

**Be it Enacted by the Legislature
of the Territory of Alaska:**

Section 1. Section 19-1-1 ACLA 1949 is hereby amended to read as follows:

Sec. 19-1-1. **Effect of repeals or amendments.** The repeal or amendment of any statute shall not affect any offense committed or any act done or right accruing or accrued or any action or proceeding had or commenced prior to such repeal or amendment; nor shall any penalty, forfeiture or liability incurred under such statute be released or extinguished.

but the same may be enforced, continued, sustained, prosecuted and punished under the repealing or amendatory statute save as limited by the ex post facto and other provisions of the Constitution, in which event the same may be enforced, continued, sustained, prosecuted and punished under the former law as if such repeal or amendment had not been made. When any act repealing a former act, section, or provision shall be itself repealed, such repeal shall not be construed to revive such former act, section, or provision, unless it shall be expressly so provided.

Approved April 6, 1955

CHAPTER 5

AN ACT

Relating to employment security; repealing Sections 51-5-1 through 51-5-20, ACLA 1949, as amended, and repealing all other acts or parts of acts in conflict herewith, and declaring an emergency.

(C. S. for S. B. 1)

**Be it Enacted by the Legislature
of the Territory of Alaska:**

ARTICLE I. PREAMBLE

Section 101. **Short Title and Rule of Statutory Construction.** This Act shall be known and may be cited

as the "Alaska Employment Security Act." This Act shall be liberally construed to accomplish its purposes to promote employment security by increasing opportunities for placement through the maintenance of a system of public employment

offices and to provide through the accumulation of reserves for the payment of compensation to individuals with respect to their unemployment.

The Legislature hereby declares its intention to provide for carrying out the purposes of this Act in cooperation with the appropriate agencies of other states and of the Federal Government, as part of a nationwide employment security program; and particularly to provide for meeting the requirements of Title III of the Federal Social Security Act, the requirements of section 3303 and section 3304 of the Federal Unemployment Tax Act (Chapter 23 subtitle C of Internal Revenue Code), and the Act of Congress approved June 6, 1933, 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" (hereinafter cited as the Wagner-Peyser Act), and Title IV of the Act of Congress approved June 22, 1944, each as amended, in order to secure for this Territory and the Citizens thereof the grants and privileges available thereunder. All doubt as to the proper construction of any provision of this Act shall be resolved in favor of conformity with such requirements.

Section 102. Declaration of Policy. As a guide to the interpretation and application of this Act, the public policy of this Territory is declared to be as follows:

Economic insecurity due to in-

voluntary unemployment is a serious menace to the health, morals and welfare of the people of this Territory. 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, and to maintain purchasing power as a factor in stabilizing Alaska's economy. This can be accomplished by encouraging employers to provide more stable employment and by the systematic accumulation of funds during periods of employment, from which benefits may be paid for periods of involuntary unemployment. The Legislature, therefore, declares that, in its considered judgment, the public good and the general welfare of the citizens of this Territory require the enactment of this measure, under the police power of the Territory, for the operation of public employment service offices and the establishment of an employment security program to be used for the benefit of eligible unemployed persons.

ARTICLE II. DEFINITIONS

Section 201. As used in this Act, the terms defined in this Article shall have the meanings provided herein, unless the context clearly requires otherwise.

Section 202. "American vessel" means any vessel documented or numbered under the laws of the United States; and 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 performs service solely for one or more citizens or residents of the United States or corporations organized under the laws of the United States or of any State.

Section 203. "Base period" means the last calendar year preceding the first day of the benefit year; provided that for benefit years beginning after June 30, 1956, base period shall mean the first four of the last five completed calendar quarters immediately preceding the first day of an individual's benefit year.

Section 204. "Benefits" means the money payments payable to an individual, as provided in this Act, with respect to his unemployment.

Section 205. "Benefit year" means the period beginning with the first full calendar week in July and ending with the following calendar year with the last calendar week beginning in June, provided that after June 30, 1956 "benefit year" means the one-year period beginning with the first day of the week in which an insured worker first files a request for determination of his insured status, and thereafter the one-year period beginning with the first day of the week in which he next files such request after the end of his last preceding benefit year. The filing of a notice of unemployment shall be deemed a request for determination of insured status if a current benefit year has not previously been established.

Section 206. "Claimant" means an

individual who has filed a request for a determination of insured status, a notice of unemployment, a certification for waiting - week credit, or a claim for benefits.

Section 207. "Commission" means the Employment Security Commission established to administer the provisions of this Act, or any person to whom it delegates its authority, powers and duties.

Section 208. "Contributions" means the money payments to the Alaska Unemployment Compensation Fund required by this Act.

Section 210. "Calendar quarter" means the period of three consecutive calendar months ending March 31, June 30, September 30, or December 31.

Section 212. "Employer" means: (a) Any employing unit which for some portion of a day within the calendar year has or had in employment one or more individuals; and

(b) For the effective period of its election pursuant to Section 604, any employing unit which has elected to become subject to this Act.

Section 213. "Employing unit" means any individual or type of organization, any partnership, association, trust, estate, joint trust company, insurance company or corporation, whether domestic or foreign, or the receiver, referee in bankruptcy, trustee, or successor of any of the foregoing, or the legal rep-

representative of a deceased person, which has, or subsequent to January 1, 1937 had one or more individuals performing service for it within this Territory. All individuals performing services within this Territory for any employing unit which maintains two or more separate establishments within this Territory shall be deemed to be employed by a single employing unit for all the purposes of this Act.

Section 214. "Employment" means:

(a) Any service performed prior to January 1, 1955, which was employment as defined in this section prior to such date, and subject to the other provisions of this section, service performed after December 31, 1954, by an individual for wages or by an officer of a corporation, including service in interstate commerce;

(b) Notwithstanding Section 215 all service performed after December 31, 1954, by an officer or member of the crew of an American vessel on or in connection with such vessel, if the operating office, from which the operations of such vessel operating on navigable waters within, or within and without, the United States are ordinarily and regularly supervised, managed, directed and controlled, is within this Territory; and

(c) Notwithstanding any other provisions of this Article, service with respect to which a tax is required to be paid under any Federal law imposing a tax against which credit may be taken for con-

tributions required to be paid into a State unemployment fund.

Section 215. The term "employment" shall include an individual's entire service, performed within, or both within and without, this Territory if the service is localized in this Territory. Service shall be deemed to be localized within a State or Territory if:

(a) The service is performed entirely within such State or Territory, or;

(b) The service is performed both within and without such State or Territory but the service performed without such State or Territory is incidental to the individual's service within the State or Territory; for example, is temporary or transitory in nature or consists of isolated transactions.

Section 216. The term "employment" shall include an individual's entire service, performed within, or both within and without, this Territory if the service is not localized in any State or Territory but some of the service is performed in this Territory and

(a) The individual's base of operations is in this Territory; or

(b) If there is no base of operations, then the place from which such service is directed or controlled is in this Territory; or

(c) The individual's base of operations or place from which such service is directed or controlled is not in any State or Territory in

which some part of the service is performed, but the individual's residence is in this Territory.

Section 217. The term "employment" shall, during the effective period of the election, include service covered by an election pursuant to Section 604, service covered by an election duly approved by the Commission in accordance with an arrangement pursuant to Section 604, and service not otherwise covered under this Act, performed entirely without this Territory, with respect to no part of which contributions are required and paid under the Unemployment Compensation Law of any other State or Territory, if the individual performing such service is a resident of this Territory and the Commission approves the election filed by the employing unit for whom the services are performed in the same manner as for elections filed under Section 604.

Section 218. Service performed by an individual shall be deemed to be employment subject to this Act irrespective of whether the common-law relationship of master and servant exists, unless and until it is shown to the satisfaction of the Commission that

(a) Such individual has been and will continue to be free from control and direction in connection with the performance of such service, both under his contract for the performance of service and in fact; and

(b) Such service is performed

either outside the usual course of the business for which the service is performed or is performed outside of all the places of business of the enterprise for which the 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 service performed.

Section 219. The term "employment" shall not include service performed in the employ of an individual owner or tenant operating a farm, in connection with the cultivation of the soil, the harvesting of crops, or the raising, feeding or management of livestock, bees, or poultry, or in connection with the processing, packing, or marketing of the produce of such farm as an incident to ordinary farming operations.

Section 220. The term "employment" shall not include domestic service in a private home.

Section 221. The term "employment" shall not include service not in the course of the employing unit's trade or business performed after December 31, 1954 in any calendar quarter by an individual, unless the cash remuneration paid for such service is \$50.00 or more and such service is performed by an individual who is regularly employed by such employing unit to perform such service. For the purposes of this paragraph, an individual shall be deemed to be regu-

larly employed to perform service not in the course of an employing unit's trade or business during a calendar quarter only if (a) on each of some twenty-four days during such quarter such individual performs such service for some portion of the day, or (b) such individual was regularly employed as determined under clause (a), by such employing unit in the performance of such service during the preceding calendar quarter.

Section 222. The term "employment" shall not include service performed by an individual in any calendar quarter after December 31, 1954, in the employ of any organization exempt from income tax under Section 501 (a) of the Federal Internal Revenue Code, other than an organization described in Section 401(a) of Section 521 thereof, if (a) the remuneration for such service is less than \$50; or (b) such service is in connection with the collection of dues or premiums for a fraternal beneficiary 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 (c) such service is performed by a student who is enrolled, and is regularly attending classes, at a school, college, or university; or (d) such service is performed by a duly ordained, commissioned, or licensed minister of religion in the exercise of his ministry, or by a member of a religious order in the exercise of duties required by such order.

Section 223. The term "employment", notwithstanding Section 215 of this Article shall not include service performed by an officer or member of the crew of an American vessel on or in connection with such vessel, if the operating office, from which the operations of such vessel operating on navigable waters within, or within and without, the United States or ordinarily and regularly supervised, managed, directed and controlled, is without this Territory.

Section 224. The term "employment" shall not include service performed on or in connection with a vessel not an American vessel by an individual if he performed service on and in connection with such vessel when outside the United States.

Section 225. Notwithstanding any other provision of this Act, no contributions shall be required on the earnings of fishermen, unless such earnings would be subject to the employment security tax levied by the Internal Revenue Code of the United States.

Section 226. The term "employment" shall not include service performed by an individual in the employ of his son, daughter, or spouse, and service performed by a child under the age of twenty-one in the employ of his father or mother.

Section 227. The term "employment" shall not include service performed in the employ of the United

States Government or an instrumentality of the United States exempt under the Constitution of the United States from the contributions imposed by this Act, except that to the extent that the Congress of the United States shall permit States to require any instrumentalities of the United States to make payments into an unemployment fund under a State employment security law, all of the provisions of this Act shall apply to such instrumentalities, and to service 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 service; Provided, that if this Territory shall not be certified for any year by the Secretary of Labor under Section 3304(c) of the Federal Unemployment Tax Act, the payments required of such instrumentalities with respect to such year shall be refunded by the Commission from the fund in the same manner and within the same period as is provided in Section 518 with respect to contributions erroneously collected.

Section 228. Notwithstanding the provisions of Section 604, the term "employment" shall not include service performed in the employ of this Territory or any of its political subdivisions by an elected official or an official compensated on a fee basis.

Section 229. The term "employment" shall not include service performed on an unemployment work-relief project undertaken by this

Territory or any subdivision thereof.

Section 230. The term "employment" shall not include service performed in the employ of any other State, or any political subdivision thereof, or any instrumentality of any one or more of the foregoing which is wholly owned by one or more such States or political subdivisions; and any service performed in the employ of any instrumentality of one or more other States or their political subdivisions to the extent that the instrumentality is, with respect to such service, exempt under the Constitution of the United States from the tax imposed by Section 3301 of the Federal Unemployment Tax Act.

Section 231. The term "employment" shall not include service with respect to which unemployment insurance is payable under an unemployment insurance program established by an Act of Congress.

Section 232. The term "employment" shall not include service performed in the employ of a foreign government (including service as a consular or other officer or employee or a non-diplomatic representative).

Section 233. The term "employment" shall not include service performed in the employ of an instrumentality wholly owned by a foreign government if (a) the service is of a character similar to that performed in foreign countries by employees of the United States

Government or of an instrumentality thereof, and (b) the Commission finds that the United States Secretary of State has certified to the United States Secretary of the Treasury that the foreign government, with respect to whose instrumentality exemption is claimed, grants an equivalent exemption with respect to similar service performed in the foreign country by employees of the United States Government and of instrumentalities thereof.

Section 234. The term "employment" shall not include service performed in the employ of an international organization.

Section 235. **Included and Excluded Services.** If the service performed during one-half or more of any pay period by an individual for an employing unit constitutes employment, all the service of such individual for such period shall be deemed to be employment; but if the service performed during more than one-half of any such pay period by an individual for an employing unit does not constitute employment, then none of the service of such individual 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 for service is ordinarily made to the individual by the employing unit. This paragraph shall not be applicable with respect to service performed in a pay period by an individual for an employing unit, when

any of such service is excluded because it is subject to an unemployment insurance program established by an act of Congress.

Section 236. "Employment office" means a free public employment office or branch thereof operated by this Territory or any other State or Territory 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 insurance program or of free public employment offices.

Section 237. "Fund" means the unemployment compensation fund established by this Act.

Section 238. (a) "Insured Work" means employment for employers.

(b) "Insured worker" means an individual who, with respect to a base period, meets the wage and employment requirements of Section 712.

Section 240. "Remuneration" means all compensation payable for personal services, including commissions and bonuses and the cash value of all compensation payable in any medium other than cash. The reasonable cash value of compensation payable in any medium other than cash shall be estimated and determined in accordance with regulations prescribed by the Commission.

Section 241. "State" includes the States of the United States of America, Alaska, Hawaii, and the Dis-

trict of Columbia.

Section 242. "Wages" means all remuneration for service from whatever source, including commissions and bonuses and the cash value of all remuneration in any medium other than cash. Gratuities customarily received by an individual in the course of his service from persons other than his employing unit shall be treated as wages received from his employing unit but only to the extent such individual reports the gratuities to his employing unit. After December 31, 1954, back pay awarded under any statute of this Territory or of the United States shall be treated as wages. The reasonable cash value of remuneration in any medium other than cash, and the reasonable amount of gratuities, shall be estimated and determined in accordance with regulations prescribed by the Commission. For the purpose of an initial determination only, back-pay awards shall, after December 31, 1954, be allocated to the quarters with respect to which such pay was earned. If the remuneration of an individual is not based upon a fixed period or duration of time or if his wages are paid in irregular intervals or in such manner as not to extend regularly over the period of employment, for the purpose of an initial determination only, the wages shall be allocated to weeks or quarter in accordance with regulations prescribed by the Commission. Such regulations shall, so far as possible, produce results reasonably similar to those which would prevail if the individual were paid

his wages at regular intervals.

Section 243. Notwithstanding the provisions of Section 242, the term "wages" shall not include the amount of any payment made after December 31, 1954 (including any amount paid by an employing unit for insurance or annuities, or into a fund, to provide for any such payment), to, or on behalf of, an individual or any of his dependents under a plan or system established by an employing unit which makes provision generally for individuals performing service for it (or for such individuals generally and their dependents) or for a class or classes of such individuals (or for a class or classes of such individuals and their dependents), on account of (a) retirement, or (b) sickness or accident disability, or (c) medical or hospitalization expenses in connection with sickness or accident disability, or (d) death.

Section 244. Notwithstanding the provisions of Section 242, the term "wages" shall not include the amount of any payment made after December 31, 1954 by an employing unit to an individual performing service for it (including any amount paid by an employing unit for insurance or annuities, or into a fund, to provide for any such payment) on account of retirement.

Section 245. Notwithstanding the provisions of Section 242, the term "wages" shall not include the amount of any payment on account of sickness or accident disability, or medical or hospitalization expenses.

in connection with sickness or accident disability, made after December 31, 1954, by an employing unit to, or on behalf of an individual performing service for it after the expiration of six calendar months following the last calendar month in which the individual performed services for such employing unit.

Section 246. Notwithstanding the provisions of Section 242, the term "wages" shall not include the amount of any payment made after December 31, 1954, by an employing unit to, or on behalf of, an individual performing services for it or his beneficiary (a) from or to a trust described in Section 401(a) of the Federal Internal Revenue Code which is exempt from tax under Section 501(a) of the Federal Internal Revenue Code at the time of such payment unless such payment is made to an individual performing services for the trust as remuneration for such services and not as a beneficiary of the trust, or (b) under or to an annuity plan which at the time of such payments, meets the requirements of Section 401(a) (3), (4), (5) and (6) of the Federal Internal Revenue Code.

Section 247. Notwithstanding the provisions of Section 242, the term "wages" shall not include the amount of any payment made by an employing unit (without deduction from the remuneration of the individual in its employ) of the tax imposed upon an individual in its employ under Section 3101 of the Federal Internal Revenue

Code with respect to service performed after January 1, 1941.

Section 248. Notwithstanding the provisions of Section 242, the term "wages" shall not include remuneration paid after December 31, 1954, in any medium other than cash to an individual for service not in the course of the employing unit's trade or business.

Section 249. Notwithstanding the provisions of Section 242, the term "wages" shall not include the amount of any payment (other than vacation or sick pay) made after December 31, 1954, to an individual after the month in which he attains the age of sixty-five, if he did not perform services for the employing unit in the period for which such payment is made.

Section 250. Notwithstanding the provisions of Section 242, the term "wages" shall not include dismissal payments after January 1, 1941, which the employing unit is not legally required to make.

Section 252. "Waiting week" means the first week of unemployment occurring in a benefit year.

Section 253. "Week" means such period of seven consecutive days as the Commission may by regulation prescribe.

Section 254. **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 plus ten dollars.

ARTICLE III

Organization and Administration Employment Security Commission

Section 301. **Appointment of Members.** There is hereby created a Commission to be known as the Alaska Employment Security Commission. The Commission shall consist of four members who shall be appointed by the Governor by and with the consent of the Legislature, in joint session of both Houses, and a fifth member shall promptly be appointed by a majority vote of said four members when a vacancy exists in said fifth position. Members of the Commission shall be residents of the Territory of Alaska and citizens of the United States over the age of 21 years. The four members appointed by the Governor shall consist of two who shall be representative of labor and two who shall be representative of industry or management. The fifth member to be appointed by the Commission shall represent the public.

Section 302. **Terms of Office.** Except as provided in this section and in Section 303 herein, each member shall hold office for a term of four years. The members of the Commission as of January 1, 1955, shall constitute the first members of the Commission created by this Act and

their terms of office shall expire as follows: The term of one management member and one labor member shall expire February 1, 1957; the term of one labor member and one management member shall expire on February 1, 1959; and the term of the member representing the public shall expire on February 1, 1959; Provided that the long and short terms of the said first labor and management members respectively shall be determined by them by lot at their first meeting after the effective date of this Act. The Governor, at any time, after due notice and public hearing, may remove any member of the Commission for neglect of duty, malfeasance in office, or the commission of a crime involving moral turpitude.

Section 303. **Vacancy on Commission.** If a vacancy occurs at a time when the Legislature is not in session, through death, resignation, removal or disqualification, under this Act, a new member shall be appointed by the Governor within 60 days to fill the vacancy, which new appointee shall have the qualifications herein prescribed and shall hold office for the remainder of the term for which his predecessor was appointed.

Section 304. **Chairman; Reimbursement of Members.** One of the members of the Commission shall be chosen by a majority vote of all its members as chairman of the Commission. The five members of the Commission shall receive compensation at the rate of \$35.00 per day while in attendance at official

meetings of the Commission or while engaged in necessary travel thereto and therefrom. In addition, members of the Commission shall receive necessary travel expenses as provided for by regulations adopted by the Commission and approved by the Secretary of Labor or his designated representatives. The Commission shall meet not less frequently than once every sixty days.

Section 305. Quorum. A quorum shall consist of three, four or five members of the Commission provided that representatives of labor and management are present in equal numbers. Decisions reached by the quorum shall be considered the decisions of the Commission.

Section 306. Duties and Powers of the Commission. Subject to the provisions of Section 311 of this Article, the Commission shall appoint a Director whose duty it shall be to administer the provisions of this Act under such authority of the Commission as may be delegated to him by the Commission, with the exception that the Commission may not delegate the appellate powers conferred upon it by this Act, or the power to adopt, amend or rescind rules and regulations. The Commission shall prescribe the divisions, sub-divisions and units of the organization to be directed by the Director to carry out the purposes of this Act. It may require bond of any person handling money or signing checks. It shall have an official seal which shall be judicially noticed. Not later than the first day of October of

each year, the Commission shall submit to the Governor a report covering the administration and operation of this Act during the preceding fiscal year ended June 30 and shall make such recommendations for amendments to this Act as the Commission 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. Whenever the Commission believes that a change in contribution or benefit rates will become necessary to protect the solvency of the fund, it shall promptly so inform the Governor and the Legislature, and make recommendations with respect thereto.

Section 307. Advisory Council. The Commission shall appoint a Territorial Advisory Council composed of men and women, including an equal number of employer representatives and employee representatives who may fairly be regarded as representative because of their vocation, employment, or affiliations, and of such members representing the general public as the Commission may designate. Such Council shall aid the Commission in formulating policies and discussing problems relating to the administration of this Act and in assuring impartiality and freedom from political influence in the solution of such problems. Such Advisory Council shall serve without compensation, but shall be reimbursed for any necessary expense. The advisory council shall meet as fre-

quently as the Commission deems necessary but not less than twice each year. The Advisory Council shall make reports of its meetings; such reports shall include a record of its discussions and its recommendations. The commission shall make such reports available to any interested person or groups.

Section 310. Director: Qualifications. The Director shall be appointed by a majority vote of the Employment Security Commission created by Section 301 herein, and shall serve for a term of four years, and may be removed for cause at a Commission meeting by a majority vote of the whole membership. No person shall be appointed Director unless he is a citizen of the United States and qualified by training and experience to perform the duties of the office.

Section 311. Duties and Powers of the Director. It shall be the duty of the Director to administer this Act in accordance with the provisions of Section 306, and he shall employ such persons, make such expenditures, require such reports, make such investigations, and take such other action as he deems necessary or suitable to that end.

Section 312. Regulations: General and Special Rules. General and special rules may be adopted, amended, or rescinded by the Commission only after public hearing or opportunity to be heard thereon, of which proper notice has been given. General rules shall become effective thirty days after filing with the

Secretary of the Territory and publication in one newspaper of general circulation in each of the four judicial divisions of the Territory for such period as the Commission may prescribe. Special rules shall become effective thirty 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 Commission and shall become effective in the manner and at the time prescribed by the Commission.

Section 313. Publications. The Commission shall cause to be printed for distribution to the public the text of this Act, the Commission's regulations and general rules, its annual reports to the Governor, and any other material the Commission deems relevant and suitable and shall furnish the same to any person upon application therefor.

Section 314. Personnel. Subject to the other provisions of this Act, the Director is authorized to appoint, fix the compensation, and prescribe the duties and powers of such officers, accountants, attorneys, experts and other persons as may be necessary in the performance of his duties. Such persons shall be under the purview of the Alaska Merit System. The Director may delegate to any such person so appointed such power and authority as he deems reasonable and proper for the effective administration of this Act.

The Commission is authorized to adopt such regulations as may be

necessary to meet personnel standards promulgated by the Social Security Act, as amended, and the Wagner-Peyser Act as amended, and to function under the Alaska Merit System as required hereunder in conjunction with any merit system applicable to any other state agency, or agencies, which meets the personnel standards promulgated by the Secretary of Labor.

Section 315. Records and Reports.

Each employing unit shall keep true and accurate work records, containing such information as the Commission may prescribe. Such records shall be open to inspection and be subject to being copied by the Director or his authorized representatives at any reasonable time and as often as may be necessary. The Commission may require from any employing unit any sworn or unsworn reports, with respect to persons employed by it, which are deemed necessary for the effective administration of this Act.

Section 316. Preservation and Destruction of Agency Records. (a)

The Commission may cause to be made such summaries, compilations, photographs, duplications, or reproductions of any records, reports, or transcripts thereof as it may deem advisable for the effective and economical preservation of the information contained therein, and such summaries, compilations, photographs, duplications, or reproductions, duly authenticated, shall be admissible in any proceeding under this Act including court actions if the original record or records would

have been admissible therein.

(b) The Commission may provide by regulation for the destruction, after reasonable periods, of any records, reports, transcripts, other papers in its custody, or reproductions thereof, the preservation of which is no longer necessary for the establishment of contribution liability or of benefit rights or for any other purpose necessary to the proper administration of this Act, including any required audit thereof.

Section 317. Representation in Court. (a) **Civil Actions.**

In any civil action to enforce the provisions of this Act the Commission and the Territory may be represented by any qualified attorney who is employed by the Commission and is designated by it for this purpose or at the Commission's request by the Attorney General, or if the action is brought in the courts of any other State, by an attorney qualified to appear in the courts of that State.

(b) **Criminal Actions.** All criminal actions for violations of any provisions of this Act, or of any rules or regulations issued pursuant thereto, shall at the request of the Commission be prosecuted by the Attorney General of the Territory or by a United States District Attorney.

Section 318. Oaths and Witnesses.

In the discharge of the duties imposed by this Act the Commission or any duly authorized representative thereof shall have power to

administer oaths and affirmations, take depositions, certify to official acts, and issue subpoenas to compel the attendance of witnesses and production of books, papers, correspondence, memoranda, and other records deemed necessary as evidence in connection with a disputed claim or the administration of this Act.

Section 320. Subpoenas. In case of contumacy, or refusal to obey a subpoena issued to any person, the District Court of this Territory, upon application by the Commission, or any duly authorized representative thereof, shall have jurisdiction to issue to such person an order requiring such person to appear before the Commission, or any duly authorized representative thereof, to produce evidence if so ordered, or to give testimony touching the matter under investigation or in question; and any failure to obey such order of the Court may be punished by said Court as a contempt thereof.

Section 321. Protection Against Self-Incrimination. No person shall be excused from attending and testifying or from producing books, papers, correspondence, memoranda, and other records before the Commission, or any duly authorized representative thereof, or in obedience to a subpoena of any of them in any cause or proceeding before the Commission, or an 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.

Section 322. Federal-Territorial Cooperation. In the administration of this Act the Commission shall cooperate, to the fullest extent consistent with the provisions of this Act, with the Secretary of Labor, and is authorized and directed to take such action, through the adoption of appropriate rules, regulations, administration methods and standards, as may be necessary to secure to this Territory and its citizens all advantages available under the provisions of Sections 3303 and 3304 of the Federal Internal Revenue Code of 1954 and under the provisions of the Wagner-Peyser Act, as amended. The Commission shall comply with the regulations of the Secretary of Labor relating to the receipt or expenditure by this Territory of such moneys granted under any of such acts and shall make such reports, in such form and containing such information, as the Secretary of Labor shall from time to time require, and shall comply with such provisions as the Secretary of Labor may from time to time find necessary to assure the

correctness and verification of such reports. The Commission may afford reasonable cooperation with every agency of the United States charged with the administration of any unemployment insurance law.

Section 323. Confidential Information. Except as hereinafter otherwise provided, information obtained from any employing unit or individual pursuant to the administration of this Act, and determinations as to the benefit rights of any individual shall be held confidential and shall not be disclosed or be open to public inspection in any manner revealing the individual's or employing unit's identity. Any claimant (or his legal representative) shall be supplied with information from the records of the Commission to the extent necessary for the proper presentation of his claim in any proceeding under this Act with respect thereto. Subject to such restrictions as the Commission may by regulation prescribe, such information may be made available to any agency of this Territory or any State, or Federal agency, charged with the administration of an unemployment compensation law or the maintenance of a system of public employment offices, or, for the purposes of the Federal Unemployment Tax Act, to the Bureau of Internal Revenue of the United States, and information obtained in connection with the administration of the employment service may be made available to persons or agencies for purposes appropriate to the operation of a public employment service.

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

The Commission may request the Comptroller of the Currency of the United States to cause an examination of the correctness of any return or report of any national banking association rendered pursuant to the provisions of this Act, and may in connection with such request transmit any such report or return to the Comptroller of the Currency of the United States as provided in Section 3305 (c) of the Federal Internal Revenue Code of 1954.

Section 324. Acquisition of Land and Buildings. (a) The Commission is authorized to acquire for and in the name of the Territory by term purchase agreements based on competitive bids, such land and buildings upon such terms and conditions as may be approved by the Bureau of Employment Security of the United States, or such other Federal agency as shall hereafter perform its functions, for the purpose of providing office space for the Commission at such place as the Commission shall find necessary and suitable.

(b) Any agreement made for the

purchase of said premises shall be subject to the approval of the Attorney General and shall not subject the Territory to any liability for the payment of such purchase price, or any part or portion thereof, except from such moneys as may be allocated to the Territory by the United States Bureau of Employment Security, or successor thereto, for the administration of the Alaska Employment Security Law of 1955.

(c) All moneys received from the United States for the payments authorized herein for such lands and buildings shall be deposited in the Employment Security Administration Fund in the Territorial Treasury and are hereby appropriated therefrom for purposes of this Act.

(d) It is declared to be the policy of this Territory that in the event such premises are purchased pursuant to this Act, the Commission or such other department of the Territory as may hereafter perform its functions, shall be housed therein without further payment therefor by the United States, except for general maintenance, utilities and janitorial services; or if, in the future, it may be desirable to move said offices, other suitable similar space will be furnished by the Territory to said Commission without further payment therefor by the United States, except for general maintenance, utilities and janitorial services.

Section 325. Arrangements with States or Federal Government. The Commission is hereby authorized to

enter into arrangements with the appropriate agencies of other States or the Federal Government whereby individuals performing services in this Territory and other States for a single employing unit under circumstances not specifically provided for in Sections 214 to 218 herein, or under similar provisions in the unemployment compensation laws of such other States, shall be deemed to be engaged in employment performed entirely within this Territory or within one of such other States and whereby potential rights to benefits accumulated under the unemployment compensation laws of one or more States or under such a law of the Federal Government, or both, may constitute the basis for the payment of benefits through a single appropriate agency under terms which the Commission finds to be fair and reasonable as to all affected interests and will not result in any substantial loss to the fund.

Section 326. Exchange of Services, Facilities and Information. The administration of this Act and of other State and Federal unemployment compensation and public employment service laws will be promoted by cooperation between this Territory and such States and the appropriate Federal agencies exchanging services, and making available facilities and information. The Commission is therefore authorized to make such investigations, 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 this Act as it deems necessary or appropriate to facilitate the administration of any such other unemployment compensation or public employment service law.

Section 331. Territorial Employment Service. The Alaska Territorial Employment Service is hereby established under the Commission. The Commission, in the conduct of such service, shall establish and maintain free public employment offices in such number and in such places as may be necessary for the proper administration of this Act and for the purposes of performing such functions as are within the purview of the Wagner-Peyser Act, as amended. The provisions of said Act of Congress are hereby accepted by this Territory, and the Commission is hereby designated and constituted the agency of this Territory for the purposes of said Act. All moneys received by this Territory under the said Act of Congress shall be paid into the Employment Security Administration Fund and shall be expended solely for the maintenance of the Territorial system of public employment offices.

ARTICLE IV. FUNDS

Unemployment Compensation Fund

Section 401. Establishment and Control. There is hereby established as a special fund, separate and apart from all public moneys or funds of this Territory, an unemployment compensation fund, which shall be administered by the Commission exclusively for the pur-

poses of this Act. This fund shall consist of:

(a) subject to the provisions of Section 501(c), all contributions collected under this Act, together with any interest thereon collected pursuant to Section 511 herein;

(b) interest earned upon any moneys in the fund;

(c) all fines and penalties collected pursuant to the provisions of this Act;

(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 sums made available to the Territory as advances under Title XII of the Social Security Act, as amended, for the purposes of paying benefits as provided for in this Act; and

(g) any advances from the General Fund of the Territory for the purposes of paying benefits as provided for in this Act.

All moneys in the fund shall be mingled and undivided.

Section 402. Accounts and Deposit. The Territorial Treasurer shall be ex-officio the treasurer and custodian of the fund and shall administer such funds in accordance with the directions of the Commission and shall issue his warrants upon it in accordance with such regulations as the Commission may prescribe. He shall maintain within the fund three separate ac-

counts.

(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 Commission, shall be forwarded to the Treasurer who shall immediately deposit them in the Clearing Account. Refunds payable pursuant to Sections 227, 501(b) and 518 herein may be paid from the clearing account upon warrants issued by the Treasurer under the direction of the Commission. After clearance thereof, all of the 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 Territory in the Unemployment Trust Fund, established and maintained pursuant to Section 904 of the Social Security Act, as amended, any provision of law in this Territory relating to the deposit, administration, release, or disbursement of moneys in the possession or custody of this Territory to the contrary notwithstanding.

The Benefit Account shall consist of moneys requisitioned from this Territory's account in the Unemployment Trust Fund for the purpose of paying benefits. Except as herein otherwise provided, moneys in the Clearing, Benefit, and Employee Contribution Accounts may be deposited by the Treasurer,

under the direction of the Commission, in any bank or public depository in which general funds of the Territory may be deposited, but no public deposit insurance charge or premium shall be paid out of the fund. Money in these accounts shall not be commingled with other Territorial funds, but shall be maintained in separate accounts on the books of the depository bank. Such money shall be secured by the depository law of this Territory; and collateral pledged for this purpose shall be kept separate and distinct from any collateral pledged to secure other funds of the Territory. The Treasurer shall be liable on his official bond for the faithful performance of his duties in connection with the fund. All sums recovered for losses sustained by the fund shall be deposited therein.

Section 403. **Advances from the Federal Unemployment Account.**

Whenever, in accordance with Title XII of the Social Security Act, as amended, the balance in the Unemployment Fund reaches a point where the Governor of the Territory must apply for an advance in order to secure to this Territory and its citizens the advantages available under the provisions of such Title, the Commission is authorized and directed to so notify the Governor and to take such other action as may be appropriate to obtain such advance to the Unemployment Trust Fund and its repayment in accordance with the conditions specified in Title XII of the Social Security Act, as amended.

Section 404. **Withdrawals.** In accordance with regulations prescribed by the Commission, moneys shall be requisitioned from this Territory's account in the Unemployment Trust Fund solely for the payment of benefits and refund.

(a) **Benefit Payments.** The Commission shall from time to time requisition from the Unemployment Trust Fund such amounts, not exceeding the amount standing to this Territory's account therein, as it 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 warrants for the payment of benefits solely from such Benefit Account.

(b) **Refund Payments.** If, at any time, moneys in the Clearing Account are not sufficient to provide for refunds payable pursuant to Sections 227, 501 (b) and 518 herein, the Commission shall withdraw from the Unemployment Trust Fund such amounts, not exceeding the amount standing to this Territory's account herein, as are necessary for the payment of such refunds. Upon receipt thereof the Treasurer shall deposit such moneys in the Clearing Account and shall issue warrants for the payment of such refunds from such 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 appropria-

tions or other formal release by Territorial officers of money in their custody. All warrants issued by the Treasurer for the payment of benefits and refunds shall bear the signature of the Treasurer and countersignature of the duly authorized agent of the Commission 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 such 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 Commission, shall be redeposited with the Secretary of the Treasury of the United States of America, to the credit of this Territory's account in the Unemployment Trust Fund, as provided in Section 402 herein.

Section 405. **Management of Funds Upon Discontinuance of Unemployment Trust Fund.** The provisions of Sections 401, 402 and 403 herein, 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 Territory a separate book account of all funds deposited therein by this Territory for the benefit purposes, together with this Territory'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 Territory, 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 Commission 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; Provided further, That such investments shall be at all times so made 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 Commission.

Employment Security

Administration Fund

Section 411. **Special Fund.** There is hereby created in the Territorial Treasury a special fund to be known as the Employment Security Administration Fund. All moneys which are deposited or paid into this fund shall be continuously available to the Commission for ex-

penditure in accordance with the provisions of this Act, and shall not lapse at any time or be transferred to any other Fund. All moneys in this fund which are received from the Federal government or any agency thereof, or which are appropriated by this Territory for the purposes described in Section 331 herein, shall be expended solely for the purposes and in the amounts found necessary by the Secretary of Labor for the proper and efficient administration of this Act. The fund shall consist of all moneys appropriated by this Territory, all moneys received from the United States of America, or any agency thereof, including the Department of Labor, and all moneys received from any other source for such purpose, and shall also include any moneys received from any agency of the United States or any other State as compensation for services or facilities supplied to such agency, any amounts received pursuant to any surety bond or insurance policy or from other sources for losses sustained by the Employment Security Administration Fund or by reason of damage to equipment or supplies purchased from moneys in such fund, and any proceeds realized from the sale or disposition of any such equipment or supplies which may no longer be necessary for the proper administration of this Act. All moneys in this fund shall be deposited, administered, and disbursed, in the same manner and under the same conditions and requirements as are provided by law for other special funds in the Territorial Treasury.

The Territorial Treasurer shall be liable on his official bond for the faithful performance of his duties in connection with the Employment Security Administration Fund provided for under this Act. Such liability on the official bond shall be effective immediately upon the enactment of this provision, and such liability shall exist in addition to any liabilities upon any separate bond existent on the effective date of this provision, or which may be given in the future. All sums recovered on any surety bond for losses sustained by the Employment Security Administration Fund shall be deposited in said fund.

Section 412. Reimbursement of Fund. If any moneys received after June 30, 1941, from the Department of Labor under Title III of the Social Security Act, or any unencumbered balances in the Employment Security Administration Fund as of that date, or any moneys granted after that date to this Territory pursuant to the provisions of the Wagner-Peyser Act, as amended, or any moneys made available by this Territory or its political subdivisions and matched by such moneys granted to this Territory pursuant to the provisions of said Wagner-Peyser Act, are found by the Secretary of Labor, because of any action or contingency, to have been lost or been expended for purposes other than, or in amounts in excess of, those found necessary by the Secretary of Labor for the proper administration of this Act, it is the policy of this Territory that such

moneys shall be replaced by moneys appropriated for such purpose from the general funds of this Territory to the Employment Security Administration Fund for expenditures as provided for in Section 411 herein. Upon receipt of notice of such finding by the Secretary of Labor, the Commission shall promptly report the amount required for such replacement to the Governor and the Governor shall at the earliest opportunity submit to the Legislature a request for the appropriation of such amount. This section shall not be construed to relieve this Territory of its obligation with respect to funds received prior to July 1, 1941, pursuant to the provisions of Title III of the Social Security Act.

ARTICLE V

Contributions

Section 501. Payment of Contributions. (a) Contributions with respect to wages for employment shall accrue and become payable by each employer for each calendar year in which he is subject to this Act. Such contribution shall become due and be paid by each employer to the Commission for the fund in accordance with such regulations as the Commission may prescribe and contributions payable by the employer shall not be deducted in whole, or in part, from the wages of individuals in employment for such employers.

(b) Contributions with respect to wages paid on or after January 1, 1955 for employment shall accrue

and become payable until such time as contributions shall be terminated pursuant to Section 502 of this Article, by each individual who performs service in employment for each calendar year in which such services are subject to this Act.

The contributions required of each such individual, in accordance with regulations prescribed by the Commission, shall become payable, be deducted from his wages by his employer, and be held in trust by the employer for the Commission until such time as such employee contributions are required by regulation to be deposited with the Commission. Such funds shall not be subject to garnishment or attachment in any fashion, and in the event of lien, judgment or bankruptcy proceedings shall not be considered as assets of the employer. Any employer who shall fail to make such deductions from the wages of his employees shall himself be liable to the Commission for the payment of such required contributions, which shall be collected from him in the same manner as is provided for the collection of employer contributions.

If any employer shall convert to his own use or otherwise misappropriate any funds so held in trust, he shall be required to pay to the Commission for deposit in the Employee Contribution Account the amount so converted or misappropriated, together with a penalty equal to five times that amount but not less than \$25.00. In addition, if such conversion or mis-

appropriation is willful, he shall be guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than \$200.00, or imprisoned for not more than 60 days, or both.

Each employer shall maintain a record of the amounts so deducted from the wages of each of his employees, and shall furnish a statement of such deductions to each employee at such times and in such manner as the Commission shall prescribe by regulation.

No such deduction shall be made from those wages in excess of the first \$3600.00 of wages paid to an employee during any calendar year. In the event that an employee earns wages totaling in excess of \$3600.00 in one calendar year in the employ of two or more employers, or in the event that any one employer through error shall have made such deductions from his wages in excess of \$3600.00 during any one calendar year, the amount of such deductions in excess of those required by this Act shall be refunded to the employee by the Commission upon application therefor in accordance with regulations prescribed by the Commission, provided, that such application is made during the calendar year immediately following the calendar year in which such deductions were made.

(c) There is hereby established as a separate fund apart from all other funds of this Territory an Employee Contribution Account which shall be administered by the Territorial Treasurer in accordance

with the directions of the Commission. This fund shall consist of any contributions deposited with the Commission under paragraph (b) of this Section. Such contributions shall be maintained in the Employee Contribution Account until the Commission in accordance with regulations prescribed by it determines which employees have been paid wages of \$450.00 or more during a calendar year. Contributions on wages of an employee who has been paid \$450.00 or more during a calendar year shall thereupon be deposited by the Treasurer upon order of the Commission into the Unemployment Compensation Fund established pursuant to Section 401. Contributions on wages of an employee who has been paid less than \$450.00 during such year shall be returned to the employee by warrants drawn upon said Employee Contribution Account by the Treasurer upon the employee's application therefor in accordance with prescribed regulations. If no application for such refund is filed within one year after the calendar year during which the wages were paid, the contributions shall be deposited by the Treasurer in the Unemployment Compensation Fund upon order of the Commission.

Section 502. Rate of Contributions. Each employer shall pay contributions equal to 2.7 percent of wages paid by him during the calendar year with respect to employment commencing January 1, 1955 except as otherwise provided in Section 503. Each individual performing services in employment for such

employer commencing January 1, 1955, shall pay contributions equal to one half of one percent of wages paid to him during the calendar year with respect to employment; Provided that the provisions of this Article with respect to the payment by, and rate of, contributions for individuals in the employment of employers shall terminate with contributions due for wages paid through December 31, 1956.

In the payment of any contribution 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.

Section 503. Base of Contributions. For the purposes of Sections 501 and 502 of this Article and subsequent to December 31, 1954, wages shall not include that part of remuneration which exceeds \$3600.00 paid in a calendar year to any individual, unless said excess becomes subject to a tax under a Federal law imposing a tax against which credit may be taken for contributions required to be paid into a State unemployment fund. For the purposes of this section, the term employment shall include service constituting employment under any employment security law of another State or of the Federal Government.

Section 504. Records and Analysis of Experience with Unemployment Risk. For the last half of the calendar year 1955 and for each calendar year thereafter separate ac-

counts shall be maintained for each employer and claimant to secure sufficient facts and studies upon which future legislatures could determine whether an experience rating system should be adopted to require contributions from employers based upon their experience with unemployment risk and, if so, the most equitable system for accomplishing this purpose consistent with the solvency of the Unemployment Compensation Fund.

Section 511. Interest on Past Due Contributions. If contributions are not paid on the date on which they are due and payable as prescribed by the Commission, the whole or part thereof remaining unpaid shall bear interest at the rate of eight per cent per annum from and after such date until payment plus accrued interest is received by the Commission. 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 shall become due and shall draw interest in the same manner as con-

tributions due from other employers. Payments of contributions erroneously paid to an unemployment compensation fund of another State which should have been paid to this Territory and which thereafter shall be refunded by such other State and paid by the employer to this Territory, shall be deemed to have been paid to this Territory at the date of payment of such other State.

Section 512. Penalty for Failure to File Reports. Contribution reports not made and filed by the date on which they are due as prescribed by the Commission shall be subject to a penalty, to be assessed and collected in the same manner as contributions due hereunder, equal to five per cent of the contributions due if the failure to file on time was not more than thirty days, with an additional five per cent for each additional thirty days or fraction thereof during which such failure continued, but not to exceed twenty-five per cent in the aggregate and not less than \$2.50 with respect to each reporting period; except that when a report is filed after such time and it is shown to the satisfaction of the Commission or its authorized representative that the failure to file was due to a reasonable cause, no such addition shall be made to the contribution.

Section 513. Penalty for Nonpayment of Contribution. If the contributions are unpaid after thirty days from the date of the mailing or personal delivery by the Com-

mission, or its authorized representative, of a written demand for payment there shall attach to the contribution, to be assessed and collected in the same manner as contributions due hereunder, a penalty equal to ten per cent of the contributions due; Provided, That in no event shall such penalty be less than \$1.00; and, provided further, that no such penalty shall attach if within thirty days after such mailing or personal delivery, arrangements for payments have been made with the Commission or its authorized representative, and payment is made in accordance with such arrangements. Penalties collected in accordance with this section shall be paid into the Unemployment Compensation Fund.

Section 514. **Lien.** The claim for any contributions, including interest and penalties, not paid when due shall be a lien in favor of the Territory against all the real and personal property of the employer, and also upon all the real and personal property used with the permission of the owner thereof in prosecuting the business of the employer. In order to avail itself of the lien hereby created, the Commission shall file notice thereof with the U. S. Commissioner (Recording Officer) of the recording district in which said property shall then be situated, or, with respect to motor vehicles, in the office of the Commissioner of Taxation of the Territory of Alaska, and such filing shall constitute constructive notice of said lien against the property described therein to creditors

of the owner, and to subsequent purchasers and encumbrancers. The lien hereby created is expressly exempt from the provisions of Section 7, Chapter 124, SLA 1951, excepting the provisions of Sections 7 (1), (exclusive of subparagraphs (a) and (b) thereof), 7 (3) and 7 (5).

When any such notice of lien has been so filed, the Commission may release the same by filing, in the manner prescribed for the filing of a notice of lien, a certificate of release when it shall appear that the amount of contributions, including interest, and penalties and costs, has been paid, or when such assurance of payment shall be made as the Commission deems adequate.

Section 515. **Notice of Assessment: Distraint, Seizure and Sale.** At any time after the Commission shall find that any contribution, including interest or penalty thereon, has become delinquent, the Commission may issue a notice of assessment specifying the amount due, which notice of assessment shall be served on the delinquent employer by the marshal of the judicial division wherein service is made, or by his deputy, or by any duly authorized representative of the Commission; or by registered mail. In the case of service by mail the notice must be deposited in the post office, addressed to the delinquent employer at his last known address, and the postage paid. The service shall be deemed to be made on the day of such deposit in the post office. If the amount so assessed is not paid within thirty days after such per-

sonal service or mailing of said notice, the Commission or its duly authorized representative may collect the amount stated in the assessment by the distraint, seizure and sale of the property, goods, chattels and effects of said delinquent employer, except as is provided in Section 517 of this Act. There shall be exempt from distraint and sales under this section such goods and property as are exempt from execution under the laws of this Territory.

Section 516. Inventory and Sale. The Commission 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 recording district of the judicial divisions wherein the seizure has been made. The time of sale shall be not less than twenty nor more than thirty days from the date of posting such notices. Said sale may be adjourned from time to time at the discretion of the Commission but not for a time to exceed in all ninety days. Said sale shall be conducted by the Commission or its authorized representative who shall proceed to sell such property by parcel or by lot at a public auction, and may set a minimum price to include the expenses of making a levy and of advertis-

ing the sale, and if the amount bid for such property at the sale is not equal to the minimum price so fixed, the Commission or its representative may declare such property to be purchased by the Commission for such a minimum price. The delinquent account shall be credited with the amount at which the property shall be sold, after defraying the costs of distraint, seizure and sale. Property acquired by the Commission as herein prescribed may be sold by the Commission at public or private sale, and the amount realized shall be placed in the Unemployment Compensation Fund.

In all cases of sale, as aforesaid, the Commission 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 regularity of its 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 such sale shall first be applied by the Commission toward reimbursement of the administration fund for the costs of distraint, seizure and sale and the balance shall be applied toward satisfaction of the delinquent account. Any excess which shall thereafter remain in the hands of the Commission shall be refunded to the delinquent employer.

Section 517. Petition for Hearing. When any notice of assessment has been delivered or mailed to a delinquent employer, as heretofore provided, such employer may within thirty days thereafter file a pe-

tion in writing with the Commission, 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 Commission. If no such petition is filed with the Commission within said thirty days, said assessment shall be prima facie just and correct; Provided, That in such cases the Commission may properly entertain a subsequent application for refund, and hearing thereon if denied, in accordance with Section 518 herein. The filing of a petition on a disputed assessment with the Commission shall stay the sale provided for in Section 516 herein until a final decision thereon shall have been made, but the filing of such petition shall not affect the right of the Commission to perfect a lien, as provided in Section 514 herein. After granting the petitioner reasonable opportunity for fair hearing, the Commission shall make a decision on the petition. The Commission's decision shall be final unless the petitioner initiates a proceeding for judicial review substantially in the manner provided by Section 809.

Section 518. Adjustments or Refunds. Not later than two years after the date when any contributions or interest have been paid, an employer who has paid such contributions or interest may file with the Commission a petition in writing for an adjustment thereof as an

offset against subsequent contribution payments, or for a refund thereof when such adjustment cannot be made. If the Commission upon ex parte consideration shall determine that such contributions or interest, or portion thereof, were erroneously collected, it shall allow such employer to make an adjustment thereof without interest. For like causes and within the same period, adjustment or refund may be made on the Commission's own motion.

If the Commission finds that upon ex parte consideration it cannot readily determine that such adjustment or refund should be allowed, it shall deny such application and notify the employer in writing. Within thirty days after such notification shall have been mailed or delivered to such employer, whichever is the earlier, the employer may file a petition in writing with the Commission 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 as provided in Section 517 herein. The petition 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 is filed within said thirty days, the determination of the Commission as stated in said notice shall be final. After granting the petitioner reasonable opportunity for fair hearing, the Commission shall make a decision on the petition. The Commission's decision shall be final un-

less the petitioner initiates a proceeding for judicial review substantially in the manner provided by Section 809.

Section 519. Arbitrary Reports. If an 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 Commission may, upon the basis of such knowledge as may be available to it arbitrarily make a report on behalf of such employing unit, and the report so made shall be deemed prima facie correct.

Section 520. Jeopardy Assessment. If the Commission 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 on said assessment immediately, but interest shall not begin to accrue upon any contributions until the date when such contributions would normally have become delinquent.

Section 521. Civil Action; Lien Foreclosure. 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 Territory of Alaska, and the employer if adjudged liable 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. All other 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 Workmen's Compensation Laws of this Territory. The courts in this Territory shall in the manner provided in this section entertain actions to collect contributions or interest thereon for which liability has accrued under the Employment Security Law of any other State; provided, that such state has in its Employment Security Law a similar provision for actions to collect contributions due to Alaska.

Section 522. Remedies Cumulative. Remedies given to the Territory under this Act for the collection of contributions and interest shall be cumulative and no action taken by the Commission or its duly authorized representative, shall be construed to be an election on the part of the Territory to pursue any remedy to the exclusion of any other.

Section 523. Lien Upon Distribution or Assignment of Assets. In the event of any distribution of any employer's assets pursuant to an order of any court, including any receivership, probate, legal dissolution, or similar proceedings, or in case of any assignment for the benefit of creditors, composition, or similar proceedings, 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, liens filed under Section 514 herein, and claims for remuneration of service of not more than \$250.00 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 Commission or the Territory. 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 (11 USC 1 et seq.), contributions then or thereafter due shall be entitled to such priority as provided in that Act, as amended.

Section 524. Compromise of Contributions. The Commission 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 Commission in any case, there shall be placed on file with the Commission 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.

Any person who, in connection with any compromise or offer of such compromise, wilfully conceals from any officer or employee of the Territory any property belonging to an employing unit or individual liable in respect to 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 or individual liable in respect to the contributions, shall upon conviction thereof be fined not more than \$5,000.00 or be imprisoned for not more than one year, or both.

If any such compromise is accepted by the Commission, 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, or failure to meet the terms of the compromise, the case shall not be reopened as to the matters agreed upon.

Section 525. Liability of Successor-Employer. The contributions required by this Act shall be a lien upon the property of an employer subject to its provisions who shall sell out his business or stock of goods, or who shall quit business, or whose property used or acquired in the business, shall be sold under

voluntary conveyance or under foreclosure, execution or attachment, distraint or other judicial proceedings, and such employer shall be required to file such reports as the Commission shall prescribe and to pay the contributions required by this Act with respect to wages payable for employment up to the date of the happening of each contingency, and the purchaser or successor in business shall withhold sufficient of the purchase money to cover the amount of contributions due and unpaid until such time as such employer shall produce a receipt from the Commission showing that the contributions have been paid, or a certificate that no contributions are due. If such purchaser or successor shall fail to withhold purchase money as provided, and the contributions shall not be paid within ten days, such purchaser or successor shall be personally liable for the payment of the contributions accrued and unpaid on account of the operation of the business by the former owner.

Section 526. 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 of this Act shall make any payment to such contractor or subcontractor for any indebtedness due until after the contractor or subcontractor has paid, or has furnished a good and sufficient bond acceptable to the Commission for payment of contributions, including penalty and in-

terest, due or to become due in respect to personal services which have been performed by individuals for such contractor or subcontractor. Failure to comply with the provisions of this section shall render said employing unit directly liable for such contributions and interest and the Commission 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.

ARTICLE VI

Coverage

Section 601. Coverage Determination. (a) On its own motion or on the application of an employing unit, the Commission shall, on the basis of facts found by it, determine whether the employing unit is an employer and whether service performed for it constitutes employment.

(b) Within one year, or such longer time as the Commission may for good cause allow, after a determination has been made under paragraph (a) of this Section, the Commission may reconsider its determination in the light of additional evidence and make a redetermination.

(c) A notice of the Commission's determination made under paragraph (a) or (b) of this section, which shall include a statement of the supporting facts found by the Commission, shall be mailed to the last known address of the employing unit affected, or otherwise delivered to it.

(d) Within fifteen days after a notice of a determination made under paragraph (a) or (b) of this section has been mailed to the last known address of an employing unit, or otherwise delivered to it, that employing unit may apply to the Commission to reconsider its determination in the light of additional evidence and to issue a re-determination. The Commission shall, if the request is granted, mail to the last known address of the employing unit affected, or otherwise deliver to it, a notice of the redetermination, which shall include a statement of the supporting facts found by the Commission; if the request is denied, it shall furnish a notice of the denial of the application.

(e) Within fifteen days after a notice of a determination made under paragraph (a), (b), or (d) of this section or a denial of the application under paragraph (d) of this section has been mailed to the last known address of an employing unit, or otherwise delivered to it, that employing unit may appeal from the determination to the Commission. The Commission shall afford the parties a reasonable opportunity for a fair hearing as provided in the case of hearings before appeal tribunals in Article VIII. The Commission's decision shall be final unless, within thirty days after the decision was mailed to the last known address of a party, or otherwise delivered to it, that party initiates judicial review in accordance with the provisions of Article VIII, Section 809.

Section 602. Conclusiveness of Determination. A determination of the status of an employing unit by the Commission under Section 601, in the absence of appeal therefrom, and a final determination of the Commission upon an appeal, together with the record of the proceeding, shall be admissible in any subsequent proceeding under this Act. If supported by substantial evidence and in the absence of fraud, the determination shall be conclusive, except as to errors of law, upon any employing unit which was a party to such proceeding.

Section 603. Period of Coverage. Any employing unit which is or becomes an employer subject to this Act within any calendar year shall be deemed to be an employer during the whole of such calendar year except as provided elsewhere in this Article and shall remain an employer until coverage is terminated as provided in Section 604.

Section 604. Elective Coverage of Excluded Service. (a) Any service performed for an employing unit, including Territorial departments and agencies, municipalities, and other political subdivisions of Alaska, which is excluded under the definition of employment in Article II, and with respect to which no payments are required under the employment security law of another State or of the Federal Government, may be deemed to constitute employment for all purposes of this Act, provided that the Commission has approved a written election to that effect filed by the employing

unit for which the service is performed, as of the date stated in such approval. No election shall be approved by the Commission unless it (1) includes all the service of the type specified in each establishment or place of business for which the election is made, and (2) is made for not less than two calendar years.

(b) Any service which because of an election by an employing unit under paragraph (a) of this Section is employment subject to this Act shall cease to be employment subject to the Act as of January 1 of any calendar year subsequent to the two calendar years of the election, only if not later than March 15 of such year, either such employing unit has filed with the Commission a written notice to that effect, or the Commission on its own motion has given notice of termination of such coverage.

ARTICLE VII.

Benefit Entitlement

CLAIMS FOR BENEFITS

Section 701. **Filing.** Claims for benefits and notices of unemployment shall be made in accordance with such regulations as the Commission may prescribe. Each employer shall post and maintain in places readily accessible to individuals in his service printed statements concerning such regulations or such other matters, as the Commission may by regulation prescribe. Each employer shall supply such individuals copies of such printed statements or materials re-

lating to claims for benefits as the Commission may by regulation prescribe. Such printed statements shall be supplied by the Commission to each employer without cost to him.

Section 702. **Initial Determination.** An examiner designated by the Commission shall take the claim. An initial determination thereon shall be made promptly and shall include a determination with respect to whether or not benefits are payable, the weekly benefit amount payable, and the maximum duration of benefits. In any case in which the payment or denial of benefits will be determined by the provisions of Section 741 (j) herein, the examiner shall promptly transmit all the evidence with respect to that section to the Commission. The Commission, or such representative as it may designate for such purpose, shall, on the basis of the evidence so submitted and such additional evidence as it may require, make an initial determination with respect thereto.

At any time within one year from the date of an initial determination, the Commission on its own motion may reconsider such determination if it finds that an error in computation or identity has occurred in connection therewith or that additional wages pertinent to the claimant's insured status have become available, or that such initial determination was made as a result of a nondisclosure or misrepresentation of a material fact.

The claimant and any other par-

ties to the determination shall be promptly notified of the initial determination (or of any amended initial determination) and the reasons therefor.

Benefits shall be denied, or if the claimant is otherwise so eligible, promptly paid, in accordance with the initial determination, except as hereinafter otherwise provided.

The claimant or any other party to the determination may file an appeal from such initial determination within ten days after notification thereof, or after the date such notice was mailed to his last known address. If upon such initial determination, benefits are allowed, but the record of the case indicates a disqualification has been alleged or may exist, benefits shall not be paid prior to the expiration of the period for appeal as hereinbefore provided.

If an appeal is duly filed with respect to a matter other than the weekly benefit amount or maximum duration of benefits payable, benefits with respect to the period prior to the final decision of the Commission shall be paid only after such decision.

If, subsequent to such initial determination, benefits with respect to any week for which a claim has been filed are denied for reasons other than matters included in the initial determination, the claimant shall be promptly notified of the denial and the reasons thereof and may appeal therefrom in accordance with the procedure herein described for appeals from initial determinations.

Benefit Payment Formula

Section 711. Payment of Benefits. All benefits provided herein shall be payable from the fund. All benefits shall be paid through employment offices in accordance with such regulations as the Commission may prescribe.

Section 712. Amount of Benefits.
(a) **Qualifying wages.** To qualify for benefits an individual shall have earned wages in his base period totalling not less than one and one-fourth times the aggregate amount of wages earned by him in that calendar quarter of his base period in which he earned the highest amount of wages, and all his wages for such base period must equal not less than the minimum amount required for benefits under subsection (b), below.

(b) **Weekly benefit amount.** Except as provided in subsection (a), above, an individual's weekly benefit amount shall be the amount shown in the table below, in the applicable column opposite the amount of his total base period wages as shown in column A; Provided, that for any week with respect to which an individual while outside the Territory files a claim for benefits the weekly benefit amount shall not exceed \$25.00, and an individual who files such claims shall not be paid for more than twenty-six weeks of total unemployment. For the duration of a benefit year no dependent who has been claimed by a claimant and allowed as such shall be included as a dependent with regard to any other claimant.

Total Base Period	Basic Weekly Benefit Amount	Augmented weekly benefit amount with the following dependents					Maximum Potential Benefits
		One	Two	Three	Four	Five	
Columns (A)	(B)	(C)	(D)	(E)	(F)	(G)	(H)
\$ 0- 449.99	\$00	\$00	\$00	\$00	\$00	\$00	\$000
450- 599.99	10	15	20	20	20	20	150
600- 699.99	11	16	21	22	22	22	176
700- 799.99	12	17	22	24	24	24	204
800- 899.99	13	18	23	26	26	26	234
900- 999.99	14	19	24	28	28	28	266
1000-1099.99	15	20	25	30	30	30	300
1100-1199.99	16	21	26	31	32	32	336
1200-1299.99	17	22	27	32	34	34	374
1300-1399.99	18	23	28	33	36	36	414
1400-1499.99	19	24	29	34	38	38	456
1500-1599.99	20	25	30	35	40	40	500
1600-1699.99	21	26	31	36	41	42	546
1700-1799.99	22	27	32	37	42	44	572
1800-1899.99	23	28	33	38	43	46	598
1900-1999.99	24	29	34	39	44	48	624
2000-2099.99	25	30	35	40	45	50	650
2100-2199.99	26	31	36	41	46	51	676
2200-2299.99	27	32	37	42	47	52	702
2300-2399.99	28	33	38	43	48	53	728
2400-2499.99	29	34	39	44	49	54	754
2500-2599.99	30	35	40	45	50	55	780
2600-2699.99	31	36	41	46	51	56	806
2700-2799.99	32	37	42	47	52	57	832
2800-2899.99	33	38	43	48	53	58	858
2900-2999.99	34	39	44	49	54	59	884
3000-3099.99	35	40	45	50	55	60	910
3100-3199.99	36	41	46	51	56	61	936
3200-3299.99	37	42	47	52	57	62	962
3300-3399.99	38	43	48	53	58	63	988
3400-3499.99	39	44	49	54	59	64	1014
3500-3599.99	40	45	50	55	60	65	1040
3600-3699.99	41	46	51	56	61	66	1066
3700-3799.99	42	47	52	57	62	67	1092
3800-3899.99	43	48	53	58	63	68	1118
3900-3999.99	44	49	54	59	64	69	1144
4000-and over	45	50	55	60	65	70	1170

(c) Maximum potential benefits. Subject to the restrictions contained in Section 712(b), the maximum potential benefits of any individual in a benefit year shall be the amount in column H of the above table on the line on which, in column B, there appears his basic weekly benefit amount; Provided, however, dependents' allowances shall be in addition to the maximum potential benefits in column H of the above table.

(d) Definition of dependent. "Dependent" means an individual's unmarried child (including stepchild and legally adopted child) under 18 years of age, and who is principally supported by such individual; except that an individual's unmarried child (including stepchild and legally adopted child) who because of infirmity is prevented from engaging in a gainful occupation and who is principally dependent upon such individual for support, shall be deemed to be a dependent for the purpose of this provision regardless of age.

No individual shall be entitled to an augmented weekly benefit amount on account of any dependent if either such individual or such dependent are without the Territory.

(e) The provisions of this Section shall be effective on and after July 3, 1955.

Section 713. 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 basic or augmented weekly benefit amount less that part of the remuneration, whether or not covered by this Act, payable to him with respect to such week which is in excess of ten dollars. Such benefit, if not a multiple of one dollar, shall be computed to the next higher multiple of one dollar. The provisions of this Section shall be effective on and after July 3, 1955.

Section 721. Payment of Benefits Due Deceased or Mentally Incompetent Insured Worker. Benefits due and payable to a deceased or judicially declared incompetent person shall be paid, in accordance with such regulations as the Commission shall prescribe, to the person or persons in the following order: spouse, child, or parent, payment to whom the Commission finds would effectuate the purposes of this Act. Such regulations need not conform to the statutes applicable to the descent and distribution of decedents' estates. A receipt from the person or persons to whom the Commission makes payment shall fully discharge the fund and the Commission from liability for such benefits.

Conditions for Receipt of Benefits

Section 731. **Eligibility for Benefits.** An insured worker shall be eligible for and receive waiting-week credit or benefits as the case may be, for any week of his unemployment with respect to which he has not been determined to be disqualified under Section 741, if such worker has, in accordance with regulations prescribed by the

Commission with respect to such week:

(a) filed a notice of his unemployment;

(b) registered for work; and

(c) certified for waiting-week credit or filed a claim for benefits, as the case may be.

No benefits are payable for a waiting week and no benefits are payable for any week of unemployment occurring within the benefit year prior to the completion of such waiting week, except that no insured worker shall be required to serve a waiting week if the first week of his unemployment occurring within a benefit year is immediately preceded by a week of unemployment in the preceding benefit year for which benefits are payable.

Section 741. Disqualification for Benefits. An insured worker shall be disqualified for waiting-week credit or benefits for any week of his unemployment if with respect to such week the Commission finds that:

(a) He was not able to work or was not available for suitable work for such week; or

(b) He left suitable work voluntarily without good cause in which case he shall be disqualified for the week in which he left work and the five weeks of continuous unemployment immediately following such week; except that such period of disqualification shall not be deemed terminated by performance

of short time casual or temporary work within such period; or

(c) He was discharged or suspended for misconduct connected with his work, in which case he shall be disqualified for the week in which he was discharged or suspended and for the five weeks of continuous unemployment immediately following such week; except that such period of disqualification shall not be deemed terminated by performance of short time casual or temporary work within such period; or

(d) He has failed without good cause either to apply for available suitable work to which he was referred by the employment office, or to accept suitable work offered him, in which case he shall be disqualified for the week in which such failure occurred and for the five weeks of continuous unemployment immediately following such week; or

(e) For such week or any part of such week he has received or is seeking unemployment benefits under any other employment security law in any manner other than in accordance with the reciprocal arrangements with other States or the Federal Government, but if the appropriate agency finally determines that he is not entitled to benefits under such other law, this subsection shall not apply; or

(f) For any week wherein claimant leaves her most recent work to change her place of residence in order to remain with her husband or family. Such disqualification

shall continue until such time subsequent to such week as claimant earns additional wages, whether or not covered by this Act, of at least \$120.00; or

(g) For any week wherein claimant leaves her most recent work to be married. Such disqualification shall continue until such time subsequent to such week as claimant earns additional wages, whether or not covered by this Act, of at least \$120.00; or

(h) For any week wherein claimant's unemployment is found to be due to pregnancy. Such disqualification shall continue until such time subsequent to such week as claimant earns additional wages, whether or not covered by this Act, of at least \$120.00; or

(j) For such week his unemployment was due to a stoppage of work then existing because of a labor dispute at the immediate factory, establishment, or other premises at which he is or was last employed, and for purposes of this section, each separate department of the same premises which is commonly conducted as a separate business in separate premises shall be deemed to be a separate factory, establishment, or other premises; Provided, that this paragraph shall not apply if the Commission finds that:

(1) He was not participating in or directly interested in the labor dispute which caused the stoppage of work; and

(2) He did 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 occurred any of whom were participating in or directly interested in the dispute.

(k) Within the twenty-four calendar months immediately preceding such week he has, with intent to defraud by obtaining any benefits not due under this Act, made a false statement or representation of a material fact knowing it to be false or knowingly failed to disclose a material fact, in which case he shall be disqualified for the week in which the Commission makes such determination and for the twenty-six weeks immediately following such week.

Section 742. Suitable Work. (a) Notwithstanding any other provisions of this Act, no work shall be deemed suitable and benefits shall not be denied under any provision of this Act to any otherwise eligible individual for refusing to accept new work under any of the following conditions:

(1) If the position offered is vacant due directly to a strike, lockout, or other labor dispute;

(2) If the wages, hours, or other conditions of the work offered are substantially less favorable to the individual than those prevailing for similar work in the locality;

(3) If, as a condition of being employed, the individual would

be required to join a company union or to resign from or refrain from joining any bona fide labor organization.

(4) For the purpose of this Act, this section shall have the same meaning as is given by the Secretary of Labor to the provisions of 3304 (a) (5) of the Federal Internal Revenue Code of 1954.

In determining whether any work is suitable for a claimant and in determining the existence of good cause for leaving or refusing any work, the Commission shall, in addition to determining the existence of any of the conditions specified in subsection (a) of this section consider the degree of risk to the claimant's health, safety, and morals, his physical fitness for the work, his prior training and experience, his prior earnings, the length of his unemployment, his prospects for obtaining work at his highest skill, the distance of the available work from his residence, his prospects for obtaining local work, and such other factors as would influence a reasonably prudent person in the claimant's circumstances.

Recovery of Benefit Payments

Section 751. Except as provided in this section, 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.

As soon as the Commission has

knowledge of payments 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; Provided, however, that when the Commission determines that an individual has died, or has acted in good faith in claiming and receiving benefits that he was not entitled to, and that great hardship would result from charging said individual with repayment of said benefits, the Commission may, in its discretion, absolve said individual from liability to the fund for repayment of said benefits.

For similar cause and in like manner, claims by other States for the recovery of sums paid as benefits under an employment security law of such other State to claimants shall be recoverable under the provisions of this Act provided such sums were fraudulently obtained; Provided, That such other State has a comparable provision in its employment security law for recovery of such sums on behalf of the Territory of Alaska.

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 and the Court shall, upon application of the Commission, enter a judgment in the amount provided by the notice of determination, which judgment shall have and be given the same effect as if entered pursuant to civil action.

Protection of Rights and Benefits

Section 761. 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 any 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 wages 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. Any employer or officer or agent of any employer who violates any provisions of this section shall, upon conviction thereof, for each offense, be fined not more than \$1,000.00 or be imprisoned for not more than

six months or both.

Section 762. Limitation of Fees. No individual claiming benefits shall be charged fees of any kind in any proceeding under this Act by the Commission or its representatives, or by any court or any officer thereof. Any individual claiming benefits in any proceeding before the Commission or its representatives or a court may be represented by counsel or other duly authorized agent; but no such counsel or agent shall either charge or receive for such services more than an amount approved by the Commission or the Court. Any person who violates any provision of this section shall, upon conviction thereof, for each offense, be fined not more than \$500.00, or imprisoned for not more than six months, or both.

Section 763. Exemption of Benefits. Any assignment, pledge, or encumbrance of any rights to benefits which are or may become due or payable under this Act shall be void; and such rights to benefits shall be exempt from levy, execution, attachment, or any other remedy whatsoever provided for the collection of debt; and benefits received by any individual, so long as they are not mingled with other funds of the recipient, shall be exempt from any remedy whatsoever for the collection of all debts except debts incurred for necessities furnished to 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.

ARTICLE VIII

Appeals

Section 801. Appeal Tribunals. The Commission shall appoint one or more referees, selected in accordance with Article III, each of whom shall constitute an appeal tribunal to hear and decide appeals from determinations and redeterminations.

Section 802. Review by Appeal Tribunal. Any party entitled to notice of determination as provided in Section 702, may file an appeal from the determination to an appeal tribunal within the time specified in Section 702. However, any appeal from a determination which involves Section 741(j) shall be made to the Commission. The parties to an appeal from a determination shall include all those entitled to notice of the determination, and a properly designated representative of the Commission. Whenever an appeal involves a question whether service constitutes employment, the tribunal shall give notice of the appeal and the issues involved to a properly designated representative of the Commission and to the employing unit for which such service was performed; and that employing unit, if not already a party, shall then become a party to the appeal. If an appeal from a determination is pending as of the date a redetermination is issued, the appeal unless withdrawn shall be treated as an

appeal from such redetermination. Appeals may be withdrawn at the request of the appellant and with the permission of the appeal tribunal if the record preceding the appeal and the request for the withdrawal support the correctness of the determination, and indicate that no coercion or fraud is involved in the withdrawal. In addition to the issues raised by the appealed determination the tribunal may hear and decide any additional issues affecting the claimant's rights to benefits, if, as of the date of hearing, the Commission has issued no final determination concerning such additional issues and the parties involved have been notified of the hearing and of the pendency of such additional issues.

Section 803. Hearing Procedure and Record. A reasonable opportunity for fair hearing shall be afforded all parties promptly. An appeal tribunal shall inquire into and develop all facts bearing on the issues and shall receive and consider evidence without regard to statutory and common-law rules. The appeal tribunal shall include in the record and consider as evidence all records of the Commission that are material to the issues. The Commission shall adopt regulations governing the manner of filing appeals and the conduct of hearings and appeals consistent with the provisions of this Act. A record shall be kept of all testimony and proceedings in an appeal, but testimony need not be transcribed unless further review is initiated. Witnesses subpoenaed shall be al-

lowed fees at a rate fixed by the Commission and the fees of witnesses subpoenaed on behalf of the Commission or of any claimant shall be deemed part of the expense of administering this Act. No member of the Commission, or of an appeal tribunal, or any person acting on behalf of the Commission shall participate in any appeal in which he has a direct or indirect interest.

Section 804. Consolidated Appeals. When the same or substantially similar evidence is material to the matter in issue with respect to more than one individual, the same time and place for considering all such cases may be fixed, hearings thereon jointly conducted, a single record of the proceedings made, and evidence introduced with respect to one proceeding considered as introduced in the others, provided no party is prejudiced thereby and provided that any such party may have a separate hearing upon demand.

Section 805. Notice of Decision of Appeal Tribunal and Time for Appeal. After a hearing an appeal tribunal shall make findings and conclusions promptly and on the basis thereof affirm, modify, or reverse the Director's determination. Each party shall be furnished promptly a copy of the decision and the supporting findings and conclusions; this decision shall be final unless further review is initiated pursuant to Section 806 within ten days after the decision has been mailed to each party at his last known address or otherwise

delivered to him; Provided that such period may be extended for good cause.

Section 806. Review by the Commission. An appeal to the Commission by any party shall be allowed as of right if the appeal tribunal's decision reversed or modified the determination of the Commission, or if a question arising under Section 741(j) is presented. In all other cases further appeal to the Commission shall be permitted only at the discretion of the Commission. The Commission on its own motion may initiate a review of a decision or determination of an appeal tribunal within fifteen days after the date of the decision. The Commission may affirm, modify, or reverse the findings or conclusions of the appeal tribunal solely on the basis of evidence previously submitted, or upon the basis of such additional evidence as it may take or direct to be taken.

Section 808. Removal to the Commission. The Commission may remove to itself or transfer to another appeal tribunal any appeal pending before an appeal tribunal. In any appeal so removed to the Commission, before a fair hearing has been completed, the parties shall be given a fair hearing by the Commission as required by this Article with respect to proceedings before an appeal tribunal.

Section 809. Notice of Decision of the Commission and Judicial Review. (a) Each party, including the properly designated representative of the Commission, shall be fur-

nished promptly a copy of the decision and the supporting findings and conclusions of the Commission. The decision shall be final unless a party initiates judicial review by filing an action in the District Court for review within thirty days after the Commission's decision has been mailed to each party at his last known address, or otherwise delivered to him. For the purposes of judicial review, an appeal tribunal's decision from which an application for appeal has been denied by the Commission shall be deemed to be the decision of the Commission, except that the time for initiating judicial review shall run from the date of the mailing or delivery of the notice of the denial of the application for appeal by the Commission. The petition for review shall state the grounds upon which review is sought but need not be verified. To obtain judicial review exceptions need not be noted nor shall a bond be required either as a condition of initiating a proceeding for judicial review of a determination of benefit rights or of entering an appeal from the decision of the court upon such review.

(b) The Commission and all parties to the proceedings before it shall be parties to the review proceedings. If the Commission is a party respondent, the petition shall be served by leaving with the Director, or any representative whom he designated for that purpose, as many copies of the petition as there are respondents. The Commission shall file with the court certified

copies of the record of the case together with its petition for review or its answer to the appellant's petition. Upon the filing of a petition for review by the Commission, or upon service of a petition upon it, the Commission shall send a copy of the petition by registered mail to each party and such mailing shall constitute service upon the parties.

(c) The jurisdiction of the reviewing court shall be confined to questions of law, and, in the absence of fraud, the findings of fact of the Commission, if supported by substantial evidence shall be conclusive. However, additional evidence may be required by the court. Such additional evidence shall be taken before the Commission, after which it shall file with the court its additional or modified findings, together with transcripts of the additional record. All proceedings under this section shall be heard summarily and given precedence over all other civil cases except those arising under the workmen's compensation law of this Territory. Appeals involving benefit rights shall be given precedence over all other cases arising under this Act. An appeal may be taken from the decision of the District Court to the United States Circuit Court of Appeals in the same manner as provided for other civil cases.

Section 810. Conclusiveness of Final Determinations and Decisions. Except insofar as there is a re-determination under Article VII of this Act, all final determinations and decisions shall be conclusive

upon employing units with notice, the Commission, and the claimant. No final determination or decision as to benefit rights shall be subject to collateral attack by an employing unit regardless of notice. The Commission, or appeal tribunal, shall reopen a determination or decision or revoke permission for withdrawal of an appeal if (a) he or it finds that a worker or employer has been defrauded or coerced in connection with the determination, decision, or withdrawal of the appeal, and (b) the defrauded or coerced person informs the appropriate officer or body of the fraud or coercion within sixty days after he has become aware of the fraud or within sixty days after the coercion has been removed.

Section 811. Rule of Decision and Certification to Commission. Final decisions of the Commission and the principles of law declared in their support shall be binding in all subsequent proceedings involving similar questions unless expressly or impliedly overruled by a later decision of the Commission or of a court of competent jurisdiction. Final decisions of appeal tribunals and the principles of law declared in their support shall be binding on the employees and representatives of the Commission, and shall further be persuasive authority in subsequent appeal tribunal proceedings. If in any subsequent proceeding the Commission or an appeal tribunal has serious doubt as to the correctness of any principles previously declared by an appeal tribunal or by the Commis-

sion, or if there is an apparent inconsistency or conflict in final decisions of comparable authority, then the findings of fact in such case may be certified, together with the question of law involved, to the Commission. After giving notice and reasonable opportunity for hearing upon the law to all parties to the proceedings, the Commission shall certify to the appropriate employees or representatives of the Commission or appeal tribunal and the parties its answer to the question submitted; or the Commission in its discretion may remove to itself the entire proceeding as provided in Section 808 and render its decision upon the entire case.

Section 812. Limitation of Fees. No claimant shall be charged fees or costs of any kind by the Commission, or its representatives, an appeal tribunal, or by any court or any court officer, except that a court may assess costs against such claimant if it determines that the proceedings for judicial review have been instituted without reasonable grounds.

Section 813. Representation of Claimant. Any claimant in any proceeding before the Commission, or any appeal tribunal, may be represented by counsel or other duly authorized agent. No such counsel or agent shall either charge or receive for such services more than an amount approved by the Commission.

Section 814. Fees of Attorneys for Claimants on Appeals to Courts. An attorney at law representing a

claimant on appeal to the courts shall be entitled to reasonable counsel fees as fixed by the court not to exceed \$300 and necessary court costs and printing disbursements not exceeding \$150. In difficult cases the court to which the appeal was taken may, upon application of counsel for the claimant, increase such fees, court costs, or disbursements to an amount which the court deems reasonable. Such counsel fees, costs, and disbursements shall be paid by the commission out of employment security administration funds in each of the following cases: (a) any court appeal from an administrative or judicial decision favorable in whole or in part to the claimant, (b) any court appeal by a claimant from a Commission decision which reverses a tribunal decision in his favor, (c) any court appeal as a result of which the claimant is awarded benefits, or (d) any court appeal by a claimant from a decision by a tribunal, commission, or court which was not unanimous.

ARTICLE IX. PENALTIES

Section 901. **False Statement to Secure Benefits.** Whoever makes a false statement or misrepresentation knowing it to be false or knowingly fails to disclose a material fact, to obtain or increase any benefit or other payment under this Act or under an employment security law of any State, of the Federal Government, or of a foreign government, either for himself or for any other person, upon conviction thereof, shall be pun-

ished by a fine of not more than \$200.00, or by imprisonment for not longer than sixty days, or by both such fine and imprisonment; and each such false statement or misrepresentation or failure to disclose a material fact shall constitute a separate offense.

Section 902. **False Statements by Employer: Refusal to Pay, Etc.** Any employing unit or any officer or agent of an employing unit who makes a false statement or representation knowing it to be false, or who knowingly fails to disclose a material fact, to prevent or reduce the payment of benefits to any individual entitled thereto, or to avoid or reduce any contribution or other payment required from an employing unit under this Act, or who wilfully fails or refuses to make any such contributions or other payment, or to furnish any reports required by this Act or by authority granted under this Act, or to produce or permit the inspection or copying of records as required hereunder, upon conviction thereof, shall be punished by a fine of not more than \$200.00 or by imprisonment for not longer than sixty days, or by both such fine and imprisonment.

Section 903. **Noncompliance with Subpoena of Agency.** Any person who, without just cause, fails or refuses to attend and testify or to answer any lawful inquiry or to produce books, papers, correspondence, memoranda and other records, if it is in his power so to do, in obedience to a subpoena of the

Commission, an appeal tribunal, or any duly authorized representative of any of them, upon conviction thereof, shall be fined not more than \$200 or imprisoned for not longer than sixty days, or both; and each day such failure or refusal continues shall constitute a separate offense.

Section 904. Violation of Law, Rules or Regulations. Any person who wilfully violates any provision of this Act or any order, rule, or regulation thereunder, the violation of which is made unlawful or the observance of which is required under the terms of this Act, and for which a penalty is neither prescribed in this Act nor provided by any other applicable statute, upon conviction thereof, shall be fined not more than \$200 or imprisoned for not longer than sixty days, or both.

Section 905. Unauthorized Disclosure of Information. If any member of the commission or any employee of the Commission in violation of the provisions of Section 323 makes any disclosure of information obtained from any employing unit or individual in the administration of this Act, or if any person who has obtained any list of applicants for work or of claimants or recipients of benefits under this Act uses or permits the use of such list for any purpose not authorized by Section 323, upon conviction thereof, shall be fined not more than \$200 or imprisoned for not longer than ninety days, or both.

ARTICLE X. MISCELLANEOUS

PROVISIONS

Section 1001. Non-Liability of Territory. Benefits shall be deemed to be due and payable under this Act only to the extent provided in this Act and to the extent that moneys are available therefor to the credit of the Unemployment Fund, and the liability of the Territory and the Commission shall be limited accordingly.

Section 1002. Amendment or Repeal. 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 right of any kind against the Territory as the result of such amendment or repeal.

Section 1003. Separability Clause. If any provision of this Act, or the application thereof to any person or circumstance, is held invalid, the remainder of this Act, and the application of such provisions to other persons or circumstances, shall not be affected thereby.

Section 1004. Termination. If at any time the Federal Unemployment Tax Act shall be amended or repealed by Congress or held unconstitutional by the Supreme Court of the United States, with the result that no portion of the contributions required under this Act may be credited against the tax imposed by said Federal Act, in such event, the Commission shall send immediate notice of such fact to the Governor of the Territory who may, because of the danger to the welfare of the people of this Territory, call a special session

of the Legislature, if necessary, so that it may take measures designed either to effectuate the purpose of this Act or terminate its operations. Pending such determination by the Legislature, the Commission shall requisition from the Unemployment Trust Fund all moneys therein standing to its credit, which, together with any other moneys in the Unemployment Fund, so long as such moneys are available, shall be used for the payment of benefits in accordance with the provisions of this Act.

Section 1011. Continuation of Regulations, Agreements, Accounts, Etc. All rules, regulations, procedures, policies, funds, contracts, agreements, employees' positions, accounts, assets, liabilities, and benefit conditions and amounts, whether vested or contingent, established in any manner under the authority of the Alaska Employment Security Law, are hereby continued, except where inconsistent with the provisions of this Act.

Section 1012. Assumption of Rights and Liabilities of Commission. Upon their appointment under this Act, the members of the Commission established by this Act shall assume, and are hereby

granted, all rights, liabilities, powers and duties of the Alaska Employment Security Commission, except where inconsistent with the provisions of this Act.

Section 1013. Study of Benefit Formulas. The Commission is hereby directed to obtain such information and conduct such studies as will enable the next Legislature to judge the merits of benefit formulas other than the type prescribed in this Act, with special reference to a formula by which benefit rights would be determined according to high quarter wages.

Section 1014. Repealer. Chapter 5 of Title 51, ACLA 1949, as amended and expanded by Chapters 25, 53, and 112 SLA 1949, Chapters 10, 11, and 98 SLA 1951, Chapters 82, 83, 99, 113 and 125 SLA 1953, and Chapter 116 SLA 1955, are hereby repealed and all other acts and parts of acts in conflict with this Act are hereby repealed to the extent of such conflict.

Section 1015. An emergency is hereby declared to exist, and this Act shall take effect, except insofar as otherwise provided herein, immediately upon its passage and approval, or upon its becoming law without such approval.