

ASSEMBLY, No. 56

STATE OF NEW JERSEY

INTRODUCED JANUARY 14, 1963

By Assemblymen BEADLESTON and KEITH

Referred to Committee on Business Affairs

AN ACT concerning unemployment compensation and amending section 43:21-19
of the Revised Statutes.

1 BE IT ENACTED *by the Senate and General Assembly of the State of New*
2 *Jersey:*

1 1. Section 43:21-19 of the Revised Statutes is amended to read as fol-
2 lows:

3 43:21-19. As used in this chapter (R. S. 43:21-1 et seq.), unless the con-
4 text clearly requires otherwise:

5 (a) (1) "Annual payroll" means the total amount of wages paid during
6 a calendar year (regardless of when earned) by an employer for employ-
7 ment.

8 (2) "Average annual payroll" means the average of the annual payrolls
9 of any employer for the last 3 or 5 preceding calendar years, whichever aver-
10 age is higher, except that any year or years throughout which an employer
11 has had no "annual payroll" because of military service shall be deleted
12 from the reckoning; the "average annual payroll" in such case is to be deter-
13 mined on the basis of the prior 3 or 5 calendar years in each of which the em-
14 ployer had an "annual payroll" in the operation of his business, if the em-
15 ployer resumes his business within 12 months after separation, discharge or
16 release from such service, under conditions other than dishonorable, and
17 makes application to have his "average annual payroll" determined on the

18 basis of such deletion within 12 months after he resumes his business; pro-
19 vided, however, that "average annual payroll" solely for the purposes of
20 paragraph (3) of subsection (e) of section 43:21-7 of this Title means the
21 average of the annual payrolls of any employer, on which he paid contribu-
22 tions to the State disability benefits fund, for the last 3 or 5 preceding calen-
23 dar years, whichever average is higher; provided further, that only those
24 wages be included on which employer contributions have been paid on or be-
25 fore January 31 (or the next succeeding day if such January 31 is a Satur-
26 day or Sunday) immediately preceding the beginning of the 12 months' period
27 for which the employer's contribution rate is computed.

28 (b) "Benefits" means the money payments payable to an individual, as
29 provided in this chapter (R. S. 43:21-1 et seq.), with respect to his unemploy-
30 ment.

31 (c) "Base year" with respect to benefit years commencing on or after
32 January 1, 1953, shall mean the 52 calendar weeks ending with the second
33 week immediately preceding an individual's benefit year.

34 (d) "Benefit year" with respect to any individual means the 364 con-
35 secutive calendar days beginning with the day on, or as of, which he first files
36 a valid claim for benefits, and thereafter beginning with the day on, or as
37 of, which the individual next files a valid claim for benefits after the termina-
38 tion of his last preceding benefit year. Any claim for benefits made in accord-
39 ance with subsection (a) of section 43:21-6 of this Title shall be deemed to
40 be a "valid claim" for the purpose of this subsection if (1) no remuneration
41 was paid or is payable for the day on which, or as of which he files a claim
42 for benefits, and no work is available to him with his current employing unit
43 on such day, or, he is unemployed for the week in which, or as of which, he
44 files a claim for benefits; and (2) he has fulfilled the conditions imposed by
45 subsection (e) of section 43:21-4 of this Title.

46 (e) "Division" means the Division of Employment Security of the De-
47 partment of Labor and Industry established by chapter 446, P. L. 1948, and
48 any transaction or exercise of authority by the director of the division there-

49 under, or under this chapter (R. S. 43:21-1 et seq.), shall be deemed to be per-
50 formed by the division.

51 (f) "Contributions" means the money payments to the State unemploy-
52 ment compensation fund required by this chapter (R. S. 43:21-1 et seq.).

53 (g) "Employing unit" means any individual or type of organization, in-
54 cluding any partnership, association, trust, estate, joint-stock company, in-
55 surance company or corporation, whether domestic or foreign, or the receiver,
56 trustee in bankruptcy, trustee or successor thereof, or the legal representa-
57 tive of a deceased person, which has or subsequent to January 1, 1936, had
58 in its employ one or more individuals performing services for it within this
59 State. All individuals performing services within this State for any employ-
60 ing unit which maintains 2 or more separate establishments within this State
61 shall be deemed to be employed by a single employing unit for all the pur-
62 poses of this chapter (R. S. 43:21-1 et seq.). Whenever any employing unit
63 contracts with or has under it any contractor or subcontractor for any em-
64 ployment which is part of its usual trade, occupation, profession, or business,
65 unless the employing unit as well as each such contractor or subcontractor is
66 an employer by reason of subsection (c) of section 43:21-8 of this Title or
67 subsection (h) of this section, the employing unit shall for all the purposes
68 of this chapter be deemed to employ each individual in the employ of each
69 such contractor or subcontractor for each day during which such individual
70 is engaged in performing such employment; except that each such contractor
71 or subcontractor who is an employer by reason of subsection (c) of section
72 43:21-8 of this Title or subsection (h) of this section, shall alone be liable for
73 the contributions measured by wages payable to individuals in his employ,
74 and except that any employing unit who shall become liable for and pay con-
75 tributions with respect to individuals in the employ of any such contractor
76 or subcontractor who is not an employer by reason of subsection (c) of sec-
77 tion 43:21-8 of this Title or subsection (h) of this section, may recover the
78 same from such contractor or subcontractor. Each individual employed to
79 perform or to assist in performing the work of any agent or employee of an

80 employing unit shall be deemed to be employed by such employing unit for
81 all the purposes of this chapter (R. S. 43:21-1 et seq.), whether such individ-
82 ual was hired or paid directly by such employing unit or by such agent or em-
83 ployee; provided, the employing unit had actual or constructive knowledge
84 of the work.

85 (h) "Employer" means:

86 (1) Any employing unit which for some portion of a day, but not neces-
87 sarily simultaneously, in each of 20 different weeks, whether or not such weeks
88 are or were consecutive, within either the current or the preceding calendar
89 year, has or had in employment 4 or more individuals (irrespective of
90 whether the same individuals are or were employed in each such day);

91 (2) Any employing unit (whether or not an employing unit at the time
92 of acquisition) which acquired the organization, trade or business, or sub-
93 stantially all the assets thereof, of another which at the time of such acqui-
94 sition was an employer subject to this chapter (R. S. 43:21-1 et seq.);

95 (3) Any employing unit which acquired the organization, trade or busi-
96 ness, or substantially all the assets thereof, of another employing unit and
97 which, if treated as a single unit with such other employing unit, would be
98 an employer under paragraph (1) of this subsection;

99 (4) Any employing unit which together with one or more other employ-
100 ing units is owned or controlled (by legally enforceable means or otherwise),
101 directly or indirectly by the same interests, or which owns or controls one or
102 more other employing units (by legally enforceable means or otherwise), and
103 which, if treated as a single unit with such other employing unit or interest,
104 would be an employer under paragraph (1) of this subsection;

105 (5) Any employing unit which, having become an employer under para-
106 graphs (1), (2), (3) or (4) has not, under section 43:21-8 of this chapter
107 (R. S. 43:21-1 et seq.) ceased to be an employer subject to this chapter (R. S.
108 43:21-1 et seq.); or

109 (6) For the effective period of its election pursuant to subsection (c)
110 of section 43:21-8 of this chapter (R. S. 43:21-1 et seq.) any other employing

111 unit which has elected to become fully subject to this chapter (R. S. 43:21-1
112 et seq.).

113 (i) (1) "Employment" means service, including service in interstate
114 commerce performed for remuneration or under any contract of hire, written
115 or oral, express or implied.

116 (2) The term "employment" shall include an individual's entire service
117 performed within or both within and without this State if:

118 (A) The service is localized in this State; or

119 (B) The service is not localized in any State but some of the serv-
120 ice is performed in this State, and (i) the base of operations, or, if there
121 is no base of operations, then the place from which such service is di-
122 rected or controlled, is in this State; or (ii) the base of operations or
123 place from which such service is directed or controlled is not in any State
124 in which some part of the service is performed, but the individual's resi-
125 dence is in this State.

126 (3) Services performed within this State but not covered under paragraph
127 (2) of this subsection shall be deemed to be employment subject to this chap-
128 ter (R. S. 43:21-1 et seq.) if contributions are not required and paid with re-
129 spect to such services under an unemployment compensation law of any other
130 State or of the Federal Government.

131 (4) Services not covered under paragraph (2) of this subsection, and
132 performed entirely without this State, with respect to no part of which con-
133 tributions are required and paid under an unemployment compensation law
134 of any other State or of the Federal Government, shall be deemed to be em-
135 ployment subject to this chapter (R. S. 43:21-1 et seq.) if the individual per-
136 forming such services is a resident of this State and the division approves
137 the election of the employing unit for whom such services are performed that
138 the entire service of such individual shall be deemed to be employment sub-
139 ject to this chapter (R. S. 43:21-et seq.); provided, written objections on
140 the part of a substantial proportion of such individuals affected are not pre-
141 sented to the division within 10 days following the filing of such election.

142 (5) Service shall be deemed to be localized within a State if

143 (A) the service is performed entirely within such State; or

144 (B) the service is performed both within and without such State, but
145 the service performed without such State is incidental to the individual's
146 service within the State, for example, is temporary or transitory in na-
147 ture or consists of isolated transactions.

148 (6) Services performed by an individual for remuneration shall be
149 deemed to be employment subject to this chapter (R. S. 43:21-1 et seq.) un-
150 less and until it is shown to the satisfaction of the division that

151 (A) such individual has been and will continue to be free from con-
152 trol or direction over the performance of such service, both under his
153 contract of service and in fact; and

154 (B) such service is either outside the usual course of the business
155 for which such service is performed, or that such service is performed
156 outside of all the places of business of the enterprise for which such serv-
157 ice is performed;

158 (C) such individual is customarily engaged in an independently es-
159 tablished trade, occupation, profession or business.

160 (7) The term "employment" shall not include:

161 (A) Agricultural labor;

162 (B) Domestic service in a private home;

163 (C) Service performed by an individual in the employ of his son,
164 daughter or spouse, and service performed by a child under the age of
165 21 in the employ of his father or mother;

166 (D) Service performed in the employ of this State or of any political
167 subdivision thereof or of any instrumentality of this State or its political
168 subdivisions;

169 (E) Service performed in the employ of any other State or its politi-
170 cal subdivisions, or of the United States Government, or of an instru-
171 mentality of any other State or States or their political subdivision, or
172 of the United States;

173 (F) Services performed in the employ of a corporation, community
174 chest, fund, or foundation, organized and operated exclusively for re-
175 ligious, charitable, scientific, literary, hospital, benevolent, philanthropic,
176 or educational purposes, or for the prevention of cruelty to children or
177 animals, no part of the net earnings of which inures to the benefit of any
178 private shareholder or individual;

179 (G) Services performed in the employ of fraternal beneficiary soci-
180 eties, orders, or associations operating under the lodge system or for the
181 exclusive benefit of the members of a fraternity itself operating under the
182 lodge system and providing for the payment of life, sick, accident, or
183 other benefits to the members of such society, order, or association, or
184 their dependents;

185 (H) Services performed as an officer or other employee of any build-
186 ing and loan association of this State, except where such services consti-
187 tute the principal employment of the individual; services performed as
188 an officer or other employee of any building and loan association where
189 such association is a member of the Federal Home Loan Bank System;
190 performed as an officer or other employee of any bank which is a mem-
191 ber of the Federal Reserve System;

192 (I) Service with respect to which unemployment insurance is pay-
193 able under an unemployment insurance program established by an Act of
194 Congress;

195 (J) Service heretofore or hereafter performed by *securities sales-*
196 *men*, agents of mutual fund brokers-dealers or insurance companies, ex-
197 clusive of industrial insurance agents, or by agents of investment com-
198 panies, who are compensated wholly on a commission basis;

199 (K) Services performed by real estate salesmen or brokers who are
200 compensated wholly on a commission basis;

201 (L) Services performed in the employ of any veterans' organization
202 chartered by Act of Congress or of any auxiliary thereof, no part of the
203 net earnings of which organization, or auxiliary thereof, inures to the
204 benefit of any private shareholder or individual;

205 (M) Service heretofore or hereafter performed for or in behalf of the
206 owner or operator of any theatre, ball room, amusement hall or other
207 place of entertainment, not in excess of 10 weeks in any calendar year for
208 the same owner or operator, by any leader or musician of a band or
209 orchestra, commonly called a "name band," entertainer, vaudeville artist,
210 actor, actress, singer or other entertainer;

211 (N) Services performed by an individual for a labor union organi-
212 zation, known and recognized as a union local, as a member of a com-
213 mittee or committees reimbursed by the union local for time lost from
214 regular employment, or as a part-time officer of a union local and the
215 remuneration for such services is less than \$250.00 in a calendar year.

216 (j) "Employment office" means a free public employment office, or
217 branch thereof operated by this State or maintained as a part of a State-
218 controlled system of public employment offices.

219 (k) "Fund" means the unemployment compensation fund established by
220 this chapter (R. S. 43:21-1 et seq.), to which all contributions required and
221 from which all benefits provided under this chapter (R. S. 43:21-1 et seq.)
222 shall be paid.

223 (l) "State" includes, in addition to the States of the United States of
224 America, the District of Columbia.

225 (m) Unemployment.

226 (1) An individual shall be deemed "unemployed" for any week during
227 which he is not engaged in full-time work and with respect to which his re-
228 munerated is less than his weekly benefit rate, including any week during
229 which he is on vacation without pay; provided, such vacation is not the result
230 of the individual's voluntary action.

231 (2) The term "remuneration," with respect to any individual for bene-
232 fit years commencing on or after July 1, 1961, and as used in this subsection,
233 shall include only that part of the same which in any week exceeds 20% of
234 his weekly benefit rate (fractional parts of a dollar omitted) or \$5.00, which-
235 ever is the larger.

236 (3) An individual's week of unemployment shall be deemed to commence
237 only after his registration at an employment office, except as the division may
238 by regulation otherwise prescribe.

239 (n) "Unemployment compensation administration fund" means the un-
240 employment compensation administration fund established by this chapter
241 (R. S. 43:21-1 et seq.), from which administrative expenses under this chap-
242 ter (R. S. 43:21-1 et seq.) shall be paid.

243 (o) "Wages" means remuneration paid subsequent to December 31,
244 1946, by employers for employment; provided, however, that for eligibility
245 and benefit purposes wages earned but not paid when the amount thereof has
246 been calculated and is due as determined by the established and customary
247 practices of the employer shall be construed as having been paid when earned.

248 (p) "Remuneration" means all compensation for personal services, in-
249 cluding commissions and bonuses and the cash value of all compensation in
250 any medium other than cash.

251 (q) "Week" means such period or periods of 7 consecutive days ending
252 at midnight, as the division may by regulation prescribe.

253 (r) "Calendar quarter" means the period of 3 consecutive calendar
254 months ending on March 31, June 30, September 30, or December 31.

255 (s) "Investment company" means any company as defined in paragraph
256 1-a of chapter 322 of the laws of 1938, entitled "An act concerning invest-
257 ment companies, and supplementing Title 17 of the Revised Statutes by add-
258 ing thereto a new chapter entitled 'investment companies.' "

259 (t) "Base week" means any calendar week of an individual's base year
260 during which he earned in employment from an employer remuneration equal
261 to not less than \$15.00; provided, if in any calendar week, an individual is in
262 employment with more than one employer, he may in such calendar week
263 establish a base week with respect to each such employer from whom the
264 individual earns remuneration equal to not less than \$15.00 during such week.

265 (u) "Average weekly wage" means the amount derived by dividing an
266 individual's total wages received during his base year base weeks (as defined

267 in subsection (t) of this section) from that most recent base year employer
268 with whom he had established at least 17 base weeks, by the number of base
269 weeks in which such wages were earned. In the event that such claimant had
270 no employer in his base year with whom he had established at least 17 base
271 weeks, then such individual's average weekly wage shall be computed as if
272 all of his base week wages were received from one employer and as if all his
273 base weeks of employment had been performed in the employ of one employer.

274 If on application of a claimant it is determined that he has been em-
275 ployed during at least the 4 weeks immediately preceding his separation from
276 employment by an employer on a substantially reduced schedule of weekly
277 hours due to lack of work, all weeks of substantially reduced schedule within
278 the base period and his wages therefor shall be disregarded in computing
279 his average weekly wage.

280 (v) "Initial determination" means, subject to the provisions of R. S.
281 43:21-6 (b) (2) and (3), a determination of benefit rights as measured by
282 an eligible individual's base year employment with a single employer cover-
283 ing all periods of employment with that employer during the base year. Sub-
284 ject to the provisions of R. S. 43:21-3 (d) (3) if an individual has been in
285 employment in his base year with more than one employer, no benefits shall
286 be paid to that individual under any successive initial determination until
287 his benefit rights have been exhausted under the next preceding initial deter-
288 mination.

289 (w) "Last date of employment" means the last calendar day in the base
290 year of an individual on which he performed services in employment for a
291 given employer.

292 (x) "Most recent base year employer" means that employer with whom
293 the individual most recently in point of time, performed services in employ-
294 ment in the base year.

295 2. This act shall take effect immediately.

STATEMENT

This bill would exempt from the unemployment compensation law securities salesmen compensated wholly by commission. A similar exemption for mutual fund salesmen was enacted in 1962.

ASSEMBLY COMMITTEE AMENDMENTS TO

ASSEMBLY, No. 56

STATE OF NEW JERSEY

ADOPTED JANUARY 28, 1963

Amend page 7, section 1, lines 195 and 196, omit "securities salesmen,".

Amend page 7, section 1, line 196, omit "brokers-dealers or", insert "brokers or dealers in the sale of mutual funds or other securities, by agents of".

Amend page 7, section 1, line 198, omit "who are compensated", insert "if the compensation to such agents for such service is".

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ASSEMBLY, No. 56

STATE OF NEW JERSEY

INTRODUCED JANUARY 14, 1963

By Assemblymen BEADLESTON and KEITH

Referred to Committee on Business Affairs

AN ACT concerning unemployment compensation and amending section 43:21-19
of the Revised Statutes.

1 BE IT ENACTED *by the Senate and General Assembly of the State of New*
2 *Jersey:*

1 1. Section 43:21-19 of the Revised Statutes is amended to read as fol-
2 lows:

3 43:21-19. As used in this chapter (R. S. 43:21-1 et seq.), unless the con-
4 text clearly requires otherwise:

5 (a) (1) "Annual payroll" means the total amount of wages paid during
6 a calendar year (regardless of when earned) by an employer for employ-
7 ment.

8 (2) "Average annual payroll" means the average of the annual payrolls
9 of any employer for the last 3 or 5 preceding calendar years, whichever aver-
10 age is higher, except that any year or years throughout which an employer
11 has had no "annual payroll" because of military service shall be deleted
12 from the reckoning; the "average annual payroll" in such case is to be deter-
13 mined on the basis of the prior 3 or 5 calendar years in each of which the em-
14 ployer had an "annual payroll" in the operation of his business, if the em-
15 ployer resumes his business within 12 months after separation, discharge or
16 release from such service, under conditions other than dishonorable, and
17 makes application to have his "average annual payroll" determined on the

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted
and is intended to be omitted in the law.

18 basis of such deletion within 12 months after he resumes his business; pro-
19 vided, however, that "average annual payroll" solely for the purposes of
20 paragraph (3) of subsection (e) of section 43:21-7 of this Title means the
21 average of the annual payrolls of any employer, on which he paid contribu-
22 tions to the State disability benefits fund, for the last 3 or 5 preceding calen-
23 dar years, whichever average is higher; provided further, that only those
24 wages be included on which employer contributions have been paid on or be-
25 fore January 31 (or the next succeeding day if such January 31 is a Satur-
26 day or Sunday) immediately preceding the beginning of the 12 months' period
27 for which the employer's contribution rate is computed.

28 (b) "Benefits" means the money payments payable to an individual, as
29 provided in this chapter (R. S. 43:21-1 et seq.), with respect to his unemploy-
30 ment.

31 (c) "Base year" with respect to benefit years commencing on or after
32 January 1, 1953, shall mean the 52 calendar weeks ending with the second
33 week immediately preceding an individual's benefit year.

34 (d) "Benefit year" with respect to any individual means the 364 con-
35 secutive calendar days beginning with the day on, or as of, which he first files
36 a valid claim for benefits, and thereafter beginning with the day on, or as
37 of, which the individual next files a valid claim for benefits after the termina-
38 tion of his last preceding benefit year. Any claim for benefits made in accord-
39 ance with subsection (a) of section 43:21-6 of this Title shall be deemed to
40 be a "valid claim" for the purpose of this subsection if (1) no remuneration
41 was paid or is payable for the day on which, or as of which he files a claim
42 for benefits, and no work is available to him with his current employing unit
43 on such day, or, he is unemployed for the week in which, or as of which, he
44 files a claim for benefits; and (2) he has fulfilled the conditions imposed by
45 subsection (e) of section 43:21-4 of this Title.

46 (e) "Division" means the Division of Employment Security of the De-
47 partment of Labor and Industry established by chapter 446, P. L. 1948, and
48 any transaction or exercise of authority by the director of the division there-

49 under, or under this chapter (R. S. 43:21-1 et seq.), shall be deemed to be per-
50 formed by the division.

51 (f) "Contributions" means the money payments to the State unemploy-
52 ment compensation fund required by this chapter (R. S. 43:21-1 et seq.).

53 (g) "Employing unit" means any individual or type of organization, in-
54 cluding any partnership, association, trust, estate, joint-stock company, in-
55 surance company or corporation, whether domestic or foreign, or the receiver,
56 trustee in bankruptcy, trustee or successor thereof, or the legal representa-
57 tive of a deceased person, which has or subsequent to January 1, 1936, had
58 in its employ one or more individuals performing services for it within this
59 State. All individuals performing services within this State for any employ-
60 ing unit which maintains 2 or more separate establishments within this State
61 shall be deemed to be employed by a single employing unit for all the pur-
62 poses of this chapter (R. S. 43:21-1 et seq.). Whenever any employing unit
63 contracts with or has under it any contractor or subcontractor for any em-
64 ployment which is part of its usual trade, occupation, profession, or business,
65 unless the employing unit as well as each such contractor or subcontractor is
66 an employer by reason of subsection (c) of section 43:21-8 of this Title or
67 subsection (h) of this section, the employing unit shall for all the purposes
68 of this chapter be deemed to employ each individual in the employ of each
69 such contractor or subcontractor for each day during which such individual
70 is engaged in performing such employment; except that each such contractor
71 or subcontractor who is an employer by reason of subsection (c) of section
72 43:21-8 of this Title or subsection (h) of this section, shall alone be liable for
73 the contributions measured by wages payable to individuals in his employ,
74 and except that any employing unit who shall become liable for and pay con-
75 tributions with respect to individuals in the employ of any such contractor
76 or subcontractor who is not an employer by reason of subsection (c) of sec-
77 tion 43:21-8 of this Title or subsection (h) of this section, may recover the
78 same from such contractor or subcontractor. Each individual employed to
79 perform or to assist in performing the work of any agent or employee of an

80 employing unit shall be deemed to be employed by such employing unit for
81 all the purposes of this chapter (R. S. 43:21-1 et seq.), whether such individ-
82 ual was hired or paid directly by such employing unit or by such agent or em-
83 ployee; provided, the employing unit had actual or constructive knowledge
84 of the work.

85 (h) "Employer" means:

86 (1) Any employing unit which for some portion of a day, but not neces-
87 sarily simultaneously, in each of 20 different weeks, whether or not such weeks
88 are or were consecutive, within either the current or the preceding calendar
89 year, has or had in employment 4 or more individuals (irrespective of
90 whether the same individuals are or were employed in each such day);

91 (2) Any employing unit (whether or not an employing unit at the time
92 of acquisition) which acquired the organization, trade or business, or sub-
93 stantially all the assets thereof, of another which at the time of such acqui-
94 sition was an employer subject to this chapter (R. S. 43:21-1 et seq.);

95 (3) Any employing unit which acquired the organization, trade or busi-
96 ness, or substantially all the assets thereof, of another employing unit and
97 which, if treated as a single unit with such other employing unit, would be
98 an employer under paragraph (1) of this subsection;

99 (4) Any employing unit which together with one or more other employ-
100 ing units is owned or controlled (by legally enforceable means or otherwise),
101 directly or indirectly by the same interests, or which owns or controls one or
102 more other employing units (by legally enforceable means or otherwise); and
103 which, if treated as a single unit with such other employing unit or interest,
104 would be an employer under paragraph (1) of this subsection;

105 (5) Any employing unit which, having become an employer under para-
106 graphs (1), (2), (3) or (4) has not, under section 43:21-8 of this chapter
107 (R. S. 43:21-1 et seq.) ceased to be an employer subject to this chapter (R. S.
108 43:21-1 et seq.); or

109 (6) For the effective period of its election pursuant to subsection (c)
110 of section 43:21-8 of this chapter (R. S. 43:21-1 et seq.) any other employing:

111 unit which has elected to become fully subject to this chapter (R. S. 43:21-1
112 et seq.).

113 (i) (1) "Employment" means service, including service in interstate
114 commerce performed for remuneration or under any contract of hire, written
115 or oral, express or implied.

116 (2) The term "employment" shall include an individual's entire service
117 performed within or both within and without this State if:

118 (A) The service is localized in this State; or

119 (B) The service is not localized in any State but some of the serv-
120 ice is performed in this State, and (i) the base of operations, or, if there
121 is no base of operations, then the place from which such service is di-
122 rected or controlled, is in this State; or (ii) the base of operations or
123 place from which such service is directed or controlled is not in any State
124 in which some part of the service is performed, but the individual's resi-
125 dence is in this State.

126 (3) Services performed within this State but not covered under paragraph
127 (2) of this subsection shall be deemed to be employment subject to this chap-
128 ter (R. S. 43:21-1 et seq.) if contributions are not required and paid with re-
129 spect to such services under an unemployment compensation law of any other
130 State or of the Federal Government.

131 (4) Services not covered under paragraph (2) of this subsection, and
132 performed entirely without this State, with respect to no part of which con-
133 tributions are required and paid under an unemployment compensation law
134 of any other State or of the Federal Government, shall be deemed to be em-
135 ployment subject to this chapter (R. S. 43:21-1 et seq.) if the individual per-
136 forming such services is a resident of this State and the division approves
137 the election of the employing unit for whom such services are performed that
138 the entire service of such individual shall be deemed to be employment sub-
139 ject to this chapter (R. S. 43:21-et seq.); provided, written objections on
140 the part of a substantial proportion of such individuals affected are not pre-
141 sented to the division within 10 days following the filing of such election.

142 (5) Service shall be deemed to be localized within a State if

143 (A) the service is performed entirely within such State; or

144 (B) the service is performed both within and without such State, but
145 the service performed without such State is incidental to the individual's
146 service within the State, for example, is temporary or transitory in na-
147 ture or consists of isolated transactions.

148 (6) Services performed by an individual for remuneration shall be
149 deemed to be employment subject to this chapter (R. S. 43:21-1 et seq.) un-
150 less and until it is shown to the satisfaction of the division that

151 (A) such individual has been and will continue to be free from con-
152 trol or direction over the performance of such service, both under his
153 contract of service and in fact; and

154 (B) such service is either outside the usual course of the business
155 for which such service is performed, or that such service is performed
156 outside of all the places of business of the enterprise for which such serv-
157 ice is performed;

158 (C) such individual is customarily engaged in an independently es-
159 tablished trade, occupation, profession or business.

160 (7) The term "employment" shall not include:

161 (A) Agricultural labor;

162 (B) Domestic service in a private home;

163 (C) Service performed by an individual in the employ of his son,
164 daughter or spouse, and service performed by a child under the age of
165 21 in the employ of his father or mother;

166 (D) Service performed in the employ of this State or of any political
167 subdivision thereof or of any instrumentality of this State or its political
168 subdivisions;

169 (E) Service performed in the employ of any other State or its politi-
170 cal subdivisions, or of the United States Government, or of an instru-
171 mentality of any other State or States or their political subdivision, or
172 of the United States;

173 (F) Services performed in the employ of a corporation, community
174 chest, fund, or foundation, organized and operated exclusively for re-
175 ligious, charitable, scientific, literary, hospital, benevolent, philanthropic,
176 or educational purposes, or for the prevention of cruelty to children or
177 animals, no part of the net earnings of which inures to the benefit of any
178 private shareholder or individual;

179 (G) Services performed in the employ of fraternal beneficiary soci-
180 eties, orders, or associations operating under the lodge system or for the
181 exclusive benefit of the members of a fraternity itself operating under the
182 lodge system and providing for the payment of life, sick, accident, or
183 other benefits to the members of such society, order, or association, or
184 their dependents;

185 (H) Services performed as an officer or other employee of any build-
186 ing and loan association of this State, except where such services consti-
187 tute the principal employment of the individual; services performed as
188 an officer or other employee of any building and loan association where
189 such association is a member of the Federal Home Loan Bank System;
190 performed as an officer or other employee of any bank which is a mem-
191 ber of the Federal Reserve System;

192 (I) Service with respect to which unemployment insurance is pay-
193 able under an unemployment insurance program established by an Act of
194 Congress;

195 (J) Service heretofore or hereafter performed by [*securities sales-*
196 *men,*] agents of mutual fund [*brokers-dealers or*] *brokers or dealers in*
197 *the sale of mutual funds or other securities, by agents of insurance com-*
198 *panies, exclusive of industrial insurance agents, or by agents of invest-*
198A *ment companies, [who are compensated] if the compensation to such*
198B *agents for such service is wholly on a commission basis;*

199 (K) Services performed by real estate salesmen or brokers who are
200 compensated wholly on a commission basis;

201 (L) Services performed in the employ of any veterans' organization
202 chartered by Act of Congress or of any auxiliary thereof, no part of the

203 net earnings of which organization, or auxiliary thereof, inures to the
204 benefit of any private shareholder or individual;

205 (M) Service heretofore or hereafter performed for or in behalf of the
206 owner or operator of any theatre, ball room, amusement hall or other
207 place of entertainment, not in excess of 10 weeks in any calendar year for
208 the same owner or operator, by any leader or musician of a band or
209 orchestra, commonly called a "name band," entertainer, vaudeville artist,
210 actor, actress, singer or other entertainer;

211 (N) Services performed by an individual for a labor union organi-
212 zation, known and recognized as a union local, as a member of a com-
213 mittee or committees reimbursed by the union local for time lost from
214 regular employment, or as a part-time officer of a union local and the
215 remuneration for such services is less than \$250.00 in a calendar year.

216 (j) "Employment office" means a free public employment office, or
217 branch thereof operated by this State or maintained as a part of a State-
218 controlled system of public employment offices.

219 (k) "Fund" means the unemployment compensation fund established by
220 this chapter (R. S. 43:21-1 et seq.), to which all contributions required and
221 from which all benefits provided under this chapter (R. S. 43:21-1 et seq.)
222 shall be paid.

223 (l) "State" includes, in addition to the States of the United States of
224 America, the District of Columbia.

225 (m) Unemployment.

226 (1) An individual shall be deemed "unemployed" for any week during
227 which he is not engaged in full-time work and with respect to which his re-
228 muneration is less than his weekly benefit rate, including any week during
229 which he is on vacation without pay; provided, such vacation is not the result
230 of the individual's voluntary action.

231 (2) The term "remuneration," with respect to any individual for bene-
232 fit years commencing on or after July 1, 1961, and as used in this subsection,
233 shall include only that part of the same which in any week exceeds 20% of

234 his weekly benefit rate (fractional parts of a dollar omitted) or \$5.00, which-
235 ever is the larger.

236 (3) An individual's week of unemployment shall be deemed to commence
237 only after his registration at an employment office, except as the division may
238 by regulation otherwise prescribe.

239 (n) "Unemployment compensation administration fund" means the un-
240 employment compensation administration fund established by this chapter
241 (R. S. 43:21-1 et seq.), from which administrative expenses under this chap-
242 ter (R. S. 43:21-1 et seq.) shall be paid.

243 (o) "Wages" means remuneration paid subsequent to December 31,
244 1946, by employers for employment; provided, however, that for eligibility
245 and benefit purposes wages earned but not paid when the amount thereof has
246 been calculated and is due as determined by the established and customary
247 practices of the employer shall be construed as having been paid when earned.

248 (p) "Remuneration" means all compensation for personal services, in-
249 cluding commissions and bonuses and the cash value of all compensation in
250 any medium other than cash.

251 (q) "Week" means such period or periods of 7 consecutive days ending
252 at midnight, as the division may by regulation prescribe.

253 (r) "Calendar quarter" means the period of 3 consecutive calendar
254 months ending on March 31, June 30, September 30, or December 31.

255 (s) "Investment company" means any company as defined in paragraph
256 1-a of chapter 322 of the laws of 1938, entitled "An act concerning invest-
257 ment companies, and supplementing Title 17 of the Revised Statutes by add-
258 ing thereto a new chapter entitled 'investment companies.' "

259 (t) "Base week" means any calendar week of an individual's base year
260 during which he earned in employment from an employer remuneration equal
261 to not less than \$15.00; provided, if in any calendar week, an individual is in
262 employment with more than one employer, he may in such calendar week
263 establish a base week with respect to each such employer from whom the
264 individual earns remuneration equal to not less than \$15.00 during such week.

265 (u) "Average weekly wage" means the amount derived by dividing an
266 individual's total wages received during his base year base weeks (as defined
267 in subsection (t) of this section) from that most recent base year employer
268 with whom he had established at least 17 base weeks, by the number of base
269 weeks in which such wages were earned. In the event that such claimant had
270 no employer in his base year with whom he had established at least 17 base
271 weeks, then such individual's average weekly wage shall be computed as if
272 all of his base week wages were received from one employer and as if all his
273 base weeks of employment had been performed in the employ of one employer.

274 If on application of a claimant it is determined that he has been em-
275 ployed during at least the 4 weeks immediately preceding his separation from
276 employment by an employer on a substantially reduced schedule of weekly
277 hours due to lack of work, all weeks of substantially reduced schedule within
278 the base period and his wages therefor shall be disregarded in computing
279 his average weekly wage.

280 (v) "Initial determination" means, subject to the provisions of R. S.
281 43:21-6 (b) (2) and (3), a determination of benefit rights as measured by
282 an eligible individual's base year employment with a single employer cover-
283 ing all periods of employment with that employer during the base year. Sub-
284 ject to the provisions of R. S. 43:21-3 (d) (3) if an individual has been in
285 employment in his base year with more than one employer, no benefits shall
286 be paid to that individual under any successive initial determination until
287 his benefit rights have been exhausted under the next preceding initial deter-
288 mination.

289 (w) "Last date of employment" means the last calendar day in the base
290 year of an individual on which he performed services in employment for a
291 given employer.

292 (x) "Most recent base year employer" means that employer with whom
293 the individual most recently in point of time, performed services in employ-
294 ment in the base year.

295 2. This act shall take effect immediately.

CHAPTER 66 LAWS OF N. J. 19 63

APPROVED May 28 - 1963
(CORRECTED COPY)

[OFFICIAL COPY REPRINT]

ASSEMBLY, No. 56

STATE OF NEW JERSEY

INTRODUCED JANUARY 14, 1963

By Assemblymen BEADLESTON and KEITH

Referred to Committee on Business Affairs

AN Act concerning unemployment compensation and amending section 43:21-19
of the Revised Statutes.

1 BE IT ENACTED *by the Senate and General Assembly of the State of New*
2 *Jersey:*

1 1. Section 43:21-19 of the Revised Statutes is amended to read as fol-
2 lows:

3 43:21-19. As used in this chapter (R. S. 43:21-1 et seq.), unless the con-
4 text clearly requires otherwise:

5 (a) (1) "Annual payroll" means the total amount of wages paid during
6 a calendar year (regardless of when earned) by an employer for employ-
7 ment.

8 (2) "Average annual payroll" means the average of the annual payrolls
9 of any employer for the last 3 or 5 preceding calendar years, whichever aver-
10 age is higher, except that any year or years throughout which an employer
11 has had no "annual payroll" because of military service shall be deleted
12 from the reckoning; the "average annual payroll" in such case is to be deter-
13 mined on the basis of the prior 3 or 5 calendar years in each of which the em-
14 ployer had an "annual payroll" in the operation of his business, if the em-
15 ployer resumes his business within 12 months after separation, discharge or
16 release from such service, under conditions other than dishonorable, and
17 makes application to have his "average annual payroll" determined on the

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted
and is intended to be omitted in the law.

18 basis of such deletion within 12 months after he resumes his business; pro-
19 vided, however, that "average annual payroll" solely for the purposes of
20 paragraph (3) of subsection (e) of section 43:21-7 of this Title means the
21 average of the annual payrolls of any employer, on which he paid contribu-
22 tions to the State disability benefits fund, for the last 3 or 5 preceding calen-
23 dar years, whichever average is higher; provided further, that only those
24 wages be included on which employer contributions have been paid on or be-
25 fore January 31 (or the next succeeding day if such January 31 is a Satur-
26 day or Sunday) immediately preceding the beginning of the 12 months' period
27 for which the employer's contribution rate is computed.

28 (b) "Benefits" means the money payments payable to an individual, as
29 provided in this chapter (R. S. 43:21-1 et seq.), with respect to his unemploy-
30 ment.

31 (c) "Base year" with respect to benefit years commencing on or after
32 January 1, 1953, shall mean the 52 calendar weeks ending with the second
33 week immediately preceding an individual's benefit year.

34 (d) "Benefit year" with respect to any individual means the 364 con-
35 secutive calendar days beginning with the day on, or as of, which he first files
36 a valid claim for benefits, and thereafter beginning with the day on, or as
37 of, which the individual next files a valid claim for benefits after the termina-
38 tion of his last preceding benefit year. Any claim for benefits made in accord-
39 ance with subsection (a) of section 43:21-6 of this Title shall be deemed to
40 be a "valid claim" for the purpose of this subsection if (1) no remuneration
41 was paid or is payable for the day on which, or as of which he files a claim
42 for benefits, and no work is available to him with his current employing unit
43 on such day, or, he is unemployed for the week in which, or as of which, he
44 files a claim for benefits; and (2) he has fulfilled the conditions imposed by
45 subsection (e) of section 43:21-4 of this Title.

46 (e) "Division" means the Division of Employment Security of the De-
47 partment of Labor and Industry established by chapter 446, P. L. 1948, and
48 any transaction or exercise of authority by the director of the division there-

49 under, or under this chapter (R. S. 43:21-1 et seq.), shall be deemed to be per-
50 formed by the division.

51 (f) "Contributions" means the money payments to the State unemploy-
52 ment compensation fund required by this chapter (R. S. 43:21-1 et seq.).

53 (g) "Employing unit" means any individual or type of organization, in-
54 cluding any partnership, association, trust, estate, joint-stock company, in-
55 surance company or corporation, whether domestic or foreign, or the receiver,
56 trustee in bankruptcy, trustee or successor thereof, or the legal representa-
57 tive of a deceased person, which has or subsequent to January 1, 1936, had
58 in its employ one or more individuals performing services for it within this
59 State. All individuals performing services within this State for any employ-
60 ing unit which maintains 2 or more separate establishments within this State
61 shall be deemed to be employed by a single employing unit for all the pur-
62 poses of this chapter (R. S. 43:21-1 et seq.). Whenever any employing unit
63 contracts with or has under it any contractor or subcontractor for any em-
64 ployment which is part of its usual trade, occupation, profession, or business,
65 unless the employing unit as well as each such contractor or subcontractor is
66 an employer by reason of subsection (c) of section 43:21-8 of this Title or
67 subsection (h) of this section, the employing unit shall for all the purposes
68 of this chapter be deemed to employ each individual in the employ of each
69 such contractor or subcontractor for each day during which such individual
70 is engaged in performing such employment; except that each such contractor
71 or subcontractor who is an employer by reason of subsection (c) of section
72 43:21-8 of this Title or subsection (h) of this section, shall alone be liable for
73 the contributions measured by wages payable to individuals in his employ,
74 and except that any employing unit who shall become liable for and pay con-
75 tributions with respect to individuals in the employ of any such contractor
76 or subcontractor who is not an employer by reason of subsection (c) of sec-
77 tion 43:21-8 of this Title or subsection (h) of this section, may recover the
78 same from such contractor or subcontractor. Each individual employed to
79 perform or to assist in performing the work of any agent or employee of an

80 employing unit shall be deemed to be employed by such employing unit for
81 all the purposes of this chapter (R. S. 43:21-1 et seq.), whether such individ-
82 ual was hired or paid directly by such employing unit or by such agent or em-
83 ployee; provided, the employing unit had actual or constructive knowledge
84 of the work.

85 (h) "Employer" means:

86 (1) Any employing unit which for some portion of a day, but not neces-
87 sarily simultaneously, in each of 20 different weeks, whether or not such weeks
88 are or were consecutive, within either the current or the preceding calendar
89 year, has or had in employment 4 or more individuals (irrespective of
90 whether the same individuals are or were employed in each such day);

91 (2) Any employing unit (whether or not an employing unit at the time
92 of acquisition) which acquired the organization, trade or business, or sub-
93 stantially all the assets thereof, of another which at the time of such acqui-
94 sition was an employer subject to this chapter (R. S. 43:21-1 et seq.);

95 (3) Any employing unit which acquired the organization, trade or busi-
96 ness, or substantially all the assets thereof, of another employing unit and
97 which, if treated as a single unit with such other employing unit, would be
98 an employer under paragraph (1) of this subsection;

99 (4) Any employing unit which together with one or more other employ-
100 ing units is owned or controlled (by legally enforceable means or otherwise),
101 directly or indirectly by the same interests, or which owns or controls one or
102 more other employing units (by legally enforceable means or otherwise), and
103 which, if treated as a single unit with such other employing unit or interest,
104 would be an employer under paragraph (1) of this subsection;

105 (5) Any employing unit which, having become an employer under para-
106 graphs (1), (2), (3) or (4) has not, under section 43:21-8 of this chapter
107 (R. S. 43:21-1 et seq.) ceased to be an employer subject to this chapter (R. S.
108 43:21-1 et seq.); or

109 (6) For the effective period of its election pursuant to subsection (c)
110 of section 43:21-8 of this chapter (R. S. 43:21-1 et seq.) any other employing

111 unit which has elected to become fully subject to this chapter (R. S. 43:21-1
112 et seq.).

113 (i) (1) "Employment" means service, including service in interstate
114 commerce performed for remuneration or under any contract of hire, written
115 or oral, express or implied.

116 (2) The term "employment" shall include an individual's entire service
117 performed within or both within and without this State if:

118 (A) The service is localized in this State; or

119 (B) The service is not localized in any State but some of the serv-
120 ice is performed in this State, and (i) the base of operations, or, if there
121 is no base of operations, then the place from which such service is di-
122 rected or controlled, is in this State; or (ii) the base of operations or
123 place from which such service is directed or controlled is not in any State
124 in which some part of the service is performed, but the individual's resi-
125 dence is in this State.

126 (3) Services performed within this State but not covered under paragraph
127 (2) of this subsection shall be deemed to be employment subject to this chap-
128 ter (R. S. 43:21-1 et seq.) if contributions are not required and paid with re-
129 spect to such services under an unemployment compensation law of any other
130 State or of the Federal Government.

131 (4) Services not covered under paragraph (2) of this subsection, and
132 performed entirely without this State, with respect to no part of which con-
133 tributions are required and paid under an unemployment compensation law
134 of any other State or of the Federal Government, shall be deemed to be em-
135 ployment subject to this chapter (R. S. 43:21-1 et seq.) if the individual per-
136 forming such services is a resident of this State and the division approves
137 the election of the employing unit for whom such services are performed that
138 the entire service of such individual shall be deemed to be employment sub-
139 ject to this chapter (R. S. 43:21-1 et seq.); provided, written objections on
140 the part of a substantial proportion of such individuals affected are not pre-
141 sented to the division within 10 days following the filing of such election.

142 (5) Service shall be deemed to be localized within a State if

143 (A) the service is performed entirely within such State; or

144 (B) the service is performed both within and without such State, but
145 the service performed without such State is incidental to the individual's
146 service within the State, for example, is temporary or transitory in na-
147 ture or consists of isolated transactions.

148 (6) Services performed by an individual for remuneration shall be
149 deemed to be employment subject to this chapter (R. S. 43:21-1 et seq.) un-
150 less and until it is shown to the satisfaction of the division that

151 (A) such individual has been and will continue to be free from con-
152 trol or direction over the performance of such service, both under his
153 contract of service and in fact; and

154 (B) such service is either outside the usual course of the business
155 for which such service is performed, or that such service is performed
156 outside of all the places of business of the enterprise for which such serv-
157 ice is performed; and

158 (C) such individual is customarily engaged in an independently es-
159 tablished trade, occupation, profession or business.

160 (7) The term "employment" shall not include:

161 (A) Agricultural labor;

162 (B) Domestic service in a private home;

163 (C) Service performed by an individual in the employ of his son,
164 daughter or spouse, and service performed by a child under the age of
165 21 in the employ of his father or mother;

166 (D) Service performed in the employ of this State or of any political
167 subdivision thereof or of any instrumentality of this State or its political
168 subdivisions;

169 (E) Service performed in the employ of any other State or its politi-
170 cal subdivisions, or of the United States Government, or of an instru-
171 mentality of any other State or States or their political subdivision, or
172 of the United States;

173 (F) Services performed in the employ of a corporation, community
174 chest, fund, or foundation, organized and operated exclusively for re-
175 ligious, charitable, scientific, literary, hospital, benevolent, philanthropic,
176 or educational purposes, or for the prevention of cruelty to children or
177 animals, no part of the net earnings of which inures to the benefit of any
178 private shareholder or individual;

179 (G) Services performed in the employ of fraternal beneficiary soci-
180 eties, orders, or associations operating under the lodge system or for the
181 exclusive benefit of the members of a fraternity itself operating under the
182 lodge system and providing for the payment of life, sick, accident, or
183 other benefits to the members of such society, order, or association, or
184 their dependents;

185 (H) Services performed as an officer or other employee of any build-
186 ing and loan association of this State, except where such services consti-
187 tute the principal employment of the individual; services performed as
188 an officer or other employee of any building and loan association where
189 such association is a member of the Federal Home Loan Bank System;
190 services performed as an officer or other employee of any bank which
191 is a member of the Federal Reserve System;

192 (I) Service with respect to which unemployment insurance is pay-
193 able under an unemployment insurance program established by an Act of
194 Congress;

195 (J) Service heretofore or hereafter performed by agents of mutual
196 fund *brokers or dealers in the sale of mutual funds or other securities,*
197 *by agents of [brokers-dealers or] insurance companies, exclusive of in-*
198 *dustrial insurance agents, or by agents of investment companies, if the*
198A *compensation to such agents for such services is [who are compensated]*
198B wholly on a commission basis;

199 (K) Services performed by real estate salesmen or brokers who are
200 compensated wholly on a commission basis;

201 (L) Services performed in the employ of any veterans' organization
202 chartered by Act of Congress or of any auxiliary thereof, no part of the

203 net earnings of which organization, or auxiliary thereof, inures to the
204 benefit of any private shareholder or individual;

205 (M) Service heretofore or hereafter performed for or in behalf of the
206 owner or operator of any theatre, ball room, amusement hall or other
207 place of entertainment, not in excess of 10 weeks in any calendar year for
208 the same owner or operator, by any leader or musician of a band or
209 orchestra, commonly called a "name band," entertainer, vaudeville artist,
210 actor, actress, singer or other entertainer;

211 (N) Services performed by an individual for a labor union organi-
212 zation, known and recognized as a union local, as a member of a com-
213 mittee or committees reimbursed by the union local for time lost from
214 regular employment, or as a part-time officer of a union local and the
215 remuneration for such services is less than \$250.00 in a calendar year.

216 (j) "Employment office" means a free public employment office, or
217 branch thereof operated by this State or maintained as a part of a State-
218 controlled system of public employment offices.

219 (k) "Fund" means the unemployment compensation fund established by
220 this chapter (R. S. 43:21-1 et seq.), to which all contributions required and
221 from which all benefits provided under this chapter (R. S. 43:21-1 et seq.)
222 shall be paid.

223 (l) "State" includes, in addition to the States of the United States of
224 America, the District of Columbia, *the Virgin Islands and Puerto Rico.*

225 (m) Unemployment.

226 (1) An individual shall be deemed "unemployed" for any week during
227 which he is not engaged in full-time work and with respect to which his re-
228 muneration is less than his weekly benefit rate, including any week during
229 which he is on vacation without pay; provided, such vacation is not the result
230 of the individual's voluntary action.

231 (2) The term "remuneration," with respect to any individual for bene-
232 fit years commencing on or after July 1, 1961, and as used in this subsection,
233 shall include only that part of the same which in any week exceeds 20% of

234 his weekly benefit rate (fractional parts of a dollar omitted) or \$5.00, which-
235 ever is the larger.

236 (3) An individual's week of unemployment shall be deemed to commence
237 only after his registration at an employment office, except as the division may
238 by regulation otherwise prescribe.

239 (n) "Unemployment compensation administration fund" means the un-
240 employment compensation administration fund established by this chapter
241 (R. S. 43:21-1 et seq.), from which administrative expenses under this chap-
242 ter (R. S. 43:21-1 et seq.) shall be paid.

243 (o) "Wages" means remuneration paid subsequent to December 31,
244 1946, by employers for employment; provided, however, that for eligibility
245 and benefit purposes wages earned but not paid when the amount thereof has
246 been calculated and is due as determined by the established and customary
247 practices of the employer shall be construed as having been paid when earned.

248 (p) "Remuneration" means all compensation for personal services, in-
249 cluding commissions and bonuses and the cash value of all compensation in
250 any medium other than cash.

251 (q) "Week" means such period or periods of 7 consecutive days ending
252 at midnight, as the division may by regulation prescribe.

253 (r) "Calendar quarter" means the period of 3 consecutive calendar
254 months ending on March 31, June 30, September 30, or December 31.

255 (s) "Investment company" means any company as defined in paragraph
256 1-a of chapter 322 of the laws of 1938, entitled "An act concerning invest-
257 ment companies, and supplementing Title 17 of the Revised Statutes by add-
258 ing thereto a new chapter entitled 'investment companies.' "

259 (t) "Base week" means any calendar week of an individual's base year
260 during which he earned in employment from an employer remuneration equal
261 to not less than \$15.00; provided, if in any calendar week, an individual is in
262 employment with more than one employer, he may in such calendar week
263 establish a base week with respect to each such employer from whom the
264 individual earns remuneration equal to not less than \$15.00 during such week.

265 (u) "Average weekly wage" means the amount derived by dividing an
266 individual's total wages received during his base year base weeks (as defined
267 in subsection (t) of this section) from that most recent base year employer
268 with whom he had established at least 17 base weeks, by the number of base
269 weeks in which such wages were earned. In the event that such claimant had
270 no employer in his base year with whom he had established at least 17 base
271 weeks, then such individual's average weekly wage shall be computed as if
272 all of his base week wages were received from one employer and as if all his
273 base weeks of employment had been performed in the employ of one employer.

274 If on application of a claimant it is determined that he has been em-
275 ployed during at least the 4 weeks immediately preceding his separation from
276 employment by an employer on a substantially reduced schedule of weekly
277 hours due to lack of work, all weeks of substantially reduced schedule within
278 the base period and his wages therefor shall be disregarded in computing
279 his average weekly wage.

280 (v) "Initial determination" means, subject to the provisions of R. S.
281 43:21-6 (b) (2) and (3), a determination of benefit rights as measured by
282 an eligible individual's base year employment with a single employer cover-
283 ing all periods of employment with that employer during the base year. Sub-
284 ject to the provisions of R. S. 43:21-3 (d) (3) if an individual has been in
285 employment in his base year with more than one employer, no benefits shall
286 be paid to that individual under any successive initial determination until
287 his benefit rights have been exhausted under the next preceding initial deter-
288 mination.

289 (w) "Last date of employment" means the last calendar day in the base
290 year of an individual on which he performed services in employment for a
291 given employer.

292 (x) "Most recent base year employer" means that employer with whom
293 the individual most recently, in point of time, performed services in employ-
294 ment in the base year.

295 2. This act shall take effect immediately.