

No. 1

AN ACT

Amending the act of December 5, 1936 (1937 P. L. 2897), entitled "An act establishing a system of unemployment compensation to be administered by the Department of Labor and Industry and its existing and newly created agencies with personnel (with certain exceptions) selected on a civil service basis; requiring employers to keep records and make reports, and certain employers to pay contributions based on payrolls to provide moneys for the payment of compensation to certain unemployed persons; providing procedure and administrative details for the determination, payment and collection of such contributions and the payment of such compensation; providing for cooperation with the Federal Government and its agencies; creating certain special funds in the custody of the State Treasurer; and prescribing penalties," modifying conditions of qualification and disqualification for, and amount of, benefits; changing contribution base and rates; authorizing agreements with the Federal Government providing for the transfer of certain moneys to the Treasury of the United States under certain conditions; and granting stand-by authority to the Governor under certain conditions.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Unemployment
Compensation
Law.

Section 1. Subsection (u) of section 4, act of December 5, 1936 (1937 P. L. 2897), known as the "Unemployment Compensation Law," amended September 14, 1961 (P. L. 1301), paragraph (2) of subsection (w) of the section, added December 17, 1959 (P. L. 1893), and paragraph (1) of subsection (x) of the section, amended March 30, 1955 (P. L. 6), are amended to read:

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

* * * * *

(u) "Unemployed."—An individual shall be deemed unemployed (I) with respect to any week (i) during which he performs no services for which remuneration is paid or payable to him and (ii) with respect to which no remuneration is paid or payable to him, or (II) with respect to any week of less than his full-time work if the remuneration paid or payable to him with respect to such week is less than his weekly benefit rate plus his partial benefit credit. [: Provided, That for the purposes of this subsection vacation pay and similar payments, wages in lieu of notice, separation allowances, dismissal wages and similar payments, whether or not legally required to be paid, shall be deemed remuneration paid or payable with respect to such period as shall be determined by rules and regulations of the department, except that during any period following a separ-

ration from employment when such payments are made upon the employe's relinquishment of all rights and benefits from the separating employer which have accrued from service with the separating employer, any amount up to one hundred dollars (\$100) per week allocated to any week or weeks during such period shall not be deemed remuneration.]

Notwithstanding any other provisions of this act, an employe who is unemployed during a plant shutdown for vacation purposes shall not be deemed ineligible for compensation merely by reason of the fact that he or his collective bargaining agents agreed to the vacation.

No employe shall be deemed eligible for compensation during a plant shutdown for vacation who receives directly or indirectly any funds from the employer as vacation allowance.

* * * * *

(w) * * *

(2) An application for benefits filed within [ninety (90)] *ninety-five (95)* days after the termination of a preceding benefit year by an individual [who has had no work, whether or not such work is in "employment" as defined in this act, during the last fifty-one weeks of such preceding benefit year] shall not be considered a Valid Application for Benefits within the meaning of this subsection, unless such individual has, subsequent to the [exhaustion of benefits during such preceding benefit year, maintained an active registration for work in a public employment office by personal visits thereto at intervals of not more than sixty (60) days, or if such individual has refused to accept suitable work, whether or not such work is in "employment" as defined in this act, subsequent to such exhaustion] *beginning of such preceding benefit year and prior to the filing of such application, worked and earned wages, whether or not such work is in "employment" as defined in this act in an amount equal to or in excess of ten (10) times his weekly benefit rate in effect during such preceding benefit year.*

(x) "Wages" means all remuneration, (including the cash value of mediums of payment other than cash), paid by an employer to an individual with respect to his employment except that the term "wages" shall not include:

(1) That part of the remuneration which is in excess of the first three thousand *six hundred* dollars [(\$3000)] (*\$3600*) paid to an individual by each of his employers during a calendar year: Provided, That an employer may take credit under this subsection for remuneration which his predecessor-in-interest has paid to an individual during the same calendar year with respect to

employment; and provided also, that an employer may take credit under this subsection for remuneration which he or his predecessor-in-interest has paid to an individual in the same calendar year on which contributions have been required and paid by such employer under an unemployment compensation law of another state, but no such credit may be taken for remuneration which has been paid by another employer to such individual, whether or not contributions have been paid thereon by such other employer under this act or under any state unemployment compensation law.

Remuneration paid by an employer in excess of the amount on which contributions are required to be paid may not be considered in determining the compensation rights of an individual under this act. Remuneration paid by an employer on which contributions are required to be paid shall be considered in determining the compensation rights of an individual and for such purpose may be allocated in accordance with rules and regulations of the department to any calendar quarter in which the individual earned remuneration from such employer: Provided, That the sum of the allocation and the earnings reported with respect to any calendar quarter shall not exceed the remuneration paid for such quarter.

* * * * *

Section 2. Paragraphs (1) and (3) of subsection (a), subsection (c) and paragraphs (1) and (3) of subsection (d) of section 301 of the act, amended December 17, 1959 (P. L. 1893), are amended to read:

Section 301. Contributions by Employers; Successors-in-Interest; Appeals.—

(a) (1) Each employer shall pay contributions with respect to the calendar year one thousand nine hundred sixty-four, and each calendar year thereafter, at a rate equal to [four] *two and seven-tenths* per centum of wages paid by him for employment: Provided, however, That *with respect to employers subject to the provisions of section 301.1 (b) of this act*, such rate shall be adjusted [between a minimum rate of one-tenth of one per centum and a maximum rate of four per centum] in accordance with the provisions of section three hundred one point one of this act.

* * * * *

(3) [An employer whose reserve account balance is adjusted to zero in accordance with the provisions of section 302 (h) of this act shall not be eligible for a reduced rate of contributions under the provisions of this act for the three consecutive calendar years following the computation date with respect to which the application for adjustment was made, and shall pay contribu-

tions at the rate of four per centum for each of such three calendar years. In the event an employer shall file one or more subsequent applications for adjustment, the provisions of this subsection shall apply to each such application.] *Notwithstanding any other provisions of the act, any employer who becomes newly liable for contributions under this act in a calendar year in which it employs individuals in the performance of a contract or subcontract for construction in this Commonwealth of roads, bridges, highways, buildings, factories, housing developments or other construction projects shall be liable for contributions at the rate of four per centum of wages paid by him for employment, until such time as he becomes subject to the provisions of section 301.1 of this act.*

* * * * *

(c) Each employer with respect to any period prior to the first day of January, one thousand nine hundred sixty-four, shall be liable for contributions in accordance with the provisions of this act applicable to each period in effect prior to such date, and for these purposes such provisions shall remain in force and effect.

(d) (1) (A) Where an employer, subsequent to the thirtieth day of June, one thousand nine hundred and forty-nine, transfers his or its organization, trade or business, in whole or in part, to a successor-in-interest [who continues essentially the same business activity of the whole or part transferred], such successor-in-interest may, prior to the end of the calendar year subsequent to the calendar year in which the transfer occurred, make application for transfer of the whole, or appropriate part, of the experience record and reserve account balance of the preceding employer to the successor-in-interest, including credit for the years during which contributions were paid by the preceding employer. The department shall transfer the whole or appropriate part of such experience record and reserve account balance of the preceding employer only if such preceding employer has joined in such application and has filed with the department such supporting schedules or other information with respect to such experience record and reserve account balance as the department may require. If the application for such transfer is filed in accordance with the rules and regulations of the department, the department may allow such transfer only if all contributions, interest and penalties owing by the predecessor have been or are paid at the time such application is filed with the department.

(B) *Notwithstanding the provisions of paragraph (A) of this subsection, with respect to any transfer occurring on or after the first day of July, one thou-*

sand nine hundred sixty-four, by an employer subject to the contribution provisions of this act of its organization, trade or business, in whole or in part, whether such transfer was by merger, consolidation, sale or transfer, descent or otherwise, the department shall transfer the experience record and reserve account balance (whether positive or negative) of such employer to its successor-in-interest if it finds that (I) such employer was owned or controlled by or owned or controlled the successor-in-interest either directly or indirectly, by legally enforceable means or otherwise, or (II) both such employer and successor-in-interest were owned or controlled either directly or indirectly, by legally enforceable means or otherwise, by the same interest or interests.

(C) In the event of a part transfer of an employer's organization, trade or business under either paragraph (A) or paragraph (B) of this subsection, only such portion of the experience record and reserve account balance of the preceding employer as such employer's average annual wages for the last three calendar years of the organization, trade or business transferred bears to his total average annual payroll for such last three calendar years shall be transferred: Provided, That if the part transferred has been in existence for a period of less than three calendar years but more than one calendar year, then only such portion of the experience record and reserve account balance of the preceding employer as the average annual wages for such period of the part transferred bears to the total average annual payroll for such period shall be transferred, and credit shall be given to the successor-in-interest only for the years during which contributions were paid by the preceding employer with respect to that part of the organization, trade or business transferred.

(D) A transfer of an experience record and reserve account balance, in whole or in part, having been [applied for and approved by the department] made under the provisions of either paragraph (A) or paragraph (B) of this subsection, the preceding employer shall not be entitled to consideration for an adjusted rate for the calendar year following the date of transfer and for subsequent calendar years, based upon his experience record and reserve account balance which has been thus transferred.

(E) *Where an employer, on or after the first day of July, one thousand nine hundred and sixty-four, transfers his or its organization, trade or business, in whole or in part, to a successor-in-interest, such * employer shall give the department notice in writing of such*

* word "an" deleted.

transfer at least ten (10) days prior to the effective date thereof. Such notice shall contain the names and addresses of the employer and of the successor-in-interest and such additional information as the department may require. For the purposes of this subsection (d), a transfer shall be deemed to have occurred if the successor-in-interest (I) has assumed any of the predecessor's obligations, or (II) has acquired any of the predecessor's good will, or (III) has continued or resumed the business of the predecessor either in the same establishment or elsewhere, or (IV) has employed one or more employes formerly employed by the predecessor in connection with the organization, trade, business or part thereof transferred.

* * * * *

(3) A successor-in-interest who, subsequent to the first day of January, one thousand nine hundred sixty, acquires from a preceding employer the whole or a part of a reserve balance which has been adjusted to zero under the provisions of section 302 [(h)] (c) of this act shall be liable for contributions at the maximum rate of four per centum under the provisions of section [301 (a) (3)] 301.1 (f) of this act in the same manner as the preceding employer with respect to the part of the organization, trade or business transferred. This provision shall not apply if the successor-in-interest as of any computation date has been subject to this act for fourteen or more consecutive calendar quarters, or has been subject to this act for a period as long as or longer than the preceding employer.

* * * * *

Section 3. Subsections (a), (c), (d) and (f) of section 301.1 of the act, added December 17, 1959 (P. L. 1893), are amended to read:

Section 301.1. Determination of Contribution Rate; Experience Rating.—

(a) The rate of contribution payable by an employer eligible for an adjusted rate with respect to the calendar year beginning January one, one thousand nine hundred sixty-four, and each calendar year thereafter, *shall be adjusted between a minimum rate of zero per centum and a maximum rate of four per centum which shall be the aggregate of three factors:*

- (A) A Funding Factor.
- (B) An Experience Factor.
- (C) A State Adjustment Factor.

[In no event shall such aggregate produce a rate of contribution in excess of four per centum or less than one-tenth of one per centum.]

* * * * *

(c) When, as of the computation date, there is a credit balance in such employer's reserve account, which balance shall include (1) contributions with respect to the period ending on the computation date and paid on or before September fifteenth immediately following such computation date, (2) benefits paid on or before computation date, and shall also include any voluntary payments made in accordance with subsection [(g)] (b) of section 302 of this act, his Funding Factor for the calendar year thereafter shall be as set forth in the table below and as applicable to his employer group and the employer percentage group containing his employer percentage.

Table
Employer Percentage Groups

[Employer Group 1						
9.0 or more	8.9-7.0	6.9-5.0	4.9-3.0	2.9-1.0	Less than 1.0	
Employer Group 2						
13.0 or more	12.9-10.0	9.9-7.0	6.9-4.0	3.9-1.0	Less than 1.0	
Employer Group 3						
17.0 or more	16.9-13.0	12.9-9.0	8.9-5.0	4.9-1.0	Less than 1.0	
Funding Factor	0.5	0.6	0.7	0.8	0.9	1.0]

Funding

<i>Factor</i>	<i>Group 1</i>	<i>Group 2</i>	<i>Group 3</i>
0.0	16.0 or more	23.5 or more	31.0 or more
0.1	14.5-15.9	21.3-23.4	28.0-30.9
0.2	13.0-14.4	19.0-21.2	25.0-27.9
0.3	11.5-12.9	16.8-18.9	22.0-24.9
0.4	10.0-11.4	14.5-16.7	19.0-21.9
0.5	8.5-9.9	12.3-14.4	16.0-18.9
0.6	7.0-8.4	10.0-12.2	13.0-15.9
0.7	5.0-6.9	7.0-9.9	9.0-12.9
0.8	3.0-4.9	4.0-6.9	5.0-8.9
0.9	1.0-2.9	1.0-3.9	1.0-4.9
1.0	less than 1.0	less than 1.0	less than 1.0

As used in the foregoing table, the term "employer percentage" means the ratio of the balance in an employer's reserve account to his average annual payroll. Each employer percentage group shown includes the fractional percentage between such percentage group and the immediately higher percentage group. The Funding Factor of an employer who has no credit balance in his reserve account shall be one per centum.

(d) An employer's Experience Factor shall be computed on the basis of the following formula:

$$\frac{\text{Average Annual Benefits}}{\text{Average Annual Payroll}} \times 100 = \text{Experience Factor}$$

to a tenth of a per centum, rounding all fractional parts of a tenth of a per centum to the next higher tenth of a per centum. No Experience Factor shall be more than three per centum nor less than [five-tenths of one] zero per centum. [except as provided in subsection (f) of this section.]

* * * * *

(f) [If the balance in the Pennsylvania unemployment Compensation Fund as of December thirty-first of the preceding calendar year, as recorded on the records of the department was more than three hundred million dollars, the Funding Factor of all employers for the succeeding calendar year shall be zero per centum and the minimum Experience Factor as computed under subsection (d) of this section shall be one-tenth of one per centum. If, thereafter, such balance shall, as of December 31 of any subsequent year, be less than two hundred fifty million dollars, the provisions of this subsection shall not be applicable to the calculation of the Funding and Experience Factors for succeeding calendar years until such balance shall again be more than three hundred million dollars.] *An employer whose reserve account balance is adjusted to zero in accordance with the provisions of section 302 (c) of this act shall not be eligible for a reduced rate of contributions under the provisions of this act for the three consecutive calendar years following the computation date with respect to which the application for adjustment was made and shall pay contributions at the rate of four per centum for each of such three calendar years. In the event an employer shall file one or more subsequent applications for adjustment, the provisions of this subsection shall apply to each such application.*

Section 4. Section 302, added May 26, 1949 (P. L. 1854), subsection (f) amended September 3, 1955 (P. L. 556), and subsection (h) amended December 17, 1959 (P. L. 1893), is amended to read:

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

[(a) Such account shall be credited with all contributions paid prior to January first, one thousand nine hundred forty-nine, by said employer, for the period between July first, one thousand nine hundred forty-five, and June thirtieth, one thousand nine hundred forty-eight, both inclusive.

(b) Such account shall be charged with an amount which is the total of the three products obtained by multiplying such employer's wages of compensated em-

ployes, including re-employment credits, if any, as ascertained by the department for each of the twelve month periods ended June thirtieth, one thousand nine hundred forty-six, one thousand nine hundred forty-seven, and one thousand nine hundred forty-eight, by a factor for each of said periods, respectively, which factor the department shall establish for each of the twelve month periods by dividing the total compensation paid to all employes during such period by the total wages of compensated employes applicable to such period.

(c) Such account shall be credited with an amount computed as follows:

(1) Every employer subject to this act on June thirtieth, one thousand nine hundred forty-eight, who was also subject to this act on or before June thirtieth, one thousand nine hundred forty-five, shall be segregated into one of ten categories, which categories shall represent, respectively, the years 1936 to 1944, both inclusive, and the half year ended June thirtieth, one thousand nine hundred forty-five, when the employers segregated to each said category shall first have become subject to this act.

(2) The average annual payrolls for the period ended June thirtieth, one thousand nine hundred forty-seven, of all of the employers in each of the ten categories established in subparagraph (1) hereof, shall be allocated to such category.

(3) To each separate category shall be assigned a factor which shall represent all contributions, by even million dollars, paid into the Unemployment Trust Fund by all employers from the beginning of the year represented by each said category, respectively, to and including June thirtieth, one thousand nine hundred forty-five.

(4) A category product shall be determined for each category by multiplying the total of the average annual payrolls of all the employers allocated under subparagraph (2) hereof to each category by the factor assigned thereto under subparagraph (3) hereof.

(5) There shall be distributed to each category that portion of the Unemployment Trust Fund as of August thirty-first, one thousand nine hundred forty-five, in the ratio that the category product thereof bears to the sum total of all the category products, computed to four decimal places and any remainder disregarded.

(6) The amount to be credited hereunder to the reserve account of each such employer shall be determined as follows: His average annual payroll for the period ended June thirtieth, one thousand nine hundred forty-seven, shall be multiplied by a ratio determined by dividing that portion of the Unemployment Trust Fund

distributed under subparagraph (5) hereof to the category into which such employer is segregated, by the total of all the average annual payrolls for the same period of all the employers segregated to the same category, computed to four decimal places and any remainder disregarded.

(d)] (a) (1) Such account shall be credited with all contributions paid by such employer for periods subsequent to June thirtieth, one thousand nine hundred forty-eight.

(e) Such account shall be charged with an amount determined by multiplying the wages of compensated employes of such employer for the twelve month period ended June thirtieth, one thousand nine hundred forty-nine, by the state experience heretofore used in determining rates of contributions for the year one thousand nine hundred forty-nine.

(f)] Subsequent to June thirtieth, one thousand nine hundred forty-nine, such account shall be charged with all compensation, [by even dollars,] paid to each individual who received from such employer wage credits constituting the base of such compensation, in the proportion that such wage credits with such employer bears to the total wage credits received by such individual from all employers: Provided, That if the department finds that such individual was separated from his most recent work for such employer due to being discharged for wilful misconduct connected with such work, or due to his leaving such work without good cause attributable to his employment, [or if the department finds that such individual's unemployment exists because of his loss of work with such employer due directly to a disaster by reason of which the Governor has declared a state of emergency,] thereafter no compensation paid to such individual with respect to any week of unemployment occurring subsequent to such separation, [or due to such disaster as the case may be,] which is based upon wages paid by such employer with respect to employment prior to such separation, [or loss of work,] shall be charged to such employer's account under the provisions of this subsection [(f)] (a); provided, such employer has filed a notice with the department in accordance with its rules and regulations and within the time limits prescribed therein.

(2) *Notwithstanding the provisions of paragraph (1) of this subsection, if the department finds that an individual subsequent to separation from his normal full-time work is continuing part-time work for an employer, other than the employer from whom he has separated, compensation paid to such individual with respect to any week of unemployment occurring subsequent to such separation and while such part-time work con-*

tinues without material change, shall not be charged to the account of such part-time employer; provided, such part-time employer has filed a notice with the department in accordance with its rules and regulations and within the time limits prescribed therein. The provisions of this paragraph shall be applicable with respect to claims for benefits for weeks ending on or after the first day of July, one thousand nine hundred sixty-four.

(3) The findings and determinations of the department under this subsection [(f)] (a) shall be subject to appeal in the manner provided in this act for appeals from determinations of compensation [. The provisions of this subsection (f) as hereby amended shall become effective with respect to charges arising out of any benefit year which commences after the thirtieth day of September, one thousand nine hundred fifty-one]: *Provided, That where the individual's eligibility for compensation has been finally determined under the provisions of Article V of this act, such determination shall not be subject to attack in proceedings under this section.*

[(g)] (b) Any employer, at any time, may voluntarily pay into the Unemployment Compensation Fund an amount in excess of the contributions required to be paid under the provisions of this act, and such amount shall be forthwith credited to his reserve account. His rate of contribution shall be computed or recomputed, as the case may be, with such amount included in the calculation. To affect such employer's rate of contribution for any year, such amount shall be paid not later than thirty days following the mailing of notice of his rate of contribution for such year: *Provided, That for good cause, such time may be extended by the department: And provided further, That such amount, when paid as aforesaid, shall not be refunded or used as a credit in the payment of contributions in whole or in part. In no event shall any such amount be included in the computation or recomputation for any year unless it is paid within one hundred twenty days after the beginning of such year.*

[(h)] (c) For the purpose of determining any employer's rate of contribution for any year, the phrase "balance in an employer's reserve account" as used in section 301 and section 301.1 of this act shall mean the amount ascertained as of the computation date by subtracting the amounts charged to his reserve account from the amounts credited thereto including voluntary contributions. If, as of the computation date, the amounts charged to his reserve account are found to be greater than the amounts credited, the employer may elect, subject to the provisions of section [301 (a) (3)]

301.1 (f) of this act to have his reserve account balance adjusted to zero.

[(i)] (d) The department shall terminate the reserve account of any employer who has not paid contributions for a period of four consecutive twelve month periods, ending June thirtieth in any year.

[(j)] (e) Nothing contained in this act shall be construed to grant to any employer any claim or right of withdrawal with respect to any amount allocated to him from, or paid by him into, the Unemployment Compensation Fund, except as provided in section three hundred eleven hereof.

Section 5. Subsections (a), (d) and (f) of section 401 of the act, subsections (a) and (f) amended December 17, 1959 (P. L. 1893), subsection (d) amended September 14, 1961 (P. L. 1301), as amended to read:

Section 401. Qualifications Required to Secure Compensation.—Compensation shall be payable to any employee who is or becomes unemployed, and who—

(a) Has, within his base year, been paid wages for employment [equal to not less than thirty (30) times his weekly benefit rate] *as required by section 404 (c) of this act*: Provided, however, That (1) *not less than twenty per centum (20%) of the employe's total base year wages have been paid in one or more quarters, other than the highest quarter in such employe's base year*, (2) an employe whose base year wages are less than six hundred dollars (\$600.00) shall not be eligible under the provisions of this subsection unless such wages were earned during eighteen (18) different weeks within such base year, which weeks need not be consecutive, [or more than fifty per centum (50%) of such wages were earned while engaged in a full-time occupation in a full-time industry or enterprise while attached to the labor market for permanent full-time employment, and (2)] *and (3) wages earned by a full-time day student in temporary employment during holidays or periods of vacation, or in employment which is an integrated part of a cooperative educational curriculum, shall not be considered base year wages within the meaning of this subsection and section four hundred four of this act.*

[The secretary shall define, by rule and regulation, full-time occupation, full-time industry and permanent full-time employment for the purposes of this subsection. Such rule and regulation shall include, inter alia, provisions excluding casual workers, persons who at their own option work less than full-time and persons who at their own option work irregularly rather than in permanent employment.]

* * * * *

(d) Is able to work and available for suitable work: Provided, That (1) a claimant who is attending a training or retraining course approved by the department as meeting a suitable and realistic employment or re-employment objective of the employe shall be deemed to be available to work and available for suitable work if the claimant is otherwise in fact able and available, [: Provided, That] (2) a pregnant claimant not disqualified under the provisions of subsection 402 (b) (1) or 402 (f) of this act shall be conclusively presumed to be unavailable for work and ineligible for benefits under the provisions of this act with respect to the period beginning thirty days prior to anticipated birth and ending thirty days after birth of the child, *and (3) the claimant is actively seeking suitable work in accordance with such rules and regulations as the secretary may prescribe. This means that the claimant is demonstrating a bona fide attachment to the labor force by making an active search for work in a locality or localities where suitable work is normally available. Such rules and regulations shall consider the claimant's prospects of returning to work, the methods by which he normally obtains work, the past and probable future duration of his unemployment, the conditions of employment and unemployment prevailing in the locality and such other factors as the secretary considers pertinent. The secretary may waive the requirement of this paragraph and accept the claimant's registration at a public employment office in lieu thereof where he finds that compliance with such requirement would be inconsistent with the purposes of this act.

* * * * *

(f) (1) Has earned, subsequent to his separation from work under circumstances which are disqualifying under the provisions of subsections 402 (b) and 402 (e) of this act, [been paid] remuneration for services in an amount equal to or in excess of eight (8) times his weekly benefit rate, or (2) with respect to an individual subject to the provisions of subsection 401 (d) (2) or subsection 402 (f) of this act, or on leave of absence for reasons of pregnancy has earned remuneration for services performed subsequent to the expiration of the thirty (30) day period following childbirth as set forth therein, or termination of leave of absence as the case may be, in an amount equal to or in excess of four (4) times her weekly benefit rate irrespective of whether or not such services were in "employment" as defined in this act: *Provided, however, That the provisions of this clause (2) shall not be applicable if the claimant (a) is unable to resume her employment, subsequent to the expiration of such thirty (30) day period*

* word "and" inserted.

or leave of absence, with the employer by whom she was laid off for lack of work or by reason of pregnancy or from whom she obtained a leave of absence, as the case may be, because of a reduction in force or because the business of such employer is closed down for reasons other than vacation or (b) having become re-employed by such employer is laid off by reason of reduction in force or plant shutdown for reasons other than vacation. The provisions of this subsection shall not apply [(1)] to a suspension of work by an individual pursuant to a leave of absence *other than leave of absence for pregnancy* granted by his last employer, provided such individual has made a reasonable effort to return to work with such employer upon the expiration of his leave of absence. [, or (2) to an individual disqualified under the provisions of subsection 402 (f) of this act.]

Section 6. The first paragraph and subsections (d) and (e) of section 404 of the act, amended December 17, 1959 (P. L. 1893) and subsections (a) and (c) of the section, amended March 30, 1955 (P. L. 6), are amended to read:

Section 404. Rate and Amount of Compensation.— Compensation shall be paid to each eligible employe in accordance with the following provisions of this section except that compensation payable with respect to weeks ending in benefit years which begin prior to the first day of [January, one thousand nine hundred sixty,] *July, one thousand nine hundred sixty-four*, shall be paid on the basis of the provisions of this section in effect at the beginning of such benefit years. [: Provided, however, That with respect to benefit years which begin on or after the first day of January, one thousand nine hundred sixty, and prior to the first day of July, one thousand nine hundred sixty, the maximum weekly benefit rate of compensation shall not be in excess of thirty-eight dollars (\$38.00) nor the maximum amount of compensation payable with respect to such year in excess of eleven hundred forty dollars (\$1140.00).]

(a) (1) The employe's weekly benefit rate shall be computed as (1) one twenty-fifth of his "highest quarterly wage" in accordance with Part A of the Table Specified for the Determination of Rate and Amount of Benefits, or (2) fifty per centum (50%) of his full-time weekly wage, whichever is greater. [: or, if his base year wages are insufficient to qualify him for compensation by either of these methods, his weekly benefit rate shall be determined as (3) that rate appearing in Part B of the table, on the line on which in Part C appears the amount of qualifying wages which most nearly approximates, but does not exceed, his base year wages.]

(2) *If the base year wages of an employe whose weekly benefit rate has been determined under clause*

(2) of paragraph (1) of this subsection are insufficient to qualify him under subsection (c) of this section, his weekly benefit rate shall be redetermined under clause (1) of paragraph (1) of this subsection.

(3) If the base year wages of an employe whose weekly benefit rate has been determined under clause (1) of paragraph (1) of this subsection, or redetermined under paragraph (2) of this subsection, as the case may be, are insufficient to qualify him under subsection (c) of this section but are sufficient to qualify him for the next lower weekly benefit rate, his weekly benefit rate shall be redetermined at such next lower rate.

* * * * *

(c) (1) Any otherwise eligible employe who has base year wages in an amount equal to, or in excess, of the amount of qualifying wages appearing in Part C of the Table Specified for the Determination of Rate and Amount of Benefits on the line on which in Part B there appears his weekly benefit rate, as determined under subsection (a) of this section, shall be entitled during his benefit year to the amount appearing in Part D [of the Table Specified for the Determination of Rate and Amount of Benefits, on the line on which in Part B appears his weekly benefit rate: Provided, That he has sufficient qualifying wages in Part C, and provided further, That an employe whose weekly benefit rate has been determined under clause (3) of subsection (a) of this section shall be entitled to compensation only if his base year wages are at least thirty times the weekly benefit rate as computed under clause (1) of subsection (a).] on said line, but not in excess of fifty per centum of his total base year wages disregarding all fractions of a dollar.

(2) Whenever, upon or subsequent to separation from his employment, an employe receives (a) retirement pension or annuity payments based upon his employment or (b) upon application would be entitled to receive such payments without diminution on account of age, the amount of benefits otherwise payable to such employe under the provisions of this act, during any benefit year, shall be reduced by an amount (RA-Reduction Amount) disregarding all fractions of a dollar determined as follows:

$$\frac{BA}{WBR} \times WPR = RA$$

in which factor BA is the maximum benefit amount determined under the provisions of paragraph (1) of this subsection: Provided, That if at the time of such separation or entitlement the employe is in a current

benefit year, factor BA for such year shall be the balance in the employe's benefit account at the time of separation or entitlement, whichever is the later. Factor WBR is the employe's weekly benefit rate as established under subsection (a) of this section and Factor WPR is the employe's weekly retirement pension or annuity rate. If the retirement pension or annuity payments are payable under a plan, public or private, to which the employe has contributed, the amount otherwise deductible under this paragraph shall be reduced by fifty per centum. If such retirement pension or annuity payments are payable on other than a weekly basis, the amount thereof shall be pro-rated by the department to such basis disregarding all fractions of a dollar. If during the course of a benefit year the amount of a retirement pension or annuity is either increased or decreased, the department shall redetermine the amount of reduction provided for under this paragraph for the remainder of such benefit year as of the effective date of such increase or decrease.

(d) Notwithstanding any other provisions of this section each eligible employe who is unemployed with respect to any week ending subsequent to the first day of [January, one thousand nine hundred sixty] *July, one thousand nine hundred sixty-four*, shall be paid, with respect to such week, compensation in an amount equal to his weekly benefit rate less the total of (1) that part of the remuneration, if any, paid or payable to him with respect to such week *for services performed* which is in excess of his partial benefit credit, [and also] (2) *vacation pay, if any, (3) severance or separation allowances or dismissal wages and similar payments, the payment of or eligibility for which is made or conditioned upon a temporary, indefinite or permanent separation from employment except payments made pursuant to a private plan the actual and declared purpose of which is to provide benefits in addition to the compensation provided by this act and so found by the department, (4) [that part] the amount of a retirement pension or annuity, if any, [received by] (a) paid or (b) which upon application would be payable to him without diminution on account of age under a public or private pension plan to which [a base-year] only an employer or employers of such employe has contributed, [which is in excess of the maximum weekly benefit rate provided for in this act.] (5) one-half of the amount of a retirement pension or annuity, if any, (a) paid or (b) which upon application would be payable to him without diminution on account of age under a public or private pension plan to which both the employe and an employer or employers of such employe have contributed. The*

provisions of this subsection shall be applicable whether or not such vacation pay, retirement pension or annuities, payments, allowances or wages are legally required to be paid. If such retirement pension or annuity payments deductible under the provisions of this subsection are received on other than a weekly basis, the amount thereof shall be allocated and pro-rated in accordance with the rules and regulations of the department. *Vacation pay, severance or separation allowances, dismissal wages or other remuneration deductible under the provisions of this subsection shall be pro-rated on the basis of the employe's normal full-time weekly wage and as so pro-rated shall be allocated to such period or periods of unemployment as shall be determined by rules and regulations of the department.* Retirement pension or annuity payments received by the employe under [the Federal OASI program, the Federal Railroad Retirement program or under] any private retirement plan to which the employe was the sole contributor, shall not be considered a deductible retirement pension or annuity payment for the purposes of this subsection. Such compensation, if not a multiple of one dollar (\$1.00), shall be computed to the next higher multiple of one dollar (\$1.00).

(e) Table Specified for the Determination of
Rate and Amount of Benefits

Part A Highest Quarterly Wage	Part B Rate of Compensation	*[Part C Qualifying Wages]	Part C Minimum Qualifying Wages	Part D Maximum Amount of Compensation
\$ 120-262	\$10	[320]	\$ 360	\$ 300
263-287	11	[333]	396	330
288-312	12	[367]	432	360
313-337	13	[402]	468	390
338-362	14	[439]	504	420
363-387	15	[476]	540	450
388-412	16	[514]	576	480
413-437	17	[553]	612	510
438-462	18	[592]	648	540
463-487	19	[633]	684	570
488-512	20	[675]	720	600
513-537	21	[718]	756	630
538-562	22	[763]	792	660
563-587	23	[808]	828	690
588-612	24	[855]	864	720
613-637	25	[903]	900	750
638-662	26	[952]	936	780

* Heading added.

663-687	27	[1003]	972	810
688-712	28	[1055]	1008	840
713-737	29	[1109]	1044	870
738-762	30	[1164]	1080	900
763-787	31	[1221]	1116	930
788-812	32	[1280]	1152	960
813-837	33	[1341]	1188	990
838-862	34	[1403]	1224	1020
863-887	35	[1468]	1260	1050
888-912	36	[1534]	1296	1080
913-937	37	[1603]	1332	1110
938-962	38	[1675]	1368	1140
963-987	39	[1748]	1404	1170
988 [or more]-1012	40	[1825]	1440	1200
1013-1037	41		1476	1230
1038-1062	42		1512	1260
1063-1087	43		1548	1290
1088-1112	44		1584	1320
1113-or more	45		1620	1350

* * * * *

Section 7. The act is amended by adding after section 404, a new section to read:

Section 404.1. Extension of Benefits; Benefit Charges.
 —(a) Each week the department shall determine (1) the total number of claimants who, during the thirteen (13) calendar weeks immediately preceding such week were issued payments which exhausted the benefits to which they were entitled under section 404 of this act, and (2) the average number of employes employed in "employment," as defined in this act, during the twelve most recent calendar months for which such data are available. Whenever the total number of exhaustees, as computed under clause (1), is more than one and three-quarters per centum ($1\frac{3}{4}\%$) of the average number of employes employed in employment, as computed under clause (2), the secretary shall certify this fact to the Governor. The Governor shall thereupon issue a proclamation that a period of temporary extended compensation shall begin on the first day of the third calendar week following the week in which such proclamation is issued. Whenever thereafter the department determines that such total number of exhaustees is equal to or less than one and three-quarters per centum ($1\frac{3}{4}\%$) of such average number of employes, the secretary shall so certify to the Governor. The Governor shall thereupon issue a proclamation terminating the period of temporary extended compensation on the last day of the third calendar week following the week in which such proclamation is issued: Provided, however, That a proclaimed period of temporary extended compensation shall not

terminate less than sixty (60) days after the day on which such period of temporary extended compensation began.

The findings of the department as to the beginning and ending of periods of temporary extended compensation shall be based on the records of the department at the time of such findings.

For the purposes of this subsection the "average number of employes" shall be calculated as one-twelfth (1/12) of the total number of employes reported to the department by employers for the twelve (12) most recent months for which summaries of such data have been completed after adding estimates of the number of employes of employers who failed to make such reports.

(b) Any claimant who, within his current benefit year, exhausts the maximum amount of benefits to which he was entitled under the provisions of section 404 of this act, either prior to or during a period of temporary extended compensation, proclaimed under the provisions of subsection (a) of this section, shall be eligible to receive during the balance of such current benefit year at his current weekly benefit rate, temporary extended compensation to a total amount not in excess of fifty per centum (50%) of such maximum amount disregarding all fractions of a dollar. Claims for such benefits shall be filed in such manner and form as the department, by rule and regulation, shall prescribe.

(c) No benefits shall be paid under the provisions of subsection (b) of this section for any week, (1) the last day of which is not within both the claimant's current benefit year and the period of temporary extended compensation, (2) with respect to which the claimant would be ineligible or disqualified under any provision of this act other than subsections (a) and (e) of section 401 and paragraph (1) of subsection (c) of section 404, (3) if the amount of benefits payable with respect to such week when added to the aggregate total of benefits previously received during the current benefit year would be in excess of thirty-nine (39) times the weekly benefit amount established with respect to such benefit year.

(d) The provisions of subsection 404 (d) of this act shall be applicable in determining the amount of weekly benefits payable to a claimant under the provisions of this section.

(e) Notwithstanding any other provisions of this act, any benefits paid under the provisions of subsection (b) of this section shall be charged to the reserve accounts of the claimant's base year employer in the same manner as benefits paid under the provisions of section 404 of this act.

(f) The provisions of this section shall become inoperative in the event that the secretary shall enter into an agreement with an agency of the United States pursuant to the authorization provided by section 608 of this act. In such event, the section shall become inoperative at the time the provisions of such agreement shall become operative.

Subsection (c) added to section 601 of the act as amended May 17, 1957, P. L. 153, section 2.

Section 8. Section 601 of the act is amended by adding after subsection (b) a new subsection to read:

Section 601. Unemployment Compensation Fund.—

* * * * *

(c) Notwithstanding any other provisions of this section, the department at such time or times as the secretary with the approval of the Governor may determine, is hereby authorized to requisition from the Unemployment Trust Fund and pay into the United States Treasury an amount which, in the aggregate, is equal to (A) the total payment of temporary unemployment compensation made pursuant to section 101 of the Federal Temporary Unemployment Compensation Act of 1958, as amended, to individuals who exhausted their rights to benefits under this act and (B) the balance of any loan made to this Commonwealth under the provisions of Title XII of the Social Security Act, as amended. Such requisition and transfer need not be in a lump sum but may be made according to a plan entered into between the department and the United States Treasury and for that purpose the authority hereinabove contained shall be deemed continuous during the term of such agreement.

Subsection (d) added to section 601.1 of the act as amended May 17, 1957, P. L. 153, section 3.

Section 9. Section 601.1 of the act is amended by adding after subsection (c) a new subsection to read:

Section 601.1. Special Administration Fund.—

* * * * *

(d) Notwithstanding any other provision of this section, any moneys paid into this fund subsequent to the first day of July, one thousand nine hundred sixty-three, may upon requisition by the secretary and approval thereof by the Governor, be paid into the United States Treasury for the purpose of restoring to it the amount of costs incurred in the administration of the Temporary Unemployment Compensation Act of 1958, as amended, with respect to this State. Such requisition and transfer need not be in a lump sum but may be made according to a plan entered into between the department and the United States Treasury and for that purpose the authority hereinabove contained shall be deemed continuous during the term of such agreement.

For the purpose of this subsection, the term "any moneys" shall include in addition to interest and penalties as specified in subsection (a) hereof, any moneys which under any other provisions of this act are directed to be paid into this fund.

Section 10. Article VI of the act, is amended by adding after section 607, two new sections to read:

Section 608. Extended or Supplemental Benefits under Federal Law.—Whenever the Congress of the United States shall enact laws providing for the payment of supplemental or extended unemployment compensation benefits, the secretary with the approval of the Governor, is hereby authorized and empowered to enter into such agreements with the United States Department of Labor or such Federal agency as may be charged with the administration of such laws as may be necessary to obtain for the citizens of this Commonwealth the benefits of such laws. No such agreements may be executed if, as a result thereof, employers in this Commonwealth would be subjected to a tax burden under any Federal law imposing a tax on payrolls not applied uniformly to all employers subject to such law.

Section 609. Conformity with Federal Standards.—Any provisions in this act to the contrary notwithstanding, whenever the Governor of this Commonwealth is formally notified by the Secretary of the United States Department of Labor or any authorized officer of the Federal government that any provision or provisions of this act are inconsistent with any Federal law with which State employment security laws are required to conform as a condition for the allowance of credit against Federal taxes on payrolls or the receipt of funds for the administration of employment security programs, such provision or provisions upon proclamation by the Governor, shall be deemed inoperative and of no effect. Such proclamation shall include when necessary such provision or provisions as may be necessary to remedy such inconsistency which shall have the full force and effect of law from the date thereof if approved by appropriate amendment to this act in the next session of the General Assembly having jurisdiction of the subject matter, otherwise such provision or provisions shall be null and void from the date of the General Assembly's disapproval or adjournment, whichever occurs the earlier.

Section 11. The provisions of this act shall be severable and if any of the provisions thereof shall be finally determined to be inconsistent with any Federal law with which State employment security laws are required to conform as a condition for the allowance of credit

against Federal taxes on payrolls or the receipt of funds for administration of the employment security program, such provisions shall be deemed inoperative and such determination shall not affect the validity of any of the remaining provisions of this act.

Section 12. The amendments to subsection (u) of section 4, subsections (d) and (f) of section 401, and subsection (d) of section 404 of the act shall take effect with respect to claims for benefits for weeks ending on or after the first day of July, one thousand nine hundred sixty-four; the amendments to subsection (w) of section 4, subsections (a), (c) and (e) of section 404 of the act, shall take effect with respect to benefit years which begin on or after the first day of July, one thousand nine hundred sixty-four, except as otherwise therein provided; the amendments to subsection (x) of section 4 shall take effect the first day of January, one thousand nine hundred sixty-four; otherwise the provisions of this act shall take effect immediately.

APPROVED—The 24th day of March, A. D. 1964.

WILLIAM W. SCRANTON

No. 2

AN ACT

Amending the act of April 23, 1963 (P. L. 20), entitled "An act providing for pensions for war veterans blinded through service connected injuries; conferring powers and imposing duties on the Department of Military Affairs and the Adjutant General; and making an appropriation." redefining and clarifying the term "blind veteran." and further regulating payments.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. Section 1, act of April 23, 1963 (P. L. 20), entitled "An act providing for pensions for war veterans blinded through service connected injuries; conferring powers and imposing duties on the Department of Military Affairs and the Adjutant General; and making an appropriation," is amended to read:

Section 1. In addition to any other assistance provided by the Commonwealth of Pennsylvania and in addition to any compensation provided by the Government of the United States, every blind veteran as defined in this act, shall be paid a pension of fifty dollars (\$50) per month. Applications for such pensions shall be made to and in the form prescribed by the Department of Military Affairs. The Adjutant General shall have the power, and it shall be his duty to determine the eligibility of every applicant for a pension, and his decision in the