

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 464 Session of 2005

INTRODUCED BY SCARNATI, JUBELIRER, BRIGHTBILL, ORIE, VANCE, GORDNER, PIPPY, MADIGAN, RAFFERTY, CORMAN, THOMPSON, GREENLEAF, D. WHITE, M. WHITE, WAUGH, REGOLA, ROBBINS, WONDERLING, FERLO, RHOADES, WENGER, PUNT AND PICCOLA, MARCH 28, 2005

SENATOR SCARNATI, LABOR AND INDUSTRY, AS AMENDED, MAY 2, 2005

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 ~~limitation on fees.~~ THE DEFINITION OF "EMPLOYER" AND FOR  
17 GENERAL POWERS AND DUTIES OF DEPARTMENT; PROVIDING FOR  
18 REPRESENTATION IN PROCEEDINGS; FURTHER PROVIDING FOR  
19 CONTRIBUTIONS BY EMPLOYERS AND EMPLOYEES, FOR SUCCESSORS-IN-  
20 INTEREST, FOR APPEALS, FOR INTEREST ON PAST DUE CONTRIBUTIONS  
21 AND FOR LIMITATIONS UPON ENFORCEMENT OF PAYMENT OF  
22 CONTRIBUTIONS, INTEREST AND PENALTIES; PROVIDING FOR  
23 REGISTRATION AND OTHER REPORTS; FURTHER PROVIDING FOR THE  
24 SPECIAL ADMINISTRATION FUND; PROVIDING FOR THE JOB TRAINING  
25 FUND; FURTHER PROVIDING FOR THE DUTIES OF THE STATE TREASURER  
26 AS CUSTODIAN AND FOR OFFENSES RELATING TO FALSE STATEMENTS  
27 AND REPRESENTATIONS TO PREVENT OR REDUCE COMPENSATION AND  
28 OTHER OFFENSES; AND PROVIDING FOR MONETARY PENALTIES.

←

29 The General Assembly of the Commonwealth of Pennsylvania

1 hereby enacts as follows:

2 ~~Section 1. Section 702 of the act of December 5, 1936 (2nd~~ <—  
3 ~~Sp.Sess., 1937 P.L.2897, No.1), known as the Unemployment~~  
4 ~~Compensation Law, amended September 29, 1951 (P.L.1580, No.408),~~  
5 ~~is amended to read:~~

6 ~~Section 702. Limitation of Fees. No employer or employe~~  
7 ~~shall be charged fees of any kind in any proceeding under this~~  
8 ~~act by the department, the board, or any of its officers or~~  
9 ~~agents. Any [individual claiming compensation] party involved in~~  
10 ~~any proceeding before the department, the board, or referee may~~  
11 ~~be represented by counsel or other duly authorized agent; but no~~  
12 ~~such counsel or agent shall either charge or receive any greater~~  
13 ~~fee for such services than is approved by the board. Any person~~  
14 ~~who violates any provision of this section shall be guilty of a~~  
15 ~~misdemeanor, and, upon conviction thereof, shall be sentenced to~~  
16 ~~pay a fine of not less than fifty dollars nor more than five~~  
17 ~~hundred dollars, or be imprisoned for not more than six months,~~  
18 ~~or both.~~

19 ~~Section 2. This act shall take effect in 60 days.~~

20 SECTION 1. SECTION 4(J) OF THE ACT OF DECEMBER 5, 1936 (2ND <—  
21 SP.SESS., 1937 P.L.2897, NO.1), KNOWN AS THE UNEMPLOYMENT  
22 COMPENSATION LAW, AMENDED JULY 6, 1977 (P.L.41, NO.22), IS  
23 AMENDED TO READ:

24 SECTION 4. DEFINITIONS.--THE FOLLOWING WORDS AND PHRASES, AS  
25 USED IN THIS ACT, SHALL HAVE THE FOLLOWING MEANINGS, UNLESS THE  
26 CONTEXT CLEARLY REQUIRES OTHERWISE.

27 \* \* \*

28 (J) (1) "EMPLOYER" MEANS THE COMMONWEALTH OF PENNSYLVANIA,  
29 ITS POLITICAL SUBDIVISIONS, AND THEIR INSTRUMENTALITIES AND  
30 EVERY INDIVIDUAL, COPARTNERSHIP, ASSOCIATION, CORPORATION

1 (DOMESTIC OR FOREIGN) OR OTHER ENTITY, THE LEGAL REPRESENTATIVE,  
2 TRUSTEE IN BANKRUPTCY, RECEIVER OR TRUSTEE OF ANY INDIVIDUAL,  
3 COPARTNERSHIP, ASSOCIATION OR CORPORATION OR OTHER ENTITY, OR  
4 THE LEGAL REPRESENTATIVE OF A DECEASED PERSON, WHO OR WHICH  
5 EMPLOYED OR EMPLOYS ANY EMPLOYEE IN EMPLOYMENT SUBJECT TO THIS  
6 ACT FOR SOME PORTION OF A DAY DURING A CALENDAR YEAR, OR WHO OR  
7 WHICH HAS ELECTED TO BECOME FULLY SUBJECT TO THIS ACT, AND WHOSE  
8 ELECTION REMAINS IN FORCE.

9 (2) EACH INDIVIDUAL EMPLOYED TO PERFORM OR TO ASSIST IN  
10 PERFORMING WORK OF ANY AGENT OR EMPLOYEE OF AN EMPLOYER SHALL BE  
11 DEEMED TO BE EMPLOYED BY SUCH EMPLOYER FOR ALL THE PURPOSES OF  
12 THIS ACT, WHETHER SUCH INDIVIDUAL WAS HIRED OR PAID DIRECTLY BY  
13 SUCH EMPLOYER OR BY SUCH AGENT OR EMPLOYEE, PROVIDED THE EMPLOYER  
14 HAD ACTUAL OR CONSTRUCTIVE KNOWLEDGE OF THE WORK (EXCEPT AS  
15 PROVIDED IN SUBSECTION (L)(3)(G) OF THIS SECTION).

16 (2.1) AN INDIVIDUAL OR ENTITY THAT TRANSFERS SOME OR ALL OF  
17 ITS WORK FORCE TO THE PAYROLL OF ANOTHER INDIVIDUAL OR ENTITY,  
18 DIRECTLY OR INDIRECTLY, AS PART OF OR RESULTING IN AN  
19 ARRANGEMENT WHEREBY THE INDIVIDUAL OR ENTITY SHARES EMPLOYER  
20 FUNCTIONS WITH RESPECT TO SOME OR ALL OF ITS WORK FORCE WITH THE  
21 OTHER INDIVIDUAL OR ENTITY, SHALL BE THE EMPLOYER OF THE EMPLOYEE  
22 OR EMPLOYEES COVERED BY THE ARRANGEMENT WITH THE OTHER INDIVIDUAL  
23 OR ENTITY. THIS PARAGRAPH SHALL INCLUDE, WITHOUT LIMITATION, AN  
24 ARRANGEMENT KNOWN AS A PROFESSIONAL EMPLOYER ARRANGEMENT OR  
25 EMPLOYEE LEASING ARRANGEMENT. THIS PARAGRAPH DOES NOT INCLUDE A  
26 TEMPORARY HELP ARRANGEMENT IN WHICH AN INDIVIDUAL OR ENTITY  
27 UTILIZES ONE OR MORE WORKERS SUPPLIED BY ANOTHER INDIVIDUAL OR  
28 ENTITY TO SUPPLEMENT ITS WORK FORCE IN SPECIAL, TEMPORARY WORK  
29 SITUATIONS, SUCH AS ABSENCES, SKILL SHORTAGES, SEASONAL WORK  
30 LOADS AND SPECIAL ASSIGNMENTS.

1 (3) WHERE AN EMPLOYER MAINTAINS MORE THAN ONE PLACE OF  
2 EMPLOYMENT WITHIN THIS COMMONWEALTH, ALL OF THE EMPLOYES AT THE  
3 SEVERAL PLACES OF EMPLOYMENT SHALL BE TREATED, FOR THE PURPOSES  
4 OF THIS ACT, AS IF EMPLOYED BY A SINGLE EMPLOYER.

5 (4) ANY INDIVIDUAL, COPARTNERSHIP, ASSOCIATION, CORPORATION  
6 OR OTHER ENTITY WHO OR WHICH IS NOT SUBJECT TO THIS ACT MAY  
7 ELECT TO BECOME SUBJECT THERETO BY FILING WITH THE DEPARTMENT  
8 HIS OR ITS WRITTEN APPLICATION.

9 (5) AN EMPLOYER SUBJECT TO THIS ACT MAY ELECT TO INCLUDE  
10 WITHIN THE TERM "EMPLOYMENT," SUBJECT TO THIS ACT, SERVICES  
11 PERFORMED BY HIS OR ITS EMPLOYES WITH RESPECT TO WHICH NO  
12 CONTRIBUTIONS ARE REQUIRED AND PAID UNDER AN UNEMPLOYMENT  
13 COMPENSATION LAW OF ANY OTHER STATE, (A) IF THE EMPLOYE OR  
14 EMPLOYES, INCLUDED IN SUCH ELECTION, MAINTAIN A DOMICILE WITHIN  
15 THIS COMMONWEALTH AND THE SERVICES OF SUCH EMPLOYE OR EMPLOYES,  
16 ARE PERFORMED ENTIRELY WITHOUT THIS COMMONWEALTH, OR (B) IF THE  
17 EMPLOYE OR EMPLOYES INCLUDED IN THE ELECTION MAINTAINS NO  
18 DOMICILE WITHIN THIS COMMONWEALTH BUT THE SERVICES OF SUCH  
19 EMPLOYE OR EMPLOYES ARE (A) PERFORMED WITHOUT THIS COMMONWEALTH  
20 AND (B) ARE DIRECTED FROM THIS COMMONWEALTH.

21 (6) AN EMPLOYER, SUBJECT TO THIS ACT, MAY ELECT TO INCLUDE  
22 WITHIN THE TERM "EMPLOYMENT," SUBJECT TO THIS ACT, SERVICES  
23 PERFORMED BY HIS OR ITS EMPLOYES WHICH ARE EXEMPT UNDER THE  
24 PROVISIONS OF SUBSECTION (L) OF SECTION FOUR OF THIS ACT.

25 (7) ANY ELECTION SHALL BE SUBJECT TO THE APPROVAL OF THE  
26 DEPARTMENT AND SHALL BECOME BINDING FOR NOT LESS THAN TWO  
27 CALENDAR YEARS.

28 (8) ANY SERVICES PERFORMED FOR AN EMPLOYER COVERED BY AN  
29 ELECTION, PURSUANT TO THIS SUBSECTION, SHALL, DURING THE  
30 EFFECTIVE PERIOD OF SUCH ELECTION, BE DEEMED TO BE EMPLOYMENT

1 FOR ALL THE PURPOSES OF THIS ACT. ANY ELECTION APPROVED BY THE  
2 DEPARTMENT, PURSUANT TO THIS SUBSECTION, SHALL CEASE TO BE  
3 EFFECTIVE ONLY AS OF THE FIRST DAY OF JANUARY OF ANY CALENDAR  
4 YEAR SUBSEQUENT TO THE INITIAL TWO CALENDAR YEARS THEREOF, AND  
5 ONLY IF, AT LEAST THIRTY (30) DAYS PRIOR TO SUCH FIRST DAY OF  
6 JANUARY, THE EMPLOYER HAS FILED WITH THE DEPARTMENT A NOTICE OF  
7 TERMINATION OF HIS ELECTION. NOTWITHSTANDING ANY PROVISIONS OF  
8 THIS SUBSECTION TO THE CONTRARY, THE DEPARTMENT MAY AT ANY TIME,  
9 ON ITS OWN MOTION, CANCEL AN ELECTION APPROVED UNDER THE  
10 PROVISIONS OF THIS SUBSECTION.

11 \* \* \*

12 SECTION 2. SECTION 201(A) OF THE ACT, AMENDED JULY 1, 1985  
13 (P.L.96, NO.30), IS AMENDED TO READ:

14 SECTION 201. GENERAL POWERS AND DUTIES OF DEPARTMENT.--(A)  
15 IT SHALL BE THE DUTY OF THE DEPARTMENT TO ADMINISTER AND ENFORCE  
16 THIS ACT THROUGH SUCH EMPLOYMENT SERVICE AND PUBLIC EMPLOYMENT  
17 OFFICES AS HAVE BEEN OR MAY BE CONSTITUTED IN ACCORDANCE WITH  
18 THE PROVISIONS OF THIS ACT AND EXISTING LAWS. IT SHALL HAVE  
19 POWER AND AUTHORITY TO ADOPT, AMEND, AND RESCIND SUCH RULES AND  
20 REGULATIONS, REQUIRE SUCH REPORTS FROM EMPLOYERS, EMPLOYES, THE  
21 BOARD AND FROM ANY OTHER PERSON DEEMED BY THE DEPARTMENT TO BE  
22 AFFECTED BY THIS ACT, MAKE SUCH INVESTIGATIONS, AND TAKE SUCH  
23 OTHER ACTION AS IT DEEMS NECESSARY OR SUITABLE. SUCH RULES AND  
24 REGULATIONS SHALL NOT BE INCONSISTENT WITH THE PROVISIONS OF  
25 THIS ACT. THE DEPARTMENT SHALL SUBMIT TO THE GOVERNOR AND THE  
26 GENERAL ASSEMBLY A BIENNIAL REPORT COVERING THE ADMINISTRATION  
27 AND OPERATION OF THIS ACT AND SHALL MAKE SUCH RECOMMENDATIONS  
28 FOR AMENDMENTS TO THIS ACT AS IT DEEMS PROPER. THE DEPARTMENT  
29 SHALL ESTABLISH PROCEDURES TO IDENTIFY THE TRANSFER OR  
30 ACQUISITION OF A BUSINESS IN ACCORDANCE WITH SECTION

1 303(K)(1)(E) OF THE SOCIAL SECURITY ACT (49 STAT. 620, 42 U.S.C.  
2 § 503(K)(1)(E)). IN THE DISCHARGE OF THE DUTIES IMPOSED BY THIS  
3 ACT, THE SECRETARY AND ANY AGENT DULY AUTHORIZED IN WRITING BY  
4 HIM SHALL HAVE THE POWER TO ADMINISTER OATHS AND AFFIRMATIONS,  
5 TAKE DEPOSITIONS, AND CERTIFY TO OFFICIAL ACTS. THE DEPARTMENT  
6 SHALL HAVE THE POWER TO ISSUE SUBPOENAS TO COMPEL THE ATTENDANCE  
7 OF WITNESSES AND THE PRODUCTION OF BOOKS, PAPERS,  
8 CORRESPONDENCE, MEMORANDA AND OTHER RECORDS DEEMED NECESSARY IN  
9 THE ADMINISTRATION OF THIS ACT.

10 \* \* \*

11 SECTION 3. THE ACT IS AMENDED BY ADDING A SECTION TO READ:

12 SECTION 214. REPRESENTATION IN PROCEEDINGS.--ANY PARTY IN  
13 ANY PROCEEDING UNDER THIS ACT BEFORE THE DEPARTMENT, A REFEREE  
14 OR THE BOARD MAY BE REPRESENTED BY AN ATTORNEY OR OTHER  
15 REPRESENTATIVE.

16 SECTION 4. SECTION 301(A), (D) AND (J) OF THE ACT, AMENDED  
17 SEPTEMBER 29, 1951 (P.L.1580, NO.408), DECEMBER 17, 1959  
18 (P.L.1893, NO.693), MARCH 24, 1964 (SP.SESS. P.L.53, NO.1), JUNE  
19 22, 1964 (SP.SESS. P.L.112, NO.7), JULY 21, 1983 (P.L.68, NO.30)  
20 AND NOVEMBER 17, 1995 (P.L.615, NO.64), ARE AMENDED TO READ:

21 SECTION 301. CONTRIBUTIONS BY EMPLOYERS AND EMPLOYES;  
22 SUCCESSORS-IN-INTEREST; APPEALS.--

23 (A) (1) EACH EMPLOYER SHALL PAY CONTRIBUTIONS WITH RESPECT  
24 TO THE CALENDAR YEAR 1984, AND EACH CALENDAR YEAR THEREAFTER, AT  
25 A RATE EQUAL TO FIVE AND FOUR-TENTHS PER CENTUM (5.4%) FOR  
26 EMPLOYERS WITH A ZERO OR CREDIT RESERVE ACCOUNT BALANCE AND  
27 EIGHT AND FIVE-TENTHS PER CENTUM (8.5%) FOR 1984, EIGHT AND  
28 EIGHT-TENTHS PER CENTUM (8.8%) FOR 1985 AND NINE AND TWO-TENTHS  
29 PER CENTUM (9.2%) FOR 1986 AND THEREAFTER FOR EMPLOYERS WITH A  
30 DEBIT RESERVE ACCOUNT BALANCE OF WAGES PAID BY HIM FOR

1 EMPLOYMENT: PROVIDED, HOWEVER, THAT WITH RESPECT TO EMPLOYERS  
2 SUBJECT TO THE PROVISIONS OF SECTION 301.1(B) OF THIS ACT, SUCH  
3 RATE SHALL BE ADJUSTED IN ACCORDANCE WITH THE PROVISIONS OF  
4 SECTIONS 301.1, 301.2 AND 301.6 OF THIS ACT.

5 (2) [NO EMPLOYER'S RATE OF CONTRIBUTION FOR ANY CALENDAR  
6 YEAR SHALL BE LESS THAN NINE AND TWO-TENTHS PER CENTUM (9.2%)  
7 FOR 1984, NINE AND FOUR-TENTHS PER CENTUM (9.4%) FOR 1985, NINE  
8 AND SEVEN-TENTHS PER CENTUM (9.7%) FOR 1986 THROUGH 1995 AND THE  
9 SUM OF THREE PER CENTUM (3%) PLUS HIS RATE OF CONTRIBUTION AS  
10 DETERMINED WITHOUT REGARD TO THIS PARAGRAPH FOR 1996 AND  
11 THEREAFTER UNLESS] AN EMPLOYER'S RATE OF CONTRIBUTION SHALL BE  
12 THE SUM OF THREE PER CENTUM (3%) PLUS HIS RATE OF CONTRIBUTION  
13 AS DETERMINED UNDER THIS SECTION OR SECTION 301.1 OF THIS ACT,  
14 WITHOUT REGARD TO THIS PARAGRAPH OR PARAGRAPH (2.1) OF THIS  
15 SUBSECTION, IF ALL HIS REPORTS REQUIRED BY THIS ACT AND  
16 REGULATIONS OF THE DEPARTMENT TO ESTABLISH THE AMOUNT OF  
17 CONTRIBUTIONS OR SHOWING THE AMOUNT OF WAGES PAID TO EACH  
18 EMPLOYEE FOR CALENDAR QUARTERS THROUGH THE SECOND CALENDAR  
19 QUARTER OF THE PRECEDING CALENDAR YEAR AND ALL HIS CONTRIBUTIONS  
20 DUE ON WAGES PAID TO THE END OF THE SECOND CALENDAR QUARTER OF  
21 THE PRECEDING CALENDAR YEAR, TOGETHER WITH INTEREST AND  
22 PENALTIES DUE THEREON, HAVE NOT BEEN FILED AND PAID BY SEPTEMBER  
23 30 OF SUCH PRECEDING CALENDAR YEAR, EXCEPT THAT AN EMPLOYER WHO  
24 HAS TIMELY FILED AN APPEAL AS PROVIDED IN SUBSECTION (E) OF THIS  
25 SECTION AND WHO HAS BEEN DETERMINED INELIGIBLE TO RECEIVE A  
26 REDUCED RATE SOLELY ON THE BASIS THAT HE HAS NOT FILED ALL  
27 REPORTS AND PAID ALL CONTRIBUTIONS, INTEREST AND PENALTIES  
28 WITHIN THE TIME LIMITS AS REQUIRED IN THIS [SUBSECTION]  
29 PARAGRAPH, SHALL HAVE HIS RATE REDETERMINED AND SHALL NOT BE  
30 CONSIDERED INELIGIBLE UNDER THIS [SUBSECTION] PARAGRAPH IF SUCH

1 DELINQUENT REPORTS ARE FILED AND PAYMENT OF SUCH DELINQUENT  
2 CONTRIBUTIONS, INTEREST AND PENALTIES IS MADE WITHIN THIRTY (30)  
3 DAYS AFTER THE DEPARTMENT HAS NOTIFIED THE EMPLOYER OF THE  
4 REASON FOR HIS INELIGIBILITY FOR RATE REDUCTION IN RESPONSE TO  
5 THE APPEAL FILED BY THE EMPLOYER UNDER SUBSECTION (E) OR, IF THE  
6 EMPLOYER EXECUTES AND FILES WITH THE DEPARTMENT, NO LATER THAN  
7 THE END OF THE THIRTY (30) DAYS, A DEFERRED PAYMENT PLAN, WHICH  
8 IS ACCEPTED BY THE DEPARTMENT AS FILED OR MODIFIED, FOR SUCH  
9 DELINQUENT CONTRIBUTIONS, INTEREST AND PENALTIES. IF THE  
10 EMPLOYER FAILS TO COMPLY WITH THE DEFERRED PAYMENT PLAN, THE  
11 REDUCED RATE GRANTED SHALL BE REVOKED AND, NOTWITHSTANDING  
12 SECTIONS 301(J) AND 309.2, ADDITIONAL CONTRIBUTIONS SHALL BE DUE  
13 AS A RESULT OF THE RATE INCREASE AND SHALL BEAR INTEREST FROM  
14 THE DUE DATE OF THE CORRESPONDING REPORT OR REPORTS.

15 (2.1) AN EMPLOYER'S RATE OF CONTRIBUTION SHALL BE THE SUM OF  
16 THREE PER CENTUM (3%) PLUS HIS RATE OF CONTRIBUTION AS  
17 DETERMINED UNDER THIS SECTION OR SECTION 301.1 OF THIS ACT,  
18 WITHOUT REGARD TO THIS PARAGRAPH OR PARAGRAPH (2) OF THIS  
19 SUBSECTION IF THE EMPLOYER FAILS TO FILE ANY REPORT REQUIRED BY  
20 SECTION 315(A)(1), (2) OR (3) OF THIS ACT IN ACCORDANCE WITH  
21 SECTION 315(B). THIS PARAGRAPH SHALL APPLY TO AN EMPLOYER'S RATE  
22 OF CONTRIBUTION FOR THE CALENDAR YEAR IN WHICH THE REPORT  
23 BECOMES DUE THROUGH THE CALENDAR YEAR IN WHICH THE REPORT IS  
24 FILED: PROVIDED, HOWEVER, THAT AN EMPLOYER WHO HAS TIMELY FILED  
25 AN APPEAL AS PROVIDED IN SUBSECTION (E) OF THIS SECTION AND WHO  
26 HAS BEEN DETERMINED INELIGIBLE TO RECEIVE A REDUCED RATE SOLELY  
27 ON THE BASIS THAT HE HAS NOT FILED A REPORT AS REQUIRED IN THIS  
28 PARAGRAPH SHALL HAVE HIS RATE REDETERMINED AND SHALL NOT BE  
29 CONSIDERED INELIGIBLE UNDER THIS PARAGRAPH IF SUCH REPORT IS  
30 FILED WITHIN THIRTY (30) DAYS AFTER THE DEPARTMENT HAS NOTIFIED

1 THE EMPLOYER OF THE REASON FOR HIS INELIGIBILITY FOR RATE  
2 REDUCTION IN RESPONSE TO THE APPEAL FILED BY THE EMPLOYER UNDER  
3 SUBSECTION (E); AND PROVIDED FURTHER, THAT FOR PURPOSES OF THIS  
4 PARAGRAPH WHEN ONE PARTY TO A TRANSFER OF ORGANIZATION, TRADE,  
5 BUSINESS OR WORK FORCE FILES THE REPORT REQUIRED BY SECTION  
6 315(A)(2) OF THIS ACT IN ACCORDANCE WITH SECTION 315(B), THE  
7 OTHER PARTY TO THE TRANSFER WILL BE DEEMED TO HAVE FILED ITS  
8 REPORT AT THAT TIME.

9 (3) NOTWITHSTANDING ANY OTHER PROVISIONS OF THE ACT EXCEPT  
10 PARAGRAPH (2) OF THIS SUBSECTION, ANY EMPLOYER WHO BECOMES NEWLY  
11 LIABLE FOR CONTRIBUTIONS UNDER THIS ACT IN A CALENDAR YEAR IN  
12 WHICH IT EMPLOYS INDIVIDUALS IN THE PERFORMANCE OF A CONTRACT OR  
13 SUBCONTRACT FOR CONSTRUCTION IN THIS COMMONWEALTH OF ROADS,  
14 BRIDGES, HIGHWAYS, BUILDINGS, FACTORIES, HOUSING DEVELOPMENTS OR  
15 OTHER CONSTRUCTION PROJECTS SHALL BE LIABLE FOR CONTRIBUTIONS AT  
16 THE RATE OF NINE AND TWO-TENTHS PER CENTUM (9.2%) FOR 1984, NINE  
17 AND FOUR-TENTHS PER CENTUM (9.4%) FOR 1985 AND NINE AND SEVEN-  
18 TENTHS PER CENTUM (9.7%) FOR 1986 AND THEREAFTER PAID BY HIM FOR  
19 EMPLOYMENT, UNTIL SUCH TIME AS HE BECOMES SUBJECT TO THE  
20 PROVISIONS OF SECTIONS 301.1, 301.2 AND 301.6 OF THIS ACT  
21 SUBJECT TO THE PROVISIONS OF SECTION 301.1(G).

22 (4) NOTWITHSTANDING THE PROVISIONS OF PARAGRAPH (1) OF THIS  
23 SUBSECTION, ANY EMPLOYER WHO BECOMES NEWLY LIABLE FOR  
24 CONTRIBUTIONS UNDER THIS ACT, OTHER THAN AN EMPLOYER SUBJECT TO  
25 THE PROVISIONS OF PARAGRAPH (3) OF THIS SUBSECTION, SHALL BE  
26 LIABLE FOR CONTRIBUTIONS AT THE RATE OF THREE AND FIVE-TENTHS  
27 PER CENTUM (3.5%) OF WAGES PAID BY HIM FOR EMPLOYMENT UNTIL SUCH  
28 TIME AS HE SHALL BECOME CLASSIFIABLE UNDER THE PROVISIONS OF  
29 SECTION 301.1(B) OF THIS ACT. THEREAFTER HIS RATE OF  
30 CONTRIBUTIONS SHALL BE FIVE AND FOUR-TENTHS PER CENTUM (5.4%)

1 FOR EMPLOYERS WITH A ZERO OR CREDIT RESERVE ACCOUNT BALANCE AND  
2 EIGHT AND FIVE-TENTHS PER CENTUM (8.5%) FOR 1984, EIGHT AND  
3 EIGHT-TENTHS PER CENTUM (8.8%) FOR 1985 AND NINE AND TWO-TENTHS  
4 PER CENTUM (9.2%) FOR 1986 AND THEREAFTER FOR EMPLOYERS WITH A  
5 DEBIT RESERVE ACCOUNT BALANCE SUBJECT TO ADJUSTMENT UNDER THE  
6 PROVISIONS OF SECTIONS 301.1, 301.2 AND 301.6 OF THIS ACT.

7 \* \* \*

8 (D) (1) (A) WHERE AN EMPLOYER, SUBSEQUENT TO THE THIRTIETH  
9 DAY OF JUNE, ONE THOUSAND NINE HUNDRED AND FORTY-NINE, TRANSFERS  
10 HIS OR ITS ORGANIZATION, TRADE [OR], BUSINESS OR WORK FORCE, IN  
11 WHOLE OR IN PART, TO A SUCCESSOR-IN-INTEREST WHO CONTINUES  
12 ESSENTIALLY THE SAME BUSINESS ACTIVITY OF THE WHOLE OR PART  
13 TRANSFERRED, SUCH SUCCESSOR-IN-INTEREST MAY, PRIOR TO THE END OF  
14 THE CALENDAR YEAR SUBSEQUENT TO THE CALENDAR YEAR IN WHICH THE  
15 TRANSFER OCCURRED, MAKE APPLICATION FOR TRANSFER OF THE WHOLE,  
16 OR APPROPRIATE PART, OF THE EXPERIENCE RECORD AND RESERVE  
17 ACCOUNT BALANCE OF THE PRECEDING EMPLOYER TO THE SUCCESSOR-IN-  
18 INTEREST, INCLUDING CREDIT FOR THE YEARS DURING WHICH  
19 CONTRIBUTIONS WERE PAID BY THE PRECEDING EMPLOYER. THE  
20 DEPARTMENT SHALL TRANSFER THE WHOLE OR APPROPRIATE PART OF SUCH  
21 EXPERIENCE RECORD AND RESERVE ACCOUNT BALANCE OF THE PRECEDING  
22 EMPLOYER ONLY IF SUCH PRECEDING EMPLOYER HAS JOINED IN SUCH  
23 APPLICATION AND HAS FILED WITH THE DEPARTMENT SUCH SUPPORTING  
24 SCHEDULES OR OTHER INFORMATION WITH RESPECT TO SUCH EXPERIENCE  
25 RECORD AND RESERVE ACCOUNT BALANCE AS THE DEPARTMENT MAY  
26 REQUIRE[. IF], INCLUDING THE REPORT REQUIRED BY SECTION  
27 315(A)(3); THE APPLICATION FOR SUCH TRANSFER IS FILED IN  
28 ACCORDANCE WITH THE RULES AND REGULATIONS OF THE DEPARTMENT[, ,  
29 THE DEPARTMENT MAY ALLOW SUCH TRANSFER ONLY IF]; AND ALL  
30 CONTRIBUTIONS, INTEREST AND PENALTIES OWING BY THE PREDECESSOR

1 HAVE BEEN OR ARE PAID AT THE TIME SUCH APPLICATION IS FILED WITH  
2 THE DEPARTMENT. THE DEPARTMENT MAY NOT TRANSFER THE WHOLE OR  
3 APPROPRIATE PART OF THE PRECEDING EMPLOYER'S EXPERIENCE RECORD  
4 AND RESERVE ACCOUNT BALANCE IF THE DEPARTMENT DETERMINES THAT  
5 THE SUCCESSOR-IN-INTEREST ACQUIRED ALL OR PART OF THE PRECEDING  
6 EMPLOYER'S ORGANIZATION, TRADE, BUSINESS OR WORK FORCE SOLELY OR  
7 PRIMARILY TO OBTAIN A LOWER RATE OF CONTRIBUTION.

8 (B) NOTWITHSTANDING THE PROVISIONS OF PARAGRAPH (A) OF THIS  
9 SUBSECTION, WITH RESPECT TO ANY TRANSFER BY AN EMPLOYER SUBJECT  
10 TO THE CONTRIBUTION PROVISIONS OF THIS ACT OF ITS ORGANIZATION,  
11 TRADE [OR], BUSINESS OR WORK FORCE, IN WHOLE OR IN PART, WHETHER  
12 SUCH TRANSFER WAS BY MERGER, CONSOLIDATION, SALE OR TRANSFER,  
13 DESCENT OR OTHERWISE, THE DEPARTMENT SHALL TRANSFER THE  
14 EXPERIENCE RECORD AND RESERVE ACCOUNT BALANCE (WHETHER POSITIVE  
15 OR NEGATIVE) OF SUCH EMPLOYER TO ITS SUCCESSOR-IN-INTEREST IF IT  
16 FINDS THAT (I) SUCH EMPLOYER WAS OWNED [OR], CONTROLLED OR  
17 MANAGED BY OR OWNED [OR], CONTROLLED OR MANAGED THE SUCCESSOR-  
18 IN-INTEREST EITHER DIRECTLY OR INDIRECTLY, BY LEGALLY ENFORCIBLE  
19 MEANS OR OTHERWISE, OR (II) BOTH SUCH EMPLOYER AND SUCCESSOR-IN-  
20 INTEREST WERE OWNED [OR], CONTROLLED OR MANAGED EITHER DIRECTLY  
21 OR INDIRECTLY, BY LEGALLY ENFORCIBLE MEANS OR OTHERWISE, BY THE  
22 SAME INTEREST OR INTERESTS.

23 (B.1) PARAGRAPHS (A) AND (B) OF THIS SUBSECTION SHALL NOT  
24 APPLY TO A TRANSFER OF A WORK FORCE, IN WHOLE OR IN PART, WHICH  
25 IS PART OF OR RESULTS IN AN ARRANGEMENT COVERED BY SECTION  
26 4(J)(2.1) OF THIS ACT.

27 (C) IN THE EVENT OF A PART TRANSFER OF AN EMPLOYER'S  
28 ORGANIZATION, TRADE [OR], BUSINESS OR WORK FORCE UNDER EITHER  
29 PARAGRAPH (A) OR PARAGRAPH (B) OF THIS SUBSECTION, [ONLY SUCH] A  
30 PORTION OF THE EXPERIENCE RECORD AND RESERVE ACCOUNT BALANCE OF

1 THE PRECEDING EMPLOYER [AS SUCH EMPLOYER'S AVERAGE ANNUAL WAGES  
2 FOR THE LAST THREE CALENDAR YEARS OF THE ORGANIZATION, TRADE OR  
3 BUSINESS TRANSFERRED BEARS TO HIS TOTAL AVERAGE ANNUAL PAYROLL  
4 FOR SUCH LAST THREE CALENDAR YEARS] SHALL BE TRANSFERRED[:],

5 ACCORDING TO THE FOLLOWING FORMULA:

6 AVERAGE OF THE NUMBER OF  
7 EMPLOYES IN THE PART OF  
8 THE ORGANIZATION, TRADE,  
9 BUSINESS OR WORK FORCE  
10 TRANSFERRED FOR EACH  
11 CALENDAR QUARTER IN THE  
12 THREE CALENDAR YEARS  
13 PRECEDING THE TRANSFER

PERCENTAGE OF PRECEDING  
EMPLOYER'S EXPERIENCE

14 ----- X 100 = RECORD AND RESERVE ACCOUNT  
15 BALANCE TRANSFERRED TO  
16 THE SUCCESSOR-IN-INTEREST

17  
18  
19 AVERAGE OF THE NUMBER OF  
20 EMPLOYES IN THE TOTAL OF  
21 THE PRECEDING EMPLOYER'S  
22 ORGANIZATION, TRADE,  
23 BUSINESS OR WORK FORCE FOR  
24 EACH CALENDAR QUARTER IN  
25 THE THREE CALENDAR YEARS  
26 PRECEDING THE TRANSFER

27 PROVIDED, THAT IF THE PART TRANSFERRED HAS BEEN IN EXISTENCE FOR  
28 A PERIOD OF LESS THAN THREE CALENDAR YEARS PRECEDING THE  
29 TRANSFER BUT MORE THAN ONE CALENDAR YEAR, THEN [ONLY SUCH  
30 PORTION OF THE EXPERIENCE RECORD AND RESERVE ACCOUNT BALANCE OF

1 THE PRECEDING EMPLOYER AS THE AVERAGE ANNUAL WAGES FOR SUCH  
2 PERIOD OF THE PART TRANSFERRED BEARS TO THE TOTAL AVERAGE ANNUAL  
3 PAYROLL FOR SUCH PERIOD SHALL BE TRANSFERRED,] THE PERIOD FOR  
4 WHICH THE PART TRANSFERRED HAS BEEN IN EXISTENCE SHALL BE USED  
5 IN THE FOREGOING FORMULA AND CREDIT SHALL BE GIVEN TO THE  
6 SUCCESSOR-IN-INTEREST ONLY FOR THE YEARS DURING WHICH  
7 CONTRIBUTIONS WERE PAID BY THE PRECEDING EMPLOYER WITH RESPECT  
8 TO THAT PART OF THE ORGANIZATION, TRADE [OR], BUSINESS OR WORK  
9 FORCE TRANSFERRED.

10 [(D) A TRANSFER OF AN EXPERIENCE RECORD AND RESERVE ACCOUNT  
11 BALANCE, IN WHOLE OR IN PART, HAVING BEEN MADE UNDER THE  
12 PROVISIONS OF EITHER PARAGRAPH (A) OR PARAGRAPH (B) OF THIS  
13 SUBSECTION, THE PRECEDING EMPLOYER SHALL NOT BE ENTITLED TO  
14 CONSIDERATION FOR AN ADJUSTED RATE FOR THE CALENDAR YEAR  
15 FOLLOWING THE DATE OF TRANSFER AND FOR SUBSEQUENT CALENDAR  
16 YEARS, BASED UPON HIS EXPERIENCE RECORD AND RESERVE ACCOUNT  
17 BALANCE WHICH HAS BEEN THUS TRANSFERRED.

18 (2) A PRECEDING EMPLOYER OR SUCCESSOR-IN-INTEREST WHO, PRIOR  
19 TO THE TRANSFER, WAS AN EMPLOYER DURING THE CALENDAR YEAR IN  
20 WHICH THE TRANSFER OCCURRED, SHALL NOT HAVE HIS RATE OF  
21 CONTRIBUTION ADJUSTED UNDER THE PROVISIONS OF THIS SUBSECTION  
22 FOR THE REMAINDER OF SUCH YEAR. A SUCCESSOR-IN-INTEREST WHO,  
23 PRIOR TO THE TRANSFER, WAS NOT AN EMPLOYER DURING THE CALENDAR  
24 YEAR IN WHICH THE TRANSFER OCCURRED AND WHO HAS MADE APPLICATION  
25 FOR A TRANSFER WHICH HAS BEEN APPROVED BY THE DEPARTMENT, AS  
26 PROVIDED HEREIN, AND WHO, TOGETHER WITH HIS PREDECESSOR, HAS  
27 PAID CONTRIBUTIONS FOR THE PERIOD REQUIRED UNDER SUBSECTION (B)  
28 OF SECTION THREE HUNDRED ONE POINT ONE WITH RESPECT TO THE  
29 ORGANIZATION, TRADE OR BUSINESS, OR PART THEREOF, WHICH HAS BEEN  
30 TRANSFERRED, SHALL BE ASSIGNED THE SAME RATE OF CONTRIBUTION AS

1 THE PRECEDING EMPLOYER FOR THE REMAINDER OF SUCH YEAR, AFTER  
2 WHICH HIS RATE OF CONTRIBUTION SHALL BE DETERMINED ON THE BASIS  
3 OF THE EXPERIENCE RECORD AND BALANCE IN THE RESERVE ACCOUNT  
4 WHICH HAS BEEN COMBINED WITH ANY OTHER EXPERIENCE RECORD AND  
5 RESERVE ACCOUNT BALANCE WHICH SUCH SUCCESSOR-IN-INTEREST MAY  
6 HAVE ACQUIRED.]

7 (2.1) IF THE EXPERIENCE RECORD AND RESERVE ACCOUNT BALANCE  
8 OF A PRECEDING EMPLOYER IS TRANSFERRED, IN WHOLE OR IN PART, TO  
9 A SUCCESSOR-IN-INTEREST UNDER PARAGRAPH (1) OF THIS SUBSECTION,  
10 THE FOLLOWING PROVISIONS SHALL APPLY:

11 (A) NOTWITHSTANDING ANY OTHER PROVISION OF THIS ACT, THE  
12 EXPERIENCE RECORD AND RESERVE ACCOUNT BALANCE TRANSFERRED TO THE  
13 SUCCESSOR-IN-INTEREST SHALL BE DEEMED TO REMAIN WITH THE  
14 PRECEDING EMPLOYER FOR PURPOSES OF DETERMINING THE RATE OF  
15 CONTRIBUTION OF THE PRECEDING EMPLOYER FOR THE REMAINDER OF THE  
16 CALENDAR YEAR IN WHICH THE TRANSFER OF ORGANIZATION, TRADE,  
17 BUSINESS OR WORK FORCE OCCURRED.

18 (B) IN THE EVENT OF A TRANSFER OF AN EXPERIENCE RECORD AND  
19 RESERVE ACCOUNT BALANCE UNDER THE PROVISIONS OF PARAGRAPH (1)(A)  
20 OF THIS SUBSECTION:

21 (I) FOR PURPOSES OF DETERMINING THE RATE OF CONTRIBUTION OF  
22 THE SUCCESSOR-IN-INTEREST, FOR CALENDAR YEARS SPECIFIED IN THE  
23 RULES AND REGULATIONS OF THE DEPARTMENT, THE EXPERIENCE RECORD  
24 AND RESERVE ACCOUNT BALANCE ACQUIRED FROM THE PRECEDING EMPLOYER  
25 SHALL BE COMBINED INTO THE EXPERIENCE RECORD AND RESERVE ACCOUNT  
26 BALANCE OF THE SUCCESSOR-IN-INTEREST.

27 (II) THE RATE OF CONTRIBUTION OF THE PRECEDING EMPLOYER  
28 SHALL BE DETERMINED WITHOUT REGARD TO THE EXPERIENCE RECORD AND  
29 RESERVE ACCOUNT BALANCE TRANSFERRED TO THE SUCCESSOR-IN-INTEREST  
30 COMMENCING WITH THE EARLIEST CALENDAR YEAR FOR WHICH THE RATE OF

1 CONTRIBUTION OF THE SUCCESSOR-IN-INTEREST IS DETERMINED UNDER  
2 SUBPARAGRAPH (I).

3 (C) IN THE EVENT OF A TRANSFER OF AN EXPERIENCE RECORD AND  
4 RESERVE ACCOUNT BALANCE UNDER THE PROVISIONS OF PARAGRAPH (1)(B)  
5 OF THIS SUBSECTION:

6 (I) THE RATE OF CONTRIBUTION OF THE PRECEDING EMPLOYER FOR  
7 CALENDAR YEARS FOLLOWING THE YEAR IN WHICH THE TRANSFER OF  
8 ORGANIZATION, TRADE, BUSINESS OR WORK FORCE OCCURRED SHALL BE  
9 DETERMINED WITHOUT REGARD TO THE EXPERIENCE RECORD AND RESERVE  
10 ACCOUNT BALANCE TRANSFERRED TO THE SUCCESSOR-IN-INTEREST.

11 (II) THE EXPERIENCE RECORD AND RESERVE ACCOUNT BALANCE  
12 ACQUIRED FROM THE PRECEDING EMPLOYER SHALL BE COMBINED INTO THE  
13 EXPERIENCE RECORD AND RESERVE ACCOUNT BALANCE OF THE SUCCESSOR-  
14 IN-INTEREST FOR PURPOSES OF DETERMINING THE RATE OF CONTRIBUTION  
15 OF THE SUCCESSOR-IN-INTEREST FOR THE REMAINDER OF THE CALENDAR  
16 YEAR IN WHICH THE TRANSFER OF ORGANIZATION, TRADE, BUSINESS OR  
17 WORK FORCE OCCURRED AND SUBSEQUENT CALENDAR YEARS.

18 (D) IN THE EVENT OF A PART TRANSFER OF AN EXPERIENCE RECORD  
19 AND RESERVE ACCOUNT BALANCE UNDER THE PROVISIONS OF PARAGRAPH  
20 (1)(A) OF THIS SUBSECTION, COMPENSATION PAID AFTER THE DATE OF  
21 THE TRANSFER OF ORGANIZATION, TRADE, BUSINESS OR WORK FORCE,  
22 BASED ON WAGES PAID BY THE PRECEDING EMPLOYER BEFORE THE DATE OF  
23 SUCH TRANSFER, SHALL BE CHARGED TO THE RESPECTIVE EXPERIENCE  
24 RECORDS AND RESERVE ACCOUNTS OF THE PRECEDING EMPLOYER AND  
25 SUCCESSOR-IN-INTEREST. COMPENSATION PAID TO INDIVIDUALS  
26 IDENTIFIED BY THE PRECEDING EMPLOYER IN THE REPORT REQUIRED BY  
27 SECTION 315(A)(3) OF THIS ACT SHALL BE CHARGED TO THE SUCCESSOR-  
28 IN-INTEREST. THE REMAINING COMPENSATION SHALL BE CHARGED TO THE  
29 PRECEDING EMPLOYER.

30 (E) IN THE EVENT OF A PART TRANSFER OF AN EXPERIENCE RECORD

1 AND RESERVE ACCOUNT BALANCE UNDER THE PROVISIONS OF PARAGRAPH  
2 (1)(B) OF THIS SUBSECTION, COMPENSATION PAID AFTER THE DATE OF  
3 THE TRANSFER OF ORGANIZATION, TRADE, BUSINESS OR WORK FORCE,  
4 BASED ON WAGES PAID BY THE PRECEDING EMPLOYER BEFORE THE DATE OF  
5 SUCH TRANSFER, SHALL BE CHARGED TO THE RESPECTIVE EXPERIENCE  
6 RECORDS AND RESERVE ACCOUNTS OF THE PRECEDING EMPLOYER AND  
7 SUCCESSOR-IN-INTEREST IN ACCORDANCE WITH THE FOLLOWING:

8 (I) COMPENSATION PAID TO INDIVIDUALS IDENTIFIED BY THE  
9 PRECEDING EMPLOYER IN THE REPORT REQUIRED BY SECTION 315(A)(3)  
10 OF THIS ACT SHALL BE CHARGED TO THE SUCCESSOR-IN-INTEREST. THE  
11 REMAINING COMPENSATION SHALL BE CHARGED TO THE PRECEDING  
12 EMPLOYER.

13 (II) IF THE PRECEDING EMPLOYER FAILS TO FURNISH THE REPORT  
14 REQUIRED BY SECTION 315(A)(3) OF THIS ACT IN ACCORDANCE WITH  
15 SECTION 315(B) OF THIS ACT, THE DEPARTMENT SHALL DETERMINE,  
16 BASED ON AVAILABLE INFORMATION AND WITHIN THE DEPARTMENT'S  
17 DISCRETION, WHETHER THE COMPENSATION SHALL BE CHARGED TO THE  
18 PRECEDING EMPLOYER, THE SUCCESSOR-IN-INTEREST, OR BOTH, AND, IF  
19 THE DEPARTMENT DETERMINES THAT THE COMPENSATION SHALL BE CHARGED  
20 TO BOTH THE PRECEDING EMPLOYER AND THE SUCCESSOR-IN-INTEREST,  
21 WHAT PORTION OF THE COMPENSATION SHALL BE CHARGED TO EACH.

22 (3) A SUCCESSOR-IN-INTEREST WHO ACQUIRES FROM A PRECEDING  
23 EMPLOYER THE WHOLE OR A PART OF A RESERVE BALANCE WHICH HAS BEEN  
24 ADJUSTED TO A NEGATIVE BALANCE EQUAL TO TEN PER CENTUM (10%), OR  
25 TWENTY PER CENTUM (20%) IN 1987 AND THEREAFTER, OF HIS AVERAGE  
26 ANNUAL PAYROLL UNDER THE PROVISIONS OF SECTION 302(C) OF THIS  
27 ACT SHALL BE LIABLE FOR CONTRIBUTIONS AT THE MAXIMUM RATE UNDER  
28 THE PROVISIONS OF SECTION 301.1(F) OF THIS ACT AND CONTRIBUTIONS  
29 UNDER THE PROVISIONS OF SECTIONS 301.2 AND 301.6 OF THIS ACT IN  
30 THE SAME MANNER AS THE PRECEDING EMPLOYER WITH RESPECT TO THE

1 PART OF THE ORGANIZATION, TRADE OR BUSINESS TRANSFERRED. THIS  
2 PROVISION SHALL NOT APPLY IF THE SUCCESSOR-IN-INTEREST AS OF ANY  
3 COMPUTATION DATE HAS BEEN SUBJECT TO THIS ACT FOR FOURTEEN OR  
4 MORE CONSECUTIVE CALENDAR QUARTERS, OR HAS BEEN SUBJECT TO THIS  
5 ACT FOR A PERIOD AS LONG AS OR LONGER THAN THE PRECEDING  
6 EMPLOYER.

7 (4) NOTWITHSTANDING THE PROVISIONS OF PARAGRAPH (3) OF THIS  
8 SUBSECTION AND SECTION 301.1(F), A SUCCESSOR-IN-INTEREST WHO  
9 ACQUIRES FROM A PRECEDING EMPLOYER THE WHOLE OR A PART OF A  
10 RESERVE BALANCE WHICH HAS BEEN ADJUSTED TO A NEGATIVE BALANCE  
11 UNDER THE PROVISIONS OF SECTION 302(C)(2), SHALL BE LIABLE FOR  
12 CONTRIBUTIONS AT THE RATE DETERMINED UNDER THE PROVISIONS OF  
13 SECTIONS 301.1, 301.2 AND 301.6 IN THE SAME MANNER AS THE  
14 PRECEDING EMPLOYER WITH RESPECT TO THE PART OF THE ORGANIZATION,  
15 TRADE OR BUSINESS TRANSFERRED. THIS PROVISION SHALL NOT APPLY IF  
16 THE SUCCESSOR-IN-INTEREST, AS OF ANY COMPUTATION DATE, HAS BEEN  
17 SUBJECT TO THIS ACT FOR FOURTEEN OR MORE CONSECUTIVE CALENDAR  
18 QUARTERS OR HAS BEEN SUBJECT TO THIS ACT FOR A PERIOD AS LONG AS  
19 OR LONGER THAN THE PRECEDING EMPLOYER.

20 \* \* \*

21 (J) IF THE DEPARTMENT FINDS THAT IT HAS ERRONEOUSLY NOTIFIED  
22 AN EMPLOYER THAT HIS RATE OF CONTRIBUTION IS LESS THAN THE RATE  
23 TO WHICH HE IS ENTITLED, HE SHALL BE NOTIFIED OF THE REVISION OF  
24 HIS RATE AND HE SHALL BE REQUIRED TO MAKE PAYMENT OF ADDITIONAL  
25 CONTRIBUTIONS ON THE BASIS OF THE REVISED RATE: PROVIDED, THAT  
26 NO SUCH ADDITIONAL CONTRIBUTION SHALL BE REQUIRED UNLESS THE  
27 EMPLOYER IS NOTIFIED OF HIS REVISED RATE NOT LATER THAN DECEMBER  
28 THIRTY-FIRST OF THE CALENDAR YEAR TO WHICH THE RATE IS  
29 APPLICABLE, UNLESS THE DEPARTMENT FINDS THAT THE EMPLOYER HAS  
30 DIRECTLY OR INDIRECTLY CONTRIBUTED TO THE ERROR[. NO]: PROVIDED

1 FURTHER, THAT NO INTEREST SHALL BE REQUIRED TO BE PAID IN  
2 CONNECTION WITH SUCH ADDITIONAL CONTRIBUTIONS IF THEY ARE PAID  
3 WITHIN THIRTY (30) DAYS FROM THE DATE THAT THE EMPLOYER IS  
4 NOTIFIED OF HIS REVISED RATE[.], UNLESS THE DEPARTMENT FINDS  
5 THAT THE EMPLOYER HAS DIRECTLY OR INDIRECTLY CONTRIBUTED TO THE  
6 ERROR.

7 \* \* \*

8 SECTION 5. SECTION 308 OF THE ACT, AMENDED JULY 21, 1983  
9 (P.L.68, NO.30), IS AMENDED TO READ:

10 SECTION 308. INTEREST ON PAST DUE CONTRIBUTIONS.--  
11 CONTRIBUTIONS UNPAID ON THE DATE ON WHICH THEY ARE DUE AND  
12 PAYABLE, AS PRESCRIBED BY THE DEPARTMENT, SHALL BEAR INTEREST AT  
13 ONE-TWELFTH (1/12) OF THE ANNUAL RATE DETERMINED BY THE  
14 SECRETARY OF REVENUE UNDER SECTION 806 OF THE ACT OF APRIL 9,  
15 1929 (P.L.343, NO.176), KNOWN AS "THE FISCAL CODE," PER MONTH OR  
16 FRACTION OF A MONTH, OR AT THE RATE OF THREE QUARTERS OF ONE PER  
17 CENTUM (0.75%) PER MONTH OR FRACTION OF A MONTH, WHICHEVER IS  
18 GREATER, FROM THE DATE THEY BECOME DUE UNTIL PAID.

19 SECTION 6. SECTION 309.2 OF THE ACT, AMENDED SEPTEMBER 29,  
20 1951 (P.L.1580, NO.408), IS AMENDED TO READ:

21 SECTION 309.2. LIMITATIONS UPON ENFORCEMENT OF PAYMENT OF  
22 CONTRIBUTIONS, INTEREST AND PENALTIES.--(A) NOTWITHSTANDING ANY  
23 OTHER PROVISIONS OF THIS ACT TO THE CONTRARY, NO LEGAL ACTION  
24 FOR THE COLLECTION OF CONTRIBUTIONS, INTEREST AND PENALTIES  
25 SHALL BE INSTITUTED AFTER THE EXPIRATION OF FOUR YEARS FROM THE  
26 END OF THE CALENDAR YEAR [IN WHICH THE WAGES WERE PAID WITH  
27 RESPECT TO WHICH LIABILITY FOR THE PAYMENT OF SUCH  
28 CONTRIBUTIONS, INTEREST OR PENALTIES, AS THE CASE MAY BE, WAS  
29 BASED,] DETERMINED IN ACCORDANCE WITH SUBSECTION (B) OF THIS  
30 SECTION, UNLESS PRIOR TO THE EXPIRATION OF SUCH FOUR-YEAR PERIOD

1 AND WITH RESPECT THERETO (1) AN ASSESSMENT PROCEEDING SHALL HAVE  
2 BEEN INSTITUTED PURSUANT TO THE PROVISIONS OF SECTION THREE  
3 HUNDRED FOUR OF THIS ACT, OR (2) AN ACTION SHALL HAVE BEEN  
4 INSTITUTED PURSUANT TO THE PROVISIONS OF SECTION THREE HUNDRED  
5 NINE OF THIS ACT, OR (3) A LIEN SHALL HAVE BEEN ENTERED PURSUANT  
6 TO THE PROVISIONS OF SECTION THREE HUNDRED EIGHT POINT ONE OF  
7 THIS ACT: PROVIDED, THAT THE PROVISIONS OF THIS SECTION SHALL  
8 NOT APPLY WHERE AN EMPLOYER BY WILLFUL FAILURE OR REFUSAL TO  
9 FILE A REPORT WITH THE DEPARTMENT OR TO INCLUDE IN ANY REPORT  
10 ALL WAGES WHICH HE HAS PAID, OR OTHERWISE, HAS ATTEMPTED TO  
11 AVOID OR REDUCE LIABILITY FOR THE PAYMENT OF CONTRIBUTIONS.

12 (B) THE CALENDAR YEAR REFERENCED IN SUBSECTION (A) OF THIS  
13 SECTION SHALL BE THE LATER OF THE FOLLOWING CALENDAR YEARS: (1)  
14 THE CALENDAR YEAR IN WHICH THE WAGES WERE PAID WITH RESPECT TO  
15 WHICH LIABILITY FOR THE PAYMENT OF CONTRIBUTIONS, INTEREST OR  
16 PENALTIES, AS THE CASE MAY BE, IS BASED, OR (2) WITH RESPECT TO  
17 CONTRIBUTIONS, INTEREST OR PENALTIES DUE ON WAGES PAID BY A  
18 SUCCESSOR-IN-INTEREST AFTER A TRANSFER OF ORGANIZATION, TRADE,  
19 BUSINESS OR WORK FORCE, IN WHOLE OR IN PART, FROM A PRECEDING  
20 EMPLOYER, THE CALENDAR YEAR IN WHICH THE SUCCESSOR-IN-INTEREST  
21 FILES THE REPORT REQUIRED BY SECTION 315(A)(2) OF THIS ACT IN  
22 ACCORDANCE WITH SECTION 315(B) OF THIS ACT.

23 SECTION 7. THE ACT IS AMENDED BY ADDING A SECTION TO READ:  
24 SECTION 315. REGISTRATION AND OTHER REPORTS.--(A) IN  
25 ADDITION TO REPORTS OTHERWISE REQUIRED BY THIS ACT AND THE RULES  
26 AND REGULATIONS OF THE DEPARTMENT, THE FOLLOWING REPORTS SHALL  
27 BE MADE TO THE DEPARTMENT:

28 (1) EACH PERSON, CORPORATION, UNINCORPORATED ASSOCIATION OR  
29 ANY OTHER ENTITY, FOR WHOM SERVICES ARE PERFORMED FOR  
30 REMUNERATION BY ANY INDIVIDUAL, SHALL REGISTER WITH THE

1 DEPARTMENT WITHIN THIRTY (30) DAYS AFTER SERVICES ARE FIRST  
2 PERFORMED FOR THE PERSON OR ENTITY OR WITHIN THIRTY (30) DAYS  
3 AFTER THE EFFECTIVE DATE OF THIS PARAGRAPH IF SERVICES WERE  
4 FIRST PERFORMED FOR THE PERSON OR ENTITY PRIOR TO THE EFFECTIVE  
5 DATE OF THIS PARAGRAPH AND THE PERSON OR ENTITY DID NOT REGISTER  
6 PRIOR TO THE EFFECTIVE DATE OF THIS PARAGRAPH.

7 (2) AN EMPLOYER THAT TRANSFERS ITS ORGANIZATION, TRADE,  
8 BUSINESS OR WORK FORCE, IN WHOLE OR IN PART, WHETHER SUCH  
9 TRANSFER WAS BY MERGER, CONSOLIDATION, SALE OR TRANSFER, DESCENT  
10 OR OTHERWISE, AND THE PERSON, CORPORATION, UNINCORPORATED  
11 ASSOCIATION OR OTHER ENTITY TO WHOM THE TRANSFER IS MADE, SHALL  
12 REPORT THE TRANSFER TO THE DEPARTMENT. FOR TRANSFERS OCCURRING  
13 ON OR AFTER JANUARY 1, 2004, THE REPORT SHALL BE MADE WITHIN  
14 THIRTY (30) DAYS AFTER THE DATE OF THE TRANSFER OR WITHIN THIRTY  
15 (30) DAYS AFTER THE EFFECTIVE DATE OF THIS SECTION IF THE  
16 TRANSFER OCCURRED PRIOR TO THE EFFECTIVE DATE OF THIS SECTION  
17 AND THE EMPLOYER, INDIVIDUAL OR ENTITY DID NOT REPORT THE  
18 TRANSFER PRIOR TO THE EFFECTIVE DATE OF THIS SECTION. IF THE  
19 TRANSFER OCCURRED ON OR BEFORE DECEMBER 31, 2003, THE REPORT  
20 SHALL BE MADE WITHIN THIRTY (30) DAYS AFTER IT IS REQUESTED BY  
21 THE DEPARTMENT.

22 (3) IN THE EVENT OF A PART TRANSFER OF AN EMPLOYER'S  
23 ORGANIZATION, TRADE, BUSINESS OR WORK FORCE UNDER SECTION  
24 301(D)(1)(A) OR (B) OF THIS ACT, THE PRECEDING EMPLOYER SHALL  
25 IDENTIFY THE INDIVIDUALS WHO WERE EMPLOYED IN THE PART  
26 TRANSFERRED TO THE SUCCESSOR-IN-INTEREST DURING THE CALENDAR  
27 QUARTER IN WHICH THE TRANSFER OCCURRED AND THE EIGHT (8)  
28 IMMEDIATELY PRECEDING CALENDAR QUARTERS. THE REPORT SHALL BE  
29 MADE WITHIN THIRTY (30) DAYS AFTER IT IS REQUESTED BY THE  
30 DEPARTMENT.

1       (4) AN INDIVIDUAL OR ENTITY TO WHOM SOME OR ALL OF A WORK  
2 FORCE IS TRANSFERRED, AS PART OF OR RESULTING IN AN ARRANGEMENT  
3 DESCRIBED UNDER SECTION 4(J)(2.1) OF THIS ACT, SHALL FILE A  
4 REPORT WITH THE DEPARTMENT FOR EACH CALENDAR QUARTER. THE  
5 INDIVIDUAL OR ENTITY MAY FILE ONE REPORT FOR ALL SUCH  
6 ARRANGEMENTS. THE REPORT SHALL BE FILED ON OR BEFORE THE LAST  
7 DAY OF THE MONTH WHICH IMMEDIATELY FOLLOWS THE END OF THE  
8 CALENDAR QUARTER FOR WHICH THE REPORT IS FILED.

9       (B) ALL REPORTS REQUIRED BY THIS SECTION OR ANY OTHER  
10 PROVISION OF THIS ACT OR THE RULES AND REGULATIONS OF THE  
11 DEPARTMENT SHALL BE MADE IN THE MANNER PRESCRIBED BY THE  
12 DEPARTMENT AND CONTAIN ALL INFORMATION REQUIRED BY THE  
13 DEPARTMENT.

14       SECTION 8. SECTION 601.1 OF THE ACT, AMENDED MAY 17, 1957  
15 (P.L.153, NO.72) AND JULY 21, 1983 (P.L.68, NO.30), IS AMENDED  
16 TO READ:

17       SECTION 601.1. SPECIAL ADMINISTRATION FUND.--(A) THERE IS  
18 HEREBY CREATED A SPECIAL FUND, SEPARATE AND APART FROM ALL  
19 PUBLIC MONEYS OR FUNDS OF THIS COMMONWEALTH, TO BE KNOWN AS THE  
20 SPECIAL ADMINISTRATION FUND. UNDER RULES AND REGULATIONS ADOPTED  
21 BY THE DEPARTMENT, INTEREST AND PENALTIES COLLECTED FROM  
22 EMPLOYERS UNDER THE PROVISIONS OF THIS ACT MAY BE PAID INTO THE  
23 SPECIAL ADMINISTRATION FUND. SUCH RULES AND REGULATIONS MAY  
24 PROVIDE FOR DETERMINING IN ANY MANNER WHICH PAYMENTS OF INTEREST  
25 AND PENALTIES ARE TO BE PAID INTO THE SPECIAL ADMINISTRATION  
26 FUND AND WHICH PAYMENTS OF INTEREST AND PENALTIES ARE TO BE PAID  
27 INTO THE UNEMPLOYMENT COMPENSATION FUND. THE MONEYS IN THIS FUND  
28 SHALL BE USED FOR THE PAYMENT OF COSTS OF ADMINISTRATION WHICH  
29 ARE FOUND NOT TO HAVE BEEN PROPERLY AND VALIDLY CHARGEABLE  
30 AGAINST FEDERAL GRANTS OR OTHER FUNDS RECEIVED FOR OR IN THE

1 ADMINISTRATION FUND. SAID MONEYS SHALL NOT BE EXPENDED OR  
2 AVAILABLE FOR EXPENDITURE IN ANY MANNER WHICH WOULD PERMIT THEIR  
3 SUBSTITUTION FOR, OR A CORRESPONDING REDUCTION IN, FEDERAL FUNDS  
4 WHICH WOULD IN THE ABSENCE OF SAID MONEYS BE AVAILABLE TO  
5 FINANCE EXPENDITURES FOR THE ADMINISTRATION OF THIS ACT. NOTHING  
6 IN THIS SECTION SHALL PREVENT SAID MONEYS FROM BEING USED AS A  
7 REVOLVING FUND TO COVER EXPENDITURES NECESSARY AND PROPER UNDER  
8 THE LAW FOR WHICH FEDERAL FUNDS HAVE BEEN DULY REQUESTED BUT NOT  
9 YET RECEIVED, SUBJECT TO THE CHARGING OF SUCH EXPENDITURES  
10 AGAINST SUCH FUNDS WHEN RECEIVED. THE STATE TREASURER SHALL MAKE  
11 PAYMENT OF OBLIGATIONS FROM THE SPECIAL ADMINISTRATION FUND AS  
12 HEREIN PROVIDED, UPON REQUISITION OF THE SECRETARY AND  
13 CERTIFICATION BY HIM THAT NO OTHER FUNDS ARE AVAILABLE OR CAN  
14 PROPERLY BE USED TO FINANCE SUCH EXPENDITURES. THE MONEYS IN  
15 THIS FUND ARE HEREBY SPECIFICALLY MADE AVAILABLE TO REPLACE ANY  
16 MONEYS RECEIVED PURSUANT TO SECTION THREE HUNDRED AND TWO OF THE  
17 FEDERAL SOCIAL SECURITY ACT, AS AMENDED, WHICH, BECAUSE OF ANY  
18 ACTION OR CONTINGENCY, HAVE BEEN LOST OR HAVE BEEN EXPENDED FOR  
19 PURPOSES OTHER THAN, OR IN AMOUNTS IN EXCESS OF, THOSE NECESSARY  
20 FOR THE PROPER ADMINISTRATION OF THIS ACT AND ARE AVAILABLE FOR  
21 SUCH REPLACEMENT, WHETHER OR NOT SUCH MONEYS WERE EXPENDED OR  
22 THE OBLIGATIONS COVERING SUCH EXPENDITURES WERE INCURRED PRIOR  
23 OR SUBSEQUENT TO THE ENACTMENT OF THIS AMENDMENT. THE MONEYS IN  
24 THIS FUND SHALL BE CONTINUOUSLY AVAILABLE FOR EXPENDITURE IN  
25 ACCORDANCE WITH THE PROVISIONS OF THIS SECTION, AND SHALL NOT  
26 LAPSE AT ANY TIME OR BE TRANSFERRED TO ANY OTHER FUND EXCEPT AS  
27 HEREIN PROVIDED AND AS PROVIDED UNDER SECTION THREE HUNDRED  
28 ELEVEN, WHEREIN AN AMOUNT EQUAL TO ANY REFUND OR CREDIT OF  
29 INTEREST OR PENALTIES SHALL BE TRANSFERRED FROM THE SPECIAL  
30 ADMINISTRATION FUND TO THE UNEMPLOYMENT COMPENSATION FUND.

1 (B) [AT THE CLOSE OF EACH FISCAL YEAR ALL] ALL MONEYS IN THE  
2 FUND IN EXCESS OF TWO HUNDRED THOUSAND DOLLARS (\$200,000) ON  
3 JUNE 25TH OF EACH YEAR SHALL BE TRANSFERRED TO EITHER THE  
4 UNEMPLOYMENT COMPENSATION FUND AND CREDITED TO THE EMPLOYERS'  
5 CONTRIBUTION ACCOUNT AS SPECIFIED IN SECTION 601[.] OR THE JOB  
6 TRAINING FUND AS SPECIFIED IN SECTION 601.4, OR TRANSFERRED TO  
7 BOTH, AS DETERMINED BY THE DEPARTMENT, IN CONSULTATION WITH THE  
8 SECRETARY OF THE BUDGET. IF THE DEPARTMENT DETERMINES THAT SUCH  
9 EXCESS SHALL BE TRANSFERRED TO BOTH THE UNEMPLOYMENT  
10 COMPENSATION FUND AND THE JOB TRAINING FUND, THE DEPARTMENT, IN  
11 CONSULTATION WITH THE SECRETARY OF THE BUDGET, SHALL DETERMINE  
12 WHAT PORTION OF SUCH EXCESS IS TRANSFERRED TO EACH FUND.

13 SECTION 9. THE ACT IS AMENDED BY ADDING A SECTION TO READ:

14 SECTION 601.4. JOB TRAINING FUND.--(A) THERE IS HEREBY  
15 CREATED A SPECIAL FUND TO BE KNOWN AS THE JOB TRAINING FUND.  
16 DEPOSITS IN THE FUND SHALL INCLUDE MONEYS TRANSFERRED FROM THE  
17 SPECIAL ADMINISTRATION FUND PURSUANT TO SECTION 601.1(B) AND  
18 OTHER MONEYS APPROPRIATED TO THE FUND.

19 (B) SUBJECT TO THE PROVISIONS OF SUBSECTIONS (C) AND (D),  
20 THE MONEYS IN THIS FUND ARE HEREBY APPROPRIATED, UPON APPROVAL  
21 OF THE GOVERNOR, TO THE DEPARTMENT OF LABOR AND INDUSTRY FOR THE  
22 FOLLOWING PURPOSES:

23 (1) JOB TRAINING PROGRAMS FOR INCUMBENT WORKERS, DISLOCATED  
24 WORKERS, ADULT AND YOUTH WORKERS, AND ANY OTHER WORK FORCE  
25 DEVELOPMENT TRAINING PROGRAM, INCLUDING EQUIPMENT AND SUPPLIES.

26 (2) JOB TRAINING EQUIPMENT, SUBJECT TO A REQUIREMENT FOR  
27 MATCHING FUNDS FROM A SOURCE OTHER THAN STATE FUNDING.

28 (3) THE COSTS OF ADMINISTERING SUCH TRAINING PROGRAM.

29 (4) THE COSTS OF COLLECTING INTEREST AND PENALTIES UNDER  
30 THIS ACT THAT ARE TRANSFERRED FROM THE SPECIAL ADMINISTRATION

1 FUND.

2 (C) MONEYS FROM THE FUND SHALL BE MADE AVAILABLE IN THE  
3 FOLLOWING ORDER OF PRIORITY:

4 (1) COUNTIES OF THE SIXTH, SEVENTH AND EIGHTH CLASS.

5 (2) COUNTIES OF THE FIRST, SECOND, SECOND A, THIRD, FOURTH  
6 AND FIFTH CLASS, PROVIDED THAT THERE ARE INSUFFICIENT  
7 APPLICATIONS FOR FUNDING UNDER PARAGRAPH (1) AND TO THE EXTENT  
8 THAT FUNDS REMAINS AVAILABLE.

9 (D) THE DEPARTMENT SHALL MAKE FUNDS AVAILABLE TO ELIGIBLE  
10 ENTITIES AS DETERMINED UNDER SUBSECTION (E) BASED ON A  
11 COMPETITIVE APPLICATION PROCESS AS DETERMINED BY THE DEPARTMENT.  
12 IN DISTRIBUTING FUNDING UNDER THIS SECTION, PREFERENTIAL  
13 CONSIDERATION SHALL BE GIVEN TO THOSE COUNTIES WITH A HIGHER  
14 UNEMPLOYMENT RATE. DISTRIBUTION OF FUNDS SHALL BE DETERMINED BY  
15 REVIEW OF ALL APPLICATIONS SUBMITTED BY ELIGIBLE ENTITIES WITHIN  
16 THE TIME PERIOD AUTHORIZED BY THE DEPARTMENT.

17 (E) FUNDING SHALL BE MADE AVAILABLE ONLY FOR THOSE ENTITIES  
18 IDENTIFIED IN THIS SECTION WHICH PROVIDE WORK FORCE EDUCATION  
19 PROGRAMS AND SERVICES. ELIGIBLE ENTITIES SHALL INCLUDE:

20 (1) EMPLOYMENT AND TRAINING PROGRAM PROVIDERS RECEIVING  
21 FINANCIAL ASSISTANCE FROM THE COMMONWEALTH OR FROM OTHER SOURCES  
22 OF PUBLIC FUNDING.

23 (2) NOT-FOR-PROFIT ORGANIZATIONS OFFERING PUBLICLY FUNDED  
24 EMPLOYMENT TRAINING PROGRAMS.

25 (3) CAREER AND TECHNICAL INSTITUTES.

26 (4) HIGH SCHOOLS WITH EIGHT OR MORE VOCATIONAL EDUCATION  
27 PROGRAMS.

28 (5) HIGHER EDUCATION INSTITUTIONS OFFERING PUBLICLY FUNDED  
29 EMPLOYMENT AND TRAINING PROGRAMS, INCLUDING:

30 (I) STATE-RELATED INSTITUTIONS AND THEIR BRANCH CAMPUSES.

1        (II) STATE-OWNED INSTITUTIONS WITHIN THE STATE SYSTEM OF  
2 HIGHER EDUCATION UNDER ARTICLE XX-A OF THE ACT OF MARCH 10, 1949  
3 (P.L.30, NO.14), KNOWN AS THE "PUBLIC SCHOOL CODE OF 1949."

4        (III) COMMUNITY COLLEGES ESTABLISHED AND OPERATED UNDER  
5 ARTICLE XIX-A OF THE "PUBLIC SCHOOL CODE OF 1949."

6        (F) THE MONEYS IN THIS FUND SHALL BE CONTINUOUSLY AVAILABLE  
7 FOR EXPENDITURE IN ACCORDANCE WITH THE PROVISIONS OF THIS  
8 SECTION, AND SHALL NOT LAPSE AT ANY TIME NOR BE TRANSFERRED TO  
9 ANY OTHER FUND.

10       (G) FOR PURPOSES OF THIS SECTION, THE TERM "STATE-RELATED  
11 INSTITUTIONS" SHALL INCLUDE THE PENNSYLVANIA STATE UNIVERSITY,  
12 THE UNIVERSITY OF PITTSBURGH, TEMPLE UNIVERSITY, LINCOLN  
13 UNIVERSITY AND ANY OTHER INSTITUTION THAT IS HEREAFTER  
14 DESIGNATED AS "STATE-RELATED" BY THE COMMONWEALTH.

15       SECTION 10. SECTION 603 OF THE ACT, AMENDED JULY 21, 1983  
16 (P.L.68, NO.30), IS AMENDED TO READ:

17       SECTION 603. STATE TREASURER AS CUSTODIAN.--THE STATE  
18 TREASURER SHALL BE THE CUSTODIAN OF THE UNEMPLOYMENT  
19 COMPENSATION FUND, THE ADMINISTRATION FUND, THE SPECIAL  
20 ADMINISTRATION FUND [AND], THE INTEREST FUND AND THE JOB  
21 TRAINING FUND. HE SHALL GIVE A BOND, OR BONDS, WITH CORPORATE  
22 SURETIES, CONDITIONED UPON THE FAITHFUL PERFORMANCE OF HIS  
23 DUTIES AS CUSTODIAN OF SUCH FUNDS IN SUCH AMOUNT OR AMOUNTS AS  
24 SHALL BE DETERMINED AND FIXED BY THE EXECUTIVE BOARD OF THIS  
25 COMMONWEALTH. PREMIUMS FOR SUCH BOND OR BONDS SHALL BE PAID BY  
26 THE DEPARTMENT OUT OF THE MONEYS IN THE ADMINISTRATION FUND. ALL  
27 MONEYS BELONGING TO SUCH FUNDS (EXCLUSIVE OF MONEYS ON DEPOSIT  
28 IN THE UNEMPLOYMENT TRUST FUND AS PROVIDED IN SECTION 601) SHALL  
29 BE DEPOSITED BY THE STATE TREASURER IN ANY BANKS OR PUBLIC  
30 DEPOSITORIES IN WHICH GENERAL FUNDS OF THE COMMONWEALTH MAY BE

1 DEPOSITED, BUT NO PUBLIC DEPOSIT INSURANCE CHARGE OR PREMIUM  
2 SHALL BE PAID OUT OF MONEYS IN THE UNEMPLOYMENT COMPENSATION  
3 FUND. ANY LAW TO THE CONTRARY NOTWITHSTANDING, ALL PAYMENTS FROM  
4 SUCH FUNDS SHALL BE MADE UNDER SUCH SYSTEMS OF REQUISITIONING  
5 AND ACCOUNTING AS THE GOVERNOR, THE STATE TREASURER, AND  
6 SECRETARY SHALL DETERMINE.

7 SECTION 11. SECTION 802 OF THE ACT, AMENDED DECEMBER 9, 2002  
8 (P.L.1336, NO.158), IS AMENDED TO READ:

9 SECTION 802. FALSE STATEMENTS AND REPRESENTATIONS TO PREVENT  
10 OR REDUCE COMPENSATION, AND OTHER OFFENSES.--(A) ANY EMPLOYER  
11 (WHETHER OR NOT LIABLE FOR THE PAYMENT OF CONTRIBUTIONS UNDER  
12 THIS ACT) OR ANY OFFICER OR AGENT OF SUCH EMPLOYER OR ANY OTHER  
13 PERSON WHO DOES ANY OF THE FOLLOWING COMMITS A SUMMARY OFFENSE  
14 AND SHALL, UPON CONVICTION, BE SENTENCED TO PAY A FINE OF NOT  
15 LESS THAN ONE HUNDRED DOLLARS NOR MORE THAN FIFTEEN HUNDRED  
16 DOLLARS OR TO IMPRISONMENT FOR NOT LONGER THAN THIRTY DAYS, OR  
17 BOTH:

18 (1) MAKES A FALSE STATEMENT OR REPRESENTATION KNOWING IT TO  
19 BE FALSE, OR WHO KNOWINGLY FAILS TO DISCLOSE A MATERIAL FACT TO  
20 PREVENT OR REDUCE THE PAYMENT OF COMPENSATION TO ANY EMPLOYEE  
21 ENTITLED THERETO, OR TO AVOID BECOMING OR REMAINING SUBJECT  
22 HERETO, OR TO AVOID OR REDUCE ANY CONTRIBUTION OR OTHER PAYMENT  
23 REQUIRED FROM AN EMPLOYER UNDER THIS ACT[, OR WHO];

24 (2) WILFULLY FAILS OR REFUSES TO MAKE ANY SUCH CONTRIBUTION  
25 OR OTHER PAYMENT [OR TO FURNISH ANY REPORTS] REQUIRED  
26 HEREUNDER[, OR WHO];

27 (3) WILFULLY FAILS OR REFUSES TO PRODUCE OR PERMIT THE  
28 INSPECTION OR COPYING OF RECORDS AS REQUIRED HEREUNDER[, SHALL,  
29 UPON CONVICTION THEREOF IN A SUMMARY PROCEEDING, BE SENTENCED TO  
30 PAY A FINE OF NOT LESS THAN ONE HUNDRED DOLLARS NOR MORE THAN

1 FIFTEEN HUNDRED DOLLARS OR TO IMPRISONMENT FOR NOT LONGER THAN  
2 THIRTY DAYS, OR BOTH.];

3 (4) WILFULLY FAILS OR REFUSES TO FURNISH ANY REPORT REQUIRED  
4 BY SECTION 304 OR 315 OF THIS ACT OR ANY OTHER PROVISION OF THIS  
5 ACT OR THE RULES OR REGULATIONS OF THE DEPARTMENT; OR

6 (5) WILFULLY REPORTS OR ATTEMPTS TO REPORT THE WAGES OF ONE  
7 OR MORE EMPLOYES TO THE DEPARTMENT ON AN UNEMPLOYMENT  
8 COMPENSATION ACCOUNT OTHER THAN THE ACCOUNT OF THE EMPLOYER  
9 UNDER THIS ACT; OR

10 (6) WILFULLY ADVISES, SOLICITS, ENCOURAGES OR COMMANDS AN  
11 EMPLOYER OR AN OFFICER OR AGENT OF AN EMPLOYER OR ANY OTHER  
12 PERSON TO ENGAGE IN AN ACT OR OMISSION THAT IS AN OFFENSE UNDER  
13 THIS SECTION.

14 (B) THE NUMBER OF OFFENSES UNDER SUBSECTION (A) SHALL BE  
15 DETERMINED AS FOLLOWS:

16 (1) EACH [SUCH] FALSE STATEMENT OR REPRESENTATION OR FAILURE  
17 TO DISCLOSE A MATERIAL FACT[, AND EACH DAY OF SUCH FAILURE OR  
18 REFUSAL] SHALL CONSTITUTE A SEPARATE OFFENSE[.] UNDER SUBSECTION  
19 (A)(1) OF THIS SECTION.

20 (2) EACH DAY OF FAILURE OR REFUSAL SHALL CONSTITUTE A  
21 SEPARATE OFFENSE UNDER SUBSECTION (A)(2), (3) AND (4) OF THIS  
22 SECTION.

23 (3) EACH PERSON OR ENTITY FOR WHOM A REGISTRATION IS NOT  
24 MADE AS REQUIRED BY SECTION 315(A)(1) OF THIS ACT SHALL BE THE  
25 BASIS OF A SEPARATE OFFENSE UNDER SUBSECTION (A)(4) OF THIS  
26 SECTION.

27 (4) EACH TRANSFER OF ORGANIZATION, TRADE, BUSINESS OR WORK  
28 FORCE THAT IS NOT REPORTED AS REQUIRED BY SECTION 315(A)(2) OR  
29 (3) OF THIS ACT SHALL BE THE BASIS OF A SEPARATE OFFENSE UNDER  
30 SUBSECTION (A)(4) OF THIS SECTION.

1       (5) EACH REPORT REQUIRED BY SECTION 304 OR 315 OF THIS ACT,  
2 OR ANY OTHER PROVISION OF THIS ACT OR THE RULES OR REGULATIONS  
3 OF THE DEPARTMENT, SHALL BE THE BASIS OF A SEPARATE OFFENSE  
4 UNDER SUBSECTION (A)(4) OF THIS ACT.

5       (6) EACH CALENDAR QUARTER AND EACH ACCOUNT ON WHICH WAGES  
6 ARE INCORRECTLY REPORTED SHALL BE THE BASIS OF A SEPARATE  
7 OFFENSE UNDER SUBSECTION (A)(5) OF THIS SECTION.

8       (7) EACH INCIDENT OF ADVISING, SOLICITING, ENCOURAGING OR  
9 COMMANDING AND EACH EMPLOYER, OFFICER, AGENT OR OTHER PERSON  
10 ADVISED, SOLICITED, ENCOURAGED OR COMMANDED SHALL BE THE BASIS  
11 OF A SEPARATE OFFENSE UNDER SUBSECTION (A)(6) OF THIS SECTION.

12       (C) IN ADDITION TO ANY OTHER SANCTION, ANY EMPLOYER,  
13 OFFICER, AGENT OR OTHER PERSON CONVICTED UNDER THIS SECTION FOR  
14 WILLFUL FAILURE OR REFUSAL TO MAKE A PAYMENT SHALL BE ORDERED TO  
15 MAKE RESTITUTION OF THE UNPAID AMOUNTS, INCLUDING INTEREST AND  
16 PENALTY FROM THE DATE THE PAYMENT WAS DUE THROUGH THE DATE OF  
17 PAYMENT.

18       (D) FOR PURPOSES OF THIS SECTION, THE TERMS "WILFULLY" AND  
19 "WILLFULLY" SHALL HAVE THE MEANING APPLICABLE TO THE TERM  
20 "WILLFULLY" UNDER 18 PA.C.S. § 302 (RELATING TO GENERAL  
21 REQUIREMENTS OF CULPABILITY).

22       SECTION 12. THE ACT IS AMENDED BY ADDING A SECTION TO READ:

23       SECTION 802.1. MONETARY PENALTIES.--(A) ANY EMPLOYER  
24 (WHETHER OR NOT LIABLE FOR THE PAYMENT OF CONTRIBUTIONS UNDER  
25 THIS ACT) OR ANY OFFICER OR AGENT OF SUCH EMPLOYER OR ANY OTHER  
26 PERSON WHO DOES ANY OF THE FOLLOWING COMMITS AN OFFENSE FOR  
27 WHICH A CIVIL PENALTY SHALL BE ASSESSED BY THE DEPARTMENT:

28       (1) WILFULLY FAILS OR REFUSES TO PRODUCE OR PERMIT THE  
29 INSPECTION OR COPYING OF RECORDS AS REQUIRED HEREUNDER;

30       (2) WILFULLY FAILS OR REFUSES TO MAKE ANY REPORT REQUIRED BY

1 SECTION 315(A)(1) OR (2) OF THIS ACT, WILFULLY MAKES OR ATTEMPTS  
2 TO MAKE SUCH A REPORT CONTAINING A MISREPRESENTATION OF FACT, OR  
3 WILFULLY MAKES OR ATTEMPTS TO MAKE SUCH A REPORT THAT FAILS TO  
4 DISCLOSE A MATERIAL FACT;

5 (3) WILFULLY FAILS OR REFUSES TO MAKE ANY REPORT REQUIRED BY  
6 SECTION 315(A)(4) OF THIS ACT, WILFULLY MAKES OR ATTEMPTS TO  
7 MAKE SUCH A REPORT CONTAINING A MISREPRESENTATION OF FACT, OR  
8 WILFULLY MAKES OR ATTEMPTS TO MAKE SUCH A REPORT THAT FAILS TO  
9 DISCLOSE A MATERIAL FACT;

10 (4) WILFULLY REPORTS OR ATTEMPTS TO REPORT THE WAGES OF ONE  
11 OR MORE EMPLOYES TO THE DEPARTMENT ON AN UNEMPLOYMENT  
12 COMPENSATION ACCOUNT OTHER THAN THE ACCOUNT OF THE EMPLOYER  
13 UNDER THIS ACT; OR

14 (5) WILFULLY ADVISES, SOLICITS, ENCOURAGES OR COMMANDS AN  
15 EMPLOYER OR AN OFFICER OR AGENT OF AN EMPLOYER OR ANY OTHER  
16 PERSON TO ENGAGE IN CONDUCT THAT IS AN OFFENSE UNDER THIS  
17 SECTION.

18 (B) THE AMOUNT OF A PENALTY UNDER SUBSECTION (A)(1) SHALL  
19 NOT EXCEED FIFTEEN HUNDRED DOLLARS FOR EACH DAY OF FAILURE OR  
20 REFUSAL.

21 (C) THE AMOUNT OF A PENALTY UNDER SUBSECTION (A)(2) OF THIS  
22 SECTION SHALL NOT EXCEED THE GREATER OF TEN THOUSAND DOLLARS OR  
23 THE AMOUNT OF THE DIFFERENCE BETWEEN THE AMOUNT OF CONTRIBUTIONS  
24 PAYABLE BY THE EMPLOYER AT THE RATE OR RATES OF CONTRIBUTION  
25 ASSIGNED BY THE DEPARTMENT IN THE ABSENCE OF THE REPORT OR BASED  
26 ON A MISREPRESENTATION OR NONDISCLOSURE IN THE REPORT AND THE  
27 AMOUNT OF CONTRIBUTIONS PAYABLE BY THE EMPLOYER AT THE CORRECT  
28 RATE OR RATES OF CONTRIBUTION. THE PENALTY SHALL APPLY TO  
29 CONTRIBUTIONS FOR CALENDAR QUARTERS FROM THE QUARTER IN WHICH  
30 THE REPORT BECAME DUE THROUGH THE QUARTER IN WHICH A REPORT IS

1 FILED THAT DOES NOT CONTAIN A MISREPRESENTATION OR  
2 NONDISCLOSURE. EACH EMPLOYER FOR WHOM A REPORT IS NOT MADE OR A  
3 REPORT IS MADE CONTAINING A MISREPRESENTATION OR NONDISCLOSURE  
4 OR AN ATTEMPT IS MADE TO MAKE A REPORT CONTAINING A  
5 MISREPRESENTATION OR NONDISCLOSURE SHALL BE THE BASIS OF A  
6 SEPARATE PENALTY.

7 (D) THE AMOUNT OF THE PENALTY UNDER SUBSECTION (A)(3) OF  
8 THIS SECTION SHALL NOT EXCEED TEN THOUSAND DOLLARS FOR EACH  
9 REPORT THAT IS NOT MADE, EACH REPORT CONTAINING A  
10 MISREPRESENTATION OR NONDISCLOSURE, AND EACH ATTEMPT TO MAKE A  
11 REPORT CONTAINING A MISREPRESENTATION OR NONDISCLOSURE.

12 (E) THE AMOUNT OF THE PENALTY UNDER SUBSECTION (A)(4) OF  
13 THIS SECTION SHALL NOT EXCEED THE GREATER OF TEN THOUSAND  
14 DOLLARS OR THE AMOUNT OF THE DIFFERENCE BETWEEN THE AMOUNT OF  
15 CONTRIBUTIONS PAYABLE ON THE WAGES AS REPORTED ON AN INCORRECT  
16 ACCOUNT, OR THE AMOUNT OF CONTRIBUTIONS THAT WOULD HAVE BEEN  
17 PAYABLE IF THE ATTEMPT TO REPORT THE WAGES ON AN INCORRECT  
18 ACCOUNT HAD BEEN CONSUMMATED AND THE AMOUNT OF CONTRIBUTIONS  
19 PAYABLE ON THE WAGES AS REPORTED ON THE EMPLOYER'S ACCOUNT. EACH  
20 CALENDAR QUARTER AND EACH EMPLOYER FOR WHICH WAGES ARE REPORTED  
21 ON AN INCORRECT ACCOUNT OR AN ATTEMPT IS MADE TO REPORT WAGES ON  
22 AN INCORRECT ACCOUNT SHALL BE THE BASIS OF A SEPARATE PENALTY.

23 (F) THE AMOUNT OF THE PENALTY UNDER SUBSECTION (A)(5) OF  
24 THIS SECTION SHALL NOT EXCEED THE GREATER OF TEN THOUSAND  
25 DOLLARS OR THE AMOUNT OF THE PENALTY ASSESSED AGAINST THE  
26 EMPLOYER, OFFICER, AGENT OR OTHER PERSON WHO IS THE OBJECT OF  
27 THE CONDUCT THAT IS AN OFFENSE UNDER SUBSECTION (A)(5) OF THIS  
28 SECTION. EACH EMPLOYER, OFFICER, AGENT OR OTHER PERSON WHO IS  
29 THE OBJECT OF CONDUCT THAT IS AN OFFENSE UNDER SUBSECTION (A)(5)  
30 SHALL BE THE BASIS OF A SEPARATE PENALTY.

1       (G) AN OFFICER OR AGENT OF AN EMPLOYER OR ANY OTHER PERSON  
2 ASSESSED A PENALTY UNDER THIS SECTION SHALL BE DEEMED TO BE AN  
3 EMPLOYER FOR PURPOSES OF THE ENFORCEMENT AND COLLECTION  
4 PROVISIONS OF THIS ACT. A PENALTY ASSESSED UNDER THIS SECTION  
5 MAY BE COLLECTED IN THE MANNER PROVIDED IN SECTIONS 308.1,  
6 308.2, 308.3 AND 309 OF THIS ACT AND ANY OTHER MANNER PROVIDED  
7 BY THIS ACT FOR THE COLLECTION OF CONTRIBUTIONS, INTEREST AND  
8 PENALTY.

9       (H) PENALTIES UNDER THIS SECTION SHALL BE ASSESSED IN  
10 ACCORDANCE WITH THE PROCEDURES PRESCRIBED IN SECTION 304 OF THIS  
11 ACT.

12       (I) FOR PURPOSES OF THIS SECTION, THE TERMS "WILFULLY" AND  
13 "WILLFULLY" SHALL HAVE THE MEANING APPLICABLE TO THE TERM  
14 "WILLFULLY" UNDER 18 PA.C.S. § 302 (RELATING TO GENERAL  
15 REQUIREMENTS OF CULPABILITY).

16       SECTION 13. THIS ACT SHALL APPLY AS FOLLOWS:

17           (1) THE AMENDMENT OF SECTION 4(J) OF THE ACT SHALL APPLY  
18 TO SERVICES FOR WHICH REMUNERATION IS PAID ON OR AFTER JULY  
19 1, 2005.

20           (2) THE AMENDMENT OF SECTION 301(A)(2) OF THE ACT SHALL  
21 APPLY TO RATES OF CONTRIBUTION FOR CALENDAR YEARS BEGINNING  
22 ON OR AFTER JANUARY 1, 2006.

23           (3) THE AMENDMENT OF SECTION 301(D) OF THE ACT SHALL  
24 APPLY TO TRANSFERS OF ORGANIZATION, TRADE, BUSINESS OR WORK  
25 FORCE OCCURRING ON OR AFTER JULY 1, 2005.

26           (4) THE AMENDMENT OF SECTION 301(J) OF THE ACT SHALL  
27 APPLY TO THE CALCULATION OF INTEREST ON ADDITIONAL  
28 CONTRIBUTIONS THAT ARE UNPAID ON OR AFTER JULY 1, 2005.

29           (5) THE AMENDMENT OF SECTION 308 OF THE ACT SHALL APPLY  
30 TO THE CALCULATION OF INTEREST FOR THAT PORTION OF THE PERIOD

1 FROM THE DATE CONTRIBUTIONS BECOME DUE THROUGH THE DATE THEY  
2 ARE PAID THAT IS ON OR AFTER JANUARY 1, 2006.

3 (6) SECTION 309.2(B)(2) OF THE ACT SHALL APPLY TO  
4 TRANSFERS OF ORGANIZATION, TRADE, BUSINESS OR WORK FORCE  
5 OCCURRING ON OR AFTER JULY 1, 2005.

6 (7) SECTION 315(A)(2) AND (3) OF THE ACT SHALL APPLY TO  
7 TRANSFERS OCCURRING PRIOR TO, ON OR AFTER JULY 1, 2005.

8 (8) SECTION 315(A)(4) OF THE ACT SHALL APPLY TO CALENDAR  
9 QUARTERS BEGINNING ON OR AFTER JULY 1, 2005.

10 SECTION 14. THIS ACT SHALL TAKE EFFECT AS FOLLOWS:

11 (1) THE FOLLOWING PROVISIONS SHALL TAKE EFFECT JULY 1,  
12 2005, OR IMMEDIATELY, WHICHEVER IS LATER:

13 (I) THE AMENDMENT OF SECTION 4(J) OF THE ACT.

14 (II) THE AMENDMENT OF SECTION 301(D) AND (J) OF THE  
15 ACT.

16 (III) THE AMENDMENT OF SECTION 309.2(B) OF THE ACT.

17 (IV) THE ADDITION OF SECTION 315(A)(2), (3) AND (4)  
18 OF THE ACT.

19 (2) THE FOLLOWING PROVISIONS SHALL TAKE EFFECT JANUARY  
20 1, 2006, OR IMMEDIATELY, WHICHEVER IS LATER:

21 (I) THE AMENDMENT OF SECTION 301(A)(2) OF THE ACT.

22 (II) THE AMENDMENT OF SECTION 308 OF THE ACT.

23 (3) THE REMAINDER OF THIS ACT SHALL TAKE EFFECT  
24 IMMEDIATELY.