

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1878 Session of
1991

INTRODUCED BY GLADECK, FARGO, HECKLER, LEH, MERRY, CLYMER, NOYE,
VROON, MARSICO AND SAURMAN, JULY 8, 1991

REFERRED TO COMMITTEE ON LABOR RELATIONS, JULY 8, 1991

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," providing for the
16 definition of "average working wage"; further providing for
17 the definitions of "average weekly wage", "credit week",
18 "partial benefit credit" and "suitable work"; further
19 providing for the State Unemployment Compensation Advisory
20 Council; providing for referral for suitable work; further
21 providing for contributions by employers and employees,
22 successors-in-interest and appeals; further providing for
23 determination of contribution rate and experience rating;
24 further providing for trigger determination and for trigger
25 rate determination; further providing for qualifications
26 required to secure compensation, for ineligibility for
27 compensation and for rate and amount of compensation; further
28 providing for total extended benefit amount; and providing
29 for review of the Unemployment Compensation Fund.

30 The General Assembly of the Commonwealth of Pennsylvania

31 hereby enacts as follows:

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

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

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

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

17 * * *

18 (g.1) "Credit week" means any calendar week in an
19 individual's base year with respect to which he was paid in
20 employment as defined in this act, remuneration of not less than
21 [fifty dollars (\$50).] the product obtained by multiplying
22 twenty times the minimum hourly wage, as set forth in section 4
23 of the act of January 17, 1968 (P.L.11, No.5), known as "The
24 Minimum Wage Act of 1968." Only one credit week can be
25 established with respect to any one calendar week.

26 * * *

27 (m.3) "Partial Benefit Credit" means that part of the
28 remuneration, if any paid or payable to an individual with
29 respect to a week for which benefits are claimed under the
30 provisions of this act, which is not in excess of [forty per

1 centum (40%)] twenty-five per centum (25%) of the individual's
2 [weekly benefit rate or six dollars whichever is the greater]
3 remuneration. Such partial benefit credit if not a multiple of
4 one dollar (\$1) shall be computed to the next [higher] lower
5 multiple of one dollar (\$1).

6 * * *

7 (t) "Suitable Work" means all work which the employe is
8 capable of performing. In determining whether or not any work is
9 suitable for an individual, the department shall consider the
10 degree of risk involved to his health, safety and morals, his
11 physical fitness, prior training and experience, and the
12 distance of the available work from his residence. The
13 department shall also consider among other factors the length of
14 time he has been unemployed and the reasons therefor, the
15 prospect of obtaining local work in his customary occupation,
16 his previous earnings, the prevailing condition of the labor
17 market generally and particularly in his usual trade or
18 occupation, prevailing wage rates in his usual trade or
19 occupation, and the permanency of his residence. However, after
20 ten weeks of collecting unemployment compensation, the term
21 "Suitable Work" shall mean any work which is within the
22 individual's capabilities and pays wages not less than the
23 higher of the minimum wage under section 6(a)(1) of the Fair
24 Labor Standards Act of 1938 (52 Stat. 1060, 29 U.S.C. §
25 601(a)(1)) or the minimum wage under section 4 of the act of
26 January 17, 1968 (P.L.11, No.5), known as "The Minimum Wage Act
27 of 1968": Provided, however, That the gross average weekly
28 remuneration payable for the work must exceed the sum of the
29 individual's weekly benefit amount and the amount, if any, of
30 supplemental unemployment benefits, as defined in section

1 501(c)(17)(D) of the Internal Revenue Code of 1954 (68A Stat. 3,
2 26 U.S.C. § 501(c)(17)(D)), payable to the individual for the
3 week: Provided further, That, notwithstanding any other
4 provisions of this subsection, no work shall be deemed suitable
5 in which (1) the position offered is vacant, due directly to a
6 strike, lockout, or other labor dispute, or (2) the
7 remuneration, hours or other conditions of the work offered are
8 substantially less favorable to the employe than those
9 prevailing for similar work in the locality, or (3) as a
10 condition of being employed, the employe would be required to
11 join a company union, or to resign from, or refrain from
12 joining, any bona fide labor organization.

13 * * *

14 (w) * * *

15 (2) An application for benefits filed after the termination
16 of a preceding benefit year by an individual shall not be
17 considered a Valid Application for Benefits within the meaning
18 of this subsection, unless such individual has, subsequent to
19 the beginning of such preceding benefit year and prior to the
20 filing of such application, worked and earned wages, [whether or
21 not such work is] in "employment" as defined in this act, in an
22 amount equal to or in excess of [six (6)] eighteen (18) times
23 his weekly benefit rate in effect during such preceding benefit
24 year.

25 * * *

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

27 Section 212. Referral for Suitable Work.--The employment
28 offices shall refer claimants entitled to regular benefits or
29 extended benefits to suitable work.

30 Section 3. Section 301(a)(3) and (4) of the act, amended

1 July 21, 1983 (P.L.68, No.30), are amended to read:

2 Section 301. Contributions by Employers and Employes;
3 Successors-In-Interest; Appeals.--

4 (a) * * *

5 [(3) Notwithstanding any other provisions of the act any
6 employer who becomes newly liable for contributions under this
7 act in a calendar year in which it employs individuals in the
8 performance of a contract or subcontract for construction in
9 this Commonwealth of roads, bridges, highways, buildings,
10 factories, housing developments or other construction projects
11 shall be liable for contributions at the rate of nine and two-
12 tenths per centum (9.2%) for 1984, nine and four-tenths per
13 centum (9.4%) for 1985 and nine and seven-tenths per centum
14 (9.7%) for 1986 and thereafter paid by him for employment, until
15 such time as he becomes subject to the provisions of sections
16 301.1, 301.2 and 301.6 of this act subject to the provisions of
17 section 301.1(g).

18 (4) Notwithstanding the provisions of paragraph (1) of this
19 subsection, any employer who becomes newly liable for
20 contributions under this act, other than an employer subject to
21 the provisions of paragraph (3) of this subsection, shall be
22 liable for contributions at the rate of three and five-tenths
23 per centum (3.5%) of wages paid by him for employment until such
24 time as he shall become classifiable under the provisions of
25 section 301.1(b) of this act. Thereafter his rate of
26 contributions shall be five and four-tenths per centum (5.4%)
27 for employers with a zero or credit reserve account balance and
28 eight and five-tenths per centum (8.5%) for 1984, eight and
29 eight-tenths per centum (8.8%) for 1985 and nine and two-tenths
30 per centum (9.2%) for 1986 and thereafter for employers with a

1 debit reserve account balance subject to adjustment under the
2 provisions of sections 301.1, 301.2 and 301.6 of this act.]

3 (3) Notwithstanding the provisions of paragraph (1) or any
4 other provisions of this act, any employer who becomes newly
5 liable for contributions under this act shall be liable for
6 contributions at the average contribution rate computed for the
7 industry in which the employer is engaged of wages paid by him
8 for employment until such time as he shall be classifiable under
9 the provisions of section 301.1(b). Thereafter, his rate of
10 contribution shall be five and four-tenths per centum (5.4%) for
11 employers with a zero or credit reserve account balance and nine
12 and two-tenths per centum (9.2%) for employers with a debit
13 reserve account balance, subject to adjustment under the
14 provisions of sections 301.1, 301.2 and 301.6. The term "average
15 contribution rate", as used in this paragraph, means the most
16 recent annual average rate as calculated by the department.

17 * * *

18 Section 4. Section 301.1(e) of the act, amended July 21,
19 1983 (P.L.68, No.30), is amended to read:

20 Section 301.1. Determination of Contribution Rate;
21 Experience Rating.--

22 * * *

23 (e) The State Adjustment Factor for the calendar year
24 beginning January 1, 1984, shall be one and five-tenths per
25 centum (1.5%) and thereafter shall be computed as of the
26 computation date for such year to a tenth of a per centum,
27 rounding all fractional parts of a tenth of a per centum to the
28 nearest tenth of a per centum, but in no event less than zero
29 nor in excess of one and five-tenths per centum (1.5%),
30 according to the following formula:

1 Bdr - Dcr

2 ----- X 100 = State Adjustment Factor

3 Wt

4 in which factor "Bdr" equals the aggregate of (1) all benefits
5 paid but not charged to employers' accounts, plus, (2) all
6 benefits paid and charged to inactive and terminated employers'
7 accounts, plus, (3) all benefits paid and charged to accounts of
8 active employers for the preceding year to the extent such
9 benefits exceed the combined amount of contributions payable by
10 such employers on the basis of the Benefit Ratio Factor and the
11 Reserve Ratio Factor. Factor "Dcr" equals the aggregate of (1)
12 interest credited to the Unemployment Compensation Fund, plus,
13 (2) amounts transferred from the Special Administration Fund and
14 the Interest Fund to the Unemployment Compensation Fund, plus,
15 (3) refunds of benefits unlawfully paid, plus, (4) amounts
16 credited to the Unemployment Compensation Fund by the Federal
17 Government other than by loan, except that any amount credited
18 to this Commonwealth's account under section 903 of the Federal
19 Social Security Act which has been appropriated for expenses of
20 administration shall be excluded from the amount in the
21 Unemployment Compensation Fund in the computation of the "Dcr"
22 factor. Factor "Wt" equals all wages subject to the law up to
23 the limitation described in section 4(x)(1) paid by all
24 employers. Each item in each factor shall be computed with
25 respect to the twelve-month period ending on the computation
26 date: Provided, That should the computed State Adjustment Factor
27 for calendar year [1984] 1991, and any year thereafter exceed
28 one and five-tenths per centum (1.5%), such excess over one and
29 five-tenths per centum (1.5%) shall be added to the computed
30 State Adjustment Factor for the following year or years. Any

1 account carryover prior to 1991 shall not be included in the
2 calculations for 1991 or thereafter.

3 * * *

4 Section 5. Sections 301.7(b) and 301.8(b) of the act, added
5 October 19, 1988 (P.L.818, No.109), are amended to read:

6 Section 301.7. Trigger Determination.--* * *

7 (b) Surcharge and contribution rates shall be announced by
8 the secretary on July 1 of every year in accordance with the
9 following schedule:

10 (1) When the trigger percentage is [one hundred fifty per
11 centum (150%)] two hundred per centum (200%) or higher, the rate
12 of the surcharge assessed under section 301.5 shall be a
13 negative [one and one-half per centum (-1.5%).] twenty-one per
14 centum (-21%).

15 (2) When the trigger percentage is at least one hundred
16 eighty per centum (180%), but less than two hundred per centum
17 (200%), the rate of the surcharge assessed under section 301.5
18 shall be a negative fifteen per centum (-15%).

19 (3) When the trigger percentage is at least one hundred
20 sixty-five per centum (165%), but less than one hundred eighty
21 per centum (180%), the rate of the surcharge assessed under
22 section 301.5 shall be a negative eight per centum (-8%).

23 (4) When the trigger percentage is at least one hundred
24 fifty per centum (150%), but less than one hundred sixty-five
25 per centum (165%), the rate of the surcharge assessed under
26 section 301.5 shall be a negative four per centum (-4%).

27 [(2)] (5) When the trigger percentage is at least one
28 hundred twenty-five per centum (125%), but less than one hundred
29 fifty per centum (150%), there shall be no surcharge or
30 contribution under section 301.2, 301.4 or 301.5.

1 ~~[(3)]~~ (6) When the trigger percentage is at least one
2 hundred ten per centum (110%), but less than one hundred twenty-
3 five per centum (125%):

4 (i) the rate of the surcharge assessed under section 301.5
5 shall be four per centum (4%); and

6 (ii) the rate of contributions assessed under section 301.4
7 shall be five-hundredths of one per centum (0.05%).

8 ~~[(4)]~~ (7) When the trigger percentage is at least ninety-
9 five per centum (95%), but less than one hundred ten per centum
10 (110%):

11 (i) the rate of the surcharge assessed under section 301.5
12 shall be eight per centum (8%); and

13 (ii) the rate of contributions assessed under section 301.4
14 shall be one-tenth of one per centum (0.1%).

15 ~~[(5)]~~ (8) When the trigger percentage is at least seventy-
16 five per centum (75%), but less than ninety-five per centum
17 (95%):

18 (i) the rate of the surcharge assessed under section 301.5
19 shall be eight per centum (8%);

20 (ii) the rate of contributions assessed under section 301.4
21 shall be fifteen-hundredths of one per centum (0.15%); and

22 (iii) the rate of additional contributions assessed under
23 section 301.2 shall be twenty-five hundredths of one per centum
24 (0.25%).

25 ~~[(6)]~~ (9) When the trigger percentage is at least fifty per
26 centum (50%), but less than seventy-five per centum (75%):

27 (i) the rate of the surcharge assessed under section 301.5
28 shall be eight per centum (8%);

29 (ii) the rate of contributions assessed under section 301.4
30 shall be two-tenths of one per centum (0.2%); and

1 (iii) the rate of additional contribution assessed under
2 section 301.2 shall be five-tenths of one per centum (0.5%).

3 ~~[(7)]~~ (10) When the trigger percentage is less than fifty
4 per centum (50%):

5 (i) the rate of the surcharge assessed under section 301.5
6 shall be eight per centum (8%);

7 (ii) the rate of additional contribution assessed under
8 section 301.2 shall be seventy-five hundredths of one per centum
9 (0.75%); and

10 (iii) the rate of contributions assessed under section 301.4
11 shall be two-tenths of one per centum (0.2%).

12 * * *

13 Section 301.8. Trigger Rate Redeterminations.--* * *

14 (b) The rates shall be adjusted to yield the amounts
15 indicated at the following trigger percentages:

16 (1) At least [one hundred fifty per centum (150%)] two
17 hundred per centum (200%), the negative surcharge assessed under
18 section 301.5 shall result in an employer contribution reduction
19 of [eighteen million dollars (\$18,000,000).] two hundred fifty-
20 two million dollars (\$252,000,000).

21 (2) At least one hundred eighty per centum (180%), but less
22 than two hundred per centum (200%), the negative surcharge
23 assessed under section 301.5 shall result in an employer
24 contribution reduction of one hundred eighty million dollars
25 (\$180,000,000).

26 (3) At least one hundred sixty-five per centum (165%), but
27 less than one hundred eighty per centum (180%), the negative
28 surcharge assessed under section 301.5 shall result in an
29 employer contribution reduction of one hundred million dollars
30 (\$100,000,000).

1 (4) At least one hundred fifty per centum (150%), but less
2 than one hundred sixty-five per centum (165%), the negative
3 surcharge assessed under section 301.5 shall result in an
4 employer contribution reduction of fifty million dollars
5 (\$50,000,000).

6 [(2)] (5) At least one hundred ten per centum (110%) but
7 less than one hundred twenty-five per centum (125%), the
8 surcharge assessed under section 301.5 shall yield fifty million
9 dollars (\$50,000,000), and the employe tax under section 301.4
10 shall yield thirty-three million three hundred thirty-three
11 thousand three hundred thirty-three dollars (\$33,333,333).

12 [(3)] (6) At least ninety-five per centum (95%) but less
13 than one hundred ten per centum (110%), the surcharge assessed
14 under section 301.5 shall yield one hundred million dollars
15 (\$100,000,000), and the employe tax under section 301.4 shall
16 yield sixty-six million six hundred sixty-six thousand six
17 hundred sixty-six dollars (\$66,666,666).

18 [(4)] (7) At least seventy-five per centum (75%) but less
19 than ninety-five per centum (95%), the surcharge assessed under
20 section 301.5 shall yield one hundred million dollars
21 (\$100,000,000), the additional contributions under section 301.2
22 shall yield seventy-five million dollars (\$75,000,000), and the
23 employe tax under section 301.4 shall yield one hundred sixteen
24 million six hundred sixty-six thousand six hundred sixty-six
25 dollars (\$116,666,666).

26 [(5)] (8) At least fifty per centum (50%) but less than
27 seventy-five per centum (75%), the surcharge assessed under
28 section 301.5 shall yield one hundred million dollars
29 (\$100,000,000), the additional contribution under section 301.2
30 shall yield one hundred fifty million dollars (\$150,000,000),

1 and the employe tax under section 301.4 shall yield one hundred
2 sixty-six million six hundred sixty-six thousand six hundred
3 sixty-six dollars (\$166,666,666).

4 [(6)] (9) Less than fifty per centum (50%), the surcharge
5 assessed under section 301.5 shall yield one hundred million
6 dollars (\$100,000,000), the additional contribution under
7 section 301.2 shall yield two hundred twenty-five million
8 dollars (\$225,000,000), the employe tax under section 301.4
9 shall yield one hundred sixty-six million six hundred sixty-six
10 thousand six hundred sixty-six dollars (\$166,666,666), and the
11 benefit reduction under section 404(e)(4) shall yield fifty-two
12 million dollars (\$52,000,000).

13 * * *

14 Section 6. Section 401(a), (d) and (f) of the act, amended
15 September 27, 1971 (P.L.460, No.108) and July 10, 1980 (P.L.521,
16 No.108), are amended and the section is amended by adding a
17 subsection to read:

18 Section 401. Qualifications Required to Secure
19 Compensation.--Compensation shall be payable to any employe who
20 is or becomes unemployed, and who--

21 (a) Has, within his base year, been paid wages for
22 employment as required by section 404(c) of this act: Provided,
23 however, That not less than [twenty per centum (20%)] fifty per
24 centum (50%) of the employe's total base year wages have been
25 paid in one or more quarters, other than the highest quarter in
26 such employe's base year: And provided further, That wages paid
27 to a claimant by a base-year employer are excluded as wages
28 under this subsection when the claimant has been determined to
29 be ineligible for unemployment compensation under section 402(b)
30 or (e) for the separation from that base-year employer.

1 * * *

2 (b.1) Is, each week, actively engaged in seeking work by
3 engaging in a systematic and sustained effort to obtain work
4 during that week and by furnishing tangible evidence that he has
5 engaged in such an effort during that week.

6 * * *

7 (d) (1) Is able to work and available for suitable work:
8 Provided, That no otherwise eligible claimant shall be denied
9 benefits for any week because he is in training with the
10 approval of the secretary nor shall such individual be denied
11 benefits with respect to any week in which he is in training
12 with the approval of the secretary by reason of the application
13 of the provisions of this subsection relating to availability
14 for work or the provisions of section 402(a) of this act
15 relating to failure to apply for or a refusal to accept suitable
16 work: Provided further, That no claimant shall be denied
17 benefits for failure to accept an offer of or to apply for
18 suitable work if the position was not offered to the claimant in
19 writing or was not listed with the employment office or if the
20 claimant furnishes satisfactory evidence to the department that
21 the claimant's prospects for obtaining work in his customary
22 occupation within a reasonably short period are good.

23 (2) No otherwise eligible claimant shall be denied benefits
24 for any week in which his unemployment is due to exercising the
25 option of accepting a layoff, from an available position,
26 pursuant to a labor-management contract, or pursuant to an
27 established employer plan, program or policy.

28 * * *

29 (f) Has earned, subsequent to his separation from work under
30 circumstances which are disqualifying under the provisions of

1 subsections 402(b), 402(e) and 402(h) of this act, remuneration
2 for services in an amount equal to or in excess of [six (6)]
3 eighteen (18) times his weekly benefit rate [irrespective of
4 whether or not such services were in "employment"] as defined in
5 this act. These earnings must be in employment terminated
6 without fault of the employe. The provisions of this subsection
7 shall not apply to a suspension of work by an individual
8 pursuant to a leave of absence granted by his last employer,
9 provided such individual has made a reasonable effort to return
10 to work with such employer upon the expiration of his leave of
11 absence.

12 * * *

13 Section 7. Section 402(b), (d) and (e) of the act, amended
14 August 24, 1953 (P.L.1397, No.396) and October 22, 1981
15 (P.L.301, No.106), are amended to read:

16 Section 402. Ineligibility for Compensation.--An employe
17 shall be ineligible for compensation for any week--

18 * * *

19 (b) In which his unemployment is due to voluntarily leaving
20 work without cause of a necessitous and compelling nature
21 attributable to his employment, irrespective of whether or not
22 such work is in "employment" as defined in this act: Provided,
23 That a voluntary leaving work because of a disability if the
24 employer is able to provide other suitable work, shall be deemed
25 not a cause of a necessitous and compelling nature attributable
26 to his employment: And provided further, That no employe shall
27 be deemed to be ineligible under this subsection where as a
28 condition of continuing in employment such employe would be
29 required to join or remain a member of a company union or to
30 resign from or refrain from joining any bona fide labor

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

29 * * *

30 (d) In which his unemployment is due to a stoppage of work,

1 which exists because of a labor dispute (other than a lock-out)
2 at the factory, establishment or other premises at which he is
3 or was last employed[: Provided, That this].

4 (1) This subsection shall not apply if it is shown that
5 [(1)]:

6 (i) he is not participating in, or directly interested in,
7 the labor dispute which caused the stoppage of work[, and (2)];

8 (ii) he is not a member of an organization which is
9 participating in, or directly interested in, the labor dispute
10 which caused the stoppage of work[, and (3)]; and

11 (iii) he does not belong to a grade or class of workers of
12 which, immediately before the commencement of the stoppage,
13 there were members employed at the premises at which the
14 stoppage occurs, any of whom are participating in, or directly
15 interested in, the dispute.

16 (2) For the purpose of disqualification under this section,
17 the term "lock-out" shall mean a situation where the employer
18 does not permit the employes to work and where:

19 (i) it is determined by the National Labor Relations Board
20 or the Pennsylvania Labor Relations Board, as appropriate, that
21 the employer has refused to meet under reasonable conditions
22 with the recognized or certified collective bargaining
23 representative of the employes to discuss the issues giving rise
24 to the situation;

25 (ii) there is a final adjudication under the National Labor
26 Relations Act (49 Stat. 449, 29 U.S.C. §§ 151-166) that during
27 the period the employer has refused to bargain in good faith
28 with the recognized or certified collective bargaining
29 representative of the employes over issues giving rise to the
30 situation; or

1 (iii) the situation violates the provisions of an existing
2 collective bargaining agreement.

3 For the purpose of disqualification under this section, the term
4 "lock-out" shall not include any other circumstances.

5 (e) In which his unemployment is due to his discharge or
6 temporary suspension from work for [willful misconduct connected
7 with his work] just cause, irrespective of whether or not such
8 work is "employment" as defined in this act[; and].

9 * * *

10 Section 8. Section 404(a), (c) and (e)(1), (2) and (4) of
11 the act, amended or added March 24, 1964 (Sp.Sess., P.L.53,
12 No.1), January 17, 1968 (P.L.21, No.6), December 5, 1974
13 (P.L.771, No.262), July 10, 1980 (P.L.521, No.108), July 21,
14 1983 (P.L.68, No.30) and October 19, 1988 (P.L.818, No.109), are
15 amended to read:

16 Section 404. Rate and Amount of Compensation.--Compensation
17 shall be paid to each eligible employe in accordance with the
18 following provisions of this section except that compensation
19 payable with respect to weeks ending in benefit years which
20 begin prior to the first day of January 1989 shall be paid on
21 the basis of the provisions of this section in effect at the
22 beginning of such benefit years.

23 (a) [(1)] The employe's weekly benefit rate shall be
24 computed as [(1) the amount appearing in Part B of the Table
25 Specified for the Determination of Rate and Amount of Benefits
26 on the line on which in Part A there appears his "highest
27 quarterly wage," or (2)] fifty per centum (50%) of his [full-
28 time weekly] average working wage, [whichever is greater.] in
29 the employe's base year: Provided the employe's base year wages
30 are sufficient to qualify for the minimum weekly benefit of

1 fifty dollars (\$50) or more. If the employe's weekly benefit
2 rate is not a multiple of one dollar (\$1), it shall be rounded
3 to the next lower multiple of one dollar (\$1).

4 [(2) If the base year wages of an employe whose weekly
5 benefit rate has been determined under clause (2) of paragraph
6 (1) of this subsection are insufficient to qualify him under
7 subsection (c) of this section, his weekly benefit rate shall be
8 redetermined under clause (1) of paragraph (1) of this
9 subsection.

10 (3) If the base year wages of an employe whose weekly
11 benefit rate has been determined under clause (1) of paragraph
12 (1) of this subsection, or redetermined under paragraph (2) of
13 this subsection, as the case may be, are insufficient to qualify
14 him under subsection (c) of this section but are sufficient to
15 qualify him for any one of the next three lower weekly benefit
16 rates, his weekly benefit rate shall be redetermined at the
17 highest of such next lower rates.]

18 * * *

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

1 weeks" during his base year]. Notwithstanding any other
 2 provision of this act, any employe with less than [sixteen (16)]
 3 eighteen (18) "credit weeks" during the employe's base year
 4 shall be ineligible to receive any amount of compensation.

5 * * *

6 (e) (1) [Table Specified for the Determination of
 7 Rate and Amount of Benefits

8 Part A

9 Highest	Part B	Part C	Part D	Part E
10 Quarterly	Rate of	Qualifying	Amount of	Compensation
11 Wage	Compensation	Wages		
12 \$ 800-812	\$35	\$1320	\$ 910	\$ 560
13 813-837	36	1360	936	576
14 838-862	37	1400	962	592
15 863-887	38	1440	988	608
16 888-912	39	1480	1014	624
17 913-937	40	1520	1040	640
18 938-962	41	1560	1066	656
19 963-987	42	1600	1092	672
20 988-1012	43	1640	1118	688
21 1013-1037	44	1680	1144	704
22 1038-1062	45	1720	1170	720
23 1063-1087	46	1760	1196	736
24 1088-1112	47	1800	1222	752
25 1113-1162	48	1840	1248	768
26 1163-1187	49	1880	1274	784
27 1188-1212	50	1920	1300	800
28 1213-1237	51	1960	1326	816
29 1238-1262	52	2000	1352	832
30 1263-1287	53	2040	1378	848

1	1288-1312	54	2080	1404	864
2	1313-1337	55	2120	1430	880
3	1338-1362	56	2160	1456	896
4	1363-1387	57	2200	1482	912
5	1388-1412	58	2240	1508	928
6	1413-1437	59	2280	1534	944
7	1438-1462	60	2320	1560	960
8	1463-1487	61	2360	1586	976
9	1488-1512	62	2400	1612	992
10	1513-1537	63	2440	1638	1008
11	1538-1562	64	2480	1664	1024
12	1563-1587	65	2520	1690	1040
13	1588-1612	66	2560	1716	1056
14	1613-1637	67	2600	1742	1072
15	1638-1662	68	2640	1768	1088
16	1663-1687	69	2680	1794	1104
17	1688-1712	70	2720	1820	1120
18	1713-1737	71	2760	1846	1136
19	1738-1762	72	2800	1872	1152
20	1763-1787	73	2840	1898	1168
21	1788-1812	74	2880	1924	1184
22	1813-1837	75	2920	1950	1200
23	1838-1862	76	2960	1976	1216
24	1863-1887	77	3000	2002	1232
25	1888-1912	78	3040	2028	1248
26	1913-1937	79	3080	2054	1264
27	1938-1962	80	3120	2080	1280
28	1963-1987	81	3160	2106	1296
29	1988-2012	82	3200	2132	1312
30	2013-2037	83	3240	2158	1328

1	2038-2062	84	3280	2184	1344
2	2063-2087	85	3320	2210	1360
3	2088-2112	86	3360	2236	1376
4	2113-2137	87	3400	2262	1392
5	2138-2162	88	3440	2288	1408
6	2163-2187	89	3480	2314	1424
7	2188-2212	90	3520	2340	1440
8	2213-2237	91	3560	2366	1456
9	2238-2262	92	3600	2392	1472
10	2263-2287	93	3640	2418	1488
11	2288-2312	94	3680	2444	1504
12	2313-2337	95	3720	2470	1520
13	2338-2362	96	3760	2496	1536
14	2363-2387	97	3800	2522	1552
15	2388-2412	98	3840	2558	1568
16	2413-2437	99	3880	2574	1584
17	2438-2462	100	3920	2600	1600
18	2463-2487	101	3960	2626	1616
19	2488-2512	102	4000	2652	1632
20	2513-2537	103	4040	2678	1648
21	2538-2562	104	4080	2704	1664
22	2563-2587	105	4120	2730	1680
23	2588-2612	106	4160	2756	1696
24	2613-2637	107	4200	2782	1712
25	2638-2662	108	4240	2808	1728
26	2663-2687	109	4280	2834	1744
27	2688-2712	110	4320	2860	1760
28	2713-2737	111	4360	2886	1776
29	2738-2762	112	4400	2912	1792
30	2763-2787	113	4440	2938	1808

1	2788-2812	114	4480	2964	1824
2	2813-2837	115	4520	2990	1840
3	2838-2862	116	4560	3016	1856
4	2863-2887	117	4600	3042	1872
5	2888-2912	118	4640	3068	1888
6	2913-2937	119	4680	3094	1904
7	2938-2962	120	4720	3120	1920
8	2963-2987	121	4760	3146	1936
9	2988-3012	122	4800	3172	1952
10	3013-3037	123	4840	3198	1968
11	3038-3062	124	4880	3224	1984
12	3063-3087	125	4920	3250	2000
13	3088-3112	126	4960	3276	2016
14	3113-3137	127	5000	3302	2032
15	3138-3162	128	5040	3328	2048
16	3163-3187	129	5080	3354	2064
17	3188-3212	130	5120	3380	2080
18	3213-3237	131	5160	3406	2096
19	3238-3262	132	5200	3432	2112
20	3263-3287	133	5240	3458	2128
21	3288-3312	134	5280	3484	2144
22	3313-3337	135	5320	3510	2160
23	3338-3362	136	5360	3536	2176
24	3363-3387	137	5400	3562	2192
25	3388-3412	138	5440	3588	2208
26	3413-3437	139	5480	3614	2224
27	3438-3462	140	5520	3640	2240
28	3463-3487	141	5560	3666	2256
29	3488-3512	142	5600	3692	2272
30	3513-3537	143	5640	3718	2288

1	3538-3562	144	5680	3744	2304
2	3563-3587	145	5720	3770	2320
3	3588-3612	146	5760	3796	2336
4	3613-3637	147	5800	3822	2352
5	3638-3662	148	5840	3848	2368
6	3663-3687	149	5880	3874	2384
7	3688-3712	150	5920	3900	2400
8	3713-3737	151	5960	3926	2416
9	3738-3762	152	6000	3952	2432
10	3763-3787	153	6040	3978	2448
11	3788-3812	154	6080	4004	2464
12	3813-3837	155	6120	4030	2480
13	3838-3862	156	6160	4056	2496
14	3863-3887	157	6200	4082	2512
15	3888-3912	158	6240	4108	2528
16	3913-3937	159	6280	4134	2544
17	3938-3962	160	6320	4170	2560
18	3963-3987	161	6360	4196	2576
19	3988-4012	162	6400	4212	2592
20	4013-4037	163	6440	4238	2608
21	4038-4062	164	6480	4264	2624
22	4063-4087	165	6520	4290	2640
23	4088-4112	166	6560	4316	2656
24	4113-4137	167	6600	4342	2672
25	4138-4162	168	6640	4368	2688
26	4163-4187	169	6680	4394	2704
27	4188-4212	170	6720	4420	2720
28	4213-4237	171	6760	4446	2736
29	4238-4262	172	6800	4472	2752
30	4263-4287	173	6840	4498	2768

1	4288-4312	174	6880	4524	2784
2	4313-4337	175	6920	4550	2800
3	4338-4362	176	6960	4576	2816
4	4363-4387	177	7000	4602	2832
5	4388-4412	178	7040	4628	2848
6	4413-4437	179	7080	4654	2864
7	4438-4462	180	7120	4680	2880
8	4463-4487	181	7160	4706	2896
9	4488-4512	182	7200	4732	2912
10	4513-4537	183	7240	4758	2928
11	4538-4562	184	7280	4784	2944
12	4563-4587	185	7320	4810	2960
13	4588-4612	186	7360	4836	2976
14	4613-4637	187	7400	4862	2992
15	4638-4662	188	7440	4888	3008
16	4663-4687	189	7480	4914	3024
17	4688-4712	190	7520	4940	3040
18	4713-4737	191	7560	4966	3056
19	4738-4762	192	7600	4992	3072
20	4763-4787	193	7640	5018	3088
21	4788-4812	194	7680	5044	3104
22	4813-4837	195	7720	5070	3120
23	4838-4862	196	7760	5096	3136
24	4863-4887	197	7800	5122	3152
25	4888-4912	198	7840	5148	3168
26	4913-4937	199	7880	5174	3184
27	4938-4962	200	7920	5200	3200
28	4963-4987	201	7960	5226	3216
29	4988-5012	202	8000	5252	3232
30	5013-5037	203	8040	5278	3248

1	5038-5062	204	8080	5304	3264
2	5063 or more	205	*8120	5330	3280

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

4 (2) (i) The Table Specified for the Determination of Rate
5 and Amount of Benefits shall be extended or contracted annually,
6 automatically by regulations promulgated by the secretary in
7 accordance with the following procedure: for calendar year one
8 thousand nine hundred seventy-two and for all subsequent
9 calendar years, to a point where the maximum weekly benefit rate
10 equals sixty-six and two-thirds per centum of the average weekly
11 wage for the twelve-month period ending June 30 preceding each
12 calendar year. If the maximum weekly benefit rate is not a
13 multiple of one dollar (\$1), it shall be increased by one dollar
14 (\$1) and then rounded to the next lower multiple of one dollar
15 (\$1): Provided, however, That effective with benefit years
16 beginning the first Sunday at least thirty days after the
17 effective date of this amendatory act, the per centum stated in
18 this paragraph for establishing the maximum weekly benefit rate
19 shall be sixty-two and two-thirds per centum for the remainder
20 of calendar year one thousand nine hundred seventy-four, sixty-
21 four and two-thirds per centum for the calendar year one
22 thousand nine hundred seventy-five, and sixty-six and two-thirds
23 per centum for the calendar year one thousand nine hundred
24 seventy-six and for all subsequent calendar years.

25 (ii) The Table Specified for the Determination of Rate and
26 Amount of Benefits as so extended or contracted shall be
27 effective only for those claimants whose benefit years begin on
28 or after the first day of January of such calendar year.

29 (iii) For the purpose of determining the maximum weekly
30 benefit rate, the [Pennsylvania] average weekly wage in covered

1 employment for each county shall be computed on the basis of the
2 total wages reported by employers located in each county
3 (irrespective of the limit on the amount of wages subject to
4 contributions) for the twelve-month period ending June 30 and
5 this amount shall be divided by the average monthly number of
6 covered workers (determined by dividing the total covered
7 employment reported for the same fiscal year by twelve) to
8 determine the average annual wage. The average annual wage thus
9 obtained shall be divided by fifty-two and the average weekly
10 wage thus determined rounded to the nearest cent.

11 (iv) The maximum weekly benefit rate for an eligible employe
12 shall be sixty-six and two-thirds per centum (66 and 2/3%) of
13 the average weekly wage for the twelve-month period ending June
14 30 preceding each calendar year for the county of residence of
15 the eligible employe. If the maximum weekly benefit rate is not
16 a multiple of one dollar (\$1), it shall be rounded to the next
17 higher multiple of one dollar (\$1). The maximum weekly benefit
18 rate in effect on September 30 of any year in which, as of
19 September 30 of that year, the balance in the Unemployment Trust
20 Fund minus any Federal debt equals or is less than one-half
21 times the average total benefits paid for that calendar year,
22 consisting of actual expenditures through September 30 and
23 estimated expenditures for the remainder of the year, paid for
24 that calendar year and the average total benefits paid for the
25 immediately preceding two calendar years, consisting of actual
26 expenditures, shall remain in effect and unchanged at the same
27 rate for each subsequent year until January 1 of the year
28 immediately following the first subsequent year in which, as of
29 September 30 of that year, there is no Federal debt and the
30 balance in the Unemployment Trust Fund equals one and one-half

1 times the average total benefits paid for that calendar year,
2 consisting of actual expenditures through September 30 and
3 estimated expenditures for the balance of the year and the
4 average total benefits paid for the immediately preceding two
5 calendar years.

6 * * *

7 Section 9. Section 405-A of the act, amended October 22,
8 1981 (P.L.301, No.106), is amended to read:

9 Section 405-A. Total Extended Benefit Amount.--(a) The
10 total extended benefit amount payable to any eligible individual
11 with respect to his applicable benefit year shall be the least
12 of the amounts determined under clauses (1), (2) or (3) and then
13 such amount shall be reduced by [subsection (b)] subsections (b)
14 and (c):

15 (1) fifty per centum of the total amount of regular benefits
16 (plus dependents' allowances) which were payable to him under
17 this act in his applicable benefit year;

18 (2) thirteen times his weekly benefit amount which was
19 payable to him under this act for a week of total unemployment
20 in the applicable benefit year; or

21 (3) thirty-nine times his weekly benefit amount (plus
22 dependents' allowances) which was payable to him under this act
23 for a week of total unemployment in the applicable benefit year,
24 reduced by the total amount of regular benefits which were paid
25 (or deemed paid) to him under this act with respect to the
26 benefit year.

27 (b) Notwithstanding any other provisions of this article, if
28 the benefit year of any individual ends within an extended
29 benefit period, the remaining balance of extended benefits that
30 such individual would, but for this section, be entitled to

1 receive in that extended benefit period, with respect to weeks
2 of unemployment beginning after the end of the benefit year,
3 shall be reduced (but not below zero) by the product of the
4 number of weeks for which the individual received trade
5 readjustment allowances within that benefit year, multiplied by
6 the individual's weekly benefit amount for extended benefits.

7 (c) Notwithstanding any State statute to the contrary and to
8 the extent permitted by Federal law, for any week during a
9 period in which Federal payments to states under section 204 of
10 the Federal-State Extended Unemployment Compensation Act of 1970
11 (Public Law 91-373, 26 U.S.C. § 3304) are reduced under an order
12 issued under section 252 of the Balanced Budget and Emergency
13 Deficit Control Act of 1985 (Public Law 99-177, 99 Stat. 1038):

14 (1) the weekly extended benefit amount payable to an
15 individual for a week of total unemployment in his eligibility
16 period shall be reduced by an amount equivalent to one-half of
17 the Federal reduction and the resultant weekly amount, if not a
18 full dollar amount, shall be adjusted to the nearest multiple of
19 one dollar (\$1); and

20 (2) the total extended benefit amount payable to any
21 eligible worker with respect to his applicable benefit year
22 shall be reduced by an amount equivalent to the aggregate of the
23 reductions under paragraph (1) in the weekly amounts paid to the
24 individual.

25 Section 10. Section 505 of the act, amended April 23, 1942
26 (Sp.Sess., P.L.60, No.23), is amended to read:

27 Section 505. Rules of Procedure.--The manner in which
28 appeals shall be taken, the reports thereon required from the
29 department, the claimant and employers, and the conduct of
30 hearings and appeals, shall be in accordance with rules of

1 procedure prescribed by the board [whether or not such]. Such
2 rules shall conform to common law or statutory rules of evidence
3 and other technical rules of procedure.

4 When the same or substantially similar evidence is relevant
5 and material to the matter in issue in applications and claims
6 filed by more than one individual or in multiple applications
7 and claims filed by a single individual the same time and place
8 for considering each such application and claim may be fixed,
9 hearings thereon jointly conducted, a single record of the
10 proceedings made and evidence introduced with respect to any
11 application or claim considered as introduced with respect to
12 all of such applications or claims: Provided, That in the
13 judgment of the board or referee having jurisdiction of the
14 proceeding such consideration will not be prejudicial to any
15 party.

16 Section 11. The act is amended by adding a section to read:

17 Section 610. Review of Unemployment Compensation Fund.--At
18 least annually, the Labor and Industry Committee of the Senate
19 and the Labor Relations Committee of the House of
20 Representatives shall review the financial condition of the
21 Unemployment Compensation Fund and the regulations and
22 procedures of the Office of Employment Security and shall make a
23 joint report to the Governor, the President pro tempore of the
24 Senate and the Speaker of the House of Representatives. The
25 Office of Employment Security shall be required to utilize
26 simple procedures which reduce an employer's administrative
27 burden to a minimum consistent with the intent of the law. At
28 least annually, the Small Business Regulatory Review Task Force
29 of the Independent Regulatory Review Commission shall review
30 compliance by the Office of Employment Security with this

1 intent.

2 Section 12. The provisions of this act are severable. If any
3 provision of this act or its application to any person or
4 circumstance is held invalid, the invalidity shall not affect
5 other provisions or applications of this act which can be given
6 effect without the invalid provision or application.

7 Section 13. This act shall take effect immediately.