed to be jurisdictional.

SEC. 124. Commissioner's Review Procedure. After having acquired jurisdiction for review, the Commissioner shall review the proceedings in question. Prior to rendering his decision, the Commissioner may order the taking of additional evidence by an appeal tribunal to be made a part of the record in the case. Upon the basis of evidence submitted to the appeal tribunal and such additional evidence as the Commissioner may order to be taken, the Commissioner shall render his decision in writing affirming, modifying, or setting aside the decision of the appeal tribunal and shall mail his decision to the interested parties at their last known addresses.

Commissioner's review procedure.

SEC. 125. Finality of Commissioner's Decision. Any decision of the Commissioner involving a review of an appeal tribunal decision, in the absence of an appeal therefrom as provided by this act, shall

Finality of Commissioner's decision.

become final thirty days after the date of mailing written notification thereof and judicial review thereof shall be permitted only after any party claiming to be aggrieved thereby has exhausted his remedies provided in this act for hearing by an appeal tribunal and for review of the appeal tribunal's decision by the Commissioner. The Commissioner shall be deemed to be a party to any judicial action involving any such decision and shall be represented in any such judicial action by the Attorney General.

Costs.

SEC. 126. *Costs.* In all proceedings provided by this act prior to Court review involving dispute of an individual's initial determination, or claim for waiting period credit, or for benefits, the fees of all witnesses attending such proceedings pursuant to subpoena shall be paid at the rate fixed by such regulation as the Commissioner shall prescribe and such fees and all costs of such proceedings otherwise chargeable to such individual, except charges for services rendered by counsel or other agent representing such individual, shall be paid out of the Unemployment Compensation Administration Fund. In all other respects and in all other proceedings under this act the rule in civil cases as to costs and attorney fees shall apply: *Provided*, That cost bills may be served and filed and costs shall be taxed in accordance with such regulation as the Commissioner shall prescribe.

Fees for hearings.

SEC. 127. *Fees for Administrative Hearings.* No individual shall be charged fees of any kind in any proceeding involving the individual's application for initial determination, or claim for waiting period credit, or claim for benefits, under this act by the Commissioner or his representatives, or by an appeal tribunal, or any court, or any officer thereof. Any individual in any such proceeding before the Commissioner or any appeal tribunal may be represented by counsel or other duly authorized agent who shall

neither charge nor receive a fee for such services in excess of an amount found reasonable by the officer conducting such proceeding.

SEC. 128. *Appeal to the Courts.* Within thirty days after any Commissioner's decision, involving review of an appeal tribunal's decision, has been communicated to any interested party, such interested party may appeal to the Superior Court of the county of his residence, and such appeal shall be heard as a case in equity, but upon such appeal only such issues of law may be raised as were properly included in the hearing before the appeal tribunal. The proceedings of every such appeal shall be informal and summary, but full opportunity to be heard upon the issues of law shall be had before judgment is pronounced. Such appeal shall be perfected by serving a notice of appeal on the Commissioner personally, by personal service, or by mailing a copy thereof to the Commissioner, and by filing the notice of appeal together with proof of service thereof with the Clerk of the Court and by complying with the requirements of this act relating to undertakings on appeal. The service and the filing together with proof of service of the notice of appeal and compliance with the provisions of this act relating to undertakings on appeal, all within thirty days, shall be jurisdictional. The Commissioner shall within twenty days after receipt of such notice of appeal serve and file his notice of appearance upon appellant or his attorney of record and such appeal shall thereupon be deemed at issue. The Commissioner shall serve upon the appellant and file with the Clerk of the Court before hearing, a certified copy of his complete record of the administrative proceedings which shall, upon being so filed, become the record in such case. Appeal shall lie from the judgment of the Superior Court to the Supreme Court as in other civil cases.

Appeal to
the courts.

SEC. 129. *Undertakings on Appeals to the Courts.*

Undertak-
ings on
appeals to
the courts.

No bond of any kind shall be required of any individual appealing to the Superior Court or the Supreme Court from a Commissioner's decision affecting such individual's application for initial determination or claim for waiting period credit or for benefits.

No appeal from a Commissioner's decision by any other interested party shall be deemed to be perfected nor shall the Court have jurisdiction thereof unless within the thirty-day appeal period provided by this act for service and filing of notice of appeal the appellant shall first have deposited with the Commissioner the sum theretofore determined by the Commissioner to be due from such appellant, if any, together with interest thereon, if any, and in addition thereto shall have filed with the Commissioner an undertaking in such amount and with such sureties as the Superior Court shall approve to the effect that appellant will pay all costs which may be adjudged against him in the prosecution of such appeal. At the option of the appellant such undertaking may be in a sum sufficient to guarantee payment of the amount previously determined by the Commissioner to be due from the appellant, if any, together with interest, if any, in addition to an amount approved by the Court as sufficient to pay all costs which may be adjudged against appellant in prosecution of such appeal, in which event the appellant shall not be required to deposit any sum with the Commissioner as a condition precedent to the taking of an appeal to the Superior Court. In the event of an appeal to the Supreme Court, a deposit or undertaking shall be required of the appellant guaranteeing payment of all sums for which appellant may be adjudged liable, including costs. Such deposit or undertaking shall be approved by the Superior Court and filed with the Clerk of the Supreme Court within the time allowed in civil cases for appeal to the Supreme Court. The juris-

dictional requirements of this section are in addition to the provisions of this act relating to the service and filing of a notice of appeal.

SEC. 130. *Interstate Appeals to Thurston County.* Appeals to the Superior Court from decisions of the Commissioner dealing with the applications or claims relating to benefit payments which were filed outside of this state with an authorized representative of the Commissioner shall be taken to the Superior Court of Thurston County which shall have the sole jurisdiction of such appeals. Interstate appeals.

SEC. 131. *Jurisdiction of the Courts.* In all Court proceedings under or pursuant to this act the decision of the Commissioner shall be *prima facie* correct, and the burden of proof shall be upon the party attacking the same. Jurisdiction.

If the court shall determine that the Commissioner has acted within his power and has correctly construed the law, the decision of the Commissioner shall be confirmed; otherwise, it shall be reversed or modified. In case of a modification or reversal the Superior Court shall refer the same to the Commissioner with an order directing him to proceed in accordance with the findings of the Court.

Whenever any order and notice of assessment shall have become final in accordance with the provisions of this act, the Court shall upon application of the Commissioner enter a judgment in the amount provided for in said order and notice of assessment, and said judgment shall have and be given the same effect as if entered pursuant to civil action instituted in said Court.

SEC. 132. *Attorneys' Fees In Courts.* It shall be unlawful for any attorney engaged in any appeal to the Courts on behalf of an individual involving the individual's application for initial determination, or claim for waiting period credit, or claim for benefits to charge or receive any fee therein in excess of a Attorney fees.

reasonable fee to be fixed by the Superior Court in respect to the services performed in connection with the appeal taken thereto and to be fixed by the Supreme Court in the event of an appeal thereto, and if the decision of the Commissioner shall be reversed or modified, such fee and the costs shall be payable out of the Unemployment Compensation Administration Fund. In the allowance of fees the Court shall give consideration to the provisions of this act in respect to fees pertaining to proceedings involving an individual's application for initial determination, claim for waiting period credit, or claim for benefits. In other respects the practice in civil cases shall apply.

Decisions
final by
agreement.

SEC. 133. *Decisions Final by Agreement.* No appeal from the decision of an appeal tribunal, or of the Commissioner, or of any Court in any proceedings provided by this act may be taken subsequent to the filing with the appeal tribunal, Commissioner, or Court which rendered the decision, within the time allowed for appeal, of an agreement in writing approved by all interested parties to the proceedings, providing that no appeal will be taken from such decision. The provisions of this section shall be jurisdictional.

Remedies
exclusive.

SEC. 134. *Remedies of Act Exclusive.* The remedies provided in this act for determining the justness or correctness of assessments, refunds, adjustments, or claims shall be exclusive and no Court shall entertain any action to enjoin an assessment or require a refund or adjustment except in accordance with the provisions of this act. Matters which may be determined by the procedures set out in this act shall not be the subject of any declaratory judgment.

Costs,
charges,
expenses.

SEC. 135. *Costs, Charges, and Expenses.* Whenever any appeal is taken from any decision of the Commissioner to any Court, all expenses and costs incurred therein by said Commissioner, including

Court Reporter costs and attorneys' fees and all costs taxed against such Commissioner, shall be paid out of the Unemployment Compensation Administration Fund.

Neither the Commissioner nor the State shall be charged any fee for any service rendered in connection with litigation under the Unemployment Compensation Act by the Clerk of any Court.

CHAPTER XI. DISABILITY COMPENSATION.

SEC. 136. *Disability Compensation Study.* The Commissioner shall make a study to determine the practicability and necessity of meeting the problems of unemployment in the state due to sickness, accident or injury, by the enactment of legislation which would alleviate the hardships caused by such unemployment. The Commissioner shall prepare and submit to the Governor, not later than December 1, 1946, a written report of the results of the study together with recommendations in keeping therewith.

Disability
compensa-
tion study.

SEC. 137, through SEC. 179. Reserved.

CHAPTER XII. PENALTIES AND MISDEMEANORS.

SEC. 180. *Violations Generally.* It shall be unlawful for any person to knowingly give any false information or withhold any material information required under the provisions of this act. Any person who violates any of the provisions of this act, which violation is declared to be unlawful, and for which no contrary provision is made, shall be guilty of a misdemeanor and shall be punished by a fine of not less than twenty dollars nor more than two hundred and fifty dollars or by imprisonment in the county jail for not more than ninety days:

Violations.

It Is Provided, However, That any person who violates the provisions of section 182 of this act shall be guilty of a gross misdemeanor:

And It Is Further Provided, That any person who

in connection with any compromise or offer of compromise willfully conceals from any officer or employee of the state any property belonging to an employing unit which is liable for contributions, interest, or penalties, or receives, destroys, mutilates, or falsifies any book, document, or record, or makes under oath any false statement relating to the financial condition of the employing unit which is liable for contributions, shall upon conviction thereof be fined not more than five thousand dollars or be imprisoned for not more than one year, or both.

Violations
by
employers.

SEC. 181. *Violations By Employers.* Any person required under this act to collect, account for and pay over any contributions imposed by this act, who willfully fails to collect or truthfully account for and pay over such contributions, and any person who willfully attempts in any manner to evade or defeat any contributions imposed by this act or the payment thereof, shall, in addition to other penalties provided by law, upon conviction thereof, be fined not more than five thousand dollars, or imprisoned for not more than one year, or both, together with the costs of prosecution.

The term "person" as used in this section includes an officer or individual in the employment of a corporation, or a member or individual in the employment of a partnership, who as such officer, individual, or member is under a duty to perform the act in respect of which the violation occurs.

CHAPTER XIII. GENERAL AND MISCELLANEOUS PROVISIONS.

Waiver of
rights void.

SEC. 182. *Waiver of Rights Void.* Any agreement by an individual to waive, release, or commute his rights to benefits or any other rights under this act shall be void. Any agreement by an individual in the employ of any person or concern to pay all or any portion of an employer's contributions, required

under this act from such employer, shall be void. No employer shall directly or indirectly make or require or accept any deduction from remuneration [remuneration] for services to finance the employer's contributions required from him, or require or accept any waiver of any right hereunder by any individual in his employ.

SEC. 183. *Exemption of Benefits.* Any assignment, pledge, or encumbrance of any right to benefits which are or may become due or payable under this act shall be void. Such rights to benefits shall be exempt from levy, execution, attachment, or any other remedy whatsoever provided for the collection of debts. Benefits received by any individual, so long as they are not commingled with other funds of the recipient, shall be exempt from any remedy whatsoever for collection of all debts except debts incurred for necessities furnished such individual or his spouse or dependents during the time when such individual was unemployed. Any waiver of any exemption provided for in this section shall be void.

Exemption
of benefits.

CHAPTER XIV. SAVING PROVISIONS.

SEC. 184. *Saving Clause.* If any provisions of this act, or the application thereof to any person or circumstances, is held invalid, the remainder of the act and the application of such provision to other persons or circumstances shall not be affected thereby.

Saving
clause.

SEC. 185. *Appointments and Regulations Continued.* The repeal of any acts or parts of acts by this act shall not affect the appointment or employment of any individual or salary, wages, compensation, powers or duties relating to such individual which would continue in effect except for such repeal. Rules and regulations adopted pursuant to the provisions of any acts or parts of acts repealed by

Appoint-
ments and
regulations
continued.

this act and consistent with the provisions of this act are not affected by such repeal and are hereby continued in full force and effect.

Prior
actions.

SEC. 186. *Actions Commenced Under Prior Laws.* Any action or proceeding had or commenced in any civil or criminal cause prior to the effective date of this act may be prosecuted and continued with the same effect and under the same provisions of the law in effect at the time the action or proceeding was had or commenced: *Provided*, That no appeal taken subsequent to the effective date of this act will be effective or valid unless there is compliance with the requirements of this act relating to appeals.

Vested
rights.

SEC. 187. *No Vested Rights.* The legislature reserves the right to amend or repeal all or any part of this act at any time; and there shall be no vested private right of any kind against such amendment or repeal. All the rights, privileges, or immunities conferred by this act or by acts done pursuant thereto shall exist subject to the power of the legislature to amend or repeal this act at any time.

CHAPTER XV. REPEAL AND CONSTITUTIONALITY.

Acts
repealed.

SEC. 188. *Acts Repealed.* The following acts and parts of acts relating to unemployment compensation are hereby repealed: Chapter 162, Session Laws of 1937; chapter 12, Session Laws of 1939; chapter 214, Session Laws of 1939; section 6 of chapter 201, Session Laws of 1941; chapter 253, Session Laws of 1941; chapter 65, Session Laws of 1943; chapter 127, Session Laws of 1943; chapter 226, Session Laws of 1943.

SEC. 189. *Conflicting Acts Repealed.* All acts or parts of acts in conflict with or in derogation of this act or any part of this act are hereby repealed in so far as the same are in conflict with or in derogation of this act or any part thereof.

SEC. 190. *Repealed Acts Not Re-enacted.* The

repeal of any acts or parts of acts hereby shall not be construed to re-enact or revive any act or parts of acts repealed or superseded by the acts or parts of acts hereby repealed.

SEC. 191. *Separability of Provisions.* If any section, sentence, clause or phrase of this act should be held to be invalid or unconstitutional the invalidity or unconstitutionality thereof shall not affect the validity or constitutionality of any other section, sentence, clause or phrase of this act.

Separability
of pro-
visions.

CHAPTER XVI. EMERGENCY.

SEC. 192. *Effective Date of Act.* An emergency exists and this act is necessary for the preservation of the public peace, health, safety, and welfare and shall take effect on the 1st day of July, 1945.

Emergency
clause.

Passed the Senate March 7, 1945.

Passed the House March 7, 1945.

Approved by the Governor March 13, 1945, with the exception of section 24 which is vetoed.