

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2728 Session of  
2002

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JUNE 19, 2002

REFERRED TO COMMITTEE ON LABOR RELATIONS, JUNE 19, 2002

AN ACT

1 Amending the act of December 5, 1936 (2nd Sp.Sess., 1937  
2 P.L.2897, No.1), entitled "An act establishing a system of  
3 unemployment compensation to be administered by the  
4 Department of Labor and Industry and its existing and newly  
5 created agencies with personnel (with certain exceptions)  
6 selected on a civil service basis; requiring employers to  
7 keep records and make reports, and certain employers to pay  
8 contributions based on payrolls to provide moneys for the  
9 payment of compensation to certain unemployed persons;  
10 providing procedure and administrative details for the  
11 determination, payment and collection of such contributions  
12 and the payment of such compensation; providing for  
13 cooperation with the Federal Government and its agencies;  
14 creating certain special funds in the custody of the State  
15 Treasurer; and prescribing penalties," further providing for  
16 definitions; providing for referral for suitable work; and  
17 further providing for determination of contribution rate and  
18 experience rating, for establishment and maintenance of  
19 employer's reserve accounts, for qualifications required to  
20 secure compensation, for ineligibility for compensation, for  
21 eligibility of officers of a corporation deemed to be self-  
22 employed persons, for rate and amount of compensation, for  
23 determination of compensatory appeals, for decision of  
24 referee and further appeals and reviews, for rules of  
25 procedure and for finality of decisions.

26 The General Assembly of the Commonwealth of Pennsylvania

1 hereby enacts as follows:

2 Section 1. Section 4(a), (t) and (w)(2) of the act of  
3 December 5, 1936 (2nd Sp.Sess., 1937 P.L.2897, No.1), known as  
4 the Unemployment Compensation Law, amended May 23, 1949  
5 (P.L.1738, No.530), September 27, 1971 (P.L.460, No.108) and  
6 July 10, 1980 (P.L.521, No.108), is amended and the section is  
7 amended by adding a definition to read:

8 Section 4. Definitions.--The following words and phrases, as  
9 used in this act, shall have the following meanings, unless the  
10 context clearly requires otherwise.

11 (a) "Average working wage" means the qualifying total base  
12 year wages of an employe divided by the total number of credit  
13 weeks in the base year, regardless of any limit on the number of  
14 credit weeks used to qualify for or calculate benefits.

15 [(a)] (a.1) "Base year" means the first four of the last  
16 five completed calendar quarters immediately preceding the first  
17 day of an individual's benefit year.

18 \* \* \*

19 (t) "Suitable Work" means all work which the employe is  
20 capable of performing. In determining whether or not any work is  
21 suitable for an individual, the department shall consider the  
22 degree of risk involved to his health, safety and morals, his  
23 physical fitness, prior training and experience, and the  
24 distance of the available work from his residence. The  
25 department shall also consider among other factors the length of  
26 time he has been unemployed and the reasons therefor, the  
27 prospect of obtaining local work in his customary occupation,  
28 his previous earnings, the prevailing condition of the labor  
29 market generally and particularly in his usual trade or  
30 occupation, prevailing wage rates in his usual trade or

1 occupation, and the permanency of his residence. However, after  
2 ten weeks of collecting unemployment compensation, the term  
3 "suitable work" shall mean any work which is within the  
4 individual's capabilities and pays wages not less than the  
5 higher of the minimum wage under section 6(a)(1) of the Fair  
6 Labor Standards Act of 1938 (52 Stat. 1060, 29 U.S.C. §  
7 601(a)(1)) or the minimum wage under section 4 of the act of  
8 January 17, 1968 (P.L.11, No.5), known as "The Minimum Wage Act  
9 of 1968": Provided, however, That the gross average weekly  
10 remuneration payable for the work must exceed the sum of the  
11 individual's weekly benefit amount and the amount, if any, of  
12 supplemental unemployment benefits, as defined in section  
13 501(c)(17)(D) of the Internal Revenue Code of 1954 (68A Stat. 3,  
14 26 U.S.C. § 501(c)(17)(D)), payable to the individual for the  
15 week; Provided further, That, notwithstanding any other  
16 provisions of this subsection no work shall be deemed suitable  
17 in which (1) the position offered is vacant, due directly to a  
18 strike, lockout, or other labor dispute, or (2) the  
19 remuneration, hours or other conditions of the work offered are  
20 substantially less favorable to the employe than those  
21 prevailing for similar work in the locality, or (3) as a  
22 condition of being employed, the employe would be required to  
23 join a company union, or to resign from, or refrain from  
24 joining, any bona fide labor organization.

25 \* \* \*

26 (w) \* \* \*

27 (2) An application for benefits filed after the termination  
28 of a preceding benefit year by an individual shall not be  
29 considered a Valid Application for Benefits within the meaning  
30 of this subsection, unless such individual has, subsequent to

1 the beginning of such preceding benefit year and prior to the  
2 filing of such application, worked and earned wages, [whether or  
3 not such work is] in "employment" as defined in this act in an  
4 amount equal to or in excess of [six (6)] ten (10) times his  
5 weekly benefit rate in effect during such preceding benefit  
6 year[.] and worked and earned wages, in "employment" as defined  
7 in this act, in ten (10) separate weeks.

8 \* \* \*

9 Section 2. The act is amended by adding a section to read:

10 Section 212. Referral for Suitable Work.--The employment  
11 offices, job centers and the telephone service centers shall  
12 automatically refer all claimants entitled to regular benefits  
13 or extended benefits to suitable work via the job centers and  
14 the career link offices in the county in which the claimant  
15 resides.

16 Section 3. Section 301.1(c)(1) and (e) of the act, amended  
17 July 21, 1983 (P.L.68, No.30), are amended to read:

18 Section 301.1. Determination of Contribution Rate;  
19 Experience Rating.--

20 \* \* \*

21 (c) (1) When, as of the computation date, there is a  
22 credit, zero or debit balance in such employer's reserve  
23 account, which balance shall include (i) contributions with  
24 respect to the period ending on the computation date and paid on  
25 or before September fifteenth immediately following such  
26 computation date, (ii) benefits paid on or before computation  
27 date, and shall also include any voluntary payments made in  
28 accordance with subsection (b) of section 302 of this act, his  
29 Reserve Ratio Factor for the respective calendar year thereafter  
30 shall be as set forth in the table below.

1	[Table	
2	Reserve Ratio Factor - 1984 Rates	
3	Employers Reserve Account as a	Reserve
4	Percentage of Taxable Wages	Ratio Factor
5	Greater than 25%	0.0
6	Greater than or equal to 22% but less than 25%	0.1
7	Greater than or equal to 19% but less than 22%	0.2
8	Greater than or equal to 16% but less than 19%	0.3
9	Greater than or equal to 13% but less than 16%	0.4
10	Greater than or equal to 10% but less than 13%	0.5
11	Greater than or equal to 7% but less than 10%	0.6
12	Greater than or equal to 4% but less than 7%	0.7
13	Greater than or equal to 3% but less than 4%	0.8
14	Greater than or equal to 2% but less than 3%	0.9
15	Greater than or equal to 0% but less than 2%	1.0
16	Less than 0% but greater than -2%	1.1
17	Less than or equal to -2% but greater than -4%	1.2
18	Less than or equal to -4% but greater than -6%	1.3
19	Less than or equal to -6% but greater than -8%	1.4
20	Less than or equal to -8% but greater than -10%	1.5
21	Less than or equal to -10% but greater than -12%	1.6
22	Less than or equal to -12% but greater than -14%	1.7
23	Less than or equal to -14% but greater than -16%	1.8
24	Less than or equal to -16% but greater than -18%	1.9
25	Less than or equal to -18% or lower	2.0

26	Table	
27	Reserve Ratio Factor - 1985 Rates	
28	Employers Reserve Account as a	Reserve
29	Percentage of Taxable Wages	Ratio Factor
30	Greater than 25%	0.0

1	Greater than or equal to 21% but less than 25%	0.1
2	Greater than or equal to 18% but less than 21%	0.2
3	Greater than or equal to 15% but less than 18%	0.3
4	Greater than or equal to 12% but less than 15%	0.4
5	Greater than or equal to 9% but less than 12%	0.5
6	Greater than or equal to 7% but less than 9%	0.6
7	Greater than or equal to 5% but less than 7%	0.7
8	Greater than or equal to 3% but less than 5%	0.8
9	Greater than or equal to 1% but less than 3%	0.9
10	Greater than or equal to 0% but less than 1%	1.0
11	Less than 0% but greater than -1%	1.1
12	Less than or equal to -1% but greater than -2%	1.2
13	Less than or equal to -2% but greater than -3%	1.3
14	Less than or equal to -3% but greater than -4%	1.4
15	Less than or equal to -4% but greater than -5%	1.5
16	Less than or equal to -5% but greater than -6%	1.6
17	Less than or equal to -6% but greater than -7%	1.7
18	Less than or equal to -7% but greater than -8%	1.8
19	Less than or equal to -8% but greater than -9%	1.9
20	Less than or equal to -9% but greater than -10%	2.0
21	Less than or equal to -10% but greater than -15%	2.1
22	Less than or equal to -15% but greater than -20%	2.2
23	Less than or equal to -20% or lower	2.3]

24	Table	
25	Reserve Ratio Factor - 1986 [and thereafter] <u>through 2001</u>	Rates
26	Employers Reserve Account as a	Reserve
27	Percentage of Taxable Wages	Ratio Factor
28	Greater than 25%	0.0
29	Greater than or equal to 21% but less than 25%	0.3
30	Greater than or equal to 18% but less than 21%	0.4

1	Greater than or equal to 15% but less than 18%	0.5
2	Greater than or equal to 12% but less than 15%	0.6
3	Greater than or equal to 9% but less than 12%	0.7
4	Greater than or equal to 7% but less than 9%	0.8
5	Greater than or equal to 5% but less than 7%	0.9
6	Greater than or equal to 3% but less than 5%	1.0
7	Greater than or equal to 1% but less than 3%	1.1
8	Greater than or equal to 0% but less than 1%	1.2
9	Less than 0% but greater than -1%	1.3
10	Less than or equal to -1% but greater than -2%	1.4
11	Less than or equal to -2% but greater than -3%	1.5
12	Less than or equal to -3% but greater than -4%	1.6
13	Less than or equal to -4% but greater than -5%	1.7
14	Less than or equal to -5% but greater than -6%	1.8
15	Less than or equal to -6% but greater than -7%	1.9
16	Less than or equal to -7% but greater than -8%	2.0
17	Less than or equal to -8% but greater than -9%	2.1
18	Less than or equal to -9% but greater than -10%	2.2
19	Less than or equal to -10% but greater than -11%	2.3
20	Less than or equal to -11% but greater than -12%	2.4
21	Less than or equal to -12% but greater than -16%	2.5
22	Less than or equal to -16% but greater than -20%	2.6
23	Less than or equal to -20% or lower	2.7

24	<u>Table</u>	
25	<u>Reserve Ratio Factor - 2002 and thereafter Rates</u>	
26	<u>Employers Reserve Account as a</u>	<u>Reserve</u>
27	<u>Percentage of Taxable Wages</u>	<u>Ratio Factor</u>
28	<u>Greater than 100%</u>	<u>-0.4</u>
29	<u>Greater than or equal to 75% but less than 100%</u>	<u>-0.3</u>
30	<u>Greater than or equal to 50% but less than 75%</u>	<u>-0.2</u>

1	<u>Greater than or equal to 25% but less than 50%</u>	<u>0.0</u>
2	<u>Greater than or equal to 21% but less than 25%</u>	<u>0.3</u>
3	<u>Greater than or equal to 18% but less than 21%</u>	<u>0.4</u>
4	<u>Greater than or equal to 15% but less than 18%</u>	<u>0.5</u>
5	<u>Greater than or equal to 12% but less than 15%</u>	<u>0.6</u>
6	<u>Greater than or equal to 9% but less than 12%</u>	<u>0.7</u>
7	<u>Greater than or equal to 7% but less than 9%</u>	<u>0.8</u>
8	<u>Greater than or equal to 5% but less than 7%</u>	<u>0.9</u>
9	<u>Greater than or equal to 3% but less than 5%</u>	<u>1.0</u>
10	<u>Greater than or equal to 1% but less than 3%</u>	<u>1.1</u>
11	<u>Greater than or equal to 0% but less than 1%</u>	<u>1.2</u>
12	<u>Less than 0% but greater than -1%</u>	<u>1.3</u>
13	<u>Less than or equal to -1% but greater than -2%</u>	<u>1.4</u>
14	<u>Less than or equal to -2% but greater than -3%</u>	<u>1.5</u>
15	<u>Less than or equal to -3% but greater than -4%</u>	<u>1.6</u>
16	<u>Less than or equal to -4% but greater than -5%</u>	<u>1.7</u>
17	<u>Less than or equal to -5% but greater than -6%</u>	<u>1.8</u>
18	<u>Less than or equal to -6% but greater than -7%</u>	<u>1.9</u>
19	<u>Less than or equal to -7% but greater than -8%</u>	<u>2.0</u>
20	<u>Less than or equal to -8% but greater than -9%</u>	<u>2.1</u>
21	<u>Less than or equal to -9% but greater than -10%</u>	<u>2.2</u>
22	<u>Less than or equal to -10% but greater than -11%</u>	<u>2.3</u>
23	<u>Less than or equal to -11% but greater than -12%</u>	<u>2.4</u>
24	<u>Less than or equal to -12% but greater than -16%</u>	<u>2.5</u>
25	<u>Less than or equal to -16% but greater than -20%</u>	<u>2.6</u>
26	<u>Less than or equal to -20% or lower</u>	<u>2.7</u>

27 \* \* \*

28 (e) The State Adjustment Factor for the calendar year  
29 beginning January 1, 1984, shall be one and five-tenths per  
30 centum (1.5%) and thereafter shall be computed as of the



1 computation date for such year to a tenth of a per centum,  
2 rounding all fractional parts of a tenth of a per centum to the  
3 nearest tenth of a per centum, but in no event less than zero  
4 nor in excess of one and five-tenths per centum (1.5%),  
5 according to the following formula:

$$\begin{array}{r} 6 \quad \text{Bdr} - \text{Dcr} \\ 7 \quad \text{-----} \quad \times 100 = \text{State Adjustment Factor} \\ 8 \quad \text{Wt} \end{array}$$

9 in which factor "Bdr" equals the aggregate of (1) all benefits  
10 paid but not charged to employers' accounts, plus, (2) all  
11 benefits paid and charged to inactive and terminated employers'  
12 accounts, plus, (3) all benefits paid and charged to accounts of  
13 active employers for the preceding year to the extent such  
14 benefits exceed the combined amount of contributions payable by  
15 such employers on the basis of the Benefit Ratio Factor and the  
16 Reserve Ratio Factor. Factor "Dcr" equals the aggregate of (1)  
17 interest credited to the Unemployment Compensation Fund, plus,  
18 (2) amounts transferred from the Special Administration Fund and  
19 the Interest Fund to the Unemployment Compensation Fund, plus,  
20 (3) refunds of benefits unlawfully paid, plus, (4) amounts  
21 credited to the Unemployment Compensation Fund by the Federal  
22 Government other than by loan, except that any amount credited  
23 to this Commonwealth's account under section 903 of the Federal  
24 Social Security Act which has been appropriated for expenses of  
25 administration shall be excluded from the amount in the  
26 Unemployment Compensation Fund in the computation of the "Dcr"  
27 factor. Factor "Wt" equals all wages subject to the law up to  
28 the limitation described in section 4(x)(1) paid by all  
29 employers. Each item in each factor shall be computed with  
30 respect to the twelve-month period ending on the computation

1 date: Provided, That should the computed State Adjustment Factor  
2 for calendar year 1984, and any year thereafter exceed one and  
3 five-tenths per centum (1.5%), such excess over one and five-  
4 tenths per centum (1.5%) shall be added to the computed State  
5 Adjustment Factor for the following year or years. Any account  
6 carryover prior to 2002 shall not be included in the  
7 calculations for 2002 or thereafter.

8 \* \* \*

9 Section 4. Section 302(a)(1) of the act, amended July 21,  
10 1983 (P.L.68, No.30), is amended to read:

11 Section 302. Establishment and Maintenance of Employer's  
12 Reserve Accounts.--The department shall establish and maintain  
13 for each employer a separate employer's reserve account in the  
14 following manner:

15 (a) (1) Such account shall be credited with all  
16 contributions paid by such employer for periods subsequent to  
17 June thirtieth, one thousand nine hundred forty-eight. Such  
18 account shall be charged with an amount determined by  
19 multiplying the wages of compensated employes of such employer  
20 for the twelve month period ended June thirtieth, one thousand  
21 nine hundred forty-nine, by the state experience heretofore used  
22 in determining rates of contributions for the year one thousand  
23 nine hundred forty-nine. Subsequent to January 1, 1984, such  
24 account shall be charged with all compensation, including  
25 dependents' allowances, paid to each individual who received  
26 from such employer wage credits constituting the base of such  
27 compensation, in the proportion that such wage credits with such  
28 employer bears to the total wage credits received by such  
29 individual from all employers: Provided, That if the department  
30 finds that such individual was separated from his most recent

1 work for such employer due to being discharged for willful  
2 misconduct connected with such work, or due to his leaving such  
3 work without good cause attributable to his employment, or due  
4 to his being separated from such work under conditions which  
5 would be disqualifying for benefits under the provisions of  
6 section 3, thereafter no compensation paid to such individual  
7 with respect to any week of unemployment occurring subsequent to  
8 such separation, which is based upon wages paid by such employer  
9 with respect to employment prior to such separation, shall be  
10 charged to such employer's account under the provisions of this  
11 subsection (a); provided, such employer has filed a notice with  
12 the department in accordance with its rules and regulations and  
13 within the time limits prescribed therein; and provided if the  
14 department finds that such individual's unemployment is directly  
15 caused by a major natural disaster declared by the President  
16 pursuant to section 102(1) of the Disaster Relief Act of 1970  
17 (P.L.91-606) and such individual would have been eligible for  
18 disaster unemployment assistance as provided in section 240 of  
19 that act with respect to such unemployment but for the receipt  
20 of unemployment compensation, no compensation paid to such  
21 individual with respect to any week of unemployment occurring  
22 due to such natural disaster, to a maximum of the eight weeks  
23 immediately following the President's declaration of emergency,  
24 shall be charged to the employer's account under the provisions  
25 of this subsection.

26 \* \* \*

27 Section 5. Section 401(f) of the act, amended September 27,  
28 1971 (P.L.460, No.108), is amended to read:

29 Section 401. Qualifications Required to Secure  
30 Compensation.--Compensation shall be payable to any employe who

1 is or becomes unemployed, and who--

2 \* \* \*

3 (f) Has earned, subsequent to his separation from work under  
4 circumstances which are disqualifying under the provisions of  
5 subsections 402(b), 402(e) and 402(h) of this act, remuneration  
6 for services in an amount equal to or in excess of [six (6)] ten  
7 (10) times his weekly benefit rate [irrespective of whether or  
8 not such services were] in "employment" as defined in this  
9 act[.] and earned wages for "employment" as defined in this act,  
10 in ten (10) separate "weeks." The provisions of this subsection  
11 shall not apply to a suspension of work by an individual  
12 pursuant to a leave of absence granted by his last employer,  
13 provided such individual has made a reasonable effort to return  
14 to work with such employer upon the expiration of his leave of  
15 absence.

16 \* \* \*

17 Section 6. Section 402(b) of the act, amended October 22,  
18 1981 (P.L.301, No. 106), is amended and the section is amended  
19 by adding a subsection to read:

20 Section 402. Ineligibility for Compensation.--An employe  
21 shall be ineligible for compensation for any week--

22 \* \* \*

23 (b) In which his unemployment is due to voluntarily leaving  
24 work without cause of a necessitous and compelling nature  
25 attributable to his employment, irrespective of whether or not  
26 such work is in "employment" as defined in this act: Provided,  
27 That a voluntary leaving work because of a work-related  
28 disability if the employer is able to provide other suitable  
29 work, shall be deemed not a cause of a necessitous and  
30 compelling nature attributable to his employment: And provided

1 further, That no employe shall be deemed to be ineligible under  
2 this subsection where as a condition of continuing in employment  
3 such employe would be required to join or remain a member of a  
4 company union or to resign from or refrain from joining any bona  
5 fide labor organization, or to accept wages, hours or conditions  
6 of employment not desired by a majority of the employes in the  
7 establishment or the occupation, or would be denied the right of  
8 collective bargaining under generally prevailing conditions, and  
9 that in determining whether or not an employe has left his work  
10 voluntarily without cause of a necessitous and compelling nature  
11 attributable to his employment, the department shall give  
12 consideration to the same factors, insofar as they are  
13 applicable, provided, with respect to the determination of  
14 suitable work under section four (t): And provided further, That  
15 the provisions of this subsection shall not apply in the event  
16 of a stoppage of work which exists because of a labor dispute  
17 within the meaning of subsection (d). Provided further, That no  
18 otherwise eligible claimant shall be denied benefits for any  
19 week in which his unemployment is due to exercising the option  
20 of accepting a layoff, from an available position pursuant to a  
21 labor-management contract agreement, or pursuant to an  
22 established employer plan, program or policy: Provided further,  
23 That a claimant shall not be disqualified for voluntarily  
24 leaving work, which is not suitable employment to enter training  
25 approved under section 236(a)(1) of the Trade Act of 1974. For  
26 purposes of this subsection the term "suitable employment" means  
27 with respect to a claimant, work of a substantially equal or  
28 higher skill level than the claimant's past "adversely affected  
29 employment" (as defined in section 247 of the Trade Act of  
30 1974), and wages for such work at not less than eighty per

centum of the worker's "average weekly wage" (as defined in section 247 of the Trade Act of 1974).

\* \* \*

(e.1) In which his unemployment is due to his discharge or temporary suspension from work due to his failure to pass a drug or alcohol test administered by an independent laboratory. Furthermore, the laboratory report indicating, reporting, showing or demonstrating the existence or nonexistence of any drug or alcohol shall be deemed as admissible evidence in and of itself; and therefore, the laboratory report shall be considered medical fact. No one shall have the burden of producing witnesses to establish the fact of the laboratory results.

\* \* \*

Section 7. Section 402.4(a) of the act, added July 21, 1983 (P.L.68, No.30), is amended to read:

Section 402.4. Eligibility of Officers of a Corporation Deemed to be Self-Employed Persons.--(a) Notwithstanding any other provision of this act, an officer of a corporation deemed to be a self-employed person because he exercised a substantial degree of control over the corporation and who becomes unemployed due to the fact that the corporation has a cessation of business through no fault of its own, such as, but not limited to, a disaster or enters into involuntary bankruptcy proceedings under the provisions of Chapter 7, Title 11 of the United States Code shall be entitled to receive unemployment compensation under this act: Provided, That the wages paid to the officer of a corporation deemed to be a self-employed person were mandatorily subject to this act.

\* \* \*

Section 8. Section 404(a), (b), (c), (d)(1) and (e)(1) and

1 (2) of the act, amended March 24, 1964 (Sp.Sess., P.L.53, No.1),  
2 July 17, 1968 (P.L.21, No.6), July 10, 1980 (P.L.521, No.108),  
3 July 21, 1983 (P.L.68, No.30) and October 19, 1988 (P.L.818,  
4 No.109), is amended to read:

5 Section 404. Rate and Amount of Compensation.--Compensation  
6 shall be paid to each eligible employee in accordance with the  
7 following provisions of this section except that compensation  
8 payable with respect to weeks ending in benefit years which  
9 begin prior to the first day of January [1989] 2002 shall be  
10 paid on the basis of the provisions of this section in effect at  
11 the beginning of such benefit years.

12 (a) [(1)] The employee's weekly benefit rate shall be  
13 computed as [(1) the amount appearing in Part B of the Table  
14 Specified for the Determination of Rate and Amount of Benefits  
15 on the line on which in Part A there appears his "highest  
16 quarterly wage," or (2)] fifty per centum (50%) of his [full-  
17 time weekly] average working wage[, whichever is greater.] in  
18 the employee's base year: Provided the employee's base year wages  
19 are sufficient to qualify for the minimum weekly benefit of  
20 thirty-five dollars (\$35) or more. If the employee's weekly  
21 benefit rate is not a multiple of one dollar (\$1), it shall be  
22 rounded to the next lower multiple of one dollar (\$1).

23 [(2) If the base year wages of an employee whose weekly  
24 benefit rate has been determined under clause (2) of paragraph  
25 (1) of this subsection are insufficient to qualify him under  
26 subsection (c) of this section, his weekly benefit rate shall be  
27 redetermined under clause (1) of paragraph (1) of this  
28 subsection.

29 (3) If the base year wages of an employee whose weekly  
30 benefit rate has been determined under clause (1) of paragraph

1 (1) of this subsection, or redetermined under paragraph (2) of  
2 this subsection, as the case may be, are insufficient to qualify  
3 him under subsection (c) of this section but are sufficient to  
4 qualify him for any one of the next three lower weekly benefit  
5 rates, his weekly benefit rate shall be redetermined at the  
6 highest of such next lower rates.

7 (b) The "highest quarterly wages" of an employe shall be the  
8 total wages (computed to the nearest dollar) which were paid to  
9 such employe in that calendar quarter in which such total wages  
10 were highest during the base year.]

11 (c) [Any] The total amount of benefits to which an otherwise  
12 eligible employe [who has base year wages in an amount equal to,  
13 or in excess, of the amount of qualifying wages appearing in  
14 Part C of the Table Specified for the Determination of Rate and  
15 Amount of Benefits on the line on which in Part B there appears]  
16 is entitled is his weekly benefit rate, as determined under  
17 subsection (a) of this section, [shall be entitled during his  
18 benefit year to the amount appearing in Part D on said line]  
19 multiplied by the number of qualifying credit weeks during his  
20 base year, up to a maximum of twenty-six (26): Provided he had  
21 eighteen (18) or more "credit weeks" during his base year [or  
22 Part E provided he had sixteen (16) or seventeen (17) "credit  
23 weeks" during his base year]. Notwithstanding any other  
24 provision of this act, any employe with less than [sixteen (16)]  
25 eighteen (18) "credit weeks" during the employe's base year  
26 shall be ineligible to receive any amount of compensation.

27 (d) (1) Notwithstanding any other provisions of this  
28 section each eligible employe who is unemployed with respect to  
29 any week ending subsequent to [July 1, 1980] January 1, 2002,  
30 shall be paid, with respect to such week, compensation in an



1 amount equal to his weekly benefit rate less the total of (i)  
2 the remuneration, if any, paid or payable to him with respect to  
3 such week for services performed which is in excess of his  
4 partial benefit credit and (ii) vacation pay, if any, which is  
5 in excess of his partial benefit credit, [except when paid to an  
6 employe who is permanently or indefinitely separated from his  
7 employment.] and (iii) any other payment, if any, which is in  
8 excess of his partial benefit credit, that the employer would be  
9 required to report to the department on the quarterly report for  
10 unemployment compensation, irrespective of the limit on the  
11 amount of wages subject to contributions. These payments shall  
12 include, but are not limited to, severance, separation or  
13 termination pay paid or payable to him.

14 \* \* \*

15 (e) [(1) Table Specified for the Determination of  
16 Rate and Amount of Benefits

17 Part A

18 Highest	Part B	Part C	Part D	Part E
19 Quarterly	Rate of	Qualifying	Amount of	Compensation
20 Wage	Compensation	Wages		
21 \$ 800-812	\$35	\$1320	\$ 910	\$ 560
22 813-837	36	1360	936	576
23 838-862	37	1400	962	592
24 863-887	38	1440	988	608
25 888-912	39	1480	1014	624
26 913-937	40	1520	1040	640
27 938-962	41	1560	1066	656
28 963-987	42	1600	1092	672
29 988-1012	43	1640	1118	688

1	1013-1037	44	1680	1144	704
2	1038-1062	45	1720	1170	720
3	1063-1087	46	1760	1196	736
4	1088-1112	47	1800	1222	752
5	1113-1162	48	1840	1248	768
6	1163-1187	49	1880	1274	784
7	1188-1212	50	1920	1300	800
8	1213-1237	51	1960	1326	816
9	1238-1262	52	2000	1352	832
10	1263-1287	53	2040	1378	848
11	1288-1312	54	2080	1404	864
12	1313-1337	55	2120	1430	880
13	1338-1362	56	2160	1456	896
14	1363-1387	57	2200	1482	912
15	1388-1412	58	2240	1508	928
16	1413-1437	59	2280	1534	944
17	1438-1462	60	2320	1560	960
18	1463-1487	61	2360	1586	976
19	1488-1512	62	2400	1612	992
20	1513-1537	63	2440	1638	1008
21	1538-1562	64	2480	1664	1024
22	1563-1587	65	2520	1690	1040
23	1588-1612	66	2560	1716	1056
24	1613-1637	67	2600	1742	1072
25	1638-1662	68	2640	1768	1088
26	1663-1687	69	2680	1794	1104
27	1688-1712	70	2720	1820	1120
28	1713-1737	71	2760	1846	1136
29	1738-1762	72	2800	1872	1152
30	1763-1787	73	2840	1898	1168

1	1788-1812	74	2880	1924	1184
2	1813-1837	75	2920	1950	1200
3	1838-1862	76	2960	1976	1216
4	1863-1887	77	3000	2002	1232
5	1888-1912	78	3040	2028	1248
6	1913-1937	79	3080	2054	1264
7	1938-1962	80	3120	2080	1280
8	1963-1987	81	3160	2106	1296
9	1988-2012	82	3200	2132	1312
10	2013-2037	83	3240	2158	1328
11	2038-2062	84	3280	2184	1344
12	2063-2087	85	3320	2210	1360
13	2088-2112	86	3360	2236	1376
14	2113-2137	87	3400	2262	1392
15	2138-2162	88	3440	2288	1408
16	2163-2187	89	3480	2314	1424
17	2188-2212	90	3520	2340	1440
18	2213-2237	91	3560	2366	1456
19	2238-2262	92	3600	2392	1472
20	2263-2287	93	3640	2418	1488
21	2288-2312	94	3680	2444	1504
22	2313-2337	95	3720	2470	1520
23	2338-2362	96	3760	2496	1536
24	2363-2387	97	3800	2522	1552
25	2388-2412	98	3840	2558	1568
26	2413-2437	99	3880	2574	1584
27	2438-2462	100	3920	2600	1600
28	2463-2487	101	3960	2626	1616
29	2488-2512	102	4000	2652	1632
30	2513-2537	103	4040	2678	1648

1	2538-2562	104	4080	2704	1664
2	2563-2587	105	4120	2730	1680
3	2588-2612	106	4160	2756	1696
4	2613-2637	107	4200	2782	1712
5	2638-2662	108	4240	2808	1728
6	2663-2687	109	4280	2834	1744
7	2688-2712	110	4320	2860	1760
8	2713-2737	111	4360	2886	1776
9	2738-2762	112	4400	2912	1792
10	2763-2787	113	4440	2938	1808
11	2788-2812	114	4480	2964	1824
12	2813-2837	115	4520	2990	1840
13	2838-2862	116	4560	3016	1856
14	2863-2887	117	4600	3042	1872
15	2888-2912	118	4640	3068	1888
16	2913-2937	119	4680	3094	1904
17	2938-2962	120	4720	3120	1920
18	2963-2987	121	4760	3146	1936
19	2988-3012	122	4800	3172	1952
20	3013-3037	123	4840	3198	1968
21	3038-3062	124	4880	3224	1984
22	3063-3087	125	4920	3250	2000
23	3088-3112	126	4960	3276	2016
24	3113-3137	127	5000	3302	2032
25	3138-3162	128	5040	3328	2048
26	3163-3187	129	5080	3354	2064
27	3188-3212	130	5120	3380	2080
28	3213-3237	131	5160	3406	2096
29	3238-3262	132	5200	3432	2112
30	3263-3287	133	5240	3458	2128

1	3288-3312	134	5280	3484	2144
2	3313-3337	135	5320	3510	2160
3	3338-3362	136	5360	3536	2176
4	3363-3387	137	5400	3562	2192
5	3388-3412	138	5440	3588	2208
6	3413-3437	139	5480	3614	2224
7	3438-3462	140	5520	3640	2240
8	3463-3487	141	5560	3666	2256
9	3488-3512	142	5600	3692	2272
10	3513-3537	143	5640	3718	2288
11	3538-3562	144	5680	3744	2304
12	3563-3587	145	5720	3770	2320
13	3588-3612	146	5760	3796	2336
14	3613-3637	147	5800	3822	2352
15	3638-3662	148	5840	3848	2368
16	3663-3687	149	5880	3874	2384
17	3688-3712	150	5920	3900	2400
18	3713-3737	151	5960	3926	2416
19	3738-3762	152	6000	3952	2432
20	3763-3787	153	6040	3978	2448
21	3788-3812	154	6080	4004	2464
22	3813-3837	155	6120	4030	2480
23	3838-3862	156	6160	4056	2496
24	3863-3887	157	6200	4082	2512
25	3888-3912	158	6240	4108	2528
26	3913-3937	159	6280	4134	2544
27	3938-3962	160	6320	4170	2560
28	3963-3987	161	6360	4196	2576
29	3988-4012	162	6400	4212	2592
30	4013-4037	163	6440	4238	2608

1	4038-4062	164	6480	4264	2624
2	4063-4087	165	6520	4290	2640
3	4088-4112	166	6560	4316	2656
4	4113-4137	167	6600	4342	2672
5	4138-4162	168	6640	4368	2688
6	4163-4187	169	6680	4394	2704
7	4188-4212	170	6720	4420	2720
8	4213-4237	171	6760	4446	2736
9	4238-4262	172	6800	4472	2752
10	4263-4287	173	6840	4498	2768
11	4288-4312	174	6880	4524	2784
12	4313-4337	175	6920	4550	2800
13	4338-4362	176	6960	4576	2816
14	4363-4387	177	7000	4602	2832
15	4388-4412	178	7040	4628	2848
16	4413-4437	179	7080	4654	2864
17	4438-4462	180	7120	4680	2880
18	4463-4487	181	7160	4706	2896
19	4488-4512	182	7200	4732	2912
20	4513-4537	183	7240	4758	2928
21	4538-4562	184	7280	4784	2944
22	4563-4587	185	7320	4810	2960
23	4588-4612	186	7360	4836	2976
24	4613-4637	187	7400	4862	2992
25	4638-4662	188	7440	4888	3008
26	4663-4687	189	7480	4914	3024
27	4688-4712	190	7520	4940	3040
28	4713-4737	191	7560	4966	3056
29	4738-4762	192	7600	4992	3072
30	4763-4787	193	7640	5018	3088

1	4788-4812	194	7680	5044	3104
2	4813-4837	195	7720	5070	3120
3	4838-4862	196	7760	5096	3136
4	4863-4887	197	7800	5122	3152
5	4888-4912	198	7840	5148	3168
6	4913-4937	199	7880	5174	3184
7	4938-4962	200	7920	5200	3200
8	4963-4987	201	7960	5226	3216
9	4988-5012	202	8000	5252	3232
10	5013-5037	203	8040	5278	3248
11	5038-5062	204	8080	5304	3264
12	5063 or more	205	*8120	5330	3280

13 \*(this figure subject to section 401(a)).]

14 (2) (i) The [Table Specified for the Determination of Rate  
15 and Amount of Benefits shall be extended or contracted annually,  
16 automatically by regulations promulgated by the secretary in  
17 accordance with the following procedure: for calendar year one  
18 thousand nine hundred seventy-two and for all subsequent  
19 calendar years, to a point where the] maximum weekly benefit  
20 rate [equals] shall equal sixty-six and two-thirds per centum of  
21 the average weekly wage for the [twelve-month] thirty-six-month  
22 period ending June 30 preceding each calendar year. If the  
23 maximum weekly benefit rate is not a multiple of one dollar  
24 (\$1), it shall be [increased by one dollar (\$1) and then]  
25 rounded to the next lower multiple of one dollar (\$1)[:

26 Provided, however, That effective with benefit years beginning  
27 the first Sunday at least thirty days after the effective date  
28 of this amendatory act, the per centum stated in this paragraph  
29 for establishing the maximum weekly benefit rate shall be sixty-  
30 two and two-thirds per centum for the remainder of calendar year

1 one thousand nine hundred seventy-four, sixty-four and two-  
2 thirds per centum for the calendar year one thousand nine  
3 hundred seventy-five, and sixty-six and two-thirds per centum  
4 for the calendar year one thousand nine hundred seventy-six and  
5 for all subsequent calendar years.

6 The Table Specified for the Determination of Rate and Amount  
7 of Benefits as so extended or contracted shall be effective only  
8 for those claimants whose benefit years begin on or after the  
9 first day of January of such calendar year.]

10 (ii) For the purpose of determining the maximum weekly  
11 benefit rate, the Pennsylvania average weekly wage in covered  
12 employment shall be computed on the basis of the total wages  
13 reported (irrespective of the limit on the amount of wages  
14 subject to contributions) for the [twelve-month] thirty-six-  
15 month period ending June 30 and this amount shall be divided by  
16 the average monthly number of covered workers (determined by  
17 dividing the total covered employment reported for the same  
18 [fiscal year by twelve] thirty-six-month period by thirty-six)  
19 to determine the average annual wage. The average annual wage  
20 thus obtained shall be divided by fifty-two and the average  
21 weekly wage thus determined rounded to the nearest cent. If the  
22 maximum weekly benefit rate as determined under paragraph (i) of  
23 this subsection is less than the maximum weekly benefit rate  
24 established for calendar year two thousand one, the maximum  
25 weekly benefit rate will be frozen until the calendar year in  
26 which the new maximum weekly benefit rate as determined under  
27 paragraph (i) of this subsection exceeds the maximum weekly  
28 benefit rate for calendar year two thousand one.

29 \* \* \*

30 Section 9. Section 501(b) of the act, amended May 29, 1945



1 (P.L.1145, No.408), is amended to read:

2 Section 501. Determination of Compensation Appeals.--\* \* \*

3 (b) Notice shall be given in writing to the last employer of  
4 the claimant stating that an application has been filed by the  
5 designated employee. Furthermore, the last employer and the  
6 separating employer shall be furnished a copy of any written  
7 statement provided by the claimant or on the claimant's behalf,  
8 relating to that individual employer's employment or separation  
9 from employment of the claimant, if the employer makes such a  
10 request in writing. The claimant has the same right to receive a  
11 copy of any written statement provided by his last or separating  
12 employer, provided he makes such written request.

13 \* \* \*

14 Section 10. Section 502 of the act, amended July 10, 1980  
15 (P.L.521, No.108), is amended to read:

16 Section 502. Decision of Referee; Further Appeals and  
17 Reviews.--Where an appeal from the determination or revised  
18 determination, as the case may be, of the department is taken, a  
19 referee shall, after affording the parties and the department  
20 reasonable opportunity for a fair hearing, affirm, modify, or  
21 reverse such findings of fact and the determination or revised  
22 determination, as the case may be, of the department as to him  
23 shall appear just and proper. The parties and their attorneys or  
24 other representatives of record and the department shall be duly  
25 notified of the time and place of the referee's hearing and of  
26 the referee's decision, and the reasons therefor, which shall be  
27 deemed the final decision of the board, unless an appeal is  
28 filed therefrom, within fifteen days after the date of such  
29 decision the board acts on its own motion, to review the  
30 decision of the referee. A memorandum of testimony of any

1 hearing before any referee shall be made and be preserved for a  
2 period of ninety days following expiration of the period for  
3 filing an appeal from the final decision rendered in the case.

4 Section 11. Section 505 of the act, amended April 23, 1942  
5 (Sp.Sess., P.L.60, No.23), is amended to read:

6 Section 505. Rules of Procedure.--(a) (1) The manner in  
7 which appeals shall be taken, the reports thereon required from  
8 the department, the claimant and employers, and the conduct of  
9 hearings and appeals, shall be in accordance with rules of  
10 procedure prescribed by the board whether or not such rules  
11 conform to common law or statutory rules of evidence and other  
12 technical rules of procedure.

13 (2) When the same or substantially similar evidence is  
14 relevant and material to the matter in issue in applications and  
15 claims filed by more than one individual or in multiple  
16 applications and claims filed by a single individual the same  
17 time and place for considering each such application and claim  
18 may be fixed, hearings thereon jointly conducted, a single  
19 record of the proceedings made and evidence introduced with  
20 respect to any application or claim considered as introduced  
21 with respect to all of such applications or claims: Provided,  
22 That in the judgment of the board or referee having jurisdiction  
23 of the proceeding such consideration will not be prejudicial to  
24 any party.

25 (b) The board and its referees shall conduct their hearings  
26 de novo and may rule on any issue presented by the evidence. In  
27 their decisions they shall not be limited to ruling only on  
28 those matters specifically ruled upon in the department's  
29 initial determination.

30 (c) Where the appellant, after having been duly notified

1 according to law as to the time and place of the hearing, fails  
2 to appear for the hearing on time, the referee shall dismiss the  
3 appeal with prejudice and need not receive testimony or evidence  
4 as to the merits of the case or issue any decision with regard  
5 to the merits of the case.

6 Section 12. Section 509 of the act, amended April 14, 1976  
7 (P.L.113, No.50) and repealed in part April 28, 1978 (P.L.202,  
8 No.53), is amended to read:

9 Section 509. Finality of Decisions.--(a) Any decision made  
10 by the department or any referee or the board shall not be  
11 subject to collateral attack as to any application claim or  
12 claims covered thereby or otherwise be disturbed, unless  
13 appealed from.

14 (b) Subject to appeal proceedings and judicial review, any  
15 right, fact or matter in issue which was directly passed upon or  
16 necessarily involved in any decision of a referee or the board  
17 or the Court and which has become final shall be conclusive for  
18 all purposes of this act and shall not be subject to collateral  
19 attack as among all affected parties who had notice of such  
20 decision: Provided, however, That whenever an appeal involves a  
21 question as to whether services were performed by a claimant in  
22 employment or for an employer or whether remuneration paid  
23 constituted wages, a decision thereon shall not be conclusive as  
24 to an employing entity's liability for contributions unless the  
25 employing entity was given special notice of such issue and of  
26 the pendency of the appeal and was afforded a reasonable  
27 opportunity by the referee or the board to adduce evidence  
28 bearing on such question.

29 (c) No finding of fact or law, judgment, conclusion or final  
30 order made with respect to a claim for unemployment compensation

1 under this act may be conclusive or binding or used as evidence  
2 in any separate or subsequent action or proceeding in another  
3 forum, except proceedings under this act, regardless of whether  
4 the prior action was between the same or related parties or  
5 involved the same facts and issues.

6       Section 13. The provisions of this act are severable. If any  
7 provision of this act or its application to any person or  
8 circumstance is held invalid, the invalidity shall not affect  
9 other provisions or applications of this act which can be given  
10 effect without the invalid provision or application.

11       Section 14. This act shall take effect immediately.