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Chairman Baker, Chairman Tartaglione, members of the Senate Labor and Industry Committee, my name is Kathy Manderino and I serve as Secretary of the Pennsylvania Department of Labor & Industry. I would like to take this opportunity to thank the Committee for taking time to discuss the unemployment compensation situation in the state. Unemployment Compensation is an important and often vital program that provides individuals with a critical lifeline when, through no fault of their own, they have lost their job.

Pennsylvania's workers have endured three years and two winters since Act 60 was signed into law. During this time, approximately 100,000 workers from all types of industry have since been ineligible from receiving benefits – benefits that historically these individuals would have received.

It is the Department's belief, as well as the Administration's, that changes should be made to the Act 60 eligibility requirements to allow these individuals to once again receive benefits.

The support for this change is not limited to government. I have heard from employers and employees, business groups and labor organizations, and many have expressed interest in changing eligibility to make most, if not all of these individuals re-eligible. As for how we specifically accomplish this goal, I am not prepared to say; what I can say is that the Department stands ready to serve as an information clearing house, providing all interested parties with accurate and reliable data.

As this conversation continues to move forward, it is important to recognize that the Department has a responsibility to ensure the continued health of the Unemployment Compensation Trust Fund (Trust Fund). Therefore, it should be stated at the onset that changes recommended or finally considered should be fiscally responsible. We should all be mindful of the Trust Fund's fiscal status and, whatever the ultimate solution is, it must work within the parameters of our current solvency projections.

The remainder of my testimony will be broken into two parts. First I will outline the more significant changes that were implemented in Act 6 of 2011 and Act 60 of 2012. Second, I will further explain how the high-quarter requirement is currently applied, and was applied prior to Act 60.

Historically, the Trust Fund has required structural changes to ensure its solvency and availability for those who need it. Most recently, Act 6 of 2011 and Act 60 of 2012 imposed many eligibility changes to the unemployment compensation system; the intent of these changes was to place the fund on a solvency plan that would achieve 250 percent solvency.[1] Currently, we are projected to achieve 250 percent by 2026.

Act 6 of 2011.

Act 6 of 2011 incorporated several benefit reductions and restrictions in eligibility. These changes included:

- **Changing the definition of a credit week:** Prior to the enactment of Act 6 a claimant had to earn at least $50 during a week to count toward financial eligibility. Post Act 6, a claimant needs to earn 16 times the minimum wage ($116) in a week to count toward financial eligibility
- **Adding a work search requirement:** Prior to Act 6 there was no work search requirement per PA UC Law.
- **Raising the lowest weekly benefit rate:** Acts 6 and 60 raised the minimum benefit amount to $70. Previously you could be eligible for benefits starting at $35 dollars per week.
- **Requiring severance pay to be deductible for benefits:** Prior to Act 6 severance pay was not deductible for benefit purposes. Pursuant to Act 6, severance pay is deductible if the severance was agreed to on or after January 1, 2012, and if the amount of severance is equal to or greater to 40 percent ($18,472) of the average annual wage in Pennsylvania ($46,180).
- **Changing the calculation of the maximum weekly benefit rate:** Act 6 requires that 66 and 2/3 of the average weekly wage in Pennsylvania for the prior 36 weeks ending on June 30 be used to calculate the maximum weekly benefit rate. Prior to Act 6 this was done with a 12-month look back.
- **Capping the maximum weekly benefit rate:** Capped the maximum benefit rate at $573 through 2018.

[1] Pennsylvania measures its Trust Fund's solvency by comparing the current trust fund balance to the average benefit costs of the prior three fiscal years. The Trust Fund currently targets 250% solvency before it starts reducing taxes on employees and employers to keep the fund more level.

Act 60 of 2012.

Act 60 of 2012 included some of the more noteworthy changes to UC eligibility; it also included significant debt refinancing, which saved both the Trust Fund and employers across the Commonwealth hundreds of millions of dollars. Changes implemented by Act 60 included:

- **Additional changes to the maximum weekly benefit rate:** Further amended how much the maximum weekly benefit rate could increase each year. Act 60 stated that the maximum weekly benefit rate for 2013 through 2019 shall be $573, and then for 2020 through 2023, the maximum benefit may increase from year to year by no more than eight percent of the maximum weekly benefit rate of the preceding year. Beginning in 2024, the calculation reverts back to the calculation dictated by Act 6 of 2011.
- **Reducing the partial benefit credit:** A week where a claimant works less than their full-time hours through no fault of their own, the claimant may be potentially eligible to receive full or partial benefits, depending on their gross earnings and Partial Benefit Credit (PBC). Prior to Act 60 the partial benefit credit was 40 percent of the weekly benefit rate that the claimant was receiving. Post Act 60 it was reduced to 30 percent.
- **Reduced the available "step downs":** If a claimants base-year wages are insufficient to qualify them for the weekly rate corresponding to their high-quarter wages, but are sufficient to qualify for a lower weekly rate, the claimant is able to receive the lower rate. Prior to Act 60, a claimant could qualify for any of the next three lower weekly rates. This was also available to claimants whose high quarter would give them the maximum weekly rate. Act 60 made it so a claimant could only qualify for any of the next two lower weekly rates and the "step down" provision was no longer available for the claimants whose high quarter would give them the maximum weekly rate.
- **Recalculated claimants benefit duration:** A claimant needs to have at least 18 credit weeks to be eligible for a UC claim. That claim can be good for a duration of 18 to 26 weeks depending on the amount of credit weeks the claimant has earned. Prior to Act 60, a claimant needed 16 credit weeks to be eligible for a 16-week claim, and 18 weeks to be eligible for a 26 week claim.
- **Set new requirements for the distribution of base-year wages (the 49.5 percent rule).**

49.5 Percent Rule.

The most talked about portion of these changes involve the change in wage requirements, which require an individual to make at least 49.5 percent of their wages outside their high quarter.

Requiring a claimant to have earned at least 49.5 percent of their base year wages outside of the highest quarter has made it more difficult for many employees in the construction industry, as well as many other employees with seasonally varying work schedules, to collect benefits.

Under the Unemployment Compensation Law, a claimant is assigned a "weekly benefit rate" (the amount of benefits a claimant may receive for a week when they are unemployed) based upon their "highest quarterly wage" (the wages in the calendar quarter in the "base year"[2] in which they were paid the most wages). Since 2011 the highest benefit rate has been $573 per week[3], corresponding to a high quarter of $14,263 or more.

However, whether or not a claimant qualifies to receive benefits at the assigned weekly rate depends on the total amount of wages paid to the claimant in the base year. Below is an excerpt from the pre-Act 60 benefit rate table, showing the high end of the table.

Highest Quarterly Wage	Rate of Compensation	Qualifying Wages
14213-14237	571	22760
14238-14262	572	22800
14263 or more	573	22840*

**The claimant will be ineligible for benefits unless 20% of the qualifying wage $22,840 was paid in a quarter or quarters of the base year other than the high quarter.*

The third column, "qualifying wages," is the minimum amount of total base year wages a claimant must have to qualify for the corresponding weekly benefit rate. For example, a claimant with a high quarter of $14,238 - $14,262 would be assigned a weekly benefit rate of $572, and the claimant would qualify to receive benefits if they had total base year wages of at least $22,800. A claimant assigned the maximum rate of $573 would qualify for benefits if they

2 The base year is the first four of the last five completed calendar quarters prior to the quarter in which the UC application is filed.

3 Act 60 of 2012 froze the maximum weekly benefit (MWB) rate at $573 through calendar year 2019, for calendar years 2020 through 2023 the MWB will increase 8% annually, beginning in 2024 the MWB will be calculated based on its statutory formula (66 2/3 of the average weekly wage for the 36-month period ending June 30 preceding each calendar year).

had total base year wages of at least $22,840 and had wages of $4,568 outside their high quarter.

The important feature of the pre-Act 60 rate table is that all claimants, except those with the highest weekly rate, had to have approximately 37 percent of their total base-year wages outside the high quarter. This requirement was built into the table. In other words, if the claimant's high quarter was $14,238 - $14,262 and the claimant's total base-year wages were at least $22,800 (qualifying the claimant for a $572 weekly rate), the claimant necessarily had approximately 37 percent of their total base-year wages outside the high quarter. For claimants with the highest weekly rate, they needed a certain dollar amount outside the high quarter (between $4,568 and $8,577) rather than a percentage of their total base-year wages outside the high quarter.

Act 60 increased the percentage of total base year wages that had to fall outside the high quarter to 49.5 percent. Below is an excerpt from the high-end of the benefit rate table in Act 60:

Highest Quarterly Wage	Rate of Compensation	Qualifying Wages
14213-14237	571	28193
14238-14262	572	28242
14263 or more	573	amount required under Section 401(a)(2).

The 49.5 percent rule is built into the Act 60 table. If a claimant's high quarter was $14,238 - $14,262, and the claimant had total base year wages of at least $28,242 (qualifying the claimant for a $572 weekly rate), the claimant necessarily had at least 49.5 percent of their total base-year wages outside the high quarter. For claimants with the highest weekly rate, they need the amount required under section 401(a)(2), which provides that "not less than forty-nine and one half per centum (49.5%) 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."

Claimants who work a consistent number of hours each week throughout the base year are not likely to be impacted by the need to have at least 49.5 percent of their base-year wages outside the high quarter. However, claimants whose work is concentrated in one or two quarters of the base year are less likely to qualify if they need 49.5 percent of their total wages outside the high quarter, rather than 37 percent, especially if the quarters when they work include overtime.

Based on calendar year 2014 UC claims activity, approximately 48,000 claimants, who would have otherwise qualified prior to Act 60, were ineligible for benefits due to the 49.5 percent rule. Below is a breakdown by industry of the impact this change has had on claimants:

Impact by Industry	**Claimants ineligible under current law 49.5%**
Total	**48,090**
Natural Resources and Mining	780
Construction	7,830
Manufacturing	4,050
Wholesale and Retail Trade	6,470
Transportation and Utilities	2,130
Information and Financial Activities	2,010
Professional and Business Services	10,070
Education and Health Services	5,990
Leisure and Hospitality	6,540
Other Services	1,150
Public Administration	720
Unclassified Industry	350

Financial Status.

As an additional resource, I have also included with this testimony, a current cash flow analysis which demonstrates the Trust Fund's current fiscal status, as well as future projections. As of August 31, 2015 the Trust Fund balance was $1,260,084,199; it is projected that we will end the year at $994 million due to the cyclical nature of UC tax collections. We anticipate the Trust Fund to reach 250% solvency in 2026 –this goal is important because it is the threshold which triggers both lower employer taxes, and an elimination of employee taxes.

The outstanding UC bond balance as of July 1, 2015 is $1,995,215,000 (it will remain at this balance until January 1, 2016 because redemptions are only made on July 1 and January 1 of each year). The bond is projected to be fully repaid on January 1, 2020, at which time employer taxes will be reduced by a full percent (Interest Factor).

Conclusion.

Too many hardworking Pennsylvanians have been excluded from unemployment compensation since the passage of Act 60. It is our belief that changes should be made to the eligibility requirements allowing these individuals to once again receive benefits. For example, some of the issues that could be addressed include lowering the percentage of earnings required to be outside the high quarter, increasing the number of available step downs, reducing the amount of earnings required for a credit week, liberalizing the benefit duration provision, and increasing the partial benefit credit. Changes, such as these, come with a cost that would need to be offset.

The Department of Labor & Industry stands committed to working with all stakeholders to address the concerns of employers and employees regarding eligibility. My promise to you is that the Department will continue to provide this body with reliable, accurate data so that we may select the most responsible and effective solution.

Thank you for this opportunity to testify before you today. I would be happy to answer any questions.