

43:21-3 to 43:21-7 et al
LEGISLATIVE HISTORY CHECKLIST

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LAWS OF: 2024 **CHAPTER:** 102

NJSA: 43:21-3 to 43:21-7 et al Revises unemployment compensation law.

BILL NO: A4047 (Substituted for S2949)

SPONSOR(S) Sampson, William B. and others

DATE INTRODUCED: 3/7/2024

COMMITTEE: **ASSEMBLY:** Labor
Budget

SENATE: --

AMENDED DURING PASSAGE: No

DATE OF PASSAGE: ASSEMBLY: 06/28/2024

SENATE: 10/28/2024

DATE OF APPROVAL: 12/12/2024

FOLLOWING ARE ATTACHED IF AVAILABLE:

FINAL TEXT OF BILL (A4047 enacted)

ADVANCE LAW Yes

PAMPHLET LAW Yes

A4047

INTRODUCED BILL: (Includes sponsor(s) statement) Yes

REPRINT(S): No

TECHNICAL REVIEW: No

COMMITTEE STATEMENT:	ASSEMBLY:	Yes	Labor Budget
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SENATE: No

(Audio archived recordings of the committee meetings, corresponding to the date of the committee statement, ***may possibly*** be found at www.njleg.state.nj.us)

FLOOR AMENDMENT STATEMENT: No

LEGISLATIVE FISCAL ESTIMATE: No

S2949

INTRODUCED BILL: (Includes sponsor(s) statement) Yes

REPRINT(S): No

TECHNICAL REVIEW: No

COMMITTEE STATEMENT:	ASSEMBLY:	No	
	SENATE:	Yes	Labor Budget & Appropriations

(Audio archived recordings of the committee meetings, corresponding to the date of the committee statement, ***may possibly*** be found at www.njleg.state.nj.us)

FLOOR AMENDMENT STATEMENT:	No
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LEGISLATIVE FISCAL ESTIMATE:	No
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VETO MESSAGE:	No
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GOVERNOR'S PRESS RELEASE ON SIGNING:	Yes
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FOLLOWING WERE PRINTED:

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REPORTS:	No
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HEARINGS:	No
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NEWSPAPER ARTICLES:	No
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CL/MM

P.L. 2024, CHAPTER 102, *approved December 12, 2024*
Assembly, No. 4047

1 **AN ACT** concerning unemployment compensation and amending
2 various parts of the statutory law.

3
4 **BE IT ENACTED** *by the Senate and General Assembly of the State*
5 *of New Jersey:*

6
7 1. R.S.43:21-3 is amended to read as follows:
8 43:21-3. Benefits.

9 (a) Payment of benefits.

10 All benefits shall be promptly paid from the fund in accordance
11 with such regulations as may be prescribed hereunder.

12 (b) Weekly benefits for unemployment.

13 With respect to an individual's benefit year commencing on or
14 after July 1, 1961, such individual, if eligible and unemployed (as
15 defined in subsection (m) of R.S.43:21-19), shall be paid an amount
16 (except as to final payment) equal to his weekly benefit rate less
17 any remuneration, other than remuneration from self-employment
18 paid to an individual who is receiving a self-employment assistance
19 allowance, paid or payable to him for such week in excess of 20%
20 of his weekly benefit rate (fractional part of a dollar omitted) or
21 \$5.00, whichever is the greater; provided that such amount shall be
22 computed to the next lower multiple of \$1.00 if not already a
23 multiple thereof.

24 (c) Weekly benefit rate.

25 (1) With respect to an individual whose benefit year commences
26 after September 30, 1984, his weekly benefit rate under each
27 determination shall be 60% of his average weekly wage, subject to a
28 maximum of 56 2/3 % of the Statewide average weekly
29 remuneration paid to workers by employers subject to this chapter
30 (R.S.43:21-1 et seq.), as determined and promulgated by the
31 Commissioner of Labor and Workforce Development; provided,
32 however, that such individual's weekly benefit rate shall be
33 computed to the next lower multiple of \$1.00 if not already a
34 multiple thereof.

35 (2) Dependency benefits.

36 (A) With respect to an individual whose benefit year commences
37 after September 30, 1984, the individual's weekly benefit rate as
38 determined in paragraph (1) of this subsection (c) will be increased
39 by 7% for the first dependent and 4% each for the next two

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

Matter underlined thus is new matter.

1 dependents (up to a maximum of three dependents), computed to
2 the next lower multiple of \$1.00 if not already a multiple thereof,
3 except that the maximum weekly benefit rate payable for an
4 individual claiming dependency benefits shall not exceed the
5 maximum amount determined under paragraph (1) of this
6 subsection (c).

7 (B) For the purposes of this paragraph (2), a dependent is
8 defined as an individual's unemployed spouse or an unemployed
9 unmarried child (including a stepchild or a legally adopted child)
10 under the age of 19 ~~or~~, an unemployed unmarried child, who is
11 attending an educational institution as defined in subsection (y) of
12 R.S.43:21-19 on a full-time basis and is under the age of 22, or an
13 unemployed unmarried disabled adult child who has blindness or a
14 disability which began before the age of 22. The burden of proof
15 shall be on the claimant to establish that an individual is a
16 dependent, as that term is defined in this subparagraph (B). For the
17 purpose of this subparagraph (B), blindness or disability shall be
18 determined using the standard set forth within 20 C.F.R. Part 404,
19 Subpart P, which is used by the Social Security Administration to
20 determine disability and blindness when evaluating eligibility for
21 Disabled Adult Child benefits under the Social Security Act. For the
22 purpose of determining under this subparagraph (B) whether an
23 individual is a dependent, because the individual is an adult child
24 who has blindness or a disability which began before the age of 22,
25 written proof of a determination by the Social Security
26 Administration that the individual is currently eligible for Disabled
27 Adult Child benefits under the Social Security Act shall be
28 considered conclusive proof of dependent status. If an individual's
29 spouse is employed during the week the individual files an initial
30 claim for benefits, this paragraph (2) shall not apply. If both
31 spouses establish a claim for benefits in accordance with the
32 provisions of this chapter (R.S.43:21-1 et seq.), only one shall be
33 entitled to dependency benefits as provided in this paragraph (2).

34 (C) Any determination establishing dependency benefits under
35 this paragraph (2) shall remain fixed for the duration of the
36 individual's benefit year and shall not be increased or decreased
37 unless it is determined by the division that the individual
38 wrongfully claimed dependency benefits as a result of false or
39 fraudulent representation.

40 (D) Notwithstanding the provisions of any other law, the
41 division shall use every available administrative means to insure
42 that dependency benefits are paid only to individuals who meet the
43 requirements of this paragraph (2). These administrative actions
44 may include, but shall not be limited to, the following:

45 (i) All married individuals claiming dependents under this
46 paragraph (2) shall be required to provide the social security
47 number of the individual's spouse. If the individual indicates that
48 the spouse is unemployed, the division shall match the social

1 security number of the spouse against available wage records to
2 determine whether earnings were reported on the last quarterly
3 earnings report filed by employers under R.S.43:21-14. If earnings
4 were reported, the division shall contact in writing the last employer
5 to determine whether the spouse is currently employed.

6 (ii) Where a child is claimed as a dependent by an individual
7 under this paragraph (2), the individual shall be required to provide
8 to the division the most recent federal income tax return filed by the
9 individual to assist the division in verifying the claim.

10 (3) For the purposes of this subsection (c), the "Statewide
11 average weekly remuneration paid to workers by employers" shall
12 be computed and determined by the Commissioner of Labor and
13 Workforce Development on or before September 1 of each year on
14 the basis of one-fifty-second of the total remuneration reported for
15 the preceding calendar year by employers subject to this chapter,
16 divided by the average of the number of workers reported by such
17 employers, and shall be effective as to benefit determinations in the
18 calendar year following such computation and determination.

19 (d) Maximum total benefits.

20 (1) (A) (Deleted by amendment, P.L.2003, c.107).

21 (B) (i) With respect to an individual for whom benefits shall be
22 payable for benefit years commencing on or after July 1, 1986, and
23 before July 1, 2003 as provided in this section, the individual shall
24 be entitled to receive a total amount of benefits equal to three-
25 quarters of the individual's base weeks with all employers in the
26 base year multiplied by the individual's weekly benefit rate; but the
27 amount of benefits thus resulting under that determination shall be
28 adjusted to the next lower multiple of \$1.00 if not already a
29 multiple thereof. With respect to an individual for whom benefits
30 shall be payable for benefit years commencing on or after July 1,
31 2003 as provided in this section, the individual shall be entitled to
32 receive a total amount of benefits equal to the number of the
33 individual's base weeks with all employers in the base year
34 multiplied by the individual's weekly benefit rate; but the amount of
35 benefits thus resulting under that determination shall be adjusted to
36 the next lower multiple of \$1.00 if not already a multiple thereof.

37 (ii) Except as provided pursuant to paragraph (1) of subsection
38 (c) of R.S.43:21-7, benefits paid to an individual for benefit years
39 commencing on or after July 1, 1986 shall be charged against the
40 accounts of the individual's base year employers in the following
41 manner:

42 Each week of benefits paid to an eligible individual shall be
43 charged against each base year employer's account in the same
44 proportion that the wages paid by each employer to the individual
45 during the base year bear to the wages paid by all employers to that
46 individual during the base year.

47 (iii) (Deleted by amendment, P.L.1997, c.255.)

1 (2) No such individual shall be entitled to receive benefits under
2 this chapter (R.S.43:21-1 et seq.) in excess of 26 times his weekly
3 benefit rate in any benefit year under either of subsections (c) and
4 (f) of R.S. 43:21-4. In the event that any individual qualifies for
5 benefits under both of said subsections during any benefit year, the
6 maximum total amount of benefits payable under said subsections
7 combined to such individual during the benefit year shall be one
8 and one-half times the maximum amount of benefits payable under
9 one of said subsections.

10 (3) (Deleted by amendment, P.L.1984, c.24.)
11 (cf: P.L.2004, c.45, s.1)

12

13 2. R.S.43:21-4 is amended to read as follows:

14 43:21-4. Benefit eligibility conditions. An unemployed
15 individual shall be eligible to receive benefits with respect to any
16 week eligible only if:

17 (a) The individual has filed a claim at an unemployment
18 insurance claims office and thereafter continues to report at an
19 employment service office or unemployment insurance claims
20 office, as directed by the division in accordance with such
21 regulations as the division may prescribe, except that the division
22 may, by regulation, waive or alter either or both of the requirements
23 of this subsection as to individuals attached to regular jobs, and as
24 to such other types of cases or situations with respect to which the
25 division finds that compliance with such requirements would be
26 oppressive, or would be inconsistent with the purpose of this act;
27 provided that no such regulation shall conflict with subsection (a) of
28 R.S.43:21-3.

29 (b) The individual has made a claim for benefits in accordance
30 with the provisions of subsection (a) of R.S.43:21-6.

31 (c) (1) The individual is able to work, and is available for work,
32 and has demonstrated to be actively seeking work, except as
33 hereinafter provided in this subsection or in subsection (f) of this
34 section.

35 (2) The director may modify the requirement of actively seeking
36 work if such modification of this requirement is warranted by
37 economic conditions.

38 (3) No individual, who is otherwise eligible, shall be deemed
39 ineligible, or unavailable for work, because the individual is on
40 vacation, without pay, during said week, if said vacation is not the
41 result of the individual's own action as distinguished from any
42 collective action of a collective bargaining agent or other action
43 beyond the individual's control.

44 (4) (A) Subject to such limitations and conditions as the division
45 may prescribe, an individual, who is otherwise eligible, shall not be
46 deemed unavailable for work or ineligible because the individual is
47 attending a training program approved for the individual by the
48 division to enhance the individual's employment opportunities or

1 because the individual failed or refused to accept work while
2 attending such program.

3 (B) For the purpose of this paragraph (4), any training program
4 shall be regarded as approved by the division for the individual if
5 the program and the individual meet the following requirements:

6 (i) The training is for a labor demand occupation and is likely to
7 enhance the individual's marketable skills and earning power,
8 except that the training may be for an occupation other than a labor
9 demand occupation if the individual is receiving short-time benefits
10 pursuant to the provisions of P.L.2011, c.154 (C.43:21-20.3 et al.)
11 and the training is necessary to prevent a likely loss of jobs;

12 (ii) The training is provided by a competent and reliable private
13 or public entity approved by the Commissioner of Labor and
14 Workforce Development pursuant to the provisions of section 8 of
15 the "1992 New Jersey Employment and Workforce Development
16 Act," P.L.1992, c.43 (C.34:15D-8);

17 (iii) The individual can reasonably be expected to complete the
18 program, either during or after the period of benefits;

19 (iv) The training does not include on the job training or other
20 training under which the individual is paid by an employer for work
21 performed by the individual during the time that the individual
22 receives benefits; and

23 (v) The individual enrolls in vocational training, remedial
24 education or a combination of both on a full-time basis, except that
25 the training or education may be on a part-time basis if the
26 individual is receiving short-time benefits pursuant to the provisions
27 of P.L.2011, c.154 (C.43:21-20.3 et al.).

28 (C) If the requirements of subparagraph (B) of this paragraph (4)
29 are met, the division shall not withhold approval of the training
30 program for the individual for any of the following reasons:

31 (i) The training includes remedial basic skills education
32 necessary for the individual to successfully complete the vocational
33 component of the training;

34 (ii) The training is provided in connection with a program under
35 which the individual may obtain a college degree, including a post-
36 graduate degree;

37 (iii) The length of the training period under the program; or

38 (iv) The lack of a prior guarantee of employment upon
39 completion of the training.

40 (D) For the purpose of this paragraph (4), "labor demand
41 occupation" means an occupation for which there is or is likely to
42 be an excess of demand over supply for adequately trained workers,
43 including, but not limited to, an occupation designated as a labor
44 demand occupation by the Center for Occupational Employment
45 Information pursuant to the provisions of subsection d. of section
46 27 of P.L.2005, c.354 (C.34:1A-86).

47 (5) An unemployed individual, who is otherwise eligible, shall
48 not be deemed unavailable for work or ineligible solely by reason of

1 the individual's attendance before a court in response to a summons
2 for service on a jury.

3 (6) An unemployed individual, who is otherwise eligible, shall
4 not be deemed unavailable for work or ineligible solely by reason of
5 the individual's attendance at the funeral of an immediate family
6 member, provided that the duration of the attendance does not
7 extend beyond a two-day period.

8 For purposes of this paragraph, "immediate family member"
9 includes any of the following individuals: father, mother, mother-
10 in-law, father-in-law, grandmother, grandfather, grandchild, spouse,
11 child, child placed by the Division of Youth and Family Services in
12 the Department of Children and Families, sister or brother of the
13 unemployed individual and any relatives of the unemployed
14 individual residing in the unemployed individual's household.

15 (7) No individual, who is otherwise eligible, shall be deemed
16 ineligible or unavailable for work with respect to any week because,
17 during that week, the individual fails or refuses to accept work
18 while the individual is participating on a full-time basis in self-
19 employment assistance activities authorized by the division,
20 whether or not the individual is receiving a self-employment
21 allowance during that week.

22 (8) Any individual who is determined to be likely to exhaust
23 regular benefits and need reemployment services based on
24 information obtained by the worker profiling system shall not be
25 eligible to receive benefits if the individual fails to participate in
26 available reemployment services to which the individual is referred
27 by the division or in similar services, unless the division determines
28 that:

29 (A) The individual has completed the reemployment services; or
30 (B) There is justifiable cause for the failure to participate, which
31 shall include participation in employment and training, self-
32 employment assistance activities or other activities authorized by
33 the division to assist reemployment or enhance the marketable skills
34 and earning power of the individual and which shall include any
35 other circumstance indicated pursuant to this section in which an
36 individual is not required to be available for and actively seeking
37 work to receive benefits.

38 (9) An unemployed individual, who is otherwise eligible, shall
39 not be deemed unavailable for work or ineligible solely by reason of
40 the individual's work as a board worker for a county board of
41 elections on an election day.

42 (10) An individual who is employed by a shared work employer
43 and is otherwise eligible for benefits shall not be deemed ineligible
44 for short-time benefits because the individual is unavailable for
45 work with employers other than the shared work employer, so long
46 as:

1 (A) The individual is able to work and is available to work the
2 individual's normal full-time hours for the shared work employer;
3 or

4 (B) The individual is attending a training program which is in
5 compliance with the provisions of paragraph (4) of subsection (c) of
6 this section and the agreements and certifications required pursuant
7 to the provisions of section 2 of P.L.2011, c.154 (C.43:21-20.4).

8 (11) An unemployed individual, who is otherwise eligible, shall
9 not be deemed unavailable for work or ineligible solely because the
10 individual is a student in full-time attendance at, or on vacation
11 from, an educational institution, as defined in subsection (y) of
12 R.S. 43:21-19; provided that the unemployed individual's full-time
13 attendance at the educational institution does not, in fact, result in
14 the unemployed individual being unable to work or being
15 unavailable for work, and provided that notwithstanding the
16 unemployed individual's full-time attendance at the educational
17 institution, the unemployed individual is able to demonstrate that
18 the individual is actively seeking work.

19 (12) An unemployed individual, who is otherwise eligible, shall
20 not be deemed unavailable for work or ineligible solely because the
21 individual is attending a training program approved by the division
22 to enhance the individual's employment opportunities, in
23 accordance with the provisions of paragraph (4) of subsection (c) of
24 R.S. 43:21-4.

25 (d) With respect to any benefit year commencing before January
26 1, 2002, the individual has been totally or partially unemployed for
27 a waiting period of one week in the benefit year which includes that
28 week. When benefits become payable with respect to the third
29 consecutive week next following the waiting period, the individual
30 shall be eligible to receive benefits as appropriate with respect to
31 the waiting period. No week shall be counted as a week of
32 unemployment for the purposes of this subsection:

33 (1) If benefits have been paid, or are payable with respect
34 thereto; provided that the requirements of this paragraph shall be
35 waived with respect to any benefits paid or payable for a waiting
36 period as provided in this subsection;

37 (2) If it has constituted a waiting period week under the
38 "Temporary Disability Benefits Law," P.L.1948, c.110 (C.43:21-25
39 et al.);

40 (3) Unless the individual fulfills the requirements of subsections
41 (a) and (c) of this section;

42 (4) If with respect thereto, claimant was disqualified for benefits
43 in accordance with the provisions of subsection (d) of R.S.43:21-5.

44 The waiting period provided by this subsection shall not apply to
45 benefit years commencing on or after January 1, 2002. An
46 individual whose total benefit amount was reduced by the
47 application of the waiting period to a claim which occurred on or
48 after January 1, 2002 and before the effective date of P.L.2002,

1 c.13, shall be permitted to file a claim for the additional benefits
2 attributable to the waiting period in the form and manner prescribed
3 by the division, but not later than the 180th day following the
4 effective date of P.L.2002, c.13 unless the division determines that
5 there is good cause for a later filing.

6 (e) (1) (Deleted by amendment, P.L.2001, c.17).

7 (2) (Deleted by amendment, P.L.2008, c.17).

8 (3) (Deleted by amendment, P.L.2008, c.17).

9 (4) With respect to benefit years commencing on or after
10 January 7, 2001, except as otherwise provided in paragraph (5) of
11 this subsection, the individual has, during his base year as defined
12 in subsection (c) of R.S.43:21-19:

13 (A) Established at least 20 base weeks as defined in paragraphs
14 (2) and (3) of subsection (t) of R.S.43:21-19; or

15 (B) If the individual has not met the requirements of
16 subparagraph (A) of this paragraph (4), earned remuneration not
17 less than an amount 1,000 times the minimum wage in effect
18 pursuant to section 5 of P.L.1966, c.113 (C.34:11-56a4) on October
19 1 of the calendar year preceding the calendar year in which the
20 benefit year commences, which amount shall be adjusted to the next
21 higher multiple of \$100 if not already a multiple thereof.

22 (5) With respect to benefit years commencing on or after
23 January 7, 2001, notwithstanding the provisions of paragraph (4) of
24 this subsection, an unemployed individual claiming benefits on the
25 basis of service performed in the production and harvesting of
26 agricultural crops shall, subject to the limitations of subsection (i)
27 of R.S.43:21-19, be eligible to receive benefits if during his base
28 year, as defined in subsection (c) of R.S.43:21-19, the individual:

29 (A) Has established at least 20 base weeks as defined in
30 paragraphs (2) and (3) of subsection (t) of R.S.43:21-19; or

31 (B) Has earned remuneration not less than an amount 1,000
32 times the minimum wage in effect pursuant to section 5 of
33 P.L.1966, c.113 (C.34:11-56a4) on October 1 of the calendar year
34 preceding the calendar year in which the benefit year commences,
35 which amount shall be adjusted to the next higher multiple of \$100
36 if not already a multiple thereof; or

37 (C) Has performed at least 770 hours of service in the
38 production and harvesting of agricultural crops.

39 (6) The individual applying for benefits in any successive
40 benefit year has earned at least six times his previous weekly
41 benefit amount and has had four weeks of employment since the
42 beginning of the immediately preceding benefit year. This
43 provision shall be in addition to the earnings requirements specified
44 in paragraph (4) or (5) of this subsection, as applicable.

45 (f) (1) The individual has suffered any accident or sickness not
46 compensable under the workers' compensation law, R.S.34:15-1 et
47 seq. and resulting in the individual's total disability to perform any
48 work for remuneration, and would be eligible to receive benefits

1 under this chapter (R.S.43:21-1 et seq.) (without regard to the
2 maximum amount of benefits payable during any benefit year)
3 except for the inability to work and has furnished notice and proof
4 of claim to the division, in accordance with its rules and
5 regulations, and payment is not precluded by the provisions of
6 R.S.43:21-3(d); provided, however, that benefits paid under this
7 subsection (f) shall be computed on the basis of only those base
8 year wages earned by the claimant as a "covered individual," as
9 defined in subsection (b) of section 3 of P.L.1948, c.110
10 (C.43:21-27); provided further that no benefits shall be payable
11 under this subsection to any individual:

12 (A) For any period during which such individual is not under the
13 care of a legally licensed physician, dentist, optometrist, podiatrist,
14 practicing psychologist, advanced practice nurse, or chiropractor,
15 who, when requested by the division, shall certify within the scope
16 of the practitioner's practice, the disability of the individual, the
17 probable duration thereof, and, where applicable, the medical facts
18 within the practitioner's knowledge;

19 (B) (Deleted by amendment, P.L.1980, c.90.)

20 (C) For any period of disability due to willfully or intentionally
21 self-inflicted injury, or to injuries sustained in the perpetration by
22 the individual of a crime of the first, second or third degree;

23 (D) For any week with respect to which or a part of which the
24 individual has received or is seeking benefits under any
25 unemployment compensation or disability benefits law of any other
26 state or of the United States; provided that if the appropriate agency
27 of such other state or the United States finally determines that the
28 individual is not entitled to such benefits, this disqualification shall
29 not apply;

30 (E) For any week with respect to which or part of which the
31 individual has received or is seeking disability benefits under the
32 "Temporary Disability Benefits Law," P.L.1948, c.110 (C.43:21-25
33 et al.);

34 (F) For any period of disability commencing while such
35 individual is a "covered individual," as defined in subsection (b) of
36 section 3 of the "Temporary Disability Benefits Law," P.L.1948,
37 c.110 (C.43:21-27).

38 (2) The individual is taking family temporary disability leave to
39 provide care for a family member with a serious health condition or
40 to be with a child during the first 12 months after the child's birth or
41 placement of the child for adoption or as a foster child with the
42 individual, and the individual would be eligible to receive benefits
43 under R.S.43:21-1 et seq. (without regard to the maximum amount
44 of benefits payable during any benefit year) except for the
45 individual's unavailability for work while taking the family
46 temporary disability leave, and the individual has furnished notice
47 and proof of claim to the division, in accordance with its rules and
48 regulations, and payment is not precluded by the provisions of

1 R.S.43:21-3(d) provided, however, that benefits paid under this
2 subsection (f) shall be computed on the basis of only those base
3 year wages earned by the claimant as a "covered individual," as
4 defined in subsection (b) of section 3 of P.L.1948, c.110 (C.43:21-
5 27); provided further that no benefits shall be payable under this
6 subsection to any individual:

7 (A) For any week with respect to which or a part of which the
8 individual has received or is seeking benefits under any
9 unemployment compensation or disability benefits law of any other
10 state or of the United States; provided that if the appropriate agency
11 of such other state or the United States finally determines that the
12 individual is not entitled to such benefits, this disqualification shall
13 not apply;

14 (B) For any week with respect to which or part of which the
15 individual has received or is seeking disability benefits for a
16 disability of the individual under the "Temporary Disability
17 Benefits Law," P.L.1948, c.110 (C.43:21-25 et al.);

18 (C) For any period of family temporary disability leave
19 commencing while the individual is a "covered individual," as
20 defined in subsection (b) of section 3 of the "Temporary Disability
21 Benefits Law," P.L.1948, c.110 (C.43:21-27); or

22 (D) For any period of family temporary disability leave for a
23 serious health condition of a family member of the claimant during
24 which the family member is not receiving inpatient care in a
25 hospital, hospice, or residential medical care facility and is not
26 subject to continuing medical treatment or continuing supervision
27 by a health care provider, who, when requested by the division,
28 shall certify within the scope of the provider's practice, the serious
29 health condition of the family member, the probable duration
30 thereof, and, where applicable, the medical facts within the
31 provider's knowledge.

32 (3) Benefit payments under this subsection (f) shall be charged
33 to and paid from the State disability benefits fund established by the
34 "Temporary Disability Benefits Law," P.L.1948, c.110 (C.43:21-25
35 et al.), and shall not be charged to any employer account in
36 computing any employer's experience rate for contributions payable
37 under this chapter.

38 (g) Benefits based on service in employment defined in
39 subparagraphs (B) and (C) of R.S.43:21-19 (i)(1) shall be payable
40 in the same amount and on the terms and subject to the same
41 conditions as benefits payable on the basis of other service subject
42 to the "unemployment compensation law"; except that,
43 notwithstanding any other provisions of the "unemployment
44 compensation law":

45 (1) With respect to service performed after December 31, 1977,
46 in an instructional, research, or principal administrative capacity for
47 an educational institution, benefits shall not be paid based on such
48 services for any week of unemployment commencing during the

1 period between two successive academic years, or during a similar
2 period between two regular terms, whether or not successive, or
3 during a period of paid sabbatical leave provided for in the
4 individual's contract, to any individual if such individual performs
5 such services in the first of such academic years (or terms) and if
6 there is a contract or a reasonable assurance that such individual
7 will perform services in any such capacity for any educational
8 institution in the second of such academic years or terms;

9 (2) With respect to weeks of unemployment beginning after
10 September 3, 1982, on the basis of service performed in any other
11 capacity for an educational institution, benefits shall not be paid on
12 the basis of such services to any individual for any week which
13 commences during a period between two successive academic years
14 or terms if such individual performs such services in the first of
15 such academic years or terms and there is a reasonable assurance
16 that such individual will perform such services in the second of
17 such academic years or terms, except that if benefits are denied to
18 any individual under this paragraph (2) and the individual was not
19 offered an opportunity to perform these services for the educational
20 institution for the second of any academic years or terms, the
21 individual shall be entitled to a retroactive payment of benefits for
22 each week for which the individual filed a timely claim for benefits
23 and for which benefits were denied solely by reason of this clause;

24 (3) With respect to those services described in paragraphs (1)
25 and (2) above, benefits shall not be paid on the basis of such
26 services to any individual for any week which commences during
27 an established and customary vacation period or holiday recess if
28 such individual performs such services in the period immediately
29 before such vacation period or holiday recess, and there is a
30 reasonable assurance that such individual will perform such
31 services in the period immediately following such period or holiday
32 recess;

33 (4) With respect to any services described in paragraphs (1) and
34 (2) above, benefits shall not be paid as specified in paragraphs (1),
35 (2), and (3) above to any individual who performed those services
36 in an educational institution while in the employ of an educational
37 service agency, and for this purpose the term "educational service
38 agency" means a governmental agency or governmental entity
39 which is established and operated exclusively for the purpose of
40 providing those services to one or more educational institutions;

41 (5) As used in this subsection (g) in order for there to be a
42 "reasonable assurance" all of the following requirements shall be
43 met:

44 (A) The educational institution has made an offer of employment
45 in the following academic year or term that is either written, oral, or
46 implied;

1 (B) The offer of employment in the following academic year or
2 term was made by an individual with actual authority to offer
3 employment;

4 (C) The employment offered in the following academic year or
5 term shall be in the same capacity;

6 (D) The economic conditions of the employment offered may not
7 be considerably less in the following academic year or term than in
8 the then current academic year or term. For the purpose of this
9 paragraph, "considerably less" means that the claimant will earn
10 less than 90 percent of the amount the claimant earned in the then
11 current academic year or term;

12 (E) The offer of employment in the following academic year or
13 term is not contingent upon a factor or factors that are within the
14 educational institution's control, including but not limited to, course
15 programming, decisions on how to allocate available funding, final
16 course offerings, program changes, and facility availability; and

17 (F) Based on a totality of the circumstances, it is highly
18 probable that there is a job available for the claimant in the
19 following academic year or term. If a job offer contains a
20 contingency, primary weight should be given to the contingent
21 nature of the offer of employment. Contingencies that are not
22 necessarily within the educational institution's control, such as
23 funding, enrollment and seniority, may be taken into consideration
24 but the existence of any one contingency should not determine
25 whether it is highly probable that there is a job available for the
26 claimant in the following academic year or term.

27 (6) Determinations by the department whether claimants have a
28 "reasonable assurance" shall be done on a case-by-case basis.

29 (7) Each educational institution shall provide the following to
30 the department, in a form, including electronic form, prescribed by
31 the commissioner, no less than 10 business days prior to the end of
32 the academic year or term:

33 (A) A list of all employees who the educational institution has
34 concluded do not have a reasonable assurance of employment in the
35 following academic year or term, along with information prescribed
36 by the commissioner regarding each such employee, which
37 information shall include, but not be limited to, name and social
38 security number; and

39 (B) For each employee that the educational institution maintains
40 does have a reasonable assurance of employment in the following
41 academic year or term, a statement explaining the manner in which
42 the employee was given a reasonable assurance of employment, that
43 is, whether it was in writing, oral, or implied, and what information
44 about the offer, including contingencies, was communicated to the
45 individual.

46 (8) The statement required under subparagraph (B) of paragraph
47 (7) of this subsection (g) may be used by the department in its
48 analysis under paragraphs (5) and (6) of this subsection (g), but it

1 does not conclusively demonstrate that the claimant has a
2 reasonable assurance of employment in the following academic year
3 or term.

4 (9) Failure of an educational institution to provide the statement
5 required under subparagraph (B) of paragraph (7) of this subsection
6 (g) not less than 10 business days prior to the end of the academic
7 year or term shall result in a rebuttable presumption that the
8 claimant does not have a reasonable assurance of employment in the
9 following academic year or term. This rebuttable presumption shall
10 give rise to an inference that the claimant does not have a
11 reasonable assurance of employment in the following academic year
12 or term, but shall not conclusively demonstrate that the claimant
13 does not have a reasonable assurance of employment in the
14 following academic year or term.

15 (10) If any part of P.L.2020, c.122 is found to be in conflict with
16 federal requirements that are a prescribed condition to the allocation
17 of federal funds to the State or the eligibility of employers in this
18 State for federal unemployment tax credits, the conflicting part of
19 that act is inoperative solely to the extent of the conflict, and the
20 finding or determination does not affect the operation of the
21 remainder of this act. Rules adopted under this act shall meet
22 federal requirements that are a necessary condition to the receipt of
23 federal funds by the State or the granting of federal unemployment
24 tax credits to employers in this State.

25 (h) Benefits shall not be paid to any individual on the basis of
26 any services, substantially all of which consist of participating in
27 sports or athletic events or training or preparing to so participate,
28 for any week which commences during the period between two
29 successive sports seasons (or similar periods) if such individual
30 performed such services in the first of such seasons (or similar
31 periods) and there is a reasonable assurance that such individual
32 will perform such services in the later of such seasons (or similar
33 periods).

34 (i) (1) Benefits shall not be paid on the basis of services
35 performed by an alien unless such alien is an individual who was
36 lawfully admitted for permanent residence at the time the services
37 were performed and was lawfully present for the purpose of
38 performing the services or otherwise was permanently residing in
39 the United States under color of law at the time the services were
40 performed (including an alien who is lawfully present in the United
41 States as a result of the application of the provisions of section
42 212(d)(5) (8 U.S.C. s.1182 (d)(5)) of the Immigration and
43 Nationality Act (8 U.S.C. s.1101 et seq.)); provided that any
44 modifications of the provisions of section 3304(a)(14) of the
45 Federal Unemployment Tax Act (26 U.S.C. s. 3304 (a) (14)) as
46 provided by Pub.L.94-566, which specify other conditions or other
47 effective dates than stated herein for the denial of benefits based on
48 services performed by aliens and which modifications are required

1 to be implemented under State law as a condition for full tax credit
2 against the tax imposed by the Federal Unemployment Tax Act,
3 shall be deemed applicable under the provisions of this section.

4 (2) Any data or information required of individuals applying for
5 benefits to determine whether benefits are not payable to them
6 because of their alien status shall be uniformly required from all
7 applicants for benefits.

8 (3) In the case of an individual whose application for benefits
9 would otherwise be approved, no determination that benefits to such
10 individual are not payable because of alien status shall be made
11 except upon a preponderance of the evidence.

12 (j) Notwithstanding any other provision of this chapter, the
13 director may, to the extent that it may be deemed efficient and
14 economical, provide for consolidated administration by one or more
15 representatives or deputies of claims made pursuant to subsection
16 (f) of this section with those made pursuant to Article III (State
17 plan) of the "Temporary Disability Benefits Law," P.L.1948, c.110
18 (C.43:21-25 et al.).

19 (cf: P.L.2020, c.122)

20

21 3. R.S.43:21-5 is amended to read as follows:

22 43:21-5. An individual shall be disqualified for benefits:

23 (a) For the week in which the individual has left work voluntarily
24 without good cause attributable to such work, and for each week
25 thereafter until the individual becomes reemployed and works eight
26 weeks in employment, which may include employment for the
27 federal government, and has earned in employment at least ten
28 times the individual's weekly benefit rate, as determined in each
29 case. This subsection shall apply to any individual seeking
30 unemployment benefits on the basis of employment in the
31 production and harvesting of agricultural crops, including any
32 individual who was employed in the production and harvesting of
33 agricultural crops on a contract basis and who has refused an offer
34 of continuing work with that employer following the completion of
35 the minimum period of work required to fulfill the contract. This
36 subsection shall not apply to an individual who voluntarily leaves
37 work with one employer to accept from another employer
38 employment which commences not more than seven days after the
39 individual leaves employment with the first employer, if the
40 employment with the second employer has weekly hours or pay not
41 less than the hours or pay of the employment of the first employer,
42 except that if the individual gives notice to the first employer that
43 the individual will leave employment on a specified date and the
44 first employer terminates the individual before that date, the seven-
45 day period will commence from the specified date.

46 (b) For the week in which the individual has been suspended or
47 discharged for misconduct connected with the work, and for the five

1 weeks which immediately follow that week, as determined in each
2 case.

3 "Misconduct" means conduct which is improper, intentional,
4 connected with the individual's work, within the individual's
5 control, not a good faith error of judgment or discretion, and is
6 either a deliberate refusal, without good cause, to comply with the
7 employer's lawful and reasonable rules made known to the
8 employee or a deliberate disregard of standards of behavior the
9 employer has a reasonable right to expect, including reasonable
10 safety standards and reasonable standards for a workplace free of
11 drug and substance use.

12 In the event the discharge should be rescinded by the employer
13 voluntarily or as a result of mediation or arbitration, this subsection
14 (b) shall not apply, provided, however, an individual who is
15 restored to employment with back pay shall return any benefits
16 received under this chapter for any week of unemployment for
17 which the individual is subsequently compensated by the employer.

18 If the discharge was for gross misconduct connected with the
19 work because of the commission of an act punishable as a crime of
20 the first, second, third or fourth degree under the "New Jersey Code
21 of Criminal Justice," N.J.S.2C:1-1 et seq., the individual shall be
22 disqualified in accordance with the disqualification prescribed in
23 subsection (a) of this section and no benefit rights shall accrue to
24 any individual based upon wages from that employer for services
25 rendered prior to the day upon which the individual was discharged.

26 The director shall ensure that any appeal of a determination
27 holding the individual disqualified for gross misconduct in
28 connection with the work shall be expeditiously processed by the
29 appeal tribunal.

30 To sustain disqualification from benefits because of misconduct
31 under this subsection (b), the burden of proof is upon the employer,
32 who shall, prior to a determination by the department of
33 misconduct, provide written documentation demonstrating that the
34 employee's actions constitute misconduct or gross misconduct.

35 Nothing within this subsection (b) shall be construed to interfere
36 with the exercise of rights protected under the "National Labor
37 Relations Act," (29 U.S.C. s.151 et seq.) or the "New Jersey
38 Employer-Employee Relations Act," P.L.1941, c.100 (C.34:13A-1
39 et seq.).

40 (c) If it is found that the individual has failed, without good
41 cause, either to apply for available, suitable work when so directed
42 by the employment office or the director or to accept suitable work
43 when it is offered, or to return to the individual's customary self-
44 employment (if any) when so directed by the director. The
45 disqualification shall continue for the week in which the failure
46 occurred and for the three weeks which immediately follow that
47 week, as determined:

1 (1) In determining whether or not any work is suitable for an
2 individual, consideration shall be given to the degree of risk
3 involved to health, safety, and morals, the individual's physical
4 fitness and prior training, experience and prior earnings, the
5 individual's length of unemployment and prospects for securing
6 local work in the individual's customary occupation, and the
7 distance of the available work from the individual's residence. In
8 the case of work in the production and harvesting of agricultural
9 crops, the work shall be deemed to be suitable without regard to the
10 distance of the available work from the individual's residence if all
11 costs of transportation are provided to the individual and the terms
12 and conditions of hire are as favorable or more favorable to the
13 individual as the terms and conditions of the individual's base year
14 employment.

15 (2) Notwithstanding any other provisions of this chapter, no
16 work shall be deemed suitable and benefits shall not be denied
17 under this chapter to any otherwise eligible individual for refusing
18 to accept new work under any of the following conditions: the
19 position offered is vacant due directly to a strike, lockout, or other
20 labor dispute; the remuneration, hours, or other conditions of the
21 work offered are substantially less favorable to the individual than
22 those prevailing for similar work in the locality; or, the individual,
23 as a condition of being employed, would be required to join a
24 company union or to resign from or refrain from joining any bona
25 fide labor organization.

26 (d) If it is found that this unemployment is due to a stoppage of
27 work which exists because of a labor dispute at the factory,
28 establishment or other premises at which the individual is or was
29 last employed, except as otherwise provided by this subsection (d).

30 (1) No disqualification under this subsection (d) shall apply if it
31 is shown that:

32 (i) The individual is not participating in or financing or directly
33 interested in the labor dispute which caused the stoppage of work;
34 and

35 (ii) The individual does not belong to a grade or class of workers
36 of which, immediately before the commencement of the stoppage,
37 there were members employed at the premises at which the
38 stoppage occurs, any of whom are participating in or financing or
39 directly interested in the dispute; provided that if in any case in
40 which subparagraphs (i) or (ii) of this paragraph (1) applies,
41 separate branches of work which are commonly conducted as
42 separate businesses in separate premises are conducted in separate
43 departments of the same premises, each department shall, for the
44 purpose of this subsection, be deemed to be a separate factory,
45 establishment, or other premises.

46 (2) For any claim for a period of unemployment commencing on
47 or after December 1, 2004 due to a stoppage of work which exists
48 because of a labor dispute at the factory, establishment or other

1 premises at which the individual is or was last employed, no
2 disqualification under this subsection (d) shall apply if it is shown
3 that the individual has been prevented from working by the
4 employer, even though the individual's recognized or certified
5 majority representative has directed the employees in the
6 individual's collective bargaining unit to work under the preexisting
7 terms and conditions of employment, and, if the period of
8 unemployment commenced before January 1, 2022, the employees
9 had not engaged in a strike immediately before being prevented
10 from working, or if the a period of unemployment commenced on
11 or after January 1, 2022, whether or not the employees had engaged
12 in a strike immediately before being prevented from working.

13 (3) For any claim for a period of unemployment commencing on
14 or after July 1, 2018 due to a stoppage of work which exists because
15 of a labor dispute at the factory, establishment or other premises at
16 which the individual is or was last employed, no disqualification
17 under this subsection (d) shall apply if an issue in the labor dispute
18 is a failure or refusal of the employer to comply with an agreement
19 or contract between the employer and the claimant, including a
20 collective bargaining agreement with a union representing the
21 claimant, or a failure or refusal to comply with a State or federal
22 law pertaining to hours, wages, or other conditions of work.

23 (4) For any claim for a period of unemployment commencing on
24 or after July 1, 2018 and before January 1, 2022, if the
25 unemployment is caused by a labor dispute, including a strike or
26 other concerted activities of employees at the claimant's workplace,
27 whether or not authorized or sanctioned by a union representing the
28 claimant, but not including a dispute subject to the provisions of
29 paragraph (2) or (3) of this subsection (d), the claimant shall not be
30 provided benefits for a period of the first 30 days following the
31 commencement of the unemployment caused by the labor dispute,
32 except that the period without benefits shall not apply if the
33 employer hires a permanent replacement worker for the claimant's
34 position. A replacement worker shall be presumed to be permanent
35 unless the employer certifies in writing that the claimant will be
36 permitted to return to his or her prior position upon conclusion of
37 the dispute. If the employer does not permit the return, the claimant
38 shall be entitled to recover any benefits lost as a result of the 30-day
39 waiting period before receiving benefits, and the department may
40 impose a penalty upon the employer of up to \$750 per employee per
41 week of benefits lost. The penalty collected shall be paid into the
42 unemployment compensation auxiliary fund established pursuant to
43 subsection (g) of R.S.43:21-14. For any claim for a period of
44 unemployment commencing on or after January 1, 2022 due to a
45 stoppage of work which exists because of a labor dispute at the
46 factory, establishment or other premises at which the individual is
47 or was last employed, including a strike or other concerted activities
48 of employees at the claimant's workplace, whether or not authorized

1 or sanctioned by a union representing the claimant, but not
2 including a dispute subject to the provisions of paragraph (2) or (3)
3 of this subsection (d), the claimant shall not be provided benefits
4 for a period of the first 14 days following the commencement of the
5 unemployment caused by the labor dispute, except that the claimant
6 shall be provided benefits during any part of that the 14-day period
7 in which the employer engages the services of a replacement worker
8 for the claimant's position, whether that replacement worker is
9 engaged on a permanent or temporary basis, or is an existing worker
10 reassigned permanently or temporarily from other duties to perform
11 the duties of the claimant's position. For any claim for a period of
12 unemployment commencing on or after January 1, 2022 which
13 exists because of a labor dispute at the factory, establishment or
14 other premises at which the individual is or was last employed, if
15 the labor dispute has not resulted in a stoppage of work, no
16 disqualification under this subsection (d) shall apply, and the 14-
17 day waiting period in this paragraph (4) shall not apply.

18 (e) For any week with respect to which the individual is
19 receiving or has received remuneration in lieu of notice.

20 (f) For any week with respect to which or a part of which the
21 individual has received or is seeking unemployment benefits under
22 an unemployment compensation law of any other state or of the
23 United States; provided that if the appropriate agency of the other
24 state or of the United States finally determines that the individual is
25 not entitled to unemployment benefits, this disqualification shall not
26 apply.

27 (g) (1) For a period of one year from the date of the discovery by
28 the division of the illegal receipt or attempted receipt of benefits
29 contrary to the provisions of this chapter, as the result of any false
30 or fraudulent representation; provided that any disqualification may
31 be appealed in the same manner as any other disqualification
32 imposed hereunder; and provided further that a conviction in the
33 courts of this State arising out of the illegal receipt or attempted
34 receipt of these benefits in any proceeding instituted against the
35 individual under the provisions of this chapter or any other law of
36 this State shall be conclusive upon the appeals tribunal and the
37 board of review.

38 (2) A disqualification under this subsection shall not preclude the
39 prosecution of any civil, criminal or administrative action or
40 proceeding to enforce other provisions of this chapter for the
41 assessment and collection of penalties or the refund of any amounts
42 collected as benefits under the provisions of R.S.43:21-16, or to
43 enforce any other law, where an individual obtains or attempts to
44 obtain by theft or robbery or false statements or representations any
45 money from any fund created or established under this chapter or
46 any negotiable or nonnegotiable instrument for the payment of
47 money from these funds, or to recover money erroneously or

1 illegally obtained by an individual from any fund created or
2 established under this chapter.

3 (h) (1) Notwithstanding any other provisions of this chapter
4 (R.S.43:21-1 et seq.), no otherwise eligible individual shall be
5 denied benefits for any week because the individual is in training
6 approved under section 236(a)(1) of the "Trade Act of 1974,"
7 Pub.L.93-618 (19 U.S.C. s.2296 (a)(1)) nor shall the individual be
8 denied benefits by reason of leaving work to enter this training,
9 provided the work left is not suitable employment, or because of the
10 application to any week in training of provisions in this chapter
11 (R.S.43:21-1 et seq.), or any applicable federal unemployment
12 compensation law, relating to availability for work, active search
13 for work, or refusal to accept work.

14 (2) For purposes of this subsection (h), the term "suitable"
15 employment means, with respect to an individual, work of a
16 substantially equal or higher skill level than the individual's past
17 adversely affected employment, as defined for purposes of the
18 "Trade Act of 1974," Pub.L.93-618 (19 U.S.C. s.2101 et seq.) and
19 wages for this work at not less than 80 percent of the individual's
20 average weekly wage, as determined for the purposes of the "Trade
21 Act of 1974."

22 (i) **For benefit years commencing after June 30, 1984, for any**
23 **week in which the individual is a student in full attendance at, or on**
24 **vacation from, an educational institution, as defined in subsection**
25 **(y) of R.S.43:21-19; except that this subsection shall not apply to**
26 **any individual attending a training program approved by the**
27 **division to enhance the individual's employment opportunities, as**
28 **defined under subsection (c) of R.S.43:21-4; nor shall this**
29 **subsection apply to any individual who, during the individual's base**
30 **year, earned sufficient wages, as defined under subsection (e) of**
31 **R.S.43:21-4, while attending an educational institution during**
32 **periods other than established and customary vacation periods or**
33 **holiday recesses at the educational institution, to establish a claim**
34 **for benefits. For purposes of this subsection, an individual shall be**
35 **treated as a full-time student for any period:**

36 (1) During which the individual is enrolled as a full-time student
37 at an educational institution, or

38 (2) Which is between academic years or terms, if the individual
39 was enrolled as a full-time student at an educational institution for
40 the immediately preceding academic year or term. **】** (Deleted by
41 amendment, P.L. , C.) (pending before the Legislature as
42 this bill)

43 (j) Notwithstanding any other provisions of this chapter
44 (R.S.43:21-1 et seq.), no otherwise eligible individual shall be
45 denied benefits because the individual left work or was discharged
46 due to circumstances resulting from the individual being a victim of
47 domestic violence as defined in section 3 of P.L.1991, c.261
48 (C.2C:25-19). No employer's account shall be charged for the

1 payment of benefits to an individual who left work due to
2 circumstances resulting from the individual being a victim of
3 domestic violence.

4 For the purposes of this subsection (j), the individual shall be
5 treated as being a victim of domestic violence if the individual
6 provides one or more of the following:

7 (1) A restraining order or other documentation of equitable relief
8 issued by a court of competent jurisdiction;

9 (2) A police record documenting the domestic violence;

10 (3) Documentation that the perpetrator of the domestic violence
11 has been convicted of one or more of the offenses enumerated in
12 section 3 of P.L.1991, c.261 (C.2C:25-19);

13 (4) Medical documentation of the domestic violence;

14 (5) Certification from a certified Domestic Violence Specialist or
15 the director of a designated domestic violence agency that the
16 individual is a victim of domestic violence; or

17 (6) Other documentation or certification of the domestic violence
18 provided by a social worker, member of the clergy, shelter worker
19 or other professional who has assisted the individual in dealing with
20 the domestic violence.

21 For the purposes of this subsection (j):

22 "Certified Domestic Violence Specialist" means a person who
23 has fulfilled the requirements of certification as a Domestic
24 Violence Specialist established by the New Jersey Association of
25 Domestic Violence Professionals; and "designated domestic
26 violence agency" means a county-wide organization with a primary
27 purpose to provide services to victims of domestic violence, and
28 which provides services that conform to the core domestic violence
29 services profile as defined by the Division of Child Permanency and
30 Protection in the Department of Children and Families and is under
31 contract with the division for the express purpose of providing such
32 services.

33 (k) Notwithstanding any other provisions of this chapter
34 (R.S.43:21-1 et seq.), no otherwise eligible individual shall be
35 denied benefits for any week in which the individual left work
36 voluntarily and without good cause attributable to the work, if the
37 individual left work to accompany his or her spouse who is an
38 active member of the United States Armed Forces, as defined in
39 N.J.S.38A:1-1(g), to a new place of residence outside the State, due
40 to the armed forces member's transfer to a new assignment in a
41 different geographical location outside the State, and the individual
42 moves to the new place of residence not more than nine months
43 after the spouse is transferred, and upon arrival at the new place of
44 residence the individual was in all respects available for suitable
45 work. No employer's account shall be charged for the payment of
46 benefits to an individual who left work under the circumstances
47 contained in this subsection (k), except that this shall not be
48 construed as relieving the State of New Jersey and any other

1 governmental entity or instrumentality or nonprofit organization
2 electing or required to make payments in lieu of contributions from
3 its responsibility to make all benefit payments otherwise required
4 by law and from being charged for those benefits as otherwise
5 required by law.

6 (cf: P.L.2023, c.177, s.126)

7
8 4. R.S.43:21-6 is amended to read as follows:

9 43:21-6. (a) Filing. (1) Claims for benefits shall be made in
10 accordance with such regulations as the Director of the Division of
11 Unemployment and Temporary Disability Insurance of the
12 Department of Labor and Workforce Development of the State of
13 New Jersey may approve. Each employer shall post and maintain
14 on his premises printed notices of his subject status, of such design,
15 in such numbers and at such places as the director of the division
16 may determine to be necessary to give notice thereof to persons in
17 the employer's service. Each employer shall give to each individual
18 at the time he becomes unemployed, for any reason, whether the
19 unemployment is permanent or temporary, a printed copy of benefit
20 instructions. The benefit instructions given to the individual shall
21 include, but not be limited to, the following information: (A) the
22 date upon which the individual becomes unemployed, and, in the
23 case that the unemployment is temporary, to the extent possible, the
24 date upon which the individual is expected to be recalled to work;
25 and (B) that the individual may lose some or all of the benefits to
26 which he is entitled if he fails to file a claim in a timely manner.
27 Both the aforesaid notices and instructions, including information
28 detailing the time sensitivity of filing a claim, and directions
29 provided in advance to all employers regarding what information
30 the division requires employers to provide to the division by
31 electronic means immediately upon a separation from employment
32 sufficient to enable the division to make a benefit determination,
33 including any information relevant to whether the individual may be
34 disqualified pursuant to subsections (a),(b),(d), or (e) of R.S.43:21-
35 5, shall be supplied by the division to employers without cost to
36 them. The directions provided to all employers in advance shall
37 include that each employer provide the division with an email
38 address for communications to and from the division. When an
39 employer provides benefit instructions to the individual which
40 disclose the date on which unemployment will commence, the
41 employer shall immediately and simultaneously provide by
42 electronic means that disclosure to the division together with the
43 information required by the division pursuant to the directions
44 provided in advance by the division. An employer who fails to
45 make the immediate and simultaneous disclosure to the department
46 as required by this paragraph shall be liable for the penalties
47 imposed by subsection (b) of R.S.43:21-16 on employers for willful
48 failure to furnish reports. The division shall notify the employer by

1 electronic means not more than seven calendar days after the
2 department receives the disclosure of any failure of the employer to
3 provide all of the information needed by the division to make a
4 benefit determination. Nothing in this section shall be construed so
5 as to require an employer to re-hire an individual formerly in the
6 employer's service. Nothing in this section shall be construed as
7 requiring the division to issue a benefit determination solely based
8 on the information supplied by the employer. Notwithstanding the
9 provisions of this section which require employers to provide
10 information to the division by electronic means, and the division to
11 provide notifications to an employer by electronic means, the
12 commissioner shall have the discretion to establish by rule an
13 alternate method or methods for employers to provide the required
14 information to the division and for the division to provide the
15 required notifications to an employer in circumstances where it is
16 established, to the satisfaction of the commissioner, that the
17 employer is unable to provide the information to the division or is
18 unable to receive notifications from the division by electronic
19 means.

20 (2) Any claimant may choose to certify, cancel or close his claim
21 for unemployment insurance benefits at any time, 24 hours a day
22 and seven days a week, via the Internet on a website developed by
23 the division; however, any claim that is certified, cancelled or
24 closed after 7:00 PM will not be processed by the division until the
25 next scheduled posting date.

26 (3) The division may request that claimants obtain digital
27 identity credentials, but only if the division provides opportunities
28 for claimants to verify their identities even if they do not have the
29 knowledge or access to the equipment needed to obtain the digital
30 identity credentials. Any request by the division for a claimant to
31 obtain digital identity credentials shall include a statement that the
32 claimant may use alternative procedures to verify identification, and
33 fully describe the alternative procedures, which shall include
34 personal assistance in person or by phone which shall be made
35 available by representatives of the division as needed to prevent any
36 delay in processing claims. If the division requests that a claimant
37 obtain digital identity credentials, and the claimant chooses to
38 request a digital identity credential rather than utilize an alternative
39 procedure, but is denied the digital identity credential, the division
40 shall issue the claimant a written appealable determination.

41 (4) Any system that the division establishes for claimants or
42 recipients of benefits to verify identity, to apply for, or to make
43 appeals regarding, benefits either by phone or on-line, shall provide
44 a clearly and prominently expressed option for the claimant or
45 recipient, if not immediately provided personal assistance, to select
46 from available appointment times an appointment time to speak
47 with a representative to obtain assistance in verifying identity, filing

1 a claim or appeal, or obtaining information regarding the status of a
2 claim or appeal.

3 (b) (1) Procedure for making initial determinations with respect
4 to benefit years commencing on or after January 1, 1953.

5 A representative or representatives designated by the director of
6 the division and hereafter referred to as a "deputy" shall promptly
7 examine any disclosure of information to the division by an
8 employer required by paragraph (1) of subsection (a) of this section
9 upon a separation from work and any claim for benefits, and shall,
10 by electronic means, notify the most recent employing unit and,
11 successively as necessary, each employer in inverse chronological
12 order during the base year. The notification shall be made not later
13 than seven calendar days after the employer provides to the
14 department the disclosure required by paragraph (1) of subsection
15 (a) of this section, or seven calendar days after the filing of the
16 claim, whichever occurs first, and require said employing unit and
17 employer to furnish, by electronic means, not more than seven
18 calendar days after the notification is made, any information to the
19 deputy which the employer failed to provide as required by
20 paragraph (1) of subsection (a) of this section as may be necessary
21 to determine the claimant's eligibility and his benefit rights with
22 respect to the employer in question. The claimant shall, at the time
23 the claim is filed, be provided any information the division has
24 received from the employer upon the separation from work and an
25 opportunity to respond to that information. If a claim is filed and
26 the employer has provided the information required upon separation
27 from work, the employer shall immediately be notified by electronic
28 means of the opportunity to provide, by electronic means and in not
29 more than seven calendar days, additional information in response
30 to the claim for benefits. If a claim is filed and the employer has
31 failed to provide the information required upon the separation from
32 work, the division shall immediately, by electronic means, request
33 the required information and the employer shall provide the
34 information, by electronic means and in not more than seven
35 calendar days. The division shall provide the claimant any
36 additional information it receives and an opportunity to respond.

37 If any employer or employing unit fails to respond to the
38 notification or request within seven calendar days after a
39 communication by electronic means of the notification or request,
40 the deputy shall rely entirely on information from other sources,
41 including an affidavit to the best of the knowledge and belief of the
42 claimant with respect to his wages and time worked. Except in the
43 event of a knowing, fraudulent nondisclosure or misrepresentation
44 by the claimant or his agent, if it is determined that any information
45 in such affidavit is erroneous, no penalty shall be imposed on the
46 claimant.

47 The deputy shall make an initial determination contingent upon
48 the receipt of all necessary information and notify the claimant no

1 later than three weeks from the date on which the division received
2 the claim for benefits. The initial determination shall show the
3 weekly benefit amount payable, the maximum duration of benefits
4 with respect to the employer to whom the determination relates, and
5 the ratio of benefits chargeable to the employer's account for benefit
6 years commencing on or after July 1, 1986, and also shall show
7 whether the claimant is ineligible or disqualified for benefits under
8 the initial determination. The employer whose account may be
9 charged for benefits payable pursuant to said determination shall be
10 promptly notified thereof.

11 Whenever an initial determination is based upon information
12 other than that supplied by an employer because such employer
13 failed to provide information as required at the time of separation
14 from employment, and failed to respond to the deputy's request for
15 additional information, benefit payments based on the determination
16 shall commence immediately, and such initial determination and
17 any subsequent determination thereunder shall be incontestable by
18 the noncomplying employer, as to any charges to his employer's
19 account because of benefits paid prior to the close of the calendar
20 week following the receipt of his reply. Such initial determination
21 shall be altered if necessary upon receipt of information from the
22 employer, and any benefits paid or payable with respect to weeks
23 occurring subsequent to the close of the calendar week following
24 the receipt of the employer's reply and the determination of the
25 division to alter the initial determination after providing the
26 claimant the information and an opportunity to respond shall be
27 paid in accordance with such altered initial determination.

28 The deputy shall issue a separate initial benefit determination
29 with respect to each of the claimant's base year employers, starting
30 with the most recent employer and continuing as necessary in the
31 inverse chronological order of the claimant's last date of
32 employment with each such employer. If an appeal is taken from
33 an initial determination, as hereinafter provided, by any employer
34 other than the first chargeable base year employer or for benefit
35 years commencing on or after July 1, 1986, that employer from
36 whom the individual was most recently separated, then such appeal
37 shall be limited in scope to include only one or more of the
38 following matters:

39 (A) The correctness of the benefit payments authorized to be
40 made under the determination;

41 (B) Fraud in connection with the claim pursuant to which the
42 initial determination is issued;

43 (C) The refusal of suitable work offered by the chargeable
44 employer filing the appeal;

45 (D) Gross misconduct as provided in subsection (b) of
46 R.S.43:21-5.

1 In his discretion, the director may appoint special deputies to
2 make initial or subsequent determinations under subsection (f) of
3 R.S.43:21-4 and subsection (d) of R.S.43:21-5.

4 The amount of benefits payable under an initial determination
5 may be reduced or canceled if necessary to avoid payment of
6 benefits for a number of weeks in excess of the maximum specified
7 in subsection (d) of R.S.43:21-3.

8 Unless the employer, within seven calendar days after a
9 confirmed receipt of notification of an initial determination,
10 including by electronic means, or the claimant, within 21 calendar
11 days after the notification was mailed to the claimant's last-known
12 address and addresses, or after the notification was delivered to the
13 claimant by electronic means, provided the departmental
14 functionality exists to deliver the notifications by electronic means
15 and provided, further, that the claimant has communicated to the
16 division the choice to receive the notifications by electronic means,
17 files an appeal of the decision, the decision shall be final and
18 benefits shall immediately be paid or denied in accordance
19 therewith, except for such determinations as may be altered in
20 benefit amounts or duration as provided in this paragraph. An
21 appeal concerning an initial determination shall not be filed after
22 whichever is applicable of the seven-day or 21-day period. Benefits
23 payable for periods pending an appeal of the initial determination to
24 the appeal tribunal shall be paid **【**as such benefits accrue and be
25 paid**】** according to the initial determination, and benefits payable
26 for periods pending appeal of the determination of the appeal
27 tribunal to the board of review shall be paid according to the appeal
28 tribunal determination, but shall be, to the extent that the amount
29 paid exceeds the amount determined in the appeal, regarded as an
30 overpayment subject to the provisions of R.S.43:21-16 regarding
31 overpayments, including the requirement of that section that a
32 claimant who makes knowing, fraudulent nondisclosure or
33 misrepresentation is liable to repay the full amount of the
34 overpayment; provided that if the appeal is an appeal of a
35 determination that the claimant is disqualified under the provisions
36 of R.S.43:21-5, benefits pending determination of the appeal shall
37 be withheld only for the period of disqualification as provided for in
38 that section, and while the appeal is pending, the benefits otherwise
39 provided by this act shall be paid for the period subsequent to such
40 period of disqualification; provided further that if it is determined in
41 the appeal that the claimant was not disqualified, the claimant shall
42 be paid the benefits due for the period of the disqualification,
43 except that no such benefits shall be paid to the claimant for any
44 week during which the claimant has failed to provide to the division
45 a weekly certification evidencing the claimant's eligibility for
46 benefits; and provided, also, that if there are two determinations of
47 entitlement, benefits for the period covered by such determinations
48 shall be paid regardless of any appeal which may thereafter be

1 taken, but no employer's account shall be charged with benefits so
2 paid, if the decision is finally reversed. If an employer appeals the
3 charging of benefits to the employer's account after the seven-day
4 period to appeal the initial benefit determination, and, as a result of
5 the appeal on the charging to the employer's account, the division,
6 after the claimant is notified and given the opportunity to respond,
7 reduces the amount charged to the employer's account, any resulting
8 reduction in the amount of benefits shall take effect only after the
9 resolution of the appeal of the charging, and any amount of benefits
10 paid before the resolution of the appeal of the charging which
11 exceeds the amount determined in that appeal shall be regarded as
12 an overpayment caused by employer error [and shall be charged to
13 the employer's account, and the claimant shall not be liable to repay
14 any portion of that overpayment where the overpayment is of
15 regular Unemployment Compensation. In the case of the recovery
16 of an overpayment of benefit under any of the following programs
17 authorized by the federal "Coronavirus Aid, Relief, and Economic
18 Security (CARES) Act," Pub.L.116-136: Federal Pandemic
19 Unemployment Compensation (FPUC), Pandemic Emergency
20 Unemployment Compensation (PEUC), Mixed Earners
21 Unemployment Compensation (MEUC), Pandemic Unemployment
22 Assistance (PUA), or the first week of regular Unemployment
23 Compensation that is reimbursed in accordance with Section 2105
24 of the CARES Act, a recovery shall not be waived unless the
25 division determines that the claimant is without fault and the
26 repayment would be contrary to equity and good conscience], the
27 repayment of which shall be governed by subparagraph (C) of
28 paragraph (4) of subsection (d) of R.S. 43:21-16.

29 (2) (Deleted by amendment, P.L.2022, c.120)

30 (3) Procedure for making subsequent determinations with respect
31 to benefit years commencing on or after January 1, 1953. The
32 deputy shall make determinations with respect to claims for benefits
33 thereafter in the course of the benefit year, in accordance with any
34 initial determination allowing benefits, and under which benefits
35 have not been exhausted, and each notification of a benefit payment
36 shall be a notification of an affirmative subsequent determination.
37 Any change in the allowance, amount, or other characteristic of
38 benefits by the deputy in any such determination, or the denial of
39 benefits by the deputy in any such determination, shall be
40 appealable in the same manner and under the same limitations as is
41 provided in the case of initial determinations, except that, after an
42 initial determination, the resolution of any appeal of the initial
43 determination, and the payment of one or more weeks of benefits
44 pursuant to the initial determination, if a subsequent determination
45 will result in any termination or reduction of those benefits from the
46 amount or duration of benefits specified in the initial determination,
47 the claimant shall be provided notification with a full written
48 explanation of why the reduction or termination of benefits will

1 occur, and provided, during the seven calendar days following the
2 notification, an opportunity to file an appeal [before the reduction
3 or termination goes into effect]. If the claimant files an appeal
4 during the seven-day period, benefits shall continue to be paid at the
5 rate, and for the duration, stipulated in the initial determination until
6 the appeal is resolved. If the claimant does not file an appeal, or the
7 claimant files an appeal and it is found in the resolution of the
8 appeal that the amount in benefits paid during the processing of the
9 appeal exceeded the amount determined in the appeal to be correct,
10 or the claimant is found in the appeal to be ineligible for benefits,
11 any resulting excess payment of benefits shall be regarded as an
12 overpayment subject to the provisions of R.S.43:21-16 regarding
13 overpayments, including the requirement of that section that a
14 claimant who makes knowing, fraudulent nondisclosure or
15 misrepresentation is liable to repay the full amount of the
16 overpayment.

17 (c) Appeals. Unless such appeal is withdrawn, an appeal
18 tribunal, after affording the parties reasonable opportunity for fair
19 hearing, shall affirm or modify the findings of fact and the
20 determination. The parties shall be duly notified of such tribunal's
21 decision, together with its reasons therefor, which shall be deemed
22 to be the final decision of the board of review, unless further appeal
23 is initiated pursuant to subsection (e) of this section within 20 days
24 after the date of notification or mailing of such decision for any
25 decision made after December 1, 2010.

26 (d) Appeal tribunals. To hear and decide disputed benefit
27 claims, including appeals from determinations with respect to
28 demands for refunds of benefits under subsection (d) of R.S.43:21-
29 16, the director with the approval of the Commissioner of Labor and
30 Workforce Development shall establish impartial appeal tribunals
31 consisting of a salaried body of examiners under the supervision of
32 a Chief Appeals Examiner, all of whom shall be appointed pursuant
33 to the provisions of Title 11A of the New Jersey Statutes, Civil
34 Service and other applicable statutes.

35 (e) Board of review. The board of review may on its own motion
36 affirm, modify, or set aside any decision of an appeal tribunal on
37 the basis of the evidence previously submitted in such case, or
38 direct the taking of additional evidence, or may permit any of the
39 parties to such decision to initiate further appeals before it. The
40 board of review shall permit such further appeal by any of the
41 parties interested in a decision of an appeal tribunal which is not
42 unanimous and from any determination which has been overruled or
43 modified by any appeal tribunal. The board of review may remove
44 to itself or transfer to another appeal tribunal the proceedings on
45 any claim pending before an appeal tribunal. Any proceedings so
46 removed to the board of review shall be heard by a quorum thereof
47 in accordance with the requirements of subsection (c) of this

1 section. The board of review shall promptly notify the interested
2 parties of its findings and decision.

3 (f) Procedure. The manner in which disputed benefit claims, and
4 appeals from determinations with respect to (1) claims for benefits
5 and (2) demands for refunds of benefits under subsection (d) of
6 R.S.43:21-16 shall be presented, the reports thereon required from
7 the claimant and from employers, and the conduct of hearings and
8 appeals shall be in accordance with rules prescribed by the board of
9 review for determining the rights of the parties, whether or not such
10 rules conform to common law or statutory rules of evidence and
11 other technical rules of procedure. A full and complete record shall
12 be kept of all proceedings in connection with a disputed claim. All
13 testimony at any hearing upon a disputed claim shall be recorded,
14 but need not be transcribed unless the disputed claim is further
15 appealed.

16 (g) Witness fees. Witnesses subpoenaed pursuant to this section
17 shall be allowed fees at a rate fixed by the director. Such fees and
18 all expenses of proceedings involving disputed claims shall be
19 deemed a part of the expense of administering this chapter
20 (R.S.43:21-1 et seq.).

21 (h) Court review. Any decision of the board of review shall
22 become final as to any party upon the mailing of a copy thereof to
23 such party and to the party's attorney, or upon the mailing of a copy
24 thereof to such party at his last-known address and to the party's
25 attorney. The Division of Unemployment and Temporary Disability
26 Insurance and any party to a proceeding before the board of review
27 may secure judicial review of the final decision of the board of
28 review. Any party not joining in the appeal shall be made a
29 defendant; the board of review shall be deemed to be a party to any
30 judicial action involving the review of, or appeal from, any of its
31 decisions, and may be represented in any such judicial action by
32 any qualified attorney, who may be a regular salaried employee of
33 the board of review or has been designated by it for that purpose,
34 or, at the board of review's request, by the Attorney General.

35 (i) Failure to give notice. The failure of any public officer or
36 employee at any time heretofore or hereafter to give notice of
37 determination or decision required in subsections (b), (c) and (e) of
38 this section, as originally passed or amended, shall not relieve any
39 employer's account of any charge by reason of any benefits paid,
40 unless and until that employer can show to the satisfaction of the
41 director of the division that the said benefits, in whole or in part,
42 would not have been charged or chargeable to his account had such
43 notice been given. Any determination hereunder by the director
44 shall be subject to court review.

45 (j) With respect to benefit payments made on or after October 22,
46 2013, an employer's account shall not be relieved of charges related
47 to a benefit payment that was made erroneously from the division if
48 it is determined that:

1 (1) The erroneous benefit payment was made because the
2 employer, or an agent of the employer, failed to respond in a timely
3 or adequate manner to a request from the division for information
4 related to the claim for benefits, including failing to provide the
5 information required by subsection (a) of this section upon a
6 separation from employment; and

7 (2) The employer, or an agent of the employer, has established a
8 pattern of failing to respond in a timely or adequate manner to
9 requests from the division for information related to claims for
10 benefits, including failing to provide the information required by
11 subsection (a) of this section upon a separation from employment.

12 Determinations of the division prohibiting the relief of charges
13 pursuant to this subsection shall be subject to appeal in the same
14 manner as other determinations of the division related to the
15 charging of employer accounts.

16 For purposes of subsection (j) of this section:

17 "Erroneous benefit payment" means a benefit payment that,
18 except for the failure by the employer, or an agent of the employer,
19 to respond in a timely or adequate manner to a request from the
20 division for information with respect to the claim for benefits,
21 would not have been made; and

22 "Pattern of failing" means repeated documented failure on the
23 part of the employer, or an agent of the employer, to respond to
24 requests from the division to the employer or employer's agent for
25 information related to a claim for benefits, including failing to
26 provide the information required by subsection (a) of this section
27 upon a separation from employment, except that an employer, or an
28 agent of an employer, shall not be determined to have engaged in a
29 "pattern of failing" if the number of failures to provide the required
30 information or respond to requests from the division for information
31 related to claims for benefits during the previous 365 calendar days
32 is less than three, or if the number of failures is less than two
33 percent of the number of requests from the division, whichever is
34 greater.

35 (k) The Department of Labor and Workforce Development shall
36 establish and maintain a procedure by which personnel access rights
37 to the department's primary system for unemployment claims
38 receipt and processing are comprehensively reviewed every
39 calendar quarter. The procedure shall include an evaluation of
40 access needs to the primary unemployment claims receipt and
41 processing system for all department personnel and the adjustment,
42 addition, or deletion of access rights for department personnel based
43 on the quarterly review.

44 (l) The Department of Labor and Workforce Development shall
45 develop within the department's primary system for unemployment
46 claims receipt and processing a mechanism for claimants to
47 electronically access their own benefit payment status and history.

48 (cf: P.L.2022, c.120, s.1)

1 5. R.S.43:21-7 is amended to read as follows:

2 43:21-7. Employers other than governmental entities, whose
3 benefit financing provisions are set forth in section 4 of P.L.1971,
4 c.346 (C.43:21-7.3), and those nonprofit organizations liable for
5 payment in lieu of contributions on the basis set forth in section 3 of
6 P.L.1971, c.346 (C.43:21-7.2), shall pay to the controller for the
7 unemployment compensation fund, contributions as set forth in
8 subsections (a), (b) and (c) hereof, and the provisions of subsections
9 (d) and (e) shall be applicable to all employers, consistent with the
10 provisions of the "unemployment compensation law" and the
11 "Temporary Disability Benefits Law," P.L.1948, c.110 (C.43:21-25
12 et al.).

13 (a) Payment.

14 (1) Contributions shall accrue and become payable by each
15 employer for each calendar year in which he is subject to this
16 chapter (R.S.43:21-1 et seq.), with respect to having individuals in
17 his employ during that calendar year, at the rates and on the basis
18 hereinafter set forth. Such contributions shall become due and be
19 paid by each employer to the controller for the fund, in accordance
20 with such regulations as may be prescribed, and shall not be
21 deducted, in whole or in part, from the remuneration of individuals
22 in his employ.

23 (2) In the payment of any contributions, a fractional part of a
24 cent shall be disregarded unless it amounts to \$0.005 or more, in
25 which case it shall be increased to \$0.01.

26 (b) Rate of contributions. Each employer shall pay the following
27 contributions:

28 (1) For the calendar year 1947, and each calendar year
29 thereafter, 2 7/10% of wages paid by him during each such calendar
30 year, except as otherwise prescribed by subsection (c) of this
31 section.

32 (2) The "wages" of any individual, with respect to any one
33 employer, as the term is used in this subsection (b) and in
34 subsections (c), (d) and (e) of this section 7, shall include the first
35 \$4,800.00 paid during calendar year 1975, for services performed
36 either within or without this State; provided that no contribution
37 shall be required by this State with respect to services performed in
38 another state if such other state imposes contribution liability with
39 respect thereto. If an employer (hereinafter referred to as a
40 successor employer) during any calendar year acquires substantially
41 all the property used in a trade or business of another employer
42 (hereinafter referred to as a predecessor), or used in a separate unit
43 of a trade or business of a predecessor, and immediately after the
44 acquisition employs in his trade or business an individual who
45 immediately prior to the acquisition was employed in the trade or
46 business of such predecessors, then, for the purpose of determining
47 whether the successor employer has paid wages with respect to
48 employment equal to the first \$4,800.00 paid during calendar year

1 1975, any wages paid to such individual by such predecessor during
2 such calendar year and prior to such acquisition shall be considered
3 as having been paid by such successor employer.

4 (3) For calendar years beginning on and after January 1, 1976,
5 the "wages" of any individual, as defined in the preceding
6 paragraph (2) of this subsection (b), shall be established and
7 promulgated by the Commissioner of Labor and Workforce
8 Development on or before September 1 of the preceding year and,
9 except as provided in paragraph (4) of this subsection (b), shall be,
10 28 times the Statewide average weekly remuneration paid to
11 workers by employers, as determined under R.S.43:21-3(c), raised
12 to the next higher multiple of \$100.00 if not already a multiple
13 thereof, provided that if the amount of wages so determined for a
14 calendar year is less than the amount similarly determined for the
15 preceding year, the greater amount will be used; provided, further,
16 that if the amount of such wages so determined does not equal or
17 exceed the amount of wages as defined in subsection (b) of section
18 3306 of the Internal Revenue Code of 1986 (26 U.S.C. s.3306(b)),
19 the wages as determined in this paragraph in any calendar year shall
20 be raised to equal the amount established under the "Federal
21 Unemployment Tax Act," chapter 23 of the Internal Revenue Code
22 of 1986 (26 U.S.C. s.3301 et seq.), for that calendar year.

23 (4) For calendar years beginning on and after January 1, 2020,
24 the "wages" of any individual, as defined in the preceding
25 paragraph (2) of this subsection (b) for purposes of contributions of
26 workers to the State disability benefits fund, including the "Family
27 Temporary Disability Leave Account" pursuant to subsection (d) of
28 this section, shall be established and promulgated by the
29 Commissioner of Labor and Workforce Development on or before
30 September 1 of the preceding year and shall be 107 times the
31 Statewide average weekly remuneration paid to workers by
32 employers, as determined under R.S.43:21-3(c), raised to the next
33 higher multiple of \$100.00 if not already a multiple thereof,
34 provided that if the amount of wages so determined for a calendar
35 year is less than the amount similarly determined for the preceding
36 year, the greater amount will be used.

37 (c) Future rates based on benefit experience.

38 (1) A separate account for each employer shall be maintained
39 and this shall be credited with all the contributions which he has
40 paid on his own behalf on or before January 31 of any calendar year
41 with respect to employment occurring in the preceding calendar
42 year; provided, however, that if January 31 of any calendar year
43 falls on a Saturday or Sunday, an employer's account shall be
44 credited as of January 31 of such calendar year with all the
45 contributions which he has paid on or before the next succeeding
46 day which is not a Saturday or Sunday. But nothing in this chapter
47 (R.S.43:21-1 et seq.) shall be construed to grant any employer or
48 individuals in his service prior claims or rights to the amounts paid

1 by him into the fund either on his own behalf or on behalf of such
2 individuals. Benefits paid with respect to benefit years commencing
3 on and after January 1, 1953, to any individual on or before
4 December 31 of any calendar year with respect to unemployment in
5 such calendar year and in preceding calendar years shall be charged
6 against the account or accounts of the employer or employers in
7 whose employment such individual established base weeks
8 constituting the basis of such benefits, except that, with respect to
9 benefit years commencing after January 4, 1998, an employer's
10 account shall not be charged for benefits paid to a claimant if: (1)
11 the claimant's employment by that employer was ended in any way
12 which, pursuant to subsection (a), (b), (c), (f), (g) or (h) of
13 R.S.43:21-5, would have disqualified the claimant for benefits if the
14 claimant had applied for benefits at the time when that employment
15 ended, or (2) the claimant's employment by that employer
16 continued and the claimant continued to both perform work for and
17 receive remuneration from that employer, during the claimant's
18 period of unemployment. Benefits paid under a given benefit
19 determination shall be charged against the account of the employer
20 to whom such determination relates. When each benefit payment is
21 made, notification shall be promptly provided to each employer
22 included in the unemployment insurance monetary calculation of
23 benefits. Such notification shall identify the employer against
24 whose account the amount of such payment is being charged, shall
25 show at least the name and social security account number of the
26 claimant and shall specify the period of unemployment to which
27 said benefit payment applies.

28 An annual summary statement of unemployment benefits
29 charged to the employer's account shall be provided.

30 (2) Regulations may be prescribed for the establishment,
31 maintenance, and dissolution of joint accounts by two or more
32 employers, and shall, in accordance with such regulations and upon
33 application by two or more employers to establish such an account,
34 or to merge their several individual accounts in a joint account,
35 maintain such joint account as if it constituted a single employer's
36 account.

37 (3) No employer's rate shall be lower than 5.4% unless
38 assignment of such lower rate is consistent with the conditions
39 applicable to additional credit allowance for such year under section
40 3303(a)(1) of the Internal Revenue Code of 1986 (26 U.S.C.
41 s.3303(a)(1)), any other provision of this section to the contrary
42 notwithstanding.

43 (4) Employer Reserve Ratio. (A) Each employer's rate shall be
44 $2\frac{8}{10}\%$, except as otherwise provided in the following provisions.
45 No employer's rate for the 12 months commencing July 1 of any
46 calendar year shall be other than $2\frac{8}{10}\%$, unless as of the
47 preceding January 31 such employer shall have paid contributions
48 with respect to wages paid in each of the three calendar years

1 immediately preceding such year, in which case such employer's
2 rate for the 12 months commencing July 1 of any calendar year
3 shall be determined on the basis of his record up to the beginning of
4 such calendar year. If, at the beginning of such calendar year, the
5 total of all his contributions, paid on his own behalf, for all past
6 years exceeds the total benefits charged to his account for all such
7 years, his contribution rate shall be:

8 (1) $2\frac{5}{10}\%$, if such excess equals or exceeds 4%, but less than
9 5%, of his average annual payroll (as defined in paragraph (2),
10 subsection (a) of R.S.43:21-19);

11 (2) $2\frac{2}{10}\%$, if such excess equals or exceeds 5%, but is less
12 than 6%, of his average annual payroll;

13 (3) $1\frac{9}{10}\%$, if such excess equals or exceeds 6%, but is less
14 than 7%, of his average annual payroll;

15 (4) $1\frac{6}{10}\%$, if such excess equals or exceeds 7%, but is less
16 than 8%, of his average annual payroll;

17 (5) $1\frac{3}{10}\%$, if such excess equals or exceeds 8%, but is less
18 than 9%, of his average annual payroll;

19 (6) 1%, if such excess equals or exceeds 9%, but is less than
20 10%, of his average annual payroll;

21 (7) $\frac{7}{10}$ of 1%, if such excess equals or exceeds 10%, but is less
22 than 11%, of his average annual payroll;

23 (8) $\frac{4}{10}$ of 1%, if such excess equals or exceeds 11% of his
24 average annual payroll.

25 (B) If the total of an employer's contributions, paid on his own
26 behalf, for all past periods for the purposes of this paragraph (4), is
27 less than the total benefits charged against his account during the
28 same period, his rate shall be:

29 (1) 4%, if such excess is less than 10% of his average annual
30 payroll;

31 (2) $4\frac{3}{10}\%$, if such excess equals or exceeds 10%, but is less
32 than 20%, of his average annual payroll;

33 (3) $4\frac{6}{10}\%$, if such excess equals or exceeds 20% of his
34 average annual payroll.

35 (C) Specially assigned rates.

36 (i) If no contributions were paid on wages for employment in
37 any calendar year used in determining the average annual payroll of
38 an employer eligible for an assigned rate under this paragraph (4),
39 the employer's rate shall be specially assigned as follows:

40 if the reserve balance in its account is positive, its assigned rate
41 shall be the highest rate in effect for positive balance accounts for
42 that period, or 5.4%, whichever is higher, and

43 if the reserve balance in its account is negative, its assigned rate
44 shall be the highest rate in effect for deficit accounts for that period.

45 (ii) If, following the purchase of a corporation with little or no
46 activity, known as a corporate shell, the resulting employing unit
47 operates a new or different business activity, the employing unit
48 shall be assigned a new employer rate.

1 (iii) Entities operating under common ownership, management or
2 control, when the operation of the entities is not identifiable,
3 distinguishable and severable, shall be considered a single employer
4 for the purposes of this chapter (R.S.43:21-1 et seq.).

5 (D) The contribution rates prescribed by subparagraphs (A) and
6 (B) of this paragraph (4) shall be increased or decreased in
7 accordance with the provisions of paragraph (5) of this subsection
8 (c) for experience rating periods through June 30, 1986.

9 (5) (A) Unemployment Trust Fund Reserve Ratio. If on March
10 31 of any calendar year the balance in the unemployment trust fund
11 equals or exceeds 4% but is less than 7% of the total taxable wages
12 reported to the controller as of that date in respect to employment
13 during the preceding calendar year, the contribution rate, effective
14 July 1 following, of each employer eligible for a contribution rate
15 calculation based upon benefit experience, shall be increased by
16 3/10 of 1% over the contribution rate otherwise established under
17 the provisions of paragraph (3) or (4) of this subsection. If on
18 March 31 of any calendar year the balance of the unemployment
19 trust fund exceeds 2 1/2% but is less than 4% of the total taxable
20 wages reported to the controller as of that date in respect to
21 employment during the preceding calendar year, the contribution
22 rate, effective July 1 following, of each employer eligible for a
23 contribution rate calculation based upon benefit experience, shall be
24 increased by 6/10 of 1% over the contribution rate otherwise
25 established under the provisions of paragraph (3) or (4) of this
26 subsection.

27 If on March 31 of any calendar year the balance of the
28 unemployment trust fund is less than 2 1/2% of the total taxable
29 wages reported to the controller as of that date in respect to
30 employment during the preceding calendar year, the contribution
31 rate, effective July 1 following, of each employer: (1) eligible for a
32 contribution rate calculation based upon benefit experience, shall be
33 increased by (i) 6/10 of 1% over the contribution rate otherwise
34 established under the provisions of paragraph (3), (4)(A) or (4)(B)
35 of this subsection, and (ii) an additional amount equal to 20% of the
36 total rate established herein, provided, however, that the final
37 contribution rate for each employer shall be computed to the nearest
38 multiple of 1/10% if not already a multiple thereof; (2) not eligible
39 for a contribution rate calculation based upon benefit experience,
40 shall be increased by 6/10 of 1% over the contribution rate
41 otherwise established under the provisions of paragraph (4) of this
42 subsection. For the period commencing July 1, 1984 and ending
43 June 30, 1986, the contribution rate for each employer liable to pay
44 contributions under R.S.43:21-7 shall be increased by a factor of
45 10% computed to the nearest multiple of 1/10% if not already a
46 multiple thereof.

47 (B) If on March 31 of any calendar year the balance in the
48 unemployment trust fund equals or exceeds 10% but is less than 12

1 1/2% of the total taxable wages reported to the controller as of that
2 date in respect to employment during the preceding calendar year,
3 the contribution rate, effective July 1 following, of each employer
4 eligible for a contribution rate calculation based upon benefit
5 experience, shall be reduced by 3/10 of 1% under the contribution
6 rate otherwise established under the provisions of paragraphs (3)
7 and (4) of this subsection; provided that in no event shall the
8 contribution rate of any employer be reduced to less than 4/10 of
9 1%. If on March 31 of any calendar year the balance in the
10 unemployment trust fund equals or exceeds 12 1/2% of the total
11 taxable wages reported to the controller as of that date in respect to
12 employment during the preceding calendar year, the contribution
13 rate, effective July 1 following, of each employer eligible for a
14 contribution rate calculation based upon benefit experience, shall be
15 reduced by 6/10 of 1% if his account for all past periods reflects an
16 excess of contributions paid over total benefits charged of 3% or
17 more of his average annual payroll, otherwise by 3/10 of 1% under
18 the contribution rate otherwise established under the provisions of
19 paragraphs (3) and (4) of this subsection; provided that in no event
20 shall the contribution rate of any employer be reduced to less than
21 4/10 of 1%.

22 (C) The "balance" in the unemployment trust fund, as the term is
23 used in subparagraphs (A) and (B) above, shall not include moneys
24 credited to the State's account under section 903 of the Social
25 Security Act, as amended (42 U.S.C. s.1103), during any period in
26 which such moneys are appropriated for the payment of expenses
27 incurred in the administration of the "unemployment compensation
28 law."

29 (D) Prior to July 1 of each calendar year the controller shall
30 determine the Unemployment Trust Fund Reserve Ratio, which
31 shall be calculated by dividing the balance of the unemployment
32 trust fund as of the prior March 31 by total taxable wages reported
33 to the controller by all employers as of March 31 with respect to
34 their employment during the last calendar year.

35 (E) (i) (Deleted by amendment, P.L.1997, c.263).

36 (ii) (Deleted by amendment, P.L.2001, c.152).

37 (iii) (Deleted by amendment, P.L.2003, c.107).

38 (iv) (Deleted by amendment, P.L.2004, c.45).

39 (v) (Deleted by amendment, P.L.2008, c.17).

40 (vi) (Deleted by amendment, P.L.2013, c.75).

41 (vii) With respect to experience rating years beginning on or
42 after July 1, 2011, the new employer rate or the unemployment
43 experience rate of an employer under this section shall be the rate
44 which appears in the column headed by the Unemployment Trust
45 Fund Reserve Ratio as of the applicable calculation date and on the
46 line with the Employer Reserve Ratio, as defined in paragraph (4)
47 of this subsection (R.S.43:21-7 (c)(4)), as set forth in the following
48 table:

1	EXPERIENCE RATING TAX TABLE					
2		Fund Reserve Ratio ¹				
3		3.50%	3.00%	2.5%	2.0%	1.99%
4	Employer	and	to	to	to	and
5	Reserve	Over	3.49%	2.99%	2.49%	Under
6	Ratio ²	A	B	C	D	E
7	Positive Reserve Ratio:					
8	17% and over	0.3	0.4	0.5	0.6	1.2
9	16.00% to 16.99%	0.4	0.5	0.6	0.6	1.2
10	15.00% to 15.99%	0.4	0.6	0.7	0.7	1.2
11	14.00% to 14.99%	0.5	0.6	0.7	0.8	1.2
12	13.00% to 13.99%	0.6	0.7	0.8	0.9	1.2
13	12.00% to 12.99%	0.6	0.8	0.9	1.0	1.2
14	11.00% to 11.99%	0.7	0.8	1.0	1.1	1.2
15	10.00% to 10.99%	0.9	1.1	1.3	1.5	1.6
16	9.00% to 9.99%	1.0	1.3	1.6	1.7	1.9
17	8.00% to 8.99%	1.3	1.6	1.9	2.1	2.3
18	7.00% to 7.99%	1.4	1.8	2.2	2.4	2.6
19	6.00% to 6.99%	1.7	2.1	2.5	2.8	3.0
20	5.00% to 5.99%	1.9	2.4	2.8	3.1	3.4
21	4.00% to 4.99%	2.0	2.6	3.1	3.4	3.7
22	3.00% to 3.99%	2.1	2.7	3.2	3.6	3.9
23	2.00% to 2.99%	2.2	2.8	3.3	3.7	4.0
24	1.00% to 1.99%	2.3	2.9	3.4	3.8	4.1
25	0.00% to 0.99%	2.4	3.0	3.6	4.0	4.3
26	Deficit Reserve Ratio:					
27	-0.00% to -2.99%	3.4	4.3	5.1	5.6	6.1
28	-3.00% to -5.99%	3.4	4.3	5.1	5.7	6.2
29	-6.00% to -8.99%	3.5	4.4	5.2	5.8	6.3
30	-9.00% to-11.99%	3.5	4.5	5.3	5.9	6.4
31	-12.00% to-14.99%	3.6	4.6	5.4	6.0	6.5
32	-15.00% to-19.99%	3.6	4.6	5.5	6.1	6.6
33	-20.00% to-24.99%	3.7	4.7	5.6	6.2	6.7
34	-25.00% to-29.99%	3.7	4.8	5.6	6.3	6.8
35	-30.00% to-34.99%	3.8	4.8	5.7	6.3	6.9
36	-35.00% and under	5.4	5.4	5.8	6.4	7.0
37	New Employer Rate	2.8	2.8	2.8	3.1	3.4
38	1Fund balance as of March 31 as a percentage of taxable wages					
39	in the prior calendar year.					
40	2Employer Reserve Ratio (Contributions minus benefits as a					
41	percentage of employer's taxable wages).					
42	(F) (i) (Deleted by amendment, P.L.1997, c.263).					
43	(ii) (Deleted by amendment, P.L.2008, c.17).					
44	(iii) (Deleted by amendment, P.L.2013, c.75).					
45	(iv) With respect to experience rating years beginning on or					
46	after July 1, 2011 and before July 1, 2013, if the fund reserve ratio,					
47	based on the fund balance as of the prior March 31, is less than					
48	1.0%, the contribution rate for each employer liable to pay					

1 contributions, as computed under subparagraph (E) of this
2 paragraph (5), shall be increased by a factor of 10% computed to
3 the nearest multiple of 1/10% if not already a multiple thereof.

4 (v) With respect to experience rating years beginning on or after
5 July 1, 2014, if the fund reserve ratio, based on the fund balance as
6 of the prior March 31, is less than 1.0%, the contribution rate for
7 each employer liable to pay contributions, as computed under
8 subparagraph (E) of this paragraph (5), shall be increased by a
9 factor of 10% computed to the nearest multiple of 1/10% if not
10 already a multiple thereof.

11 (G) On or after January 1, 1993, notwithstanding any other
12 provisions of this paragraph (5), the contribution rate for each
13 employer liable to pay contributions, as computed under
14 subparagraph (E) of this paragraph (5), shall be decreased by 0.1%,
15 except that, during any experience rating year starting before
16 January 1, 1998 in which the fund reserve ratio is equal to or greater
17 than 7.00% or during any experience rating year starting on or after
18 January 1, 1998, in which the fund reserve ratio is equal to or
19 greater than 3.5%, there shall be no decrease pursuant to this
20 subparagraph (G) in the contribution of any employer who has a
21 deficit reserve ratio of negative 35.00% or under.

22 (H) On and after January 1, 1998 until December 31, 2000 and
23 on or after January 1, 2002 until June 30, 2006, the contribution rate
24 for each employer liable to pay contributions, as computed under
25 subparagraph (E) of this paragraph (5), shall be decreased by a
26 factor, as set out below, computed to the nearest multiple of 1/10%,
27 except that, if an employer has a deficit reserve ratio of negative
28 35.0% or under, the employer's rate of contribution shall not be
29 reduced pursuant to this subparagraph (H) to less than 5.4%:

30 From January 1, 1998 until December 31, 1998, a factor of 12%;
31 From January 1, 1999 until December 31, 1999, a factor of 10%;
32 From January 1, 2000 until December 31, 2000, a factor of 7%;
33 From January 1, 2002 until March 31, 2002, a factor of 36%;
34 From April 1, 2002 until June 30, 2002, a factor of 85%;
35 From July 1, 2002 until June 30, 2003, a factor of 15%;
36 From July 1, 2003 until June 30, 2004, a factor of 15%;
37 From July 1, 2004 until June 30, 2005, a factor of 7%;
38 From July 1, 2005 until December 31, 2005, a factor of 16%; and
39 From January 1, 2006 until June 30, 2006, a factor of 34%.

40 The amount of the reduction in the employer contributions
41 stipulated by this subparagraph (H) shall be in addition to the
42 amount of the reduction in the employer contributions stipulated by
43 subparagraph (G) of this paragraph (5), except that the rate of
44 contribution of an employer who has a deficit reserve ratio of
45 negative 35.0% or under shall not be reduced pursuant to this
46 subparagraph (H) to less than 5.4% and the rate of contribution of
47 any other employer shall not be reduced to less than 0.0%.

48 (I) (Deleted by amendment, P.L.2008, c.17).

1 (J) On or after July 1, 2001, notwithstanding any other
2 provisions of this paragraph (5), the contribution rate for each
3 employer liable to pay contributions, as computed under
4 subparagraph (E) of this paragraph (5), shall be decreased by
5 0.0175%, except that, during any experience rating year starting on
6 or after July 1, 2001, in which the fund reserve ratio is equal to or
7 greater than 3.5%, there shall be no decrease pursuant to this
8 subparagraph (J) in the contribution of any employer who has a
9 deficit reserve ratio of negative 35.00% or under. The amount of the
10 reduction in the employer contributions stipulated by this
11 subparagraph (J) shall be in addition to the amount of the reduction
12 in the employer contributions stipulated by subparagraphs (G) and
13 (H) of this paragraph (5), except that the rate of contribution of an
14 employer who has a deficit reserve ratio of negative 35.0% or under
15 shall not be reduced pursuant to this subparagraph (J) to less than
16 5.4% and the rate of contribution of any other employer shall not be
17 reduced to less than 0.0%.

18 (K) With respect to experience rating years beginning on or after
19 July 1, 2009, if the fund reserve ratio, based on the fund balance as
20 of the prior March 31, is:

21 (i) Equal to or greater than 5.00% but less than 7.5%, the
22 contribution rate for each employer liable to pay contributions, as
23 computed under subparagraph (E) of this paragraph (5), shall be
24 reduced by a factor of 25% computed to the nearest multiple of
25 1/10% if not already a multiple thereof except that there shall be no
26 decrease pursuant to this subparagraph (K) in the contribution of
27 any employer who has a deficit reserve ratio of 35.00% or under;

28 (ii) Equal to or greater than 7.5%, the contribution rate for each
29 employer liable to pay contributions, as computed under
30 subparagraph (E) of this paragraph (5), shall be reduced by a factor
31 of 50% computed to the nearest multiple of 1/10% if not already a
32 multiple thereof except that there shall be no decrease pursuant to
33 this subparagraph (K) in the contribution of any employer who has
34 a deficit reserve ratio of 35.00% or under.

35 (L) Notwithstanding any other provision of this paragraph (5)
36 and notwithstanding the actual fund reserve ratio, the contribution
37 rate for employers liable to pay contributions, as computed under
38 subparagraph (E) of this paragraph (5), shall be, for fiscal year
39 2011, the rates set by column "C" of the table in that subparagraph.

40 (M) Notwithstanding any other provision of this paragraph (5)
41 and notwithstanding the actual fund reserve ratio, the contribution
42 rate for employers liable to pay contributions, as computed under
43 subparagraph (E) of this paragraph (5), shall be, for fiscal year
44 2012, the rates set by column "D" of the table in that subparagraph.

45 (N) Notwithstanding any other provision of this paragraph (5)
46 and notwithstanding the actual fund reserve ratio, the contribution
47 rate for employers liable to pay contributions, as computed under

1 subparagraph (E) of this paragraph (5), shall be, for fiscal year
2 2013, the rates set by column "E" of the table in that subparagraph.

3 (O) Notwithstanding any other provision of this paragraph (5)
4 and notwithstanding the actual fund reserve ratio, the contribution
5 rate for employers liable to pay contributions, as computed under
6 subparagraph (E) of this paragraph (5), shall be, for fiscal year
7 2022, the rates set by column "C" of the table in that subparagraph.

8 (P) Notwithstanding any other provision of this paragraph (5)
9 and notwithstanding the actual fund reserve ratio, the contribution
10 rate for employers liable to pay contributions, as computed under
11 subparagraph (E) of this paragraph (5), shall be, for fiscal year
12 2023, the rates set by column "D" of the table in that subparagraph,
13 unless the application of the provisions of this paragraph (5) using
14 the actual fund reserve ratio would result in the contribution rate for
15 employers being set by a column which has lower tax rates than the
16 rates in column "D", in which case the employers shall be liable to
17 pay contributions at the rates set by the column with the lower tax
18 rates.

19 (Q) Notwithstanding any other provision of this paragraph (5)
20 and notwithstanding the actual fund reserve ratio, the contribution
21 rate for employers liable to pay contributions, as computed under
22 subparagraph (E) of this paragraph (5), shall be, for fiscal year
23 2024, the rates set by column "E" of the table in that subparagraph,
24 unless the application of the provisions of this paragraph (5) using
25 the actual fund reserve ratio would result in the contribution rate for
26 employers being set by a column which has lower tax rates than the
27 rates in column "E", in which case the employers shall be liable to
28 pay contributions at the rates set by the column with the lower tax
29 rates.

30 (6) Additional contributions.

31 Notwithstanding any other provision of law, any employer who
32 has been assigned a contribution rate pursuant to subsection (c) of
33 this section for the year commencing July 1, 1948, and for any year
34 commencing July 1 thereafter, may voluntarily make payment of
35 additional contributions, and upon such payment shall receive a
36 recomputation of the experience rate applicable to such employer,
37 including in the calculation the additional contribution so made,
38 except that, following a transfer as described under R.S.43:21-
39 7(c)(7)(D), neither the predecessor nor successor in interest shall be
40 eligible to make a voluntary payment of additional contributions
41 during the year the transfer occurs and the next full calendar year.
42 Any such additional contribution shall be made during the 30-day
43 period following the notification to the employer of his contribution
44 rate as prescribed in this section, unless, for good cause, the time
45 for payment has been extended by the controller for not to exceed
46 an additional 60 days; provided that in no event may such payments
47 which are made later than 120 days after the beginning of the year
48 for which such rates are effective be considered in determining the

1 experience rate for the year in which the payment is made. Any
2 employer receiving any extended period of time within which to
3 make such additional payment and failing to make such payment
4 timely shall be, in addition to the required amount of additional
5 payment, liable for a penalty of 5% thereof or \$5.00, whichever is
6 greater, not to exceed \$50.00. Any adjustment under this subsection
7 shall be made only in the form of credits against accrued or future
8 contributions.

9 (7) Transfers.

10 (A) Upon the transfer of the organization, trade or business, or
11 substantially all the assets of an employer to a successor in interest,
12 whether by merger, consolidation, sale, transfer, descent or
13 otherwise, the controller shall transfer the employment experience
14 of the predecessor employer to the successor in interest, including
15 credit for past years, contributions paid, annual payrolls, benefit
16 charges, et cetera, applicable to such predecessor employer,
17 pursuant to regulation, if it is determined that the employment
18 experience of the predecessor employer with respect to the
19 organization, trade, assets or business which has been transferred
20 may be considered indicative of the future employment experience
21 of the successor in interest. The successor in interest may, within
22 four months of the date of such transfer of the organization, trade,
23 assets or business, or thereafter upon good cause shown, request a
24 reconsideration of the transfer of employment experience of the
25 predecessor employer. The request for reconsideration shall
26 demonstrate, to the satisfaction of the controller, that the
27 employment experience of the predecessor is not indicative of the
28 future employment experience of the successor.

29 (B) An employer who transfers part of his or its organization,
30 trade, assets or business to a successor in interest, whether by
31 merger, consolidation, sale, transfer, descent or otherwise, may
32 jointly make application with such successor in interest for transfer
33 of that portion of the employment experience of the predecessor
34 employer relating to the portion of the organization, trade, assets or
35 business transferred to the successor in interest, including credit for
36 past years, contributions paid, annual payrolls, benefit charges, et
37 cetera, applicable to such predecessor employer. The transfer of
38 employment experience may be allowed pursuant to regulation only
39 if it is found that the employment experience of the predecessor
40 employer with respect to the portion of the organization, trade,
41 assets or business which has been transferred may be considered
42 indicative of the future employment experience of the successor in
43 interest. Credit shall be given to the successor in interest only for
44 the years during which contributions were paid by the predecessor
45 employer with respect to that part of the organization, trade, assets
46 or business transferred.

47 (C) A transfer of the employment experience in whole or in part
48 having become final, the predecessor employer thereafter shall not

1 be entitled to consideration for an adjusted rate based upon his or its
2 experience or the part thereof, as the case may be, which has thus
3 been transferred. A successor in interest to whom employment
4 experience or a part thereof is transferred pursuant to this
5 subsection shall, as of the date of the transfer of the organization,
6 trade, assets or business, or part thereof, immediately become an
7 employer if not theretofore an employer subject to this chapter
8 (R.S.43:21-1 et seq.).

9 (D) If an employer transfers in whole or in part his or its
10 organization, trade, assets or business to a successor in interest,
11 whether by merger, consolidation, sale, transfer, descent or
12 otherwise and both the employer and successor in interest are at the
13 time of the transfer under common ownership, management or
14 control, then the employment experience attributable to the
15 transferred business shall also be transferred to and combined with
16 the employment experience of the successor in interest. The
17 transfer of the employment experience is mandatory and not subject
18 to appeal or protest.

19 (E) The transfer of part of an employer's employment experience
20 to a successor in interest shall become effective as of the first day of
21 the calendar quarter following the acquisition by the successor in
22 interest. As of the effective date, the successor in interest shall
23 have its employer rate recalculated by merging its existing
24 employment experience, if any, with the employment experience
25 acquired. If the successor in interest is not an employer as of the
26 date of acquisition, it shall be assigned the new employer rate until
27 the effective date of the transfer of employment experience.

28 (F) Upon the transfer in whole or in part of the organization,
29 trade, assets or business to a successor in interest, the employment
30 experience shall not be transferred if the successor in interest is not
31 an employer at the time of the acquisition and the controller finds
32 that the successor in interest acquired the business solely or
33 primarily for the purpose of obtaining a lower rate of contributions.

34 (d) Contributions of workers to the unemployment
35 compensation fund and the State disability benefits fund.

36 (1) (A) For periods after January 1, 1975, each worker shall
37 contribute to the fund 1% of his wages with respect to his
38 employment with an employer, which occurs on and after January
39 1, 1975, after such employer has satisfied the condition set forth in
40 subsection (h) of R.S.43:21-19 with respect to becoming an
41 employer; provided, however, that such contributions shall be at the
42 rate of 1/2 of 1% of wages paid with respect to employment while
43 the worker is in the employ of the State of New Jersey, or any
44 governmental entity or instrumentality which is an employer as
45 defined under R.S.43:21-19(h)(5), or is covered by an approved
46 private plan under the "Temporary Disability Benefits Law" or
47 while the worker is exempt from the provisions of the "Temporary

1 Disability Benefits Law" under section 7 of that law, P.L.1948,
2 c.110 (C.43:21-31).

3 (B) Effective January 1, 1978 there shall be no contributions by
4 workers in the employ of any governmental or nongovernmental
5 employer electing or required to make payments in lieu of
6 contributions unless the employer is covered by the State plan under
7 the "Temporary Disability Benefits Law" (C.43:21-25 et al.), and in
8 that case contributions shall be at the rate of 1/2 of 1%, except that
9 commencing July 1, 1986, workers in the employ of any
10 nongovernmental employer electing or required to make payments
11 in lieu of contributions shall be required to make contributions to
12 the fund at the same rate prescribed for workers of other
13 nongovernmental employers.

14 (C) (i) Notwithstanding the above provisions of this paragraph
15 (1), during the period starting July 1, 1986 and ending December
16 31, 1992, each worker shall contribute to the fund 1.125% of wages
17 paid with respect to his employment with a governmental employer
18 electing or required to pay contributions or nongovernmental
19 employer, including a nonprofit organization which is an employer
20 as defined under R.S.43:21-19(h)(6), regardless of whether that
21 nonprofit organization elects or is required to finance its benefit
22 costs with contributions to the fund or by payments in lieu of
23 contributions, after that employer has satisfied the conditions set
24 forth in subsection R.S.43:21-19(h) with respect to becoming an
25 employer. Contributions, however, shall be at the rate of 0.625%
26 while the worker is covered by an approved private plan under the
27 "Temporary Disability Benefits Law" or while the worker is exempt
28 under section 7 of that law, P.L.1948, c.110 (C.43:21-31) or any
29 other provision of that law; provided that such contributions shall
30 be at the rate of 0.625% of wages paid with respect to employment
31 with the State of New Jersey or any other governmental entity or
32 instrumentality electing or required to make payments in lieu of
33 contributions and which is covered by the State plan under the
34 "Temporary Disability Benefits Law," except that, while the worker
35 is exempt from the provisions of the "Temporary Disability Benefits
36 Law" under section 7 of that law, P.L.1948, c.110 (C.43:21-31) or
37 any other provision of that law, or is covered for disability benefits
38 by an approved private plan of the employer, the contributions to
39 the fund shall be 0.125%.

40 (ii) (Deleted by amendment, P.L.1995, c.422.)

41 (D) Notwithstanding any other provisions of this paragraph (1),
42 during the period starting January 1, 1993 and ending June 30,
43 1994, each worker shall contribute to the unemployment
44 compensation fund 0.5% of wages paid with respect to the worker's
45 employment with a governmental employer electing or required to
46 pay contributions or nongovernmental employer, including a
47 nonprofit organization which is an employer as defined under
48 paragraph (6) of subsection (h) of R.S.43:21-19, regardless of

1 whether that nonprofit organization elects or is required to finance
2 its benefit costs with contributions to the fund or by payments in
3 lieu of contributions, after that employer has satisfied the conditions
4 set forth in subsection (h) of R.S.43:21-19 with respect to becoming
5 an employer. No contributions, however, shall be made by the
6 worker while the worker is covered by an approved private plan
7 under the "Temporary Disability Benefits Law," P.L.1948, c.110
8 (C.43:21-25 et al.) or while the worker is exempt under section 7 of
9 P.L.1948, c.110 (C.43:21-31) or any other provision of that law;
10 provided that the contributions shall be at the rate of 0.50% of
11 wages paid with respect to employment with the State of New
12 Jersey or any other governmental entity or instrumentality electing
13 or required to make payments in lieu of contributions and which is
14 covered by the State plan under the "Temporary Disability Benefits
15 Law," except that, while the worker is exempt from the provisions
16 of the "Temporary Disability Benefits Law" under section 7 of that
17 law, P.L.1948, c.110 (C.43:21-31) or any other provision of that
18 law, or is covered for disability benefits by an approved private plan
19 of the employer, no contributions shall be made to the fund.

20 Each worker shall, starting on January 1, 1996 and ending March
21 31, 1996, contribute to the unemployment compensation fund
22 0.60% of wages paid with respect to the worker's employment with
23 a governmental employer electing or required to pay contributions
24 or nongovernmental employer, including a nonprofit organization
25 which is an employer as defined under paragraph (6) of subsection
26 (h) of R.S.43:21-19, regardless of whether that nonprofit
27 organization elects or is required to finance its benefit costs with
28 contributions to the fund or by payments in lieu of contributions,
29 after that employer has satisfied the conditions set forth in
30 subsection (h) of R.S.43:21-19 with respect to becoming an
31 employer, provided that the contributions shall be at the rate of
32 0.10% of wages paid with respect to employment with the State of
33 New Jersey or any other governmental entity or instrumentality
34 electing or required to make payments in lieu of contributions.

35 Each worker shall, starting on January 1, 1998 and ending
36 December 31, 1998, contribute to the unemployment compensation
37 fund 0.10% of wages paid with respect to the worker's employment
38 with a governmental employer electing or required to pay
39 contributions or nongovernmental employer, including a nonprofit
40 organization which is an employer as defined under paragraph (6)
41 of subsection (h) of R.S.43:21-19, regardless of whether that
42 nonprofit organization elects or is required to finance its benefit
43 costs with contributions to the fund or by payments in lieu of
44 contributions, after that employer has satisfied the conditions set
45 forth in subsection (h) of R.S.43:21-19 with respect to becoming an
46 employer, provided that the contributions shall be at the rate of
47 0.10% of wages paid with respect to employment with the State of

1 New Jersey or any other governmental entity or instrumentality
2 electing or required to make payments in lieu of contributions.

3 Each worker shall, starting on January 1, 1999 until December
4 31, 1999, contribute to the unemployment compensation fund
5 0.15% of wages paid with respect to the worker's employment with
6 a governmental employer electing or required to pay contributions
7 or nongovernmental employer, including a nonprofit organization
8 which is an employer as defined under paragraph (6) of subsection
9 (h) of R.S.43:21-19, regardless of whether that nonprofit
10 organization elects or is required to finance its benefit costs with
11 contributions to the fund or by payments in lieu of contributions,
12 after that employer has satisfied the conditions set forth in
13 subsection (h) of R.S.43:21-19 with respect to becoming an
14 employer, provided that the contributions shall be at the rate of
15 0.10% of wages paid with respect to employment with the State of
16 New Jersey or any other governmental entity or instrumentality
17 electing or required to make payments in lieu of contributions.

18 Each worker shall, starting on January 1, 2000 until December
19 31, 2001, contribute to the unemployment compensation fund
20 0.20% of wages paid with respect to the worker's employment with
21 a governmental employer electing or required to pay contributions
22 or nongovernmental employer, including a nonprofit organization
23 which is an employer as defined under paragraph (6) of subsection
24 (h) of R.S.43:21-19, regardless of whether that nonprofit
25 organization elects or is required to finance its benefit costs with
26 contributions to the fund or by payments in lieu of contributions,
27 after that employer has satisfied the conditions set forth in
28 subsection (h) of R.S.43:21-19 with respect to becoming an
29 employer, provided that the contributions shall be at the rate of
30 0.10% of wages paid with respect to employment with the State of
31 New Jersey or any other governmental entity or instrumentality
32 electing or required to make payments in lieu of contributions.

33 Each worker shall, starting on January 1, 2002 until June 30,
34 2004, contribute to the unemployment compensation fund 0.1825%
35 of wages paid with respect to the worker's employment with a
36 governmental employer electing or required to pay contributions or
37 a nongovernmental employer, including a nonprofit organization
38 which is an employer as defined under paragraph (6) of subsection
39 (h) of R.S.43:21-19, regardless of whether that nonprofit
40 organization elects or is required to finance its benefit costs with
41 contributions to the fund or by payments in lieu of contributions,
42 after that employer has satisfied the conditions set forth in
43 subsection (h) of R.S.43:21-19 with respect to becoming an
44 employer, provided that the contributions shall be at the rate of
45 0.0825% of wages paid with respect to employment with the State
46 of New Jersey or any other governmental entity or instrumentality
47 electing or required to make payments in lieu of contributions.

1 Each worker shall, starting on and after July 1, 2004, contribute
2 to the unemployment compensation fund 0.3825% of wages paid
3 with respect to the worker's employment with a governmental
4 employer electing or required to pay contributions or
5 nongovernmental employer, including a nonprofit organization
6 which is an employer as defined under paragraph (6) of subsection
7 (h) of R.S.43:21-19, regardless of whether that nonprofit
8 organization elects or is required to finance its benefit costs with
9 contributions to the fund or by payments in lieu of contributions,
10 after that employer has satisfied the conditions set forth in
11 subsection (h) of R.S.43:21-19 with respect to becoming an
12 employer, provided that the contributions shall be at the rate of
13 0.0825% of wages paid with respect to employment with the State
14 of New Jersey or any other governmental entity or instrumentality
15 electing or required to make payments in lieu of contributions.

16 (E) Each employer shall, notwithstanding any provision of law
17 in this State to the contrary, withhold in trust the amount of his
18 workers' contributions from their wages at the time such wages are
19 paid, shall show such deduction on his payroll records, shall furnish
20 such evidence thereof to his workers as the division or controller
21 may prescribe, and shall transmit all such contributions, in addition
22 to his own contributions, to the office of the controller in such
23 manner and at such times as may be prescribed. If any employer
24 fails to deduct the contributions of any of his workers at the time
25 their wages are paid, or fails to make a deduction therefor at the
26 time wages are paid for the next succeeding payroll period, he alone
27 shall thereafter be liable for such contributions, and for the purpose
28 of R.S.43:21-14, such contributions shall be treated as employer's
29 contributions required from him.

30 (F) As used in this chapter (R.S.43:21-1 et seq.), except when
31 the context clearly requires otherwise, the term "contributions" shall
32 include the contributions of workers pursuant to this section.

33 (G) (i) Each worker, with respect to the worker's employment
34 with a government employer electing or required to pay
35 contributions to the State disability benefits fund or
36 nongovernmental employer, including a nonprofit organization
37 which is an employer as defined under paragraph (6) of subsection
38 (h) of R.S.43:21-19, unless the employer is covered by an approved
39 private disability plan or is exempt from the provisions of the
40 "Temporary Disability Benefits Law," P.L.1948, c.110 (C.43:21-25
41 et al.) under section 7 of that law (C.43:21-31) or any other
42 provision of that law, shall, for calendar year 2012 and each
43 subsequent calendar year, make contributions to the State disability
44 benefits fund at the annual rate of contribution necessary to obtain a
45 total amount of contributions, which, when added to employer
46 contributions made to the State disability benefits fund pursuant to
47 subsection (e) of this section, is, for calendar years prior to calendar
48 year 2018, equal to 120% of the benefits paid for periods of

1 disability, excluding periods of family temporary disability, during
2 the immediately preceding calendar year plus an amount equal to
3 100% of the cost of administration of the payment of those benefits
4 during the immediately preceding calendar year, less the amount of
5 net assets remaining in the State disability benefits fund, excluding
6 net assets remaining in the "Family Temporary Disability Leave
7 Account" of that fund, as of December 31 of the immediately
8 preceding year, and is, for calendar year 2018 and year 2019, equal
9 to 120% of the benefits paid for periods of disability, excluding
10 periods of family temporary disability, during the last preceding full
11 fiscal year plus an amount equal to 100% of the cost of
12 administration of the payment of those benefits during the last
13 preceding full fiscal year, less the amount of net assets anticipated
14 to be remaining in the "Family Temporary Disability Leave
15 Account" of that fund, as of December 31 of the immediately
16 preceding calendar year, and is, for each of calendar years 2020 and
17 2021, equal to 120% of the benefits which the department
18 anticipates will be paid for periods of disability, excluding periods
19 of family temporary disability, during the respective calendar year
20 plus an amount equal to 100% of the cost of administration of the
21 payment of those benefits which the department anticipates during
22 the respective calendar year, less the amount of net assets
23 anticipated to be remaining in the State disability benefits fund,
24 excluding net assets remaining in the "Family Temporary Disability
25 Leave Account" of that fund, as of December 31 of the immediately
26 preceding calendar year, and is, for calendar year 2022 and any
27 subsequent calendar year, equal to 120% of the benefits paid for
28 periods of disability, excluding periods of family temporary
29 disability, during the last preceding full fiscal year plus an amount
30 equal to 100% of the cost of administration of the payment of those
31 benefits during the last preceding full fiscal year, less the amount of
32 net assets anticipated to be remaining in the State disability benefits
33 fund, excluding net assets remaining in the "Family Temporary
34 Disability Leave Account" of that fund, as of December 31 of the
35 immediately preceding calendar year. All increases in the cost of
36 benefits for periods of disability caused by the increases in the
37 weekly benefit rate commencing July 1, 2020, pursuant to section
38 16 of P.L.1948, c.110 (C.43:21-40), shall be funded by
39 contributions made by workers pursuant to this paragraph (i) and
40 none of those increases shall be funded by employer contributions.
41 The estimated rates for the next calendar year shall be made
42 available on the department's website no later than 60 days after the
43 end of the last preceding full fiscal year. The rates of employer
44 contributions determined pursuant to subsection (e) of this section
45 for any year shall be determined prior to the determination of the
46 rate of employee contributions pursuant to this subparagraph (i) and
47 any consideration of employee contributions in determining
48 employer rates for any year shall be based on amounts of employee

1 contributions made prior to the year to which the rate of employee
2 contributions applies and shall not be based on any projection or
3 estimate of the amount of employee contributions for the year to
4 which that rate applies.

5 (ii) Each worker shall contribute to the State disability benefits
6 fund, in addition to any amount contributed pursuant to
7 subparagraph (i) of this paragraph (1)(G), an amount equal to,
8 during calendar year 2009, 0.09%, and during calendar year 2010
9 0.12%, of wages paid with respect to the worker's employment with
10 any covered employer, including a governmental employer which is
11 an employer as defined under R.S.43:21-19(h)(5), unless the
12 employer is covered by an approved private disability plan for
13 benefits during periods of family temporary disability leave. The
14 contributions made pursuant to this subparagraph (ii) to the State
15 disability benefits fund shall be deposited into an account of that
16 fund reserved for the payment of benefits during periods of family
17 temporary disability leave as defined in section 3 of the "Temporary
18 Disability Benefits Law," P.L.1948, c.110 (C.43:21-27) and for the
19 administration of those payments and shall not be used for any other
20 purpose. This account shall be known as the "Family Temporary
21 Disability Leave Account." For calendar year 2011 and each
22 subsequent calendar year until 2018, the annual rate of contribution
23 to be paid by workers pursuant to this subparagraph (ii) shall be, for
24 calendar years prior to calendar year 2018, the rate necessary to
25 obtain a total amount of contributions equal to 125% of the benefits
26 paid for periods of family temporary disability leave during the
27 immediately preceding calendar year plus an amount equal to 100%
28 of the cost of administration of the payment of those benefits during
29 the immediately preceding calendar year, less the amount of net
30 assets remaining in the account as of December 31 of the
31 immediately preceding year, and shall be, for calendar year 2018
32 and calendar year 2019, the rate necessary to obtain a total amount
33 of contributions equal to 125% of the benefits paid for periods of
34 family temporary disability leave during the last preceding full
35 fiscal year plus an amount equal to 100% of the cost of
36 administration of the payment of those benefits during the last
37 preceding full fiscal year, less the amount of net assets anticipated
38 to be remaining in the account as of December 31 of the
39 immediately preceding calendar year. For each of calendar years
40 2020 and 2021, the annual rate of contribution to be paid by
41 workers pursuant to this subparagraph (ii) shall be the rate
42 necessary to obtain a total amount of contributions equal to 125% of
43 the benefits which the department anticipates will be paid for
44 periods of family temporary disability leave during the respective
45 calendar year plus an amount equal to 100% of the cost of
46 administration of the payment of those benefits which the
47 department anticipates during the respective calendar year, less the
48 amount of net assets remaining in the account as of December 31 of

1 the immediately preceding calendar year. For 2022 and any
2 subsequent calendar year, the annual rate of contribution to be paid
3 by workers pursuant to this subparagraph (ii) shall be the rate
4 necessary to obtain a total amount of contributions equal to 125% of
5 the benefits which were paid for periods of family temporary
6 disability leave during the last preceding full fiscal year plus an
7 amount equal to 100% of the cost of administration of the payment
8 of those benefits during the last preceding full fiscal year, less the
9 amount of net assets remaining in the account as of December 31 of
10 the immediately preceding calendar year. All increases in the cost
11 of benefits for periods of family temporary disability leave caused
12 by the increases in the weekly benefit rate commencing July 1, 2020
13 pursuant to section 16 of P.L.1948, c.110 (C.43:21-40) and
14 increases in the maximum duration of benefits commencing July 1,
15 2020 pursuant to sections 14 and 15 of P.L.1948, c.110 (C.43:21-38
16 and 43:21-39) shall be funded by contributions made by workers
17 pursuant to this paragraph (ii) and none of those increases shall be
18 funded by employer contributions. The estimated rates for the next
19 calendar year shall be made available on the department's website
20 no later than 60 days after the end of the last preceding full fiscal
21 year. Necessary administrative costs shall include the cost of an
22 outreach program to inform employees of the availability of the
23 benefits and the cost of issuing the reports required or permitted
24 pursuant to section 13 of P.L.2008, c.17 (C.43:21-39.4). No
25 monies, other than the funds in the "Family Temporary Disability
26 Leave Account," shall be used for the payment of benefits during
27 periods of family temporary disability leave or for the
28 administration of those payments, with the sole exception that,
29 during calendar years 2008 and 2009, a total amount not exceeding
30 \$25 million may be transferred to that account from the revenues
31 received in the State disability benefits fund pursuant to
32 subparagraph (i) of this paragraph (1)(G) and be expended for those
33 payments and their administration, including the administration of
34 the collection of contributions made pursuant to this subparagraph
35 (ii) and any other necessary administrative costs. Any amount
36 transferred to the account pursuant to this subparagraph (ii) shall be
37 repaid during a period beginning not later than January 1, 2011 and
38 ending not later than December 31, 2015. No monies, other than
39 the funds in the "Family Temporary Disability Leave Account,"
40 shall be used under any circumstances after December 31, 2009, for
41 the payment of benefits during periods of family temporary
42 disability leave or for the administration of those payments,
43 including for the administration of the collection of contributions
44 made pursuant to this subparagraph (ii).

- 45 (2) (A) (Deleted by amendment, P.L.1984, c.24.)
46 (B) (Deleted by amendment, P.L.1984, c.24.)
47 (C) (Deleted by amendment, P.L.1994, c.112.)
48 (D) (Deleted by amendment, P.L.1994, c.112.)

1 (E) (i) (Deleted by amendment, P.L.1994, c.112.)
2 (ii) (Deleted by amendment, P.L.1996, c.28.)
3 (iii) (Deleted by amendment, P.L.1994, c.112.)
4 (3) (A) If an employee receives wages from more than one
5 employer during any calendar year, and either the sum of his
6 contributions deposited in and credited to the State disability
7 benefits fund plus the amount of his contributions, if any, required
8 towards the costs of benefits under one or more approved private
9 plans under the provisions of section 9 of the "Temporary Disability
10 Benefits Law" (C.43:21-33) and deducted from his wages, or the
11 sum of such latter contributions, if the employee is covered during
12 such calendar year only by two or more private plans, exceeds an
13 amount equal to 1/2 of 1% of the "wages" determined in accordance
14 with the provisions of R.S.43:21-7(b)(3) during the calendar years
15 beginning on or after January 1, 1976 or, during calendar year 2012
16 or any subsequent calendar year, the total amount of his
17 contributions for the year exceeds the amount set by the annual rate
18 of contribution determined by the Commissioner of Labor and
19 Workforce Development pursuant to subparagraph (i) of paragraph
20 (1)(G) of this subsection (d), the employee shall be entitled to a
21 refund of the excess if he makes a claim to the controller within two
22 years after the end of the calendar year in which the wages are
23 received with respect to which the refund is claimed and establishes
24 his right to such refund. Such refund shall be made by the controller
25 from the State disability benefits fund. No interest shall be allowed
26 or paid with respect to any such refund. The controller shall, in
27 accordance with prescribed regulations, determine the portion of the
28 aggregate amount of such refunds made during any calendar year
29 which is applicable to private plans for which deductions were
30 made under section 9 of the "Temporary Disability Benefits Law"
31 (C.43:21-33) such determination to be based upon the ratio of the
32 amount of such wages exempt from contributions to such fund, as
33 provided in subparagraph (B) of paragraph (1) of this subsection
34 with respect to coverage under private plans, to the total wages so
35 exempt plus the amount of such wages subject to contributions to
36 the disability benefits fund, as provided in subparagraph (G) of
37 paragraph (1) of this subsection. The controller shall, in accordance
38 with prescribed regulations, prorate the amount so determined
39 among the applicable private plans in the proportion that the wages
40 covered by each plan bear to the total private plan wages involved
41 in such refunds, and shall assess against and recover from the
42 employer, or the insurer if the insurer has indemnified the employer
43 with respect thereto, the amount so prorated. The provisions of
44 R.S.43:21-14 with respect to collection of employer contributions
45 shall apply to such assessments. The amount so recovered by the
46 controller shall be paid into the State disability benefits fund.
47 (B) If an employee receives wages from more than one employer
48 during any calendar year, and the sum of his contributions deposited

1 in the "Family Temporary Disability Leave Account" of the State
2 disability benefits fund plus the amount of his contributions, if any,
3 required towards the costs of family temporary disability leave
4 benefits under one or more approved private plans under the
5 provisions of the "Temporary Disability Benefits Law" (C.43:21-25
6 et al.) and deducted from his wages, exceeds an amount equal to,
7 during calendar year 2009, 0.09% of the "wages" determined in
8 accordance with the provisions of R.S.43:21-7(b)(3), or during
9 calendar year 2010, 0.12% of those wages, or, during calendar year
10 2011 or any subsequent calendar year, the percentage of those
11 wages set by the annual rate of contribution determined by the
12 Commissioner of Labor and Workforce Development pursuant to
13 subparagraph (ii) of paragraph (1)(G) of this subsection (d), the
14 employee shall be entitled to a refund of the excess if he makes a
15 claim to the controller within two years after the end of the calendar
16 year in which the wages are received with respect to which the
17 refund is claimed and establishes his right to the refund. The refund
18 shall be made by the controller from the "Family Temporary
19 Disability Leave Account" of the State disability benefits fund. No
20 interest shall be allowed or paid with respect to any such refund.
21 The controller shall, in accordance with prescribed regulations,
22 determine the portion of the aggregate amount of the refunds made
23 during any calendar year which is applicable to private plans for
24 which deductions were made under section 9 of the "Temporary
25 Disability Benefits Law" (C.43:21-33), with that determination
26 based upon the ratio of the amount of such wages exempt from
27 contributions to the fund, as provided in paragraph (1)(B) of this
28 subsection (d) with respect to coverage under private plans, to the
29 total wages so exempt plus the amount of such wages subject to
30 contributions to the "Family Temporary Disability Leave Account"
31 of the State disability benefits fund, as provided in subparagraph (ii)
32 of paragraph (1)(G) of this subsection (d). The controller shall, in
33 accordance with prescribed regulations, prorate the amount so
34 determined among the applicable private plans in the proportion
35 that the wages covered by each plan bear to the total private plan
36 wages involved in such refunds, and shall assess against and
37 recover from the employer, or the insurer if the insurer has
38 indemnified the employer with respect thereto, the prorated amount.
39 The provisions of R.S.43:21-14 with respect to collection of
40 employer contributions shall apply to such assessments. The
41 amount so recovered by the controller shall be paid into the "Family
42 Temporary Disability Leave Account" of the State disability
43 benefits fund.

44 (4) If an individual does not receive any wages from the
45 employing unit which for the purposes of this chapter (R.S.43:21-1
46 et seq.) is treated as his employer, or receives his wages from some
47 other employing unit, such employer shall nevertheless be liable for
48 such individual's contributions in the first instance; and after

1 payment thereof such employer may deduct the amount of such
2 contributions from any sums payable by him to such employing
3 unit, or may recover the amount of such contributions from such
4 employing unit, or, in the absence of such an employing unit, from
5 such individual, in a civil action; provided proceedings therefor are
6 instituted within three months after the date on which such
7 contributions are payable. General rules shall be prescribed
8 whereby such an employing unit may recover the amount of such
9 contributions from such individuals in the same manner as if it were
10 the employer.

11 (5) Every employer who has elected to become an employer
12 subject to this chapter (R.S.43:21-1 et seq.), or to cease to be an
13 employer subject to this chapter (R.S.43:21-1 et seq.), pursuant to
14 the provisions of R.S.43:21-8, shall post and maintain printed
15 notices of such election on his premises, of such design, in such
16 numbers, and at such places as the director may determine to be
17 necessary to give notice thereof to persons in his service.

18 (6) Contributions by workers, payable to the controller as herein
19 provided, shall be exempt from garnishment, attachment, execution,
20 or any other remedy for the collection of debts.

21 (e) Contributions by employers to the State disability benefits
22 fund.

23 (1) Except as hereinafter provided, each employer shall, in
24 addition to the contributions required by subsections (a), (b), and
25 (c) of this section, contribute 1/2 of 1% of the wages paid by such
26 employer to workers with respect to employment unless he is not a
27 covered employer as defined in subsection (a) of section 3 of the
28 "Temporary Disability Benefits Law" (C.43:21-27 (a)), except that
29 the rate for the State of New Jersey shall be 1/10 of 1% for the
30 calendar year 1980 and for the first six months of 1981. Prior to
31 July 1, 1981 and prior to July 1 each year thereafter, the controller
32 shall review the experience accumulated in the account of the State
33 of New Jersey and establish a rate for the next following fiscal year
34 which, in combination with worker contributions, will produce
35 sufficient revenue to keep the account in balance; except that the
36 rate so established shall not be less than 1/10 of 1%. Such
37 contributions shall become due and be paid by the employer to the
38 controller for the State disability benefits fund as established by
39 law, in accordance with such regulations as may be prescribed, and
40 shall not be deducted, in whole or in part, from the remuneration of
41 individuals in his employ. In the payment of any contributions, a
42 fractional part of a cent shall be disregarded unless it amounts to
43 \$0.005 or more, in which case it shall be increased to \$0.01.

44 (2) During the continuance of coverage of a worker by an
45 approved private plan of disability benefits under the "Temporary
46 Disability Benefits Law," the employer shall be exempt from the
47 contributions required by paragraph (1) above with respect to wages
48 paid to such worker.

1 (3) (A) The rates of contribution as specified in paragraph (1)
2 above shall be subject to modification as provided herein with
3 respect to employer contributions due on and after July 1, 1951.

4 (B) A separate disability benefits account shall be maintained for
5 each employer required to contribute to the State disability benefits
6 fund and such account shall be credited with contributions
7 deposited in and credited to such fund with respect to employment
8 occurring on and after January 1, 1949. Each employer's account
9 shall be credited with all contributions paid on or before January 31
10 of any calendar year on his own behalf and on behalf of individuals
11 in his service with respect to employment occurring in preceding
12 calendar years; provided, however, that if January 31 of any
13 calendar year falls on a Saturday or Sunday an employer's account
14 shall be credited as of January 31 of such calendar year with all the
15 contributions which he has paid on or before the next succeeding
16 day which is not a Saturday or Sunday. But nothing in this act shall
17 be construed to grant any employer or individuals in his service
18 prior claims or rights to the amounts paid by him to the fund either
19 on his own behalf or on behalf of such individuals. Benefits paid to
20 any covered individual in accordance with Article III of the
21 "Temporary Disability Benefits Law" on or before December 31 of
22 any calendar year with respect to disability in such calendar year
23 and in preceding calendar years shall be charged against the account
24 of the employer by whom such individual was employed at the
25 commencement of such disability or by whom he was last
26 employed, if out of employment.

27 (C) The controller may prescribe regulations for the
28 establishment, maintenance, and dissolution of joint accounts by
29 two or more employers, and shall, in accordance with such
30 regulations and upon application by two or more employers to
31 establish such an account, or to merge their several individual
32 accounts in a joint account, maintain such joint account as if it
33 constituted a single employer's account.

34 (D) Prior to July 1 of each calendar year, the controller shall
35 make a preliminary determination of the rate of contribution for the
36 12 months commencing on such July 1 for each employer subject to
37 the contribution requirements of this subsection (e).

38 (1) Such preliminary rate shall be 1/2 of 1% unless on the
39 preceding January 31 of such year such employer shall have been a
40 covered employer who has paid contributions to the State disability
41 benefits fund with respect to employment in the three calendar
42 years immediately preceding such year.

43 (2) If the minimum requirements in subparagraph (D) (1) above
44 have been fulfilled and the credited contributions exceed the
45 benefits charged by more than \$500.00, such preliminary rate shall
46 be as follows:

1 (i) $2/10$ of 1% if such excess over \$500.00 exceeds 1% but is
2 less than $1\frac{1}{4}\%$ of his average annual payroll as defined in this
3 chapter (R.S.43:21-1 et seq.);

4 (ii) $15/100$ of 1% if such excess over \$500.00 equals or exceeds
5 $1\frac{1}{4}\%$ but is less than $1\frac{1}{2}\%$ of his average annual payroll;

6 (iii) $1/10$ of 1% if such excess over \$500.00 equals or exceeds $1\frac{1}{2}\%$
7 of his average annual payroll.

8 (3) If the minimum requirements in subparagraph (D) (1) above
9 have been fulfilled and the contributions credited exceed the
10 benefits charged but by not more than \$500.00 plus 1% of his
11 average annual payroll, or if the benefits charged exceed the
12 contributions credited but by not more than \$500.00, the
13 preliminary rate shall be $1/4$ of 1%.

14 (4) If the minimum requirements in subparagraph (D) (1) above
15 have been fulfilled and the benefits charged exceed the
16 contributions credited by more than \$500.00, such preliminary rate
17 shall be as follows:

18 (i) $35/100$ of 1% if such excess over \$500.00 is less than $1/4$ of
19 1% of his average annual payroll;

20 (ii) $45/100$ of 1% if such excess over \$500.00 equals or exceeds
21 $1/4$ of 1% but is less than $1/2$ of 1% of his average annual payroll;

22 (iii) $55/100$ of 1% if such excess over \$500.00 equals or exceeds
23 $1/2$ of 1% but is less than $3/4$ of 1% of his average annual payroll;

24 (iv) $65/100$ of 1% if such excess over \$500.00 equals or exceeds
25 $3/4$ of 1% but is less than 1% of his average annual payroll;

26 (v) $75/100$ of 1% if such excess over \$500.00 equals or exceeds
27 1% of his average annual payroll.

28 (5) Determination of the preliminary rate as specified in
29 subparagraphs (D)(2), (3) and (4) above shall be subject, however,
30 to the condition that it shall in no event be decreased by more than
31 $1/10$ of 1% of wages or increased by more than $2/10$ of 1% of
32 wages from the preliminary rate determined for the preceding year
33 in accordance with subparagraph (D) (1), (2), (3) or (4), whichever
34 shall have been applicable.

35 (E) (1) Prior to July 1 of each calendar year the controller shall
36 determine the amount of the State disability benefits fund as of
37 December 31 of the preceding calendar year, increased by the
38 contributions paid thereto during January of the current calendar
39 year with respect to employment occurring in the preceding
40 calendar year. If such amount exceeds the net amount withdrawn
41 from the unemployment trust fund pursuant to section 23 of the
42 "Temporary Disability Benefits Law," P.L.1948, c.110 (C.43:21-47)
43 plus the amount at the end of such preceding calendar year of the
44 unemployment disability account as defined in section 22 of said
45 law (C.43:21-46), such excess shall be expressed as a percentage of
46 the wages on which contributions were paid to the State disability
47 benefits fund on or before January 31 with respect to employment
48 in the preceding calendar year.

1 (2) The controller shall then make a final determination of the
2 rates of contribution for the 12 months commencing July 1 of such
3 year for employers whose preliminary rates are determined as
4 provided in subparagraph (D) hereof, as follows:

5 (i) If the percentage determined in accordance with
6 subparagraph (E)(1) of this paragraph equals or exceeds $1\frac{1}{4}\%$, the
7 final employer rates shall be the preliminary rates determined as
8 provided in subparagraph (D) hereof, except that if the employer's
9 preliminary rate is determined as provided in subparagraph (D)(2)
10 or subparagraph (D)(3) hereof, the final employer rate shall be the
11 preliminary employer rate decreased by such percentage of excess
12 taken to the nearest $\frac{5}{100}$ of 1%, but in no case shall such final rate
13 be less than $\frac{1}{10}$ of 1%.

14 (ii) If the percentage determined in accordance with
15 subparagraph (E)(1) of this paragraph equals or exceeds $\frac{3}{4}$ of 1%
16 and is less than $1\frac{1}{4}$ of 1%, the final employer rates shall be the
17 preliminary employer rates.

18 (iii) If the percentage determined in accordance with
19 subparagraph (E)(1) of this paragraph is less than $\frac{3}{4}$ of 1%, but in
20 excess of $\frac{1}{4}$ of 1%, the final employer rates shall be the
21 preliminary employer rates determined as provided in subparagraph
22 (D) hereof increased by the difference between $\frac{3}{4}$ of 1% and such
23 percentage taken to the nearest $\frac{5}{100}$ of 1%; provided, however,
24 that no such final rate shall be more than $\frac{1}{4}$ of 1% in the case of an
25 employer whose preliminary rate is determined as provided in
26 subparagraph (D)(2) hereof, more than $\frac{1}{2}$ of 1% in the case of an
27 employer whose preliminary rate is determined as provided in
28 subparagraph (D)(1) and subparagraph (D)(3) hereof, nor more than
29 $\frac{3}{4}$ of 1% in the case of an employer whose preliminary rate is
30 determined as provided in subparagraph (D)(4) hereof.

31 (iv) If the amount of the State disability benefits fund determined
32 as provided in subparagraph (E)(1) of this paragraph is equal to or
33 less than $\frac{1}{4}$ of 1%, then the final rate shall be $\frac{2}{5}$ of 1% in the case
34 of an employer whose preliminary rate is determined as provided in
35 subparagraph (D)(2) hereof, $\frac{7}{10}$ of 1% in the case of an employer
36 whose preliminary rate is determined as provided in subparagraph
37 (D)(1) and subparagraph (D)(3) hereof, and 1.1% in the case of an
38 employer whose preliminary rate is determined as provided in
39 subparagraph (D)(4) hereof. Notwithstanding any other provision of
40 law or any determination made by the controller with respect to any
41 12-month period commencing on July 1, 1970, the final rates for all
42 employers for the period beginning January 1, 1971, shall be as set
43 forth herein.

44 (F) Notwithstanding any other provisions of this subsection (e),
45 the rate of contribution paid to the State disability benefits fund by
46 each covered employer as defined in paragraph (1) of subsection (a)
47 of section 3 of P.L.1948, c.110 (C.43:21-27), shall be determined as
48 if:

- 1 (i) No disability benefits have been paid with respect to periods
2 of family temporary disability leave;
- 3 (ii) No worker paid any contributions to the State disability
4 benefits fund pursuant to paragraph (1)(G)(ii) of subsection (d) of
5 this section;
- 6 (iii) No amounts were transferred from the State disability
7 benefits fund to the "Family Temporary Disability Leave Account"
8 pursuant to paragraph (1)(G)(ii) of subsection (d) of this section;
9 and
- 10 (iv) The total amount of benefits paid for periods of disability
11 were not subject to the increases in the weekly benefit rate for those
12 benefits commencing July 1, 2020 pursuant to section 16 of
13 P.L.1948, c.110 (C.43:21-40).
14 (cf: P.L.2020, c.150, s.2)

15

16 6. R.S.43:21-16 is amended to read as follows:

17 43:21-16. (a) (1) Whoever makes a false statement or
18 representation, knowing it to be false, or knowingly fails to disclose
19 a material fact, to obtain or increase or attempts to obtain or
20 increase any benefit or other payment under this chapter
21 (R.S.43:21-1 et seq.), or under an employment security law of any
22 other state or of the federal government, either for himself or for
23 any other person, shall be liable to a fine of 25% of the amount
24 fraudulently obtained, to be recovered in an action at law in the
25 name of the Division of Unemployment and Temporary Disability
26 Insurance of the Department of Labor and Workforce Development
27 of the State of New Jersey or as provided in subsection (e) of
28 R.S.43:21-14, said fine when recovered shall be immediately
29 deposited in the following manner: 10 percent of the amount
30 fraudulently obtained deposited into the unemployment
31 compensation auxiliary fund for the use of said fund, and 15 percent
32 of the amount fraudulently obtained deposited into the
33 unemployment compensation fund; and each such false statement or
34 representation or failure to disclose a material fact shall constitute a
35 separate offense. Any penalties imposed by this subsection shall be
36 in addition to those otherwise prescribed in this chapter (R.S.43:21-
37 1 et seq.).

38 (2) For purposes of any unemployment compensation program of
39 the United States, if the department determines that any benefit
40 amount is obtained by an individual due to fraud committed by the
41 individual, the department shall assess a fine on the individual and
42 deposit the recovered fine in the same manner as provided in
43 paragraph (1) of subsection (a) of this section. As used in this
44 paragraph, "unemployment compensation program of the United
45 States" means:

46 (A) Unemployment compensation for federal civilian employees
47 pursuant to 5 U.S.C. 8501 et seq.;

1 (B) Unemployment compensation for ex-service members
2 pursuant to 5 U.S.C. 8521 et seq.;

3 (C) Trade readjustment allowances pursuant to 19 U.S.C.
4 2291-2294;

5 (D) Disaster unemployment assistance pursuant to 42 U.S.C.
6 5177(a);

7 (E) Any federal temporary extension of unemployment
8 compensation;

9 (F) Any federal program that increases the weekly amount of
10 unemployment compensation payable to individuals; and

11 (G) Any other federal program providing for the payment of
12 unemployment compensation.

13 (b) (1) An employing unit or any officer or agent of an
14 employing unit or any other person who makes a false statement or
15 representation, knowing it to be false, or who knowingly fails to
16 disclose a material fact, to prevent or reduce the payment of
17 benefits to any individual entitled thereto or to avoid becoming or
18 remaining subject hereto or to avoid or reduce any contribution or
19 other payment required from an employing unit under this chapter
20 (R.S.43:21-1 et seq.), or under an employment security law of any
21 other state or of the federal government, or who willfully fails or
22 refuses to furnish any reports or information required hereunder,
23 including failing to provide the information required by subsection
24 (a) of R.S.43:21-6 immediately upon a separation from
25 employment, or to produce or permit the inspection or copying of
26 records, as required hereunder, shall be liable to a fine of \$500, or
27 25% of any amount fraudulently withheld, whichever is greater, to
28 be recovered in an action at law in the name of the Division of
29 Unemployment and Temporary Disability Insurance of the
30 Department of Labor and Workforce Development of the State of
31 New Jersey or as provided in subsection (e) of R.S.43:21-14, said
32 fine when recovered to be paid to the unemployment compensation
33 auxiliary fund for the use of said fund; and each such false
34 statement or representation or failure to disclose a material fact, and
35 each day of such failure or refusal shall constitute a separate
36 offense. Any penalties imposed by this paragraph shall be in
37 addition to those otherwise prescribed in this chapter (R.S.43:21-1
38 et seq.).

39 (2) (Deleted by amendment, P.L.2022, c.120).

40 (3) Any employing unit, officer or agent of the employing unit,
41 or any other person, determined by the controller to have knowingly
42 violated, or attempted to violate, or advised another person to
43 violate the transfer of employment experience provisions found at
44 R.S.43:21-7 (c)(7), or who otherwise knowingly attempts to obtain
45 a lower rate of contributions by failing to disclose material
46 information, or by making a false statement, or by a
47 misrepresentation of fact, shall be subject to a fine of \$5,000 or
48 25% of the contributions under-reported or attempted to be under-

1 reported, whichever is greater, to be recovered as provided in
2 subsection (e) of R.S.43:21-14, and when recovered to be paid to
3 the unemployment compensation auxiliary fund for the use of said
4 fund. For the purposes of this subsection, "knowingly" means
5 having actual knowledge of, or acting with deliberate ignorance or
6 reckless disregard for the prohibition involved.

7 (c) Any person who shall willfully violate any provision of this
8 chapter (R.S.43:21-1 et seq.) or any rule or regulation thereunder,
9 the violation of which is made unlawful or the observance of which
10 is required under the terms of this chapter (R.S.43:21-1 et seq.), and
11 for which a penalty is neither prescribed herein nor provided by any
12 other applicable statute, shall be liable to a fine of \$50.00, to be
13 recovered in an action at law in the name of the Division of
14 Unemployment and Temporary Disability Insurance of the
15 Department of Labor and Workforce Development of the State of
16 New Jersey or as provided in subsection (e) of R.S.43:21-14, said
17 fine when recovered to be paid to the unemployment compensation
18 auxiliary fund for the use of said fund; and each day such violation
19 continues shall be deemed to be a separate offense.

20 (d) (1) When it is determined by a representative or
21 representatives designated by the Director of the Division of
22 Unemployment **and** Insurance or the Division of Temporary
23 Disability Insurance, as appropriate, of the Department of Labor
24 and Workforce Development of the State of New Jersey that any
25 person**],** by reason of the knowing, fraudulent nondisclosure or
26 misrepresentation by him, or by anyone acting as his agent, of a
27 material fact,**]** has received any sum as benefits under this chapter
28 (R.S.43:21-1 et seq.) while any conditions for the receipt of benefits
29 imposed by this chapter (R.S.43:21-1 et seq.) were not fulfilled in
30 his case, or while he was disqualified from receiving benefits, or
31 while otherwise not entitled to receive such sum as benefits, such
32 person, unless the **[**director (with the concurrence of the controller)
33 directs otherwise by regulation,**]** Director of the Division of
34 Unemployment Insurance or the Division of Temporary Disability
35 Insurance, as appropriate, has waived the claimant's repayment
36 obligation, pursuant to paragraph (4) or paragraph (5) of this
37 subsection (d), shall be liable to repay those benefits in full. **[**The
38 person shall not be liable to repay all or any portion of the
39 overpayment if the representative finds that the person received the
40 overpayment of benefits because of errors or failures to provide
41 information by the employer or errors by the division, and not
42 because of an error, or knowing, fraudulent nondisclosure or
43 misrepresentation, by the person. If the representative finds that
44 errors made by the person were a cause of the overpayment together
45 with errors of the division, or errors or failures to provide
46 information by the employer, but the person did not make a
47 knowing, fraudulent nondisclosure or misrepresentation, the

1 representative shall determine a portion of the overpayment for
2 which the person is liable taking into consideration possible
3 financial hardship to the person, whether recovery would be against
4 equity and good conscience, and how much the person's errors,
5 compared to errors of the division or employer, contributed to the
6 overpayment occurring, but the amount to which the person shall be
7 liable shall not exceed 50 percent of the overpayment.】 The
8 employer's account shall not be charged for the amount of an
9 overpayment of benefits if the overpayment was caused by an error
10 of the division and not by any error of the employer【, but shall be
11 charged if the overpayment was caused by an error or failure to
12 provide information of the employer】. The sum 【for which the
13 person is found liable to repay】 shall be deducted from any future
14 benefits payable to the individual under this chapter (R.S.43:21-1 et
15 seq.) or shall be paid by the individual to the division for the
16 unemployment compensation fund, and such sum shall be
17 collectible in the manner provided for by law, including, but not
18 limited to, the filing of a certificate of debt with the Clerk of the
19 Superior Court of New Jersey; provided, however, that, except in
20 the event of fraud, no person shall be liable for any such refunds or
21 deductions against future benefits unless so notified before four
22 years have elapsed from the time the benefits in question were paid.
23 Such person shall be promptly notified of the determination and the
24 reasons therefor. The person shall be provided a written
25 notification of any determination regarding the repayment of an
26 overpayment and the opportunity to file an appeal of the
27 determination within 20 calendar days after a confirmed receipt of a
28 notice of the determination or 30 calendar days after the notice was
29 mailed to the last known address of the person, and a recovery of an
30 overpayment shall not commence until the end of whichever is
31 applicable of the 20- or 30-day periods and the resolution of any
32 appeal made during those periods.

33 (2) Interstate and cross-offset of state and federal unemployment
34 benefits. To the extent permissible under the laws and Constitution
35 of the United States, the commissioner is authorized to enter into or
36 cooperate in arrangements or reciprocal agreements with
37 appropriate and duly authorized agencies of other states or the
38 United States Secretary of Labor, or both, whereby:

39 (A) Overpayments of unemployment benefits as determined
40 under subsection (d) of R.S.43:21-16 shall be recovered by offset
41 from unemployment benefits otherwise payable under the
42 unemployment compensation law of another state, and
43 overpayments of unemployment benefits as determined under the
44 unemployment compensation law of another state shall be
45 recovered by offset from unemployment benefits otherwise payable
46 under R.S.43:21-1 et seq.; and

47 (B) Overpayments of unemployment benefits as determined
48 under applicable federal law, with respect to benefits or allowances

1 for unemployment provided under a federal program administered
2 by this State under an agreement with the United States Secretary of
3 Labor, shall be recovered by offset from unemployment benefits
4 otherwise payable under R.S.43:21-1 et seq., or any federal program
5 administered by this State, or under the unemployment
6 compensation law of another state or any federal unemployment
7 benefit or allowance program administered by another state under
8 an agreement with the United States Secretary of Labor, if the other
9 state has in effect a reciprocal agreement with the United States
10 Secretary of Labor as authorized by subsection (g) of 42
11 U.S.C.s.503, and if the United States agrees, as provided in the
12 reciprocal agreement with this State entered into under subsection
13 (g) of 42 U.S.C.s.503, that overpayments of unemployment benefits
14 as determined under subsection (d) of R.S.43:21-16 and
15 overpayments as determined under the unemployment
16 compensation law of another state which has in effect a reciprocal
17 agreement with the United States Secretary of Labor as authorized
18 by subsection (g) of 42 U.S.C.s.503, shall be recovered by offset
19 from benefits or allowances otherwise payable under a federal
20 program administered by this State or another state under an
21 agreement with the United States Secretary of Labor.

22 (3) The provisions of this subsection shall not be construed as
23 requiring or permitting a waiver of the recovery of any
24 overpayments of unemployment benefits if the waiver is prohibited
25 by any federal law, regulation or administrative directive. A
26 recovery shall not be waived unless the division determines that the
27 claimant is without fault and the repayment would be contrary to
28 equity and good conscience in the case of the recovery of an
29 overpayment of benefit under any of the following programs
30 authorized by the federal "Coronavirus Aid, Relief, and Economic
31 Security (CARES) Act," Pub.L.116-136: Federal Pandemic
32 Unemployment Compensation (FPUC), Pandemic Emergency
33 Unemployment Compensation (PEUC), Mixed Earners
34 Unemployment Compensation (MEUC), Pandemic Unemployment
35 Assistance (PUA), or the first week of regular Unemployment
36 Compensation that is reimbursed in accordance with Section 2105
37 of the CARES Act".

38 (4) Upon request by the claimant, the Director of the Division of
39 Unemployment Insurance or the Division of Temporary Disability
40 Insurance, as appropriate, shall grant the claimant a full waiver of
41 recovery of an overpayment of benefits only after the director has
42 determined that the claimant has not misrepresented or withheld any
43 material fact to obtain benefits and only under the following
44 circumstances:

45 (A) Where the claimant is deceased;

46 (B) Where the claimant is disabled and no longer able to work;

1 (C) Where the claimant received the overpayment of benefits due
2 to an error by the division, or due to an error of the employer or a
3 failure by the employer to provide information; or

4 (D) Where the director determines that recovery of the
5 overpayment would be contrary to equity and good conscience.

6 (5) In the event that the Director of the Division of
7 Unemployment Insurance or the Division of Temporary Disability
8 Insurance, as appropriate, becomes aware, without a request from
9 the claimant pursuant to subparagraph (C) of paragraph (4) of this
10 subsection (d), that the claimant received an overpayment of
11 benefits due to an error by the division, or due to an error of the
12 employer or a failure by the employer to provide information, the
13 director shall grant a full waiver of recovery of an overpayment of
14 benefits, provided that the director has first determined that the
15 claimant did not misrepresent or withhold any material fact to
16 obtain benefits.

17 (e) (1) Any employing unit, or any officer or agent of an
18 employing unit, which officer or agent is directly or indirectly
19 responsible for collecting, truthfully accounting for, remitting when
20 payable any contribution, or filing or causing to be filed any report
21 or statement required by this chapter, or employer, or person failing
22 to remit, when payable, any employer contributions, or worker
23 contributions (if withheld or deducted), or the amount of such
24 worker contributions (if not withheld or deducted), or filing or
25 causing to be filed with the controller or the Division of
26 Unemployment and Temporary Disability Insurance of the
27 Department of Labor and Workforce Development of the State of
28 New Jersey, any false or fraudulent report or statement, and any
29 person who aids or abets an employing unit, employer, or any
30 person in the preparation or filing of any false or fraudulent report
31 or statement with intent to defraud the State of New Jersey or an
32 employment security agency of any other state or of the federal
33 government, or with intent to evade the payment of any
34 contributions, interest or penalties, or any part thereof, which shall
35 be due under the provisions of this chapter (R.S.43:21-1 et seq.),
36 shall be liable for each offense upon conviction before any Superior
37 Court or municipal court, to a fine not to exceed \$1,000.00 or by
38 imprisonment for a term not to exceed 90 days, or both, at the
39 discretion of the court. The fine upon conviction shall be payable
40 to the unemployment compensation auxiliary fund. Any penalties
41 imposed by this subsection shall be in addition to those otherwise
42 prescribed in this chapter (R.S.43:21-1 et seq.).

43 (2) Any employing unit, officer or agent of the employing unit,
44 or any other person, who knowingly violates, or attempts to violate,
45 or advise another person to violate the transfer of employment
46 experience provisions found at R.S.43:21-7 (c)(7) shall be, upon
47 conviction before any Superior Court or municipal court, guilty of a
48 crime of the fourth degree. For the purposes of this subsection,

1 "knowingly" means having actual knowledge of, or acting with
2 deliberate ignorance or reckless disregard for the prohibition
3 involved.

4 (f) Any employing unit or any officer or agent of an employing
5 unit or any other person who aids and abets any person to obtain
6 any sum of benefits under this chapter to which he is not entitled, or
7 a larger amount as benefits than that to which he is justly entitled,
8 shall be liable for each offense upon conviction before any Superior
9 Court or municipal court, to a fine not to exceed \$1,000.00 or by
10 imprisonment for a term not to exceed 90 days, or both, at the
11 discretion of the court. The fine upon conviction shall be payable
12 to the unemployment compensation auxiliary fund. Any penalties
13 imposed by this subsection shall be in addition to those otherwise
14 prescribed in this chapter (R.S.43:21-1 et seq.).

15 (g) There shall be created in the Division of Unemployment and
16 Temporary Disability Insurance of the Department of Labor and
17 Workforce Development of the State of New Jersey an investigative
18 staff for the purpose of investigating violations referred to in this
19 section and enforcing the provisions thereof.

20 (h) An employing unit or any officer or agent of an employing
21 unit who makes a false statement or representation, knowing it to be
22 false, or who knowingly fails to disclose a material fact, to reduce
23 benefit charges to the employing unit pursuant to paragraph (1) of
24 subsection (c) of R.S.43:21-7, shall be liable to a fine of \$1,000, to
25 be recovered in an action at law in the name of the Division of
26 Unemployment and Temporary Disability Insurance of the
27 Department of Labor and Workforce Development of the State of
28 New Jersey or as provided in subsection (e) of R.S.43:21-14. The
29 fine when recovered shall be paid to the unemployment
30 compensation auxiliary fund for the use of the fund. Each false
31 statement or representation or failure to disclose a material fact, and
32 each day of that failure or refusal shall constitute a separate offense.
33 Any penalties imposed by this subsection shall be in addition to
34 those otherwise prescribed in R.S.43:21-1 et seq.

35 (i) The Department of Labor and Workforce Development shall
36 arrange for the electronic receipt of death record notifications from
37 the New Jersey Electronic Death Registration System, pursuant to
38 section 16 of P.L.2003, c.221 (C.26:8-24.1), and establish a
39 verification system to confirm that benefits paid pursuant to the
40 "Temporary Disability Benefits Law," P.L.1948, c.110 (C.43:21-25
41 et al.), and the "unemployment compensation law," R.S.43:21-1 et
42 seq., are not being paid to deceased individuals.

43 (j) The Department of Labor and Workforce Development shall
44 arrange for the electronic receipt of identifying information from
45 the Department of Corrections, pursuant to section 6 of P.L.1976,
46 c.98 (C.30:1B-6), and from the Administrative Office of the Courts
47 and any county which does not provide county inmate incarceration
48 information to the Administrative Office of the Courts, and

1 establish a verification system to confirm that benefits paid
2 pursuant to the "unemployment compensation law," R.S.43:21-1 et
3 seq., are not being paid to individuals who are incarcerated.

4 3. This act shall take effect on the 270th day following
5 enactment, except that the division shall, prior to the 270th day after
6 enactment, take all administrative measures necessary to implement
7 this act, including making all needed changes in forms and
8 materials to be provided to employers, and notifying them of what
9 is required to be in compliance with this act, including the
10 requirements to provide the division with an email address for
11 communication to and from the division and to use electronic means
12 to communicate with the department.
13 (cf: P.L.2022, c.120, s.2)

14

15 7. R.S.43:21-19 is amended to read as follows:

16 43:21-19. Definitions. As used in this chapter (R.S.43:21-1 et
17 seq.), unless the context clearly requires otherwise:

18 (a) (1) "Annual payroll" means the total amount of wages paid
19 during a calendar year (regardless of when earned) by an employer
20 for employment.

21 (2) "Average annual payroll" means the average of the annual
22 payrolls of any employer for the last three or five preceding
23 calendar years, whichever average is higher, except that any year or
24 years throughout which an employer has had no "annual payroll"
25 because of military service shall be deleted from the reckoning; the
26 "average annual payroll" in such case is to be determined on the
27 basis of the prior three or five calendar years in each of which the
28 employer had an "annual payroll" in the operation of his business, if
29 the employer resumes his business within 12 months after
30 separation, discharge or release from such service, under conditions
31 other than dishonorable, and makes application to have his "average
32 annual payroll" determined on the basis of such deletion within 12
33 months after he resumes his business; provided, however, that
34 "average annual payroll" solely for the purposes of paragraph (3) of
35 subsection (e) of R.S.43:21-7 means the average of the annual
36 payrolls of any employer on which he paid contributions to the
37 State disability benefits fund for the last three or five preceding
38 calendar years, whichever average is higher; provided further that
39 only those wages be included on which employer contributions have
40 been paid on or before January 31 (or the next succeeding day if
41 such January 31 is a Saturday or Sunday) immediately preceding
42 the beginning of the 12-month period for which the employer's
43 contribution rate is computed.

44 (b) "Benefits" means the money payments payable to an
45 individual, as provided in this chapter (R.S.43:21-1 et seq.), with
46 respect to his unemployment.

47 (c) (1) "Base year" with respect to benefit years commencing on
48 or after July 1, 1986, shall mean the first four of the last five

1 completed calendar quarters immediately preceding an individual's
2 benefit year.

3 With respect to a benefit year commencing on or after July 1,
4 1995, if an individual does not have sufficient qualifying weeks or
5 wages in his base year to qualify for benefits, the individual shall
6 have the option of designating that his base year shall be the
7 "alternative base year," which means the last four completed
8 calendar quarters immediately preceding the individual's benefit
9 year; except that, with respect to a benefit year commencing on or
10 after October 1, 1995, if the individual also does not have sufficient
11 qualifying weeks or wages in the last four completed calendar
12 quarters immediately preceding his benefit year to qualify for
13 benefits, "alternative base year" means the last three completed
14 calendar quarters immediately preceding his benefit year and, of the
15 calendar quarter in which the benefit year commences, the portion
16 of the quarter which occurs before the commencing of the benefit
17 year.

18 The division shall inform the individual of his options under this
19 section as amended by P.L.1995, c.234. If information regarding
20 weeks and wages for the calendar quarter or quarters immediately
21 preceding the benefit year is not available to the division from the
22 regular quarterly reports of wage information and the division is not
23 able to obtain the information using other means pursuant to State
24 or federal law, the division may base the determination of eligibility
25 for benefits on the affidavit of an individual with respect to weeks
26 and wages for that calendar quarter. The individual shall furnish
27 payroll documentation, if available, in support of the affidavit. A
28 determination of benefits based on an alternative base year shall be
29 adjusted when the quarterly report of wage information from the
30 employer is received if that information causes a change in the
31 determination.

32 (2) With respect to a benefit year commencing on or after June 1,
33 1990 for an individual who immediately preceding the benefit year
34 was subject to a disability compensable under the provisions of the
35 "Temporary Disability Benefits Law," P.L.1948, c.110 (C.43:21-25
36 et seq.), "base year" shall mean the first four of the last five
37 completed calendar quarters immediately preceding the individual's
38 period of disability, if the employment held by the individual
39 immediately preceding the period of disability is no longer
40 available at the conclusion of that period and the individual files a
41 valid claim for unemployment benefits after the conclusion of that
42 period. For the purposes of this paragraph, "period of disability"
43 means the period defined as a period of disability by section 3 of
44 the "Temporary Disability Benefits Law," P.L.1948, c.110
45 (C.43:21-27). An individual who files a claim under the provisions
46 of this paragraph (2) shall not be regarded as having left work
47 voluntarily for the purposes of subsection (a) of R.S.43:21-5.

1 (3) With respect to a benefit year commencing on or after June 1,
2 1990 for an individual who immediately preceding the benefit year
3 was subject to a disability compensable under the provisions of the
4 workers' compensation law (chapter 15 of Title 34 of the Revised
5 Statutes), "base year" shall mean the first four of the last five
6 completed calendar quarters immediately preceding the individual's
7 period of disability, if the period of disability was not longer than
8 two years, if the employment held by the individual immediately
9 preceding the period of disability is no longer available at the
10 conclusion of that period and if the individual files a valid claim for
11 unemployment benefits after the conclusion of that period. For the
12 purposes of this paragraph, "period of disability" means the period
13 from the time at which the individual becomes unable to work
14 because of the compensable disability until the time that the
15 individual becomes able to resume work and continue work on a
16 permanent basis. An individual who files a claim under the
17 provisions of this paragraph (3) shall not be regarded as having left
18 work voluntarily for the purposes of subsection (a) of R.S.43:21-5.

19 (d) "Benefit year" with respect to any individual means the 364
20 consecutive calendar days beginning with the day on, or as of,
21 which he first files a valid claim for benefits, and thereafter
22 beginning with the day on, or as of, which the individual next files a
23 valid claim for benefits after the termination of his last preceding
24 benefit year. Any claim for benefits made in accordance with
25 subsection (a) of R.S.43:21-6 shall be deemed to be a "valid claim"
26 for the purpose of this subsection if (1) he is unemployed for the
27 week in which, or as of which, he files a claim for benefits; and (2)
28 he has fulfilled the conditions imposed by subsection (e) of
29 R.S.43:21-4.

30 (e) (1) "Division" means the Division of Unemployment and
31 Temporary Disability Insurance of the Department of Labor and
32 Workforce Development, and any transaction or exercise of
33 authority by the director of the division thereunder, or under this
34 chapter (R.S.43:21-1 et seq.), shall be deemed to be performed by
35 the division.

36 (2) "Controller" means the Office of the Assistant Commissioner
37 for Finance and Controller of the Department of Labor and
38 Workforce Development, established by the 1982 Reorganization
39 Plan of the Department of Labor.

40 (f) "Contributions" means the money payments to the State
41 Unemployment Compensation Fund, required by R.S.43:21-7.
42 "Payments in lieu of contributions" means the money payments to
43 the State Unemployment Compensation Fund by employers electing
44 or required to make payments in lieu of contributions, as provided
45 in section 3 or section 4 of P.L.1971, c.346 (C.43:21-7.2 or
46 43:21-7.3).

47 (g) "Employing unit" means the State or any of its
48 instrumentalities or any political subdivision thereof or any of its

1 instrumentalities or any instrumentality of more than one of the
2 foregoing or any instrumentality of any of the foregoing and one or
3 more other states or political subdivisions or any individual or type
4 of organization, any partnership, association, trust, estate, joint-
5 stock company, insurance company or corporation, whether
6 domestic or foreign, or the receiver, trustee in bankruptcy, trustee or
7 successor thereof, or the legal representative of a deceased person,
8 which has or subsequent to January 1, 1936, had in its employ one
9 or more individuals performing services for it within this State. All
10 individuals performing services within this State for any employing
11 unit which maintains two or more separate establishments within
12 this State shall be deemed to be employed by a single employing
13 unit for all the purposes of this chapter (R.S.43:21-1 et seq.). Each
14 individual employed to perform or to assist in performing the work
15 of any agent or employee of an employing unit shall be deemed to
16 be employed by such employing unit for all the purposes of this
17 chapter (R.S.43:21-1 et seq.), whether such individual was hired or
18 paid directly by such employing unit or by such agent or employee;
19 provided the employing unit had actual or constructive knowledge
20 of the work.

21 (h) "Employer" means:

22 (1) Any employing unit which in either the current or the
23 preceding calendar year paid remuneration for employment in the
24 amount of \$1,000.00 or more;

25 (2) Any employing unit (whether or not an employing unit at the
26 time of acquisition) which acquired the organization, trade or
27 business, or substantially all the assets thereof, of another which, at
28 the time of such acquisition, was an employer subject to this chapter
29 (R.S.43:21-1 et seq.);

30 (3) Any employing unit which acquired the organization, trade or
31 business, or substantially all the assets thereof, of another
32 employing unit and which, if treated as a single unit with such other
33 employing unit, would be an employer under paragraph (1) of this
34 subsection;

35 (4) Any employing unit which together with one or more other
36 employing units is owned or controlled (by legally enforceable
37 means or otherwise), directly or indirectly by the same interests, or
38 which owns or controls one or more other employing units (by
39 legally enforceable means or otherwise), and which, if treated as a
40 single unit with such other employing unit or interest, would be an
41 employer under paragraph (1) of this subsection;

42 (5) Any employing unit for which service in employment as
43 defined in R.S.43:21-19 (i) (1) (B) (i) is performed after December
44 31, 1971; and as defined in R.S.43:21-19 (i) (1) (B) (ii) is
45 performed after December 31, 1977;

46 (6) Any employing unit for which service in employment as
47 defined in R.S.43:21-19 (i) (1) (c) is performed after December 31,
48 1971 and which in either the current or the preceding calendar year

1 paid remuneration for employment in the amount of \$1,000.00 or
2 more;

3 (7) Any employing unit not an employer by reason of any other
4 paragraph of this subsection (h) for which, within either the current
5 or preceding calendar year, service is or was performed with respect
6 to which such employing unit is liable for any federal tax against
7 which credit may be taken for contributions required to be paid into
8 a state unemployment fund; or which, as a condition for approval of
9 the "unemployment compensation law" for full tax credit against
10 the tax imposed by the Federal Unemployment Tax Act, is required
11 pursuant to such act to be an employer under this chapter
12 (R.S.43:21-1 et seq.);

13 (8) (Deleted by amendment, P.L.1977, c.307.)

14 (9) (Deleted by amendment, P.L.1977, c.307.)

15 (10) (Deleted by amendment, P.L.1977, c.307.)

16 (11) Any employing unit subject to the provisions of the Federal
17 Unemployment Tax Act within either the current or the preceding
18 calendar year, except for employment hereinafter excluded under
19 paragraph (7) of subsection (i) of this section;

20 (12) Any employing unit for which agricultural labor in
21 employment as defined in R.S.43:21-19 (i) (1) (I) is performed after
22 December 31, 1977;

23 (13) Any employing unit for which domestic service in
24 employment as defined in R.S.43:21-19 (i) (1) (J) is performed after
25 December 31, 1977;

26 (14) Any employing unit which having become an employer
27 under the "unemployment compensation law" (R.S.43:21-1 et seq.),
28 has not under R.S.43:21-8 ceased to be an employer; or for the
29 effective period of its election pursuant to R.S.43:21-8, any other
30 employing unit which has elected to become fully subject to this
31 chapter (R.S.43:21-1 et seq.).

32 (i) (1) "Employment" means:

33 (A) Any service performed prior to January 1, 1972, which was
34 employment as defined in the "unemployment compensation law"
35 (R.S.43:21-1 et seq.) prior to such date, and, subject to the other
36 provisions of this subsection, service performed on or after January
37 1, 1972, including service in interstate commerce, performed for
38 remuneration or under any contract of hire, written or oral, express
39 or implied.

40 (B) (i) Service performed after December 31, 1971 by an
41 individual in the employ of this State or any of its instrumentalities
42 or in the employ of this State and one or more other states or their
43 instrumentalities for a hospital or institution of higher education
44 located in this State, if such service is not excluded from
45 "employment" under paragraph (D) below.

46 (ii) Service performed after December 31, 1977, in the employ of
47 this State or any of its instrumentalities or any political subdivision
48 thereof or any of its instrumentalities or any instrumentality of more

1 than one of the foregoing or any instrumentality of the foregoing
2 and one or more other states or political subdivisions, if such
3 service is not excluded from "employment" under paragraph (D)
4 below.

5 (C) Service performed after December 31, 1971 by an individual
6 in the employ of a religious, charitable, educational, or other
7 organization, which is excluded from "employment" as defined in
8 the Federal Unemployment Tax Act, solely by reason of section
9 3306 (c)(8) of that act, if such service is not excluded from
10 "employment" under paragraph (D) below.

11 (D) For the purposes of paragraphs (B) and (C), the term
12 "employment" does not apply to services performed

13 (i) In the employ of (I) a church or convention or association of
14 churches, or (II) an organization, or school which is operated
15 primarily for religious purposes and which is operated, supervised,
16 controlled or principally supported by a church or convention or
17 association of churches;

18 (ii) By a duly ordained, commissioned, or licensed minister of a
19 church in the exercise of his ministry or by a member of a religious
20 order in the exercise of duties required by such order;

21 (iii) Prior to January 1, 1978, in the employ of a school which is
22 not an institution of higher education, and after December 31, 1977,
23 in the employ of a governmental entity referred to in R.S.43:21-19
24 (i) (1) (B), if such service is performed by an individual in the
25 exercise of duties

26 (aa) as an elected official;

27 (bb) as a member of a legislative body, or a member of the
28 judiciary, of a state or political subdivision;

29 (cc) as a member of the State National Guard or Air National
30 Guard;

31 (dd) as an employee serving on a temporary basis in case of fire,
32 storm, snow, earthquake, flood or similar emergency;

33 (ee) in a position which, under or pursuant to the laws of this
34 State, is designated as a major nontenured policy making or
35 advisory position, or a policy making or advisory position, the
36 performance of the duties of which ordinarily does not require more
37 than eight hours per week; or

38 (iv) By an individual receiving rehabilitation or remunerative
39 work in a facility conducted for the purpose of carrying out a
40 program of rehabilitation of individuals whose earning capacity is
41 impaired by age or physical or mental deficiency or injury or
42 providing remunerative work for individuals who because of their
43 impaired physical or mental capacity cannot be readily absorbed in
44 the competitive labor market;

45 (v) By an individual receiving work-relief or work-training as
46 part of an unemployment work-relief or work-training program
47 assisted in whole or in part by any federal agency or an agency of a
48 state or political subdivision thereof; or

1 (vi) Prior to January 1, 1978, for a hospital in a State prison or
2 other State correctional institution by an inmate of the prison or
3 correctional institution and after December 31, 1977, by an inmate
4 of a custodial or penal institution.

5 (E) The term "employment" shall include the services of an
6 individual who is a citizen of the United States, performed outside
7 the United States after December 31, 1971 (except in Canada and in
8 the case of the Virgin Islands, after December 31, 1971) and prior
9 to January 1 of the year following the year in which the U.S.
10 Secretary of Labor approves the unemployment compensation law
11 of the Virgin Islands, under section 3304 (a) of the Internal
12 Revenue Code of 1986 (26 U.S.C. s.3304 (a)) in the employ of an
13 American employer (other than the service which is deemed
14 employment under the provisions of R.S.43:21-19 (i) (2) or (5) or
15 the parallel provisions of another state's unemployment
16 compensation law), if

17 (i) The American employer's principal place of business in the
18 United States is located in this State; or

19 (ii) The American employer has no place of business in the
20 United States, but (I) the American employer is an individual who
21 is a resident of this State; or (II) the American employer is a
22 corporation which is organized under the laws of this State; or (III)
23 the American employer is a partnership or trust and the number of
24 partners or trustees who are residents of this State is greater than the
25 number who are residents of another state; or

26 (iii) None of the criteria of divisions (i) and (ii) of this
27 subparagraph (E) is met but the American employer has elected to
28 become an employer subject to the "unemployment compensation
29 law" (R.S.43:21-1 et seq.) in this State, or the American employer
30 having failed to elect to become an employer in any state, the
31 individual has filed a claim for benefits, based on such service,
32 under the law of this State;

33 (iv) An "American employer," for the purposes of this
34 subparagraph (E), means (I) an individual who is a resident of the
35 United States; or (II) a partnership, if two-thirds or more of the
36 partners are residents of the United States; or (III) a trust, if all the
37 trustees are residents of the United States; or (IV) a corporation
38 organized under the laws of the United States or of any state.

39 (F) Notwithstanding R.S.43:21-19 (i) (2), all service performed
40 after January 1, 1972 by an officer or member of the crew of an
41 American vessel or American aircraft on or in connection with such
42 vessel or aircraft, if the operating office from which the operations
43 of such vessel or aircraft operating within, or within and without,
44 the United States are ordinarily and regularly supervised, managed,
45 directed, and controlled, is within this State.

46 (G) Notwithstanding any other provision of this subsection,
47 service in this State with respect to which the taxes required to be
48 paid under any federal law imposing a tax against which credit may

1 be taken for contributions required to be paid into a state
2 unemployment fund or which as a condition for full tax credit
3 against the tax imposed by the Federal Unemployment Tax Act is
4 required to be covered under the "unemployment compensation
5 law" (R.S.43:21-1 et seq.).

6 (H) The term "United States" when used in a geographical sense
7 in subsection R.S.43:21-19 (i) includes the states, the District of
8 Columbia, the Commonwealth of Puerto Rico and, effective on the
9 day after the day on which the U.S. Secretary of Labor approves for
10 the first time under section 3304 (a) of the Internal Revenue Code
11 of 1986 (26 U.S.C. s.3304 (a)) an unemployment compensation law
12 submitted to the Secretary by the Virgin Islands for such approval,
13 the Virgin Islands.

14 (I) (i) Service performed after December 31, 1977 in agricultural
15 labor in a calendar year for an entity which is an employer as
16 defined in the "unemployment compensation law," (R.S.43:21-1 et
17 seq.) as of January 1 of such year; or for an employing unit which

18 (aa) during any calendar quarter in either the current or the
19 preceding calendar year paid remuneration in cash of \$20,000.00 or
20 more for individuals employed in agricultural labor, or

21 (bb) for some portion of a day in each of 20 different calendar
22 weeks, whether or not such weeks were consecutive, in either the
23 current or the preceding calendar year, employed in agricultural
24 labor 10 or more individuals, regardless of whether they were
25 employed at the same moment in time.

26 (ii) for the purposes of this subsection any individual who is a
27 member of a crew furnished by a crew leader to perform service in
28 agricultural labor for any other entity shall be treated as an
29 employee of such crew leader

30 (aa) if such crew leader holds a certification of registration under
31 the Migrant and Seasonal Agricultural Worker Protection Act,
32 Pub.L.97-470 (29 U.S.C. s.1801 et seq.), or P.L.1971, c.192
33 (C.34:8A-7 et seq.); or substantially all the members of such crew
34 operate or maintain tractors, mechanized harvesting or cropdusting
35 equipment, or any other mechanized equipment, which is provided
36 by such crew leader; and

37 (bb) if such individual is not an employee of such other person
38 for whom services were performed.

39 (iii) For the purposes of subparagraph (I) (i) in the case of any
40 individual who is furnished by a crew leader to perform service in
41 agricultural labor or any other entity and who is not treated as an
42 employee of such crew leader under (I) (ii)

43 (aa) such other entity and not the crew leader shall be treated as
44 the employer of such individual; and

45 (bb) such other entity shall be treated as having paid cash
46 remuneration to such individual in an amount equal to the amount
47 of cash remuneration paid to such individual by the crew leader

- 1 (either on his own behalf or on behalf of such other entity) for the
2 service in agricultural labor performed for such other entity.
- 3 (iv) For the purpose of subparagraph (I)(ii), the term "crew
4 leader" means an individual who
- 5 (aa) furnishes individuals to perform service in agricultural labor
6 for any other entity;
- 7 (bb) pays (either on his own behalf or on behalf of such other
8 entity) the individuals so furnished by him for the service in
9 agricultural labor performed by them; and
- 10 (cc) has not entered into a written agreement with such other
11 entity under which such individual is designated as an employee of
12 such other entity.
- 13 (J) Domestic service after December 31, 1977 performed in the
14 private home of an employing unit which paid cash remuneration of
15 \$1,000.00 or more to one or more individuals for such domestic
16 service in any calendar quarter in the current or preceding calendar
17 year.
- 18 (2) The term "employment" shall include an individual's entire
19 service performed within or both within and without this State if:
- 20 (A) The service is localized in this State; or
- 21 (B) The service is not localized in any state but some of the
22 service is performed in this State, and (i) the base of operations, or,
23 if there is no base of operations, then the place from which such
24 service is directed or controlled, is in this State; or (ii) the base of
25 operations or place from which such service is directed or
26 controlled is not in any state in which some part of the service is
27 performed, but the individual's residence is in this State.
- 28 (3) Services performed within this State but not covered under
29 paragraph (2) of this subsection shall be deemed to be employment
30 subject to this chapter (R.S.43:21-1 et seq.) if contributions are not
31 required and paid with respect to such services under an
32 unemployment compensation law of any other state or of the federal
33 government.
- 34 (4) Services not covered under paragraph (2) of this subsection
35 and performed entirely without this State, with respect to no part of
36 which contributions are required and paid under an unemployment
37 compensation law of any other state or of the federal government,
38 shall be deemed to be employment subject to this chapter
39 (R.S.43:21-1 et seq.) if the individual performing such services is a
40 resident of this State and the employing unit for whom such
41 services are performed files with the division an election that the
42 entire service of such individual shall be deemed to be employment
43 subject to this chapter (R.S.43:21-1 et seq.).
- 44 (5) Service shall be deemed to be localized within a state if:
- 45 (A) The service is performed entirely within such state; or
- 46 (B) The service is performed both within and without such state,
47 but the service performed without such state is incidental to the

1 individual's service within the state; for example, is temporary or
2 transitory in nature or consists of isolated transactions.

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

7 (A) Such individual has been and will continue to be free from
8 control or direction over the performance of such service, both
9 under his contract of service and in fact;

10 (B) Such service is either outside the usual course of the business
11 for which such service is performed, or that such service is
12 performed outside of all the places of business of the enterprise for
13 which such service is performed; and

14 (C) Such individual is customarily engaged in an independently
15 established trade, occupation, profession or business.

16 (7) Provided that such services are also exempt under the Federal
17 Unemployment Tax Act, as amended, or that contributions with
18 respect to such services are not required to be paid into a state
19 unemployment fund as a condition for a tax offset credit against the
20 tax imposed by the Federal Unemployment Tax Act, as amended,
21 the term "employment" shall not include:

22 (A) Agricultural labor performed prior to January 1, 1978; and
23 after December 31, 1977, only if performed in a calendar year for
24 an entity which is not an employer as defined in the "unemployment
25 compensation law," (R.S.43:21-1 et seq.) as of January 1 of such
26 calendar year; or unless performed for an employing unit which

27 (i) during a calendar quarter in either the current or the preceding
28 calendar year paid remuneration in cash of \$20,000.00 or more to
29 individuals employed in agricultural labor, or

30 (ii) for some portion of a day in each of 20 different calendar
31 weeks, whether or not such weeks were consecutive, in either the
32 current or the preceding calendar year, employed in agricultural
33 labor 10 or more individuals, regardless of whether they were
34 employed at the same moment in time;

35 (B) Domestic service in a private home performed prior to
36 January 1, 1978; and after December 31, 1977, unless performed in
37 the private home of an employing unit which paid cash
38 remuneration of \$1,000.00 or more to one or more individuals for
39 such domestic service in any calendar quarter in the current or
40 preceding calendar year;

41 (C) Service performed by an individual in the employ of his son,
42 daughter or spouse, and service performed by a child under the age
43 of 18 in the employ of his father or mother;

44 (D) Service performed prior to January 1, 1978, in the employ of
45 this State or of any political subdivision thereof or of any
46 instrumentality of this State or its political subdivisions, except as
47 provided in R.S.43:21-19 (i) (1) (B) above, and service in the
48 employ of the South Jersey Port Corporation or its successors;

1 (E) Service performed in the employ of any other state or its
2 political subdivisions or of an instrumentality of any other state or
3 states or their political subdivisions to the extent that such
4 instrumentality is with respect to such service exempt under the
5 Constitution of the United States from the tax imposed under the
6 Federal Unemployment Tax Act, as amended, except as provided in
7 R.S.43:21-19 (i) (1) (B) above;

8 (F) Service performed in the employ of the United States
9 Government or of any instrumentality of the United States exempt
10 under the Constitution of the United States from the contributions
11 imposed by the "unemployment compensation law," except that to
12 the extent that the Congress of the United States shall permit states
13 to require any instrumentalities of the United States to make
14 payments into an unemployment fund under a state unemployment
15 compensation law, all of the provisions of this act shall be
16 applicable to such instrumentalities, and to service performed for
17 such instrumentalities, in the same manner, to the same extent and
18 on the same terms as to all other employers, employing units,
19 individuals and services; provided that if this State shall not be
20 certified for any year by the Secretary of Labor of the United States
21 under section 3304 of the federal Internal Revenue Code of 1986
22 (26 U.S.C. s.3304), the payments required of such instrumentalities
23 with respect to such year shall be refunded by the division from the
24 fund in the same manner and within the same period as is provided
25 in R.S.43:21-14 (f) with respect to contributions erroneously paid to
26 or collected by the division;

27 (G) Services performed in the employ of fraternal beneficiary
28 societies, orders, or associations operating under the lodge system
29 or for the exclusive benefit of the members of a fraternity itself
30 operating under the lodge system and providing for the payment of
31 life, sick, accident, or other benefits to the members of such society,
32 order, or association, or their dependents;

33 (H) Services performed as a member of the board of directors, a
34 board of trustees, a board of managers, or a committee of any bank,
35 building and loan, or savings and loan association, incorporated or
36 organized under the laws of this State or of the United States, where
37 such services do not constitute the principal employment of the
38 individual;

39 (I) Service with respect to which unemployment insurance is
40 payable under an unemployment insurance program established by
41 an Act of Congress;

42 (J) Service performed by agents of mutual fund brokers or
43 dealers in the sale of mutual funds or other securities, by agents of
44 insurance companies, exclusive of industrial insurance agents or by
45 agents of investment companies, if the compensation to such agents
46 for such services is wholly on a commission basis;

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

1 (L) Services performed in the employ of any veterans'
2 organization chartered by Act of Congress or of any auxiliary
3 thereof, no part of the net earnings of which organization, or
4 auxiliary thereof, inures to the benefit of any private shareholder or
5 individual;

6 (M) Service performed for or in behalf of the owner or operator
7 of any theater, ballroom, amusement hall or other place of
8 entertainment, not in excess of 10 weeks in any calendar year for
9 the same owner or operator, by any leader or musician of a band or
10 orchestra, commonly called a "name band," entertainer, vaudeville
11 artist, actor, actress, singer or other entertainer;

12 (N) Services performed after January 1, 1973 by an individual
13 for a labor union organization, known and recognized as a union
14 local, as a member of a committee or committees reimbursed by the
15 union local for time lost from regular employment, or as a part-time
16 officer of a union local and the remuneration for such services is
17 less than \$1,000.00 in a calendar year;

18 (O) Services performed in the sale or distribution of merchandise
19 by home-to-home salespersons or in-the-home demonstrators whose
20 remuneration consists wholly of commissions or commissions and
21 bonuses;

22 (P) Service performed in the employ of a foreign government,
23 including service as a consular, nondiplomatic representative, or
24 other officer or employee;

25 (Q) Service performed in the employ of an instrumentality
26 wholly owned by a foreign government if (i) the service is of a
27 character similar to that performed in foreign countries by
28 employees of the United States Government or of an instrumentality
29 thereof, and (ii) the division finds that the United States Secretary
30 of State has certified to the United States Secretary of the Treasury
31 that the foreign government, with respect to whose instrumentality
32 exemption is claimed, grants an equivalent exemption with respect
33 to similar services performed in the foreign country by employees
34 of the United States Government and of instrumentalities thereof;

35 (R) Service in the employ of an international organization
36 entitled to enjoy the privileges, exemptions and immunities under
37 the International Organizations Immunities Act (22 U.S.C. s.288 et
38 seq.);

39 (S) Service covered by an election duly approved by an agency
40 charged with the administration of any other state or federal
41 unemployment compensation or employment security law, in
42 accordance with an arrangement pursuant to R.S.43:21-21 during
43 the effective period of such election;

44 (T) Service performed in the employ of a school, college, or
45 university if such service is performed (i) by a student enrolled at
46 such school, college, or university on a full-time basis in an
47 educational program or completing such educational program
48 leading to a degree at any of the severally recognized levels, or (ii)

1 by the spouse of such a student, if such spouse is advised at the time
2 such spouse commences to perform such service that (I) the
3 employment of such spouse to perform such service is provided
4 under a program to provide financial assistance to such student by
5 such school, college, or university, and (II) such employment will
6 not be covered by any program of unemployment insurance;

7 (U) Service performed by an individual who is enrolled at a
8 nonprofit or public educational institution which normally
9 maintains a regular faculty and curriculum and normally has a
10 regularly organized body of students in attendance at the place
11 where its educational activities are carried on, as a student in a full-
12 time program, taken for credit at such institution, which combines
13 academic instruction with work experience, if such service is an
14 integral part of such program, and such institution has so certified
15 to the employer, except that this subparagraph shall not apply to
16 service performed in a program established for or on behalf of an
17 employer or group of employers;

18 (V) Service performed in the employ of a hospital, if such
19 service is performed by a patient of the hospital; service performed
20 as a student nurse in the employ of a hospital or a nurses' training
21 school by an individual who is enrolled and regularly attending
22 classes in a nurses' training school approved under the laws of this
23 State;

24 (W) Services performed after the effective date of this
25 amendatory act by agents of mutual benefit associations if the
26 compensation to such agents for such services is wholly on a
27 commission basis;

28 (X) Services performed by operators of motor vehicles weighing
29 18,000 pounds or more, licensed for commercial use and used for
30 the highway movement of motor freight, who own their equipment
31 or who lease or finance the purchase of their equipment through an
32 entity which is not owned or controlled directly or indirectly by the
33 entity for which the services were performed and who were
34 compensated by receiving a percentage of the gross revenue
35 generated by the transportation move or by a schedule of payment
36 based on the distance and weight of the transportation move;

37 (Y) (Deleted by amendment, P.L.2009, c.211.)

38 (Z) Services performed, using facilities provided by a travel
39 agent, by a person, commonly known as an outside travel agent,
40 who acts as an independent contractor, is paid on a commission
41 basis, sets his own work schedule and receives no benefits, sick
42 leave, vacation or other leave from the travel agent owning the
43 facilities.

44 (AA) Services provided by a commercial fisherman whose
45 compensation is comprised solely of a percentage of fish caught or
46 a percentage of the proceeds from the sale of the catch.

47 (8) If one-half or more of the services in any pay period
48 performed by an individual for an employing unit constitutes

1 employment, all the services of such individual shall be deemed to
2 be employment; but if more than one-half of the service in any pay
3 period performed by an individual for an employing unit does not
4 constitute employment, then none of the service of such individual
5 shall be deemed to be employment. As used in this paragraph, the
6 term "pay period" means a period of not more than 31 consecutive
7 days for which a payment for service is ordinarily made by an
8 employing unit to individuals in its employ.

9 (9) Services performed by the owner of a limousine franchise
10 (franchisee) shall not be deemed to be employment subject to the
11 "unemployment compensation law," R.S.43:21-1 et seq., with
12 regard to the franchisor if:

13 (A) The limousine franchisee is incorporated;

14 (B) The franchisee is subject to regulation by the Interstate
15 Commerce Commission;

16 (C) The limousine franchise exists pursuant to a written franchise
17 arrangement between the franchisee and the franchisor as defined
18 by section 3 of P.L.1971, c.356 (C.56:10-3); and

19 (D) The franchisee registers with the Department of Labor and
20 Workforce Development and receives an employer registration
21 number.

22 (10) Services performed by a legal transcriber, or certified court
23 reporter certified pursuant to P.L.1940, c.175 (C.45:15B-1 et seq.),
24 shall not be deemed to be employment subject to the
25 "unemployment compensation law," R.S.43:21-1 et seq., if those
26 services are provided to a third party by the transcriber or reporter
27 who is referred to the third party pursuant to an agreement with
28 another legal transcriber or legal transcription service, or certified
29 court reporter or court reporting service, on a freelance basis,
30 compensation for which is based upon a fee per transcript page, flat
31 attendance fee, or other flat minimum fee, or combination thereof,
32 set forth in the agreement.

33 For purposes of this paragraph (10): "legal transcription service"
34 and "legal transcribing" mean making use, by audio, video or voice
35 recording, of a verbatim record of court proceedings, depositions,
36 other judicial proceedings, meetings of boards, agencies,
37 corporations, or other bodies or groups, and causing that record to
38 be printed in readable form or produced on a computer screen in
39 readable form; and "legal transcriber" means a person who engages
40 in "legal transcribing."

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

44 (k) (Deleted by amendment, P.L.1984, c.24.)

45 (l) "State" includes, in addition to the states of the United States
46 of America, the District of Columbia, the Virgin Islands and Puerto
47 Rico.

48 (m) "Unemployment."

1 (1) An individual shall be deemed "unemployed" for any week
2 during which:

3 (A) The individual is not engaged in full-time work and with
4 respect to which his remuneration is less than his weekly benefit
5 rate, including any week during which he is on vacation without
6 pay; provided such vacation is not the result of the individual's
7 voluntary action, except that for benefit years commencing on or
8 after July 1, 1984, an officer of a corporation, or a person who has
9 more than a 5% equitable or debt interest in the corporation, whose
10 claim for benefits is based on wages with that corporation shall not
11 be deemed to be unemployed in any week during the individual's
12 term of office or ownership in the corporation; or

13 (B) The individual is eligible for and receiving a self-
14 employment assistance allowance pursuant to the requirements of
15 P.L.1995, c.394 (C.43:21-67 et al.).

16 (2) The term "remuneration" with respect to any individual for
17 benefit years commencing on or after July 1, 1961, and as used in
18 this subsection, shall include only that part of the same which in
19 any week exceeds 20% of his weekly benefit rate (fractional parts
20 of a dollar omitted) or \$5.00, whichever is the larger, and shall not
21 include any moneys paid to an individual by a county board of
22 elections for work as a board worker on an election day or for work
23 pursuant to subsection d. of section 1 of P.L.2021, c.40 (C.19:15A-
24 1) during the early voting period.

25 (3) An individual's week of unemployment shall be deemed to
26 commence only after the individual has filed a claim at an
27 unemployment insurance claims office, except as the division may
28 by regulation otherwise prescribe.

29 (n) "Unemployment compensation administration fund" means
30 the unemployment compensation administration fund established by
31 this chapter (R.S.43:21-1 et seq.), from which administrative
32 expenses under this chapter (R.S.43:21-1 et seq.) shall be paid.

33 (o) "Wages" means remuneration paid by employers for
34 employment. If a worker receives gratuities regularly in the course
35 of his employment from other than his employer, his "wages" shall
36 also include the gratuities so received, if reported in writing to his
37 employer in accordance with regulations of the division, and if not
38 so reported, his "wages" shall be determined in accordance with the
39 minimum wage rates prescribed under any labor law or regulation
40 of this State or of the United States, or the amount of remuneration
41 actually received by the employee from his employer, whichever is
42 the higher.

43 (p) "Remuneration" means all compensation for personal
44 services, including commission and bonuses and the cash value of
45 all compensation in any medium other than cash.

46 (q) "Week" means for benefit years commencing on or after
47 October 1, 1984, the calendar week ending at midnight Saturday, or
48 as the division may by regulation prescribe.

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

4 (s) "Investment company" means any company as defined in
5 subsection a. of section 1 of P.L.1938, c.322 (C.17:16A-1).

6 (t) (1) (Deleted by amendment, P.L.2001, c.17).

7 (2) "Base week," commencing on or after January 1, 1996 and
8 before January 1, 2001, means:

9 (A) Any calendar week during which the individual earned in
10 employment from an employer remuneration not less than an
11 amount which is 20% of the Statewide average weekly
12 remuneration defined in subsection (c) of R.S.43:21-3 which
13 amount shall be adjusted to the next higher multiple of \$1.00 if not
14 already a multiple thereof, except that if in any calendar week an
15 individual subject to this subparagraph (A) is in employment with
16 more than one employer, the individual may in that calendar week
17 establish a base week with respect to each of the employers from
18 whom the individual earns remuneration equal to not less than the
19 amount defined in this subparagraph (A) during that week; or

20 (B) If the individual does not establish in his base year 20 or
21 more base weeks as defined in subparagraph (A) of this paragraph
22 (2), any calendar week of an individual's base year during which the
23 individual earned in employment from an employer remuneration
24 not less than an amount 20 times the minimum wage in effect
25 pursuant to section 5 of P.L.1966, c.113 (C.34:11-56a4) on October
26 1 of the calendar year preceding the calendar year in which the
27 benefit year commences, which amount shall be adjusted to the next
28 higher multiple of \$1.00 if not already a multiple thereof, except
29 that if in any calendar week an individual subject to this
30 subparagraph (B) is in employment with more than one employer,
31 the individual may in that calendar week establish a base week with
32 respect to each of the employers from whom the individual earns
33 remuneration not less than the amount defined in this subparagraph
34 (B) during that week.

35 (3) "Base week," commencing on or after January 1, 2001,
36 means any calendar week during which the individual earned in
37 employment from an employer remuneration not less than an
38 amount 20 times the minimum wage in effect pursuant to section 5
39 of P.L.1966, c.113 (C.34:11-56a4) on October 1 of the calendar
40 year preceding the calendar year in which the benefit year
41 commences, which amount shall be adjusted to the next higher
42 multiple of \$1.00 if not already a multiple thereof, except that if in
43 any calendar week an individual subject to this paragraph (3) is in
44 employment with more than one employer, the individual may in
45 that calendar week establish a base week with respect to each of the
46 employers from whom the individual earns remuneration equal to
47 not less than the amount defined in this paragraph (3) during that
48 week.

1 (u) "Average weekly wage" means the amount derived by
2 dividing an individual's total base year wages **【received during his**
3 **base year base weeks (as defined in subsection (t) of this section)**
4 **from that most recent base year employer with whom he has**
5 **established at least 20 base weeks, by the number of base weeks in**
6 **which such wages were earned】** by the number of base weeks
7 worked by the individual during the base year; provided that for the
8 purpose of computing the average weekly wage, the maximum
9 number of base weeks used in the divisor shall be 52. In the event
10 that such claimant had no employer in his base year with whom he
11 had established at least 20 base weeks, then such individual's
12 average weekly wage shall be computed as if all of his base week
13 wages were received from one employer and as if all his base weeks
14 of employment had been performed in the employ of one employer.

15 For the purpose of computing the average weekly wage, the
16 monetary alternative in subparagraph (B) of **【paragraph (2)】**
17 paragraph (4) or subparagraph (B) of paragraph (5) of subsection
18 (e) of R.S.43:21-4 shall only apply in those instances where the
19 individual did not have at least 20 base weeks in the base year.
20 **【For benefit years commencing on or after July 1, 1986, "average**
21 **weekly wage" means the amount derived by dividing an individual's**
22 **total base year wages by the number of base weeks worked by the**
23 **individual during the base year; provided that for the purpose of**
24 **computing the average weekly wage, the maximum number of base**
25 **weeks used in the divisor shall be 52.】**

26 (v) "Initial determination" means, subject to the provisions of
27 R.S.43:21-6(b)(2) and (3), a determination of benefit rights as
28 measured by an eligible individual's base year employment with a
29 single employer covering all periods of employment with that
30 employer during the base year.

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

34 (x) "Most recent base year employer" means that employer with
35 whom the individual most recently, in point of time, performed
36 service in employment in the base year.

37 (y) (1) "Educational institution" means any public or other
38 nonprofit institution (including an institution of higher education):

39 (A) In which participants, trainees, or students are offered an
40 organized course of study or training designed to transfer to them
41 knowledge, skills, information, doctrines, attitudes or abilities from,
42 by or under the guidance of an instructor or teacher;

43 (B) Which is approved, licensed or issued a permit to operate as
44 a school by the State Department of Education or other government
45 agency that is authorized within the State to approve, license or
46 issue a permit for the operation of a school; and

1 (C) Which offers courses of study or training which may be
2 academic, technical, trade, or preparation for gainful employment in
3 a recognized occupation.

4 (2) "Institution of higher education" means an educational
5 institution which:

6 (A) Admits as regular students only individuals having a
7 certificate of graduation from a high school, or the recognized
8 equivalent of such a certificate;

9 (B) Is legally authorized in this State to provide a program of
10 education beyond high school;

11 (C) Provides an educational program for which it awards a
12 bachelor's or higher degree, or provides a program which is
13 acceptable for full credit toward such a degree, a program of post-
14 graduate or post-doctoral studies, or a program of training to
15 prepare students for gainful employment in a recognized
16 occupation; and

17 (D) Is a public or other nonprofit institution.

18 Notwithstanding any of the foregoing provisions of this
19 subsection, all colleges and universities in this State are institutions
20 of higher education for purposes of this section.

21 (z) "Hospital" means an institution which has been licensed,
22 certified or approved under the law of this State as a hospital.

23 (cf: P.L.2022, c.71, s.4)

24

25 8. Section 2 of P.L.1981, c.90 (C.43:21-24.19) is amended to
26 read as follows:

27 2. a. Notwithstanding the provisions of section 6 of P.L.1970, c.
28 324 (C. 43:21-24.12) an individual shall be ineligible for payment
29 of extended benefits for any week of unemployment in his
30 eligibility period if it is determined during such period:

31 (1) The individual failed to accept any offer of suitable work as
32 defined in paragraph c. or failed to apply for any suitable work to
33 which the individual was referred to by the employment service or
34 the director; or

35 (2) The individual failed to actively engage in seeking work as
36 prescribed under paragraph e.

37 b. Any individual who has been found ineligible for extended
38 benefits by reason of the provisions in paragraph a. of this section
39 shall also be denied benefits beginning with the first day of the
40 week following the week in which the failure occurred and until the
41 individual has been employed in each of 4 subsequent weeks
42 (whether or not consecutive) and has earned remuneration equal to
43 not less than 4 times the individual's weekly extended benefit rate.

44 c. For purposes of this section the term suitable work means,
45 with respect to any individual, any work which is within such
46 individual's capabilities; this work shall be held to be suitable
47 only:

1 (1) If the gross average weekly remuneration payable for the
2 work exceeds the sum of: the individual's weekly extended benefit
3 rate as determined under section 8 of P.L.1970, c. 324 (C. 43:21-
4 24.14), plus the amount, if any, of supplemental unemployment
5 benefits (as defined in Section 501(c)(17) of the Internal Revenue
6 Code of 1954) payable to the individual for the respective week;

7 (2) If the position pays wages not less than the higher of

8 (a) The minimum wage provided by Section 6(a)(1) of the Fair
9 Labor Standards Act of 1938 (29 U.S.C. s. 206), without regard to
10 any exemption; or

11 (b) The applicable state or local minimum wage;

12 (3) Provided, however, that no individual shall be denied
13 extended benefits for failure to accept an offer of or apply for any
14 job which meets the definition of suitable work as described above
15 if:

16 (a) The position was not offered to the individual in writing or
17 was not listed with the employment service;

18 (b) The failure could not result in a denial of benefits under the
19 definition of suitable work for regular benefits as provided under
20 subsection (c) of R.S. 43:21-5 to the extent that the criteria of
21 suitability in that section are not inconsistent with the provisions of
22 this paragraph c.;

23 (c) The individual furnishes satisfactory evidence to the division
24 that his prospects for obtaining work in his customary occupation
25 within a reasonably short period are good. If the evidence is
26 deemed satisfactory for this purpose, the determination of whether
27 any work is suitable with respect to the individual shall be made in
28 accordance with the definition of suitable work for regular benefit
29 claimants as provided under subsection (c) of R.S. 43:21-5 without
30 regard to the definition specified by this paragraph c.

31 d. Notwithstanding the provisions of section 6 of P.L.1970, c.
32 324 (C. 43:21-24.12) to the contrary, no work shall be deemed to be
33 suitable work for an individual which does not accord with the labor
34 standard provisions required by Section 3304(a)(5) of the Internal
35 Revenue Code of 1954 and subsection (c) of R.S. 43:21-5.

36 e. For the purposes of subparagraph (2) of paragraph a. of this
37 section, an individual shall be treated as actively engaged in
38 seeking work during any week if

39 (1) The individual has engaged in a systematic and sustained
40 effort to obtain work during the week, and

41 (2) The individual furnishes tangible evidence that he has
42 engaged in this effort during the week.

43 f. The employment service shall refer any claimant entitled to
44 extended benefits under this act to any suitable work which meets
45 the criteria prescribed in paragraph c.

46 g. An individual who has been disqualified for regular benefits
47 under the provisions of subsection (b) or (c) of R.S. 43:21-5 will not
48 meet the eligibility requirements for the payment of extended

benefits unless the individual has **【**had employment subsequent to the effective date of disqualification for regular benefits and has earned in employment remuneration equal to not less than four times the individual's weekly benefit rate**】** completed the period of disqualification under subsection (b) or (c) of R.S. 43:21-5, and would otherwise be eligible for the payment of extended benefits.

h. (1) An individual claiming extended benefits who is an exhaustee, as defined under paragraph j. of section 5 of P.L.1970, c. 324 (C. 43:21-24.11), and who is subsequently discharged or suspended for misconduct connected with his work as provided in subsection (b) of R.S. 43:21-5, shall be disqualified for extended benefits for the week in which the separation occurs and for each week thereafter until he has earned in employment remuneration equal to at least four times his weekly extended benefit rate, notwithstanding the disqualifying period for regular benefits for misconduct imposed under the provisions of subsection (b) of R.S. 43:21-5.

(2) An individual claiming extended benefits who is an exhaustee, as defined under paragraph j. of section 5 of P.L.1970, c. 324 (C. 43:21-24.11), but has satisfied the requirements of subparagraph c.(3)(c) of this section concerning prospects for employment, and who subsequently fails without good cause either to apply for available, suitable work when so directed by the employment office or the director or to accept suitable work as defined in subsection (c) of R.S. 43:21-5 when offered to him, or to return to his customary self-employment when directed by the director, shall be disqualified for extended benefits. The disqualification shall be only for the week in which the refusal occurs and for each week thereafter, until he has earned in employment remuneration equal to at least four times his weekly extended benefit rate, notwithstanding the disqualifying period for regular benefits for the refusal normally imposed under the provisions of subsection (c) of R.S. 43:21-5 or the disqualification imposed in paragraph b. of this section for individuals who have not satisfied the requirements of subparagraph c.(3)(c) of this section. (cf: P.L.1982, c.144, s.5)

9. This act shall take effect immediately, except that sections 4 and 6 of this act shall be effective retroactively to July 31, 2023.

STATEMENT

This bill amends the State law regarding unemployment insurance (UI) to:

1. Add any disabled, unmarried adult child of a UI benefit claimant, whose disability began before the age of 22, to the

1 dependents counted for the purpose of calculating weekly UI
2 benefit amounts.

3 2. Provide that an individual otherwise eligible for UI benefits
4 is not deemed ineligible for the benefits solely because the
5 individual is a student in full-time attendance, or on vacation from,
6 at an educational institution, so long as the individual remains
7 available for work, eliminating the current benefit eligibility
8 requirement for the individual to have earned sufficient wages while
9 enrolled in full-time in education.

10 3. Shift the current provisions of the UI law that permit the
11 payment of UI benefits to a claimant who is a participant in a
12 department-approved training program from being an exception to
13 the disqualification from benefits when enrolled in full-time
14 education to being a circumstance under which a claimant is
15 eligible, and specify that the claimant's participation in the program
16 is required to be in accordance with the provisions of paragraph (4)
17 of subsection (c) of R.S.43:21-4, which states that a claimant is not
18 disqualified for benefits for failing or refusing to accept work while
19 attending the program.

20 4. Permit a claimant to request that the department make its
21 notification of its initial determination of the benefit claim by
22 electronic means.

23 5. Provide that the current requirement that benefits paid
24 pending an appeal be paid according to the initial determination
25 applies only to the period before the appeal tribunal makes a
26 decision regarding the appeal and provide that the benefits then will
27 be paid according to the decision of the appeal tribunal, pending
28 any appeal of the appeal tribunal decision made to the board of
29 review.

30 6. Remove the requirement in the current law that in cases
31 where an appeal made by an employer of a charge to its UI tax
32 account results in a reduction of benefits to a claimant, any
33 overpayment of benefits paid before the resolution of the appeal is
34 charged to the employer's UI tax account.

35 7. Require the Department of Labor and Workforce
36 Development to develop a mechanism for claimants to have
37 electronic access to their own benefit payment status and history.

38 8. Remove the provision of current law that a claimant is not
39 required to repay any of an overpayment of UI benefits if the
40 overpayment is not caused by a knowing, fraudulent nondisclosure
41 or misrepresentation by the claimant or representative of the
42 claimant, and is not required to repay more than 50 percent of the
43 overpayment if it was made because of both claimant error and
44 department error or employer error or nondisclosure, but without
45 knowing, fraudulent nondisclosure or misrepresentation by the
46 claimant. Instead, the bill provides that if a claimant requests a
47 waiver of the repayment, the department is required to provide a
48 full waiver repayment if the claimant did not withhold or

1 misrepresent any material fact to obtain benefits and the
2 overpayment is due to an error of the department or an error of the
3 employer or failure of the employers to provide information, or also
4 if the claimant has died or become disabled, or recovery is
5 determined to be contrary to equity and good conscience. The bill
6 also requires the department to provide a waiver, even if the
7 claimant makes no request, for an overpayment caused by
8 department error, employer error, or employer failure to provide
9 information, if the department has determined that the claimant did
10 not misrepresent or withhold any material fact to obtain benefits.

11 9. Provide that the calculation of the claimant's average weekly
12 wage used to determine a claimant's weekly benefit amount is
13 based on wages with all base year employers, not just the wages of
14 the most recent employer before the layoff, but with the total
15 number of base weeks limited to 52. The bill also prevents a base-
16 year employer's UI tax account from being charged for UI benefits
17 paid to a claimant while the claimant continues to work for that
18 employer but is laid off by another base year employer.

19 10. Remove, in the case of joint State-federal extended UI
20 benefits, the requirement that a claimant who has been disqualified
21 because of misconduct or failure to apply for or accept suitable
22 work not receive benefits until the claimant is reemployed and earns
23 at least four times the claimant's weekly benefit rate, and replace
24 that by providing that the claimant need only complete the period of
25 regular UI disqualification to be eligible for the extended benefits.

26 The provisions of sections 4 and 6 of the bill apply retroactively
27 back to July 21, 2023. Because all of the provisions of the current
28 law which are removed by section 4 and 6 of the bill were added by
29 P.L.2022, c.120 which went into effect on that date, having those
30 sections apply retroactively to that date would make it as if those
31 provisions had never been allowed to take effect.

32

33

34

35

36 Revises unemployment compensation law.

CHAPTER 102

AN ACT concerning unemployment compensation and amending various parts of the statutory law.

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

1. R.S.43:21-3 is amended to read as follows:

Benefits.

43:21-3. Benefits.

(a) Payment of benefits.

All benefits shall be promptly paid from the fund in accordance with such regulations as may be prescribed hereunder.

(b) Weekly benefits for unemployment.

With respect to an individual's benefit year commencing on or after July 1, 1961, such individual, if eligible and unemployed (as defined in subsection (m) of R.S.43:21-19), shall be paid an amount (except as to final payment) equal to his weekly benefit rate less any remuneration, other than remuneration from self-employment paid to an individual who is receiving a self-employment assistance allowance, paid or payable to him for such week in excess of 20% of his weekly benefit rate (fractional part of a dollar omitted) or \$5.00, whichever is the greater; provided that such amount shall be computed to the next lower multiple of \$1.00 if not already a multiple thereof.

(c) Weekly benefit rate.

(1) With respect to an individual whose benefit year commences after September 30, 1984, his weekly benefit rate under each determination shall be 60% of his average weekly wage, subject to a maximum of 56 ²/₃ % of the Statewide average weekly remuneration paid to workers by employers subject to this chapter (R.S.43:21-1 et seq.), as determined and promulgated by the Commissioner of Labor and Workforce Development; provided, however, that such individual's weekly benefit rate shall be computed to the next lower multiple of \$1.00 if not already a multiple thereof.

(2) Dependency benefits.

(A) With respect to an individual whose benefit year commences after September 30, 1984, the individual's weekly benefit rate as determined in paragraph (1) of this subsection (c) will be increased by 7% for the first dependent and 4% each for the next two dependents (up to a maximum of three dependents), computed to the next lower multiple of \$1.00 if not already a multiple thereof, except that the maximum weekly benefit rate payable for an individual claiming dependency benefits shall not exceed the maximum amount determined under paragraph (1) of this subsection (c).

(B) For the purposes of this paragraph (2), a dependent is defined as an individual's unemployed spouse or an unemployed unmarried child (including a stepchild or a legally adopted child) under the age of 19, an unemployed unmarried child, who is attending an educational institution as defined in subsection (y) of R.S.43:21-19 on a full-time basis and is under the age of 22, or an unemployed unmarried disabled adult child who has blindness or a disability which began before the age of 22. The burden of proof shall be on the claimant to establish that an individual is a dependent, as that term is defined in this subparagraph (B). For the purpose of this subparagraph (B), blindness or disability shall be determined using the standard set forth within 20 C.F.R. Part 404, Subpart P, which is used by the Social Security Administration to determine disability and blindness when evaluating eligibility for Disabled Adult Child benefits under the Social Security Act. For the purpose of determining under this subparagraph (B) whether an individual is a dependent, because the individual is an adult child

who has blindness or a disability which began before the age of 22, written proof of a determination by the Social Security Administration that the individual is currently eligible for Disabled Adult Child benefits under the Social Security Act shall be considered conclusive proof of dependent status. If an individual's spouse is employed during the week the individual files an initial claim for benefits, this paragraph (2) shall not apply. If both spouses establish a claim for benefits in accordance with the provisions of this chapter (R.S.43:21-1 et seq.), only one shall be entitled to dependency benefits as provided in this paragraph (2).

(C) Any determination establishing dependency benefits under this paragraph (2) shall remain fixed for the duration of the individual's benefit year and shall not be increased or decreased unless it is determined by the division that the individual wrongfully claimed dependency benefits as a result of false or fraudulent representation.

(D) Notwithstanding the provisions of any other law, the division shall use every available administrative means to insure that dependency benefits are paid only to individuals who meet the requirements of this paragraph (2). These administrative actions may include, but shall not be limited to, the following:

(i) All married individuals claiming dependents under this paragraph (2) shall be required to provide the social security number of the individual's spouse. If the individual indicates that the spouse is unemployed, the division shall match the social security number of the spouse against available wage records to determine whether earnings were reported on the last quarterly earnings report filed by employers under R.S.43:21-14. If earnings were reported, the division shall contact in writing the last employer to determine whether the spouse is currently employed.

(ii) Where a child is claimed as a dependent by an individual under this paragraph (2), the individual shall be required to provide to the division the most recent federal income tax return filed by the individual to assist the division in verifying the claim.

(3) For the purposes of this subsection (c), the "Statewide average weekly remuneration paid to workers by employers" shall be computed and determined by the Commissioner of Labor and Workforce Development on or before September 1 of each year on the basis of one-fifty-second of the total remuneration reported for the preceding calendar year by employers subject to this chapter, divided by the average of the number of workers reported by such employers, and shall be effective as to benefit determinations in the calendar year following such computation and determination.

(d) Maximum total benefits.

(1) (A) (Deleted by amendment, P.L.2003, c.107).

(B) (i) With respect to an individual for whom benefits shall be payable for benefit years commencing on or after July 1, 1986, and before July 1, 2003 as provided in this section, the individual shall be entitled to receive a total amount of benefits equal to three-quarters of the individual's base weeks with all employers in the base year multiplied by the individual's weekly benefit rate; but the amount of benefits thus resulting under that determination shall be adjusted to the next lower multiple of \$1.00 if not already a multiple thereof. With respect to an individual for whom benefits shall be payable for benefit years commencing on or after July 1, 2003 as provided in this section, the individual shall be entitled to receive a total amount of benefits equal to the number of the individual's base weeks with all employers in the base year multiplied by the individual's weekly benefit rate; but the amount of benefits thus resulting under that determination shall be adjusted to the next lower multiple of \$1.00 if not already a multiple thereof.

(ii) Except as provided pursuant to paragraph (1) of subsection (c) of R.S.43:21-7, benefits paid to an individual for benefit years commencing on or after July 1, 1986 shall be charged against the accounts of the individual's base year employers in the following manner:

Each week of benefits paid to an eligible individual shall be charged against each base year employer's account in the same proportion that the wages paid by each employer to the individual during the base year bear to the wages paid by all employers to that individual during the base year.

(iii) (Deleted by amendment, P.L.1997, c.255.)

(2) No such individual shall be entitled to receive benefits under this chapter (R.S.43:21-1 et seq.) in excess of 26 times his weekly benefit rate in any benefit year under either of subsections (c) and (f) of R.S.43:21-4. In the event that any individual qualifies for benefits under both of said subsections during any benefit year, the maximum total amount of benefits payable under said subsections combined to such individual during the benefit year shall be one and one-half times the maximum amount of benefits payable under one of said subsections.

(3) (Deleted by amendment, P.L.1984, c.24.)

2. R.S.43:21-4 is amended to read as follows:

Benefit eligibility conditions.

43:21-4. Benefit eligibility conditions. An unemployed individual shall be eligible to receive benefits with respect to any week eligible only if:

(a) The individual has filed a claim at an unemployment insurance claims office and thereafter continues to report at an employment service office or unemployment insurance claims office, as directed by the division in accordance with such regulations as the division may prescribe, except that the division may, by regulation, waive or alter either or both of the requirements of this subsection as to individuals attached to regular jobs, and as to such other types of cases or situations with respect to which the division finds that compliance with such requirements would be oppressive, or would be inconsistent with the purpose of this act; provided that no such regulation shall conflict with subsection (a) of R.S.43:21-3.

(b) The individual has made a claim for benefits in accordance with the provisions of subsection (a) of R.S.43:21-6.

(c) (1) The individual is able to work, and is available for work, and has demonstrated to be actively seeking work, except as hereinafter provided in this subsection or in subsection (f) of this section.

(2) The director may modify the requirement of actively seeking work if such modification of this requirement is warranted by economic conditions.

(3) No individual, who is otherwise eligible, shall be deemed ineligible, or unavailable for work, because the individual is on vacation, without pay, during said week, if said vacation is not the result of the individual's own action as distinguished from any collective action of a collective bargaining agent or other action beyond the individual's control.

(4) (A) Subject to such limitations and conditions as the division may prescribe, an individual, who is otherwise eligible, shall not be deemed unavailable for work or ineligible because the individual is attending a training program approved for the individual by the division to enhance the individual's employment opportunities or because the individual failed or refused to accept work while attending such program.

(B) For the purpose of this paragraph (4), any training program shall be regarded as approved by the division for the individual if the program and the individual meet the following requirements:

(i) The training is for a labor demand occupation and is likely to enhance the individual's marketable skills and earning power, except that the training may be for an occupation other than a labor demand occupation if the individual is receiving short-time benefits pursuant to the provisions of P.L.2011, c.154 (C.43:21-20.3 et al.) and the training is necessary to prevent a likely loss of jobs;

(ii) The training is provided by a competent and reliable private or public entity approved by the Commissioner of Labor and Workforce Development pursuant to the provisions of section 8 of the "1992 New Jersey Employment and Workforce Development Act," P.L.1992, c.43 (C.34:15D-8);

(iii) The individual can reasonably be expected to complete the program, either during or after the period of benefits;

(iv) The training does not include on the job training or other training under which the individual is paid by an employer for work performed by the individual during the time that the individual receives benefits; and

(v) The individual enrolls in vocational training, remedial education or a combination of both on a full-time basis, except that the training or education may be on a part-time basis if the individual is receiving short-time benefits pursuant to the provisions of P.L.2011, c.154 (C.43:21-20.3 et al.).

(C) If the requirements of subparagraph (B) of this paragraph (4) are met, the division shall not withhold approval of the training program for the individual for any of the following reasons:

(i) The training includes remedial basic skills education necessary for the individual to successfully complete the vocational component of the training;

(ii) The training is provided in connection with a program under which the individual may obtain a college degree, including a post-graduate degree;

(iii) The length of the training period under the program; or

(iv) The lack of a prior guarantee of employment upon completion of the training.

(D) For the purpose of this paragraph (4), "labor demand occupation" means an occupation for which there is or is likely to be an excess of demand over supply for adequately trained workers, including, but not limited to, an occupation designated as a labor demand occupation by the Center for Occupational Employment Information pursuant to the provisions of subsection d. of section 27 of P.L.2005, c.354 (C.34:1A-86).

(5) An unemployed individual, who is otherwise eligible, shall not be deemed unavailable for work or ineligible solely by reason of the individual's attendance before a court in response to a summons for service on a jury.

(6) An unemployed individual, who is otherwise eligible, shall not be deemed unavailable for work or ineligible solely by reason of the individual's attendance at the funeral of an immediate family member, provided that the duration of the attendance does not extend beyond a two-day period.

For purposes of this paragraph, "immediate family member" includes any of the following individuals: father, mother, mother-in-law, father-in-law, grandmother, grandfather, grandchild, spouse, child, child placed by the Division of Youth and Family Services in the Department of Children and Families, sister or brother of the unemployed individual and any relatives of the unemployed individual residing in the unemployed individual's household.

(7) No individual, who is otherwise eligible, shall be deemed ineligible or unavailable for work with respect to any week because, during that week, the individual fails or refuses to accept work while the individual is participating on a full-time basis in self-employment assistance activities authorized by the division, whether or not the individual is receiving a self-employment allowance during that week.

(8) Any individual who is determined to be likely to exhaust regular benefits and need reemployment services based on information obtained by the worker profiling system shall not be eligible to receive benefits if the individual fails to participate in available reemployment services to which the individual is referred by the division or in similar services, unless the division determines that:

(A) The individual has completed the reemployment services; or

(B) There is justifiable cause for the failure to participate, which shall include participation in employment and training, self-employment assistance activities or other activities authorized by the division to assist reemployment or enhance the marketable skills and earning power of the individual and which shall include any other circumstance indicated pursuant to this section in which an individual is not required to be available for and actively seeking work to receive benefits.

(9) An unemployed individual, who is otherwise eligible, shall not be deemed unavailable for work or ineligible solely by reason of the individual's work as a board worker for a county board of elections on an election day.

(10) An individual who is employed by a shared work employer and is otherwise eligible for benefits shall not be deemed ineligible for short-time benefits because the individual is unavailable for work with employers other than the shared work employer, so long as:

(A) The individual is able to work and is available to work the individual's normal full-time hours for the shared work employer; or

(B) The individual is attending a training program which is in compliance with the provisions of paragraph (4) of subsection (c) of this section and the agreements and certifications required pursuant to the provisions of section 2 of P.L.2011, c.154 (C.43:21-20.4).

(11) An unemployed individual, who is otherwise eligible, shall not be deemed unavailable for work or ineligible solely because the individual is a student in full-time attendance at, or on vacation from, an educational institution, as defined in subsection (y) of R.S.43:21-19; provided that the unemployed individual's full-time attendance at the educational institution does not, in fact, result in the unemployed individual being unable to work or being unavailable for work, and provided that notwithstanding the unemployed individual's full-time attendance at the educational institution, the unemployed individual is able to demonstrate that the individual is actively seeking work.

(12) An unemployed individual, who is otherwise eligible, shall not be deemed unavailable for work or ineligible solely because the individual is attending a training program approved by the division to enhance the individual's employment opportunities, in accordance with the provisions of paragraph (4) of subsection (c) of R.S.43:21-4.

(d) With respect to any benefit year commencing before January 1, 2002, the individual has been totally or partially unemployed for a waiting period of one week in the benefit year which includes that week. When benefits become payable with respect to the third consecutive week next following the waiting period, the individual shall be eligible to receive benefits as appropriate with respect to the waiting period. No week shall be counted as a week of unemployment for the purposes of this subsection:

(1) If benefits have been paid, or are payable with respect thereto; provided that the requirements of this paragraph shall be waived with respect to any benefits paid or payable for a waiting period as provided in this subsection;

(2) If it has constituted a waiting period week under the "Temporary Disability Benefits Law," P.L.1948, c.110 (C.43:21-25 et al.);

(3) Unless the individual fulfills the requirements of subsections (a) and (c) of this section;

(4) If with respect thereto, claimant was disqualified for benefits in accordance with the provisions of subsection (d) of R.S.43:21-5.

The waiting period provided by this subsection shall not apply to benefit years commencing on or after January 1, 2002. An individual whose total benefit amount was reduced by the application of the waiting period to a claim which occurred on or after January 1, 2002 and before the effective date of P.L.2002, c.13, shall be permitted to file a claim for the additional benefits attributable to the waiting period in the form and manner prescribed by the division, but not later than the 180th day following the effective date of P.L.2002, c.13 unless the division determines that there is good cause for a later filing.

(e) (1) (Deleted by amendment, P.L.2001, c.17).

(2) (Deleted by amendment, P.L.2008, c.17).

(3) (Deleted by amendment, P.L.2008, c.17).

(4) With respect to benefit years commencing on or after January 7, 2001, except as otherwise provided in paragraph (5) of this subsection, the individual has, during his base year as defined in subsection (c) of R.S.43:21-19:

(A) Established at least 20 base weeks as defined in paragraphs (2) and (3) of subsection (t) of R.S.43:21-19; or

(B) If the individual has not met the requirements of subparagraph (A) of this paragraph (4), earned remuneration not less than an amount 1,000 times the minimum wage in effect pursuant to section 5 of P.L.1966, c.113 (C.34:11-56a4) on October 1 of the calendar year preceding the calendar year in which the benefit year commences, which amount shall be adjusted to the next higher multiple of \$100 if not already a multiple thereof.

(5) With respect to benefit years commencing on or after January 7, 2001, notwithstanding the provisions of paragraph (4) of this subsection, an unemployed individual claiming benefits on the basis of service performed in the production and harvesting of agricultural crops shall, subject to the limitations of subsection (i) of R.S.43:21-19, be eligible to receive benefits if during his base year, as defined in subsection (c) of R.S.43:21-19, the individual:

(A) Has established at least 20 base weeks as defined in paragraphs (2) and (3) of subsection (t) of R.S.43:21-19; or

(B) Has earned remuneration not less than an amount 1,000 times the minimum wage in effect pursuant to section 5 of P.L.1966, c.113 (C.34:11-56a4) on October 1 of the calendar year preceding the calendar year in which the benefit year commences, which amount shall be adjusted to the next higher multiple of \$100 if not already a multiple thereof; or

(C) Has performed at least 770 hours of service in the production and harvesting of agricultural crops.

(6) The individual applying for benefits in any successive benefit year has earned at least six times his previous weekly benefit amount and has had four weeks of employment since the beginning of the immediately preceding benefit year. This provision shall be in addition to the earnings requirements specified in paragraph (4) or (5) of this subsection, as applicable.

(f) (1) The individual has suffered any accident or sickness not compensable under the workers' compensation law, R.S.34:15-1 et seq. and resulting in the individual's total disability to perform any work for remuneration, and would be eligible to receive benefits under this chapter (R.S.43:21-1 et seq.) (without regard to the maximum amount of benefits payable during any benefit year) except for the inability to work and has furnished notice and proof of claim to the division, in accordance with its rules and regulations, and payment is not precluded by the provisions of R.S.43:21-3(d); provided, however, that benefits paid under this subsection (f) shall be computed on the basis of only those base year wages earned by the claimant as a "covered individual," as defined in subsection (b) of section 3 of

P.L.1948, c.110 (C.43:21-27); provided further that no benefits shall be payable under this subsection to any individual:

(A) For any period during which such individual is not under the care of a legally licensed physician, dentist, optometrist, podiatrist, practicing psychologist, advanced practice nurse, or chiropractor, who, when requested by the division, shall certify within the scope of the practitioner's practice, the disability of the individual, the probable duration thereof, and, where applicable, the medical facts within the practitioner's knowledge;

(B) (Deleted by amendment, P.L.1980, c.90.)

(C) For any period of disability due to willfully or intentionally self-inflicted injury, or to injuries sustained in the perpetration by the individual of a crime of the first, second or third degree;

(D) For any week with respect to which or a part of which the individual has received or is seeking benefits under any unemployment compensation or disability benefits law of any other state or of the United States; provided that if the appropriate agency of such other state or the United States finally determines that the individual is not entitled to such benefits, this disqualification shall not apply;

(E) For any week with respect to which or part of which the individual has received or is seeking disability benefits under the "Temporary Disability Benefits Law," P.L.1948, c.110 (C.43:21-25 et al.);

(F) For any period of disability commencing while such individual is a "covered individual," as defined in subsection (b) of section 3 of the "Temporary Disability Benefits Law," P.L.1948, c.110 (C.43:21-27).

(2) The individual is taking family temporary disability leave to provide care for a family member with a serious health condition or to be with a child during the first 12 months after the child's birth or placement of the child for adoption or as a foster child with the individual, and the individual would be eligible to receive benefits under R.S.43:21-1 et seq. (without regard to the maximum amount of benefits payable during any benefit year) except for the individual's unavailability for work while taking the family temporary disability leave, and the individual has furnished notice and proof of claim to the division, in accordance with its rules and regulations, and payment is not precluded by the provisions of R.S.43:21-3(d) provided, however, that benefits paid under this subsection (f) shall be computed on the basis of only those base year wages earned by the claimant as a "covered individual," as defined in subsection (b) of section 3 of P.L.1948, c.110 (C.43:21-27); provided further that no benefits shall be payable under this subsection to any individual:

(A) For any week with respect to which or a part of which the individual has received or is seeking benefits under any unemployment compensation or disability benefits law of any other state or of the United States; provided that if the appropriate agency of such other state or the United States finally determines that the individual is not entitled to such benefits, this disqualification shall not apply;

(B) For any week with respect to which or part of which the individual has received or is seeking disability benefits for a disability of the individual under the "Temporary Disability Benefits Law," P.L.1948, c.110 (C.43:21-25 et al.);

(C) For any period of family temporary disability leave commencing while the individual is a "covered individual," as defined in subsection (b) of section 3 of the "Temporary Disability Benefits Law," P.L.1948, c.110 (C.43:21-27); or

(D) For any period of family temporary disability leave for a serious health condition of a family member of the claimant during which the family member is not receiving inpatient care in a hospital, hospice, or residential medical care facility and is not subject to continuing medical treatment or continuing supervision by a health care provider, who, when requested

by the division, shall certify within the scope of the provider's practice, the serious health condition of the family member, the probable duration thereof, and, where applicable, the medical facts within the provider's knowledge.

(3) Benefit payments under this subsection (f) shall be charged to and paid from the State disability benefits fund established by the "Temporary Disability Benefits Law," P.L.1948, c.110 (C.43:21-25 et al.), and shall not be charged to any employer account in computing any employer's experience rate for contributions payable under this chapter.

(g) Benefits based on service in employment defined in subparagraphs (B) and (C) of R.S.43:21-19 (i)(1) shall be payable in the same amount and on the terms and subject to the same conditions as benefits payable on the basis of other service subject to the "unemployment compensation law"; except that, notwithstanding any other provisions of the "unemployment compensation law":

(1) With respect to service performed after December 31, 1977, in an instructional, research, or principal administrative capacity for an educational institution, benefits shall not be paid based on such services for any week of unemployment commencing during the period between two successive academic years, or during a similar period between two regular terms, whether or not successive, or during a period of paid sabbatical leave provided for in the individual's contract, to any individual if such individual performs such services in the first of such academic years (or terms) and if there is a contract or a reasonable assurance that such individual will perform services in any such capacity for any educational institution in the second of such academic years or terms;

(2) With respect to weeks of unemployment beginning after September 3, 1982, on the basis of service performed in any other capacity for an educational institution, benefits shall not be paid on the basis of such services to any individual for any week which commences during a period between two successive academic years or terms if such individual performs such services in the first of such academic years or terms and there is a reasonable assurance that such individual will perform such services in the second of such academic years or terms, except that if benefits are denied to any individual under this paragraph (2) and the individual was not offered an opportunity to perform these services for the educational institution for the second of any academic years or terms, the individual shall be entitled to a retroactive payment of benefits for each week for which the individual filed a timely claim for benefits and for which benefits were denied solely by reason of this clause;

(3) With respect to those services described in paragraphs (1) and (2) above, benefits shall not be paid on the basis of such services to any individual for any week which commences during an established and customary vacation period or holiday recess if such individual performs such services in the period immediately before such vacation period or holiday recess, and there is a reasonable assurance that such individual will perform such services in the period immediately following such period or holiday recess;

(4) With respect to any services described in paragraphs (1) and (2) above, benefits shall not be paid as specified in paragraphs (1), (2), and (3) above to any individual who performed those services in an educational institution while in the employ of an educational service agency, and for this purpose the term "educational service agency" means a governmental agency or governmental entity which is established and operated exclusively for the purpose of providing those services to one or more educational institutions;

(5) As used in this subsection (g) in order for there to be a "reasonable assurance" all of the following requirements shall be met:

(A) The educational institution has made an offer of employment in the following academic year or term that is either written, oral, or implied;

(B) The offer of employment in the following academic year or term was made by an individual with actual authority to offer employment;

(C) The employment offered in the following academic year or term shall be in the same capacity;

(D) The economic conditions of the employment offered may not be considerably less in the following academic year or term than in the then current academic year or term. For the purpose of this paragraph, "considerably less" means that the claimant will earn less than 90 percent of the amount the claimant earned in the then current academic year or term;

(E) The offer of employment in the following academic year or term is not contingent upon a factor or factors that are within the educational institution's control, including but not limited to, course programming, decisions on how to allocate available funding, final course offerings, program changes, and facility availability; and

(F) Based on a totality of the circumstances, it is highly probable that there is a job available for the claimant in the following academic year or term. If a job offer contains a contingency, primary weight should be given to the contingent nature of the offer of employment. Contingencies that are not necessarily within the educational institution's control, such as funding, enrollment and seniority, may be taken into consideration but the existence of any one contingency should not determine whether it is highly probable that there is a job available for the claimant in the following academic year or term.

(6) Determinations by the department whether claimants have a "reasonable assurance" shall be done on a case-by-case basis.

(7) Each educational institution shall provide the following to the department, in a form, including electronic form, prescribed by the commissioner, no less than 10 business days prior to the end of the academic year or term:

(A) A list of all employees who the educational institution has concluded do not have a reasonable assurance of employment in the following academic year or term, along with information prescribed by the commissioner regarding each such employee, which information shall include, but not be limited to, name and social security number; and

(B) For each employee that the educational institution maintains does have a reasonable assurance of employment in the following academic year or term, a statement explaining the manner in which the employee was given a reasonable assurance of employment, that is, whether it was in writing, oral, or implied, and what information about the offer, including contingencies, was communicated to the individual.

(8) The statement required under subparagraph (B) of paragraph (7) of this subsection (g) may be used by the department in its analysis under paragraphs (5) and (6) of this subsection (g), but it does not conclusively demonstrate that the claimant has a reasonable assurance of employment in the following academic year or term.

(9) Failure of an educational institution to provide the statement required under subparagraph (B) of paragraph (7) of this subsection (g) not less than 10 business days prior to the end of the academic year or term shall result in a rebuttable presumption that the claimant does not have a reasonable assurance of employment in the following academic year or term. This rebuttable presumption shall give rise to an inference that the claimant does not have a reasonable assurance of employment in the following academic year or term, but shall not conclusively demonstrate that the claimant does not have a reasonable assurance of employment in the following academic year or term.

(10) If any part of P.L.2020, c.122 is found to be in conflict with federal requirements that are a prescribed condition to the allocation of federal funds to the State or the eligibility of employers in this State for federal unemployment tax credits, the conflicting part of that act is inoperative solely to the extent of the conflict, and the finding or determination does not affect

the operation of the remainder of this act. Rules adopted under this act shall meet federal requirements that are a necessary condition to the receipt of federal funds by the State or the granting of federal unemployment tax credits to employers in this State.

(h) Benefits shall not be paid to any individual on the basis of any services, substantially all of which consist of participating in sports or athletic events or training or preparing to so participate, for any week which commences during the period between two successive sports seasons (or similar periods) if such individual performed such services in the first of such seasons (or similar periods) and there is a reasonable assurance that such individual will perform such services in the later of such seasons (or similar periods).

(i) (1) Benefits shall not be paid on the basis of services performed by an alien unless such alien is an individual who was lawfully admitted for permanent residence at the time the services were performed and was lawfully present for the purpose of performing the services or otherwise was permanently residing in the United States under color of law at the time the services were performed (including an alien who is lawfully present in the United States as a result of the application of the provisions of section 212(d)(5) (8 U.S.C. s.1182 (d)(5)) of the Immigration and Nationality Act (8 U.S.C. s.1101 et seq.)); provided that any modifications of the provisions of section 3304(a)(14) of the Federal Unemployment Tax Act (26 U.S.C. s. 3304 (a) (14)) as provided by Pub.L.94-566, which specify other conditions or other effective dates than stated herein for the denial of benefits based on services performed by aliens and which modifications are required to be implemented under State law as a condition for full tax credit against the tax imposed by the Federal Unemployment Tax Act, shall be deemed applicable under the provisions of this section.

(2) Any data or information required of individuals applying for benefits to determine whether benefits are not payable to them because of their alien status shall be uniformly required from all applicants for benefits.

(3) In the case of an individual whose application for benefits would otherwise be approved, no determination that benefits to such individual are not payable because of alien status shall be made except upon a preponderance of the evidence.

(j) Notwithstanding any other provision of this chapter, the director may, to the extent that it may be deemed efficient and economical, provide for consolidated administration by one or more representatives or deputies of claims made pursuant to subsection (f) of this section with those made pursuant to Article III (State plan) of the "Temporary Disability Benefits Law," P.L.1948, c.110 (C.43:21-25 et al.).

3. R.S.43:21-5 is amended to read as follows:

Disqualification for benefits.

43:21-5. An individual shall be disqualified for benefits:

(a) For the week in which the individual has left work voluntarily without good cause attributable to such work, and for each week thereafter until the individual becomes reemployed and works eight weeks in employment, which may include employment for the federal government, and has earned in employment at least ten times the individual's weekly benefit rate, as determined in each case. This subsection shall apply to any individual seeking unemployment benefits on the basis of employment in the production and harvesting of agricultural crops, including any individual who was employed in the production and harvesting of agricultural crops on a contract basis and who has refused an offer of continuing work with that employer following the completion of the minimum period of work required to fulfill the contract. This subsection shall not apply to an individual who voluntarily leaves

work with one employer to accept from another employer employment which commences not more than seven days after the individual leaves employment with the first employer, if the employment with the second employer has weekly hours or pay not less than the hours or pay of the employment of the first employer, except that if the individual gives notice to the first employer that the individual will leave employment on a specified date and the first employer terminates the individual before that date, the seven-day period will commence from the specified date.

(b) For the week in which the individual has been suspended or discharged for misconduct connected with the work, and for the five weeks which immediately follow that week, as determined in each case.

"Misconduct" means conduct which is improper, intentional, connected with the individual's work, within the individual's control, not a good faith error of judgment or discretion, and is either a deliberate refusal, without good cause, to comply with the employer's lawful and reasonable rules made known to the employee or a deliberate disregard of standards of behavior the employer has a reasonable right to expect, including reasonable safety standards and reasonable standards for a workplace free of drug and substance use.

In the event the discharge should be rescinded by the employer voluntarily or as a result of mediation or arbitration, this subsection (b) shall not apply, provided, however, an individual who is restored to employment with back pay shall return any benefits received under this chapter for any week of unemployment for which the individual is subsequently compensated by the employer.

If the discharge was for gross misconduct connected with the work because of the commission of an act punishable as a crime of the first, second, third or fourth degree under the "New Jersey Code of Criminal Justice," N.J.S.2C:1-1 et seq., the individual shall be disqualified in accordance with the disqualification prescribed in subsection (a) of this section and no benefit rights shall accrue to any individual based upon wages from that employer for services rendered prior to the day upon which the individual was discharged.

The director shall ensure that any appeal of a determination holding the individual disqualified for gross misconduct in connection with the work shall be expeditiously processed by the appeal tribunal.

To sustain disqualification from benefits because of misconduct under this subsection (b), the burden of proof is upon the employer, who shall, prior to a determination by the department of misconduct, provide written documentation demonstrating that the employee's actions constitute misconduct or gross misconduct.

Nothing within this subsection (b) shall be construed to interfere with the exercise of rights protected under the "National Labor Relations Act," (29 U.S.C. s.151 et seq.) or the "New Jersey Employer-Employee Relations Act," P.L.1941, c.100 (C.34:13A-1 et seq.).

(c) If it is found that the individual has failed, without good cause, either to apply for available, suitable work when so directed by the employment office or the director or to accept suitable work when it is offered, or to return to the individual's customary self-employment (if any) when so directed by the director. The disqualification shall continue for the week in which the failure occurred and for the three weeks which immediately follow that week, as determined:

(1) In determining whether or not any work is suitable for an individual, consideration shall be given to the degree of risk involved to health, safety, and morals, the individual's physical fitness and prior training, experience and prior earnings, the individual's length of unemployment and prospects for securing local work in the individual's customary occupation, and the distance of the available work from the individual's residence. In the case of work in

the production and harvesting of agricultural crops, the work shall be deemed to be suitable without regard to the distance of the available work from the individual's residence if all costs of transportation are provided to the individual and the terms and conditions of hire are as favorable or more favorable to the individual as the terms and conditions of the individual's base year employment.

(2) Notwithstanding any other provisions of this chapter, no work shall be deemed suitable and benefits shall not be denied under this chapter to any otherwise eligible individual for refusing to accept new work under any of the following conditions: the position offered is vacant due directly to a strike, lockout, or other labor dispute; the remuneration, hours, or other conditions of the work offered are substantially less favorable to the individual than those prevailing for similar work in the locality; or, the individual, as a condition of being employed, would be required to join a company union or to resign from or refrain from joining any bona fide labor organization.

(d) If it is found that this unemployment is due to a stoppage of work which exists because of a labor dispute at the factory, establishment or other premises at which the individual is or was last employed, except as otherwise provided by this subsection (d).

(1) No disqualification under this subsection (d) shall apply if it is shown that:

(i) The individual is not participating in or financing or directly interested in the labor dispute which caused the stoppage of work; and

(ii) The individual does not belong to a grade or class of workers of which, immediately before the commencement of the stoppage, there were members employed at the premises at which the stoppage occurs, any of whom are participating in or financing or directly interested in the dispute; provided that if in any case in which subparagraphs (i) or (ii) of this paragraph (1) applies, separate branches of work which are commonly conducted as separate businesses in separate premises are conducted in separate departments of the same premises, each department shall, for the purpose of this subsection, be deemed to be a separate factory, establishment, or other premises.

(2) For any claim for a period of unemployment commencing on or after December 1, 2004 due to a stoppage of work which exists because of a labor dispute at the factory, establishment or other premises at which the individual is or was last employed, no disqualification under this subsection (d) shall apply if it is shown that the individual has been prevented from working by the employer, even though the individual's recognized or certified majority representative has directed the employees in the individual's collective bargaining unit to work under the preexisting terms and conditions of employment, and, if the period of unemployment commenced before January 1, 2022, the employees had not engaged in a strike immediately before being prevented from working, or if the a period of unemployment commenced on or after January 1, 2022, whether or not the employees had engaged in a strike immediately before being prevented from working.

(3) For any claim for a period of unemployment commencing on or after July 1, 2018 due to a stoppage of work which exists because of a labor dispute at the factory, establishment or other premises at which the individual is or was last employed, no disqualification under this subsection (d) shall apply if an issue in the labor dispute is a failure or refusal of the employer to comply with an agreement or contract between the employer and the claimant, including a collective bargaining agreement with a union representing the claimant, or a failure or refusal to comply with a State or federal law pertaining to hours, wages, or other conditions of work.

(4) For any claim for a period of unemployment commencing on or after July 1, 2018 and before January 1, 2022, if the unemployment is caused by a labor dispute, including a strike or other concerted activities of employees at the claimant's workplace, whether or not authorized

or sanctioned by a union representing the claimant, but not including a dispute subject to the provisions of paragraph (2) or (3) of this subsection (d), the claimant shall not be provided benefits for a period of the first 30 days following the commencement of the unemployment caused by the labor dispute, except that the period without benefits shall not apply if the employer hires a permanent replacement worker for the claimant's position. A replacement worker shall be presumed to be permanent unless the employer certifies in writing that the claimant will be permitted to return to his or her prior position upon conclusion of the dispute. If the employer does not permit the return, the claimant shall be entitled to recover any benefits lost as a result of the 30-day waiting period before receiving benefits, and the department may impose a penalty upon the employer of up to \$750 per employee per week of benefits lost. The penalty collected shall be paid into the unemployment compensation auxiliary fund established pursuant to subsection (g) of R.S.43:21-14. For any claim for a period of unemployment commencing on or after January 1, 2022 due to a stoppage of work which exists because of a labor dispute at the factory, establishment or other premises at which the individual is or was last employed, including a strike or other concerted activities of employees at the claimant's workplace, whether or not authorized or sanctioned by a union representing the claimant, but not including a dispute subject to the provisions of paragraph (2) or (3) of this subsection (d), the claimant shall not be provided benefits for a period of the first 14 days following the commencement of the unemployment caused by the labor dispute, except that the claimant shall be provided benefits during any part of that the 14-day period in which the employer engages the services of a replacement worker for the claimant's position, whether that replacement worker is engaged on a permanent or temporary basis, or is an existing worker reassigned permanently or temporarily from other duties to perform the duties of the claimant's position. For any claim for a period of unemployment commencing on or after January 1, 2022 which exists because of a labor dispute at the factory, establishment or other premises at which the individual is or was last employed, if the labor dispute has not resulted in a stoppage of work, no disqualification under this subsection (d) shall apply, and the 14-day waiting period in this paragraph (4) shall not apply.

(e) For any week with respect to which the individual is receiving or has received remuneration in lieu of notice.

(f) For any week with respect to which or a part of which the individual has received or is seeking unemployment benefits under an unemployment compensation law of any other state or of the United States; provided that if the appropriate agency of the other state or of the United States finally determines that the individual is not entitled to unemployment benefits, this disqualification shall not apply.

(g) (1) For a period of one year from the date of the discovery by the division of the illegal receipt or attempted receipt of benefits contrary to the provisions of this chapter, as the result of any false or fraudulent representation; provided that any disqualification may be appealed in the same manner as any other disqualification imposed hereunder; and provided further that a conviction in the courts of this State arising out of the illegal receipt or attempted receipt of these benefits in any proceeding instituted against the individual under the provisions of this chapter or any other law of this State shall be conclusive upon the appeals tribunal and the board of review.

(2) A disqualification under this subsection shall not preclude the prosecution of any civil, criminal or administrative action or proceeding to enforce other provisions of this chapter for the assessment and collection of penalties or the refund of any amounts collected as benefits under the provisions of R.S.43:21-16, or to enforce any other law, where an individual obtains or attempts to obtain by theft or robbery or false statements or representations any money from

any fund created or established under this chapter or any negotiable or nonnegotiable instrument for the payment of money from these funds, or to recover money erroneously or illegally obtained by an individual from any fund created or established under this chapter.

(h) (1) Notwithstanding any other provisions of this chapter (R.S.43:21-1 et seq.), no otherwise eligible individual shall be denied benefits for any week because the individual is in training approved under section 236(a)(1) of the "Trade Act of 1974," Pub.L.93-618 (19 U.S.C. s.2296 (a)(1)) nor shall the individual be denied benefits by reason of leaving work to enter this training, provided the work left is not suitable employment, or because of the application to any week in training of provisions in this chapter (R.S.43:21-1 et seq.), or any applicable federal unemployment compensation law, relating to availability for work, active search for work, or refusal to accept work.

(2) For purposes of this subsection (h), the term "suitable" employment means, with respect to an individual, work of a substantially equal or higher skill level than the individual's past adversely affected employment, as defined for purposes of the "Trade Act of 1974," Pub.L.93-618 (19 U.S.C. s.2101 et seq.) and wages for this work at not less than 80 percent of the individual's average weekly wage, as determined for the purposes of the "Trade Act of 1974."

(i) (Deleted by amendment, P.L.2024, c.102)

(j) Notwithstanding any other provisions of this chapter (R.S.43:21-1 et seq.), no otherwise eligible individual shall be denied benefits because the individual left work or was discharged due to circumstances resulting from the individual being a victim of domestic violence as defined in section 3 of P.L.1991, c.261 (C.2C:25-19). No employer's account shall be charged for the payment of benefits to an individual who left work due to circumstances resulting from the individual being a victim of domestic violence.

For the purposes of this subsection (j), the individual shall be treated as being a victim of domestic violence if the individual provides one or more of the following:

(1) A restraining order or other documentation of equitable relief issued by a court of competent jurisdiction;

(2) A police record documenting the domestic violence;

(3) Documentation that the perpetrator of the domestic violence has been convicted of one or more of the offenses enumerated in section 3 of P.L.1991, c.261 (C.2C:25-19);

(4) Medical documentation of the domestic violence;

(5) Certification from a certified Domestic Violence Specialist or the director of a designated domestic violence agency that the individual is a victim of domestic violence; or

(6) Other documentation or certification of the domestic violence provided by a social worker, member of the clergy, shelter worker or other professional who has assisted the individual in dealing with the domestic violence.

For the purposes of this subsection (j):

"Certified Domestic Violence Specialist" means a person who has fulfilled the requirements of certification as a Domestic Violence Specialist established by the New Jersey Association of Domestic Violence Professionals; and "designated domestic violence agency" means a county-wide organization with a primary purpose to provide services to victims of domestic violence, and which provides services that conform to the core domestic violence services profile as defined by the Division of Child Permanency and Protection in the Department of Children and Families and is under contract with the division for the express purpose of providing such services.

(k) Notwithstanding any other provisions of this chapter (R.S.43:21-1 et seq.), no otherwise eligible individual shall be denied benefits for any week in which the individual left work voluntarily and without good cause attributable to the work, if the individual left work to

accompany his or her spouse who is an active member of the United States Armed Forces, as defined in N.J.S.38A:1-1(g), to a new place of residence outside the State, due to the armed forces member's transfer to a new assignment in a different geographical location outside the State, and the individual moves to the new place of residence not more than nine months after the spouse is transferred, and upon arrival at the new place of residence the individual was in all respects available for suitable work. No employer's account shall be charged for the payment of benefits to an individual who left work under the circumstances contained in this subsection (k), except that this shall not be construed as relieving the State of New Jersey and any other governmental entity or instrumentality or nonprofit organization electing or required to make payments in lieu of contributions from its responsibility to make all benefit payments otherwise required by law and from being charged for those benefits as otherwise required by law.

4. R.S.43:21-6 is amended to read as follows:

Claims for benefits.

43:21-6. (a) Filing. (1) Claims for benefits shall be made in accordance with such regulations as the Director of the Division of Unemployment and Temporary Disability Insurance of the Department of Labor and Workforce Development of the State of New Jersey may approve. Each employer shall post and maintain on his premises printed notices of his subject status, of such design, in such numbers and at such places as the director of the division may determine to be necessary to give notice thereof to persons in the employer's service. Each employer shall give to each individual at the time he becomes unemployed, for any reason, whether the unemployment is permanent or temporary, a printed copy of benefit instructions. The benefit instructions given to the individual shall include, but not be limited to, the following information: (A) the date upon which the individual becomes unemployed, and, in the case that the unemployment is temporary, to the extent possible, the date upon which the individual is expected to be recalled to work; and (B) that the individual may lose some or all of the benefits to which he is entitled if he fails to file a claim in a timely manner. Both the aforesaid notices and instructions, including information detailing the time sensitivity of filing a claim, and directions provided in advance to all employers regarding what information the division requires employers to provide to the division by electronic means immediately upon a separation from employment sufficient to enable the division to make a benefit determination, including any information relevant to whether the individual may be disqualified pursuant to subsections (a),(b),(d), or (e) of R.S.43:21-5, shall be supplied by the division to employers without cost to them. The directions provided to all employers in advance shall include that each employer provide the division with an email address for communications to and from the division. When an employer provides benefit instructions to the individual which disclose the date on which unemployment will commence, the employer shall immediately and simultaneously provide by electronic means that disclosure to the division together with the information required by the division pursuant to the directions provided in advance by the division. An employer who fails to make the immediate and simultaneous disclosure to the department as required by this paragraph shall be liable for the penalties imposed by subsection (b) of R.S.43:21-16 on employers for willful failure to furnish reports. The division shall notify the employer by electronic means not more than seven calendar days after the department receives the disclosure of any failure of the employer to provide all of the information needed by the division to make a benefit determination. Nothing in this section shall be construed so as to require an employer to re-hire an individual formerly in the employer's service. Nothing in this section shall be construed as requiring the division to issue a benefit determination solely

based on the information supplied by the employer. Notwithstanding the provisions of this section which require employers to provide information to the division by electronic means, and the division to provide notifications to an employer by electronic means, the commissioner shall have the discretion to establish by rule an alternate method or methods for employers to provide the required information to the division and for the division to provide the required notifications to an employer in circumstances where it is established, to the satisfaction of the commissioner, that the employer is unable to provide the information to the division or is unable to receive notifications from the division by electronic means.

(2) Any claimant may choose to certify, cancel or close his claim for unemployment insurance benefits at any time, 24 hours a day and seven days a week, via the Internet on a website developed by the division; however, any claim that is certified, cancelled or closed after 7:00 PM will not be processed by the division until the next scheduled posting date.

(3) The division may request that claimants obtain digital identity credentials, but only if the division provides opportunities for claimants to verify their identities even if they do not have the knowledge or access to the equipment needed to obtain the digital identity credentials. Any request by the division for a claimant to obtain digital identity credentials shall include a statement that the claimant may use alternative procedures to verify identification, and fully describe the alternative procedures, which shall include personal assistance in person or by phone which shall be made available by representatives of the division as needed to prevent any delay in processing claims. If the division requests that a claimant obtain digital identity credentials, and the claimant chooses to request a digital identity credential rather than utilize an alternative procedure, but is denied the digital identity credential, the division shall issue the claimant a written appealable determination.

(4) Any system that the division establishes for claimants or recipients of benefits to verify identity, to apply for, or to make appeals regarding, benefits either by phone or on-line, shall provide a clearly and prominently expressed option for the claimant or recipient, if not immediately provided personal assistance, to select from available appointment times an appointment time to speak with a representative to obtain assistance in verifying identity, filing a claim or appeal, or obtaining information regarding the status of a claim or appeal.

(b) (1) Procedure for making initial determinations with respect to benefit years commencing on or after January 1, 1953.

A representative or representatives designated by the director of the division and hereafter referred to as a "deputy" shall promptly examine any disclosure of information to the division by an employer required by paragraph (1) of subsection (a) of this section upon a separation from work and any claim for benefits, and shall, by electronic means, notify the most recent employing unit and, successively as necessary, each employer in inverse chronological order during the base year. The notification shall be made not later than seven calendar days after the employer provides to the department the disclosure required by paragraph (1) of subsection (a) of this section, or seven calendar days after the filing of the claim, whichever occurs first, and require said employing unit and employer to furnish, by electronic means, not more than seven calendar days after the notification is made, any information to the deputy which the employer failed to provide as required by paragraph (1) of subsection (a) of this section as may be necessary to determine the claimant's eligibility and his benefit rights with respect to the employer in question. The claimant shall, at the time the claim is filed, be provided any information the division has received from the employer upon the separation from work and an opportunity to respond to that information. If a claim is filed and the employer has provided the information required upon separation from work, the employer shall immediately be notified by electronic means of the opportunity to provide, by electronic means and in not more

than seven calendar days, additional information in response to the claim for benefits. If a claim is filed and the employer has failed to provide the information required upon the separation from work, the division shall immediately, by electronic means, request the required information and the employer shall provide the information, by electronic means and in not more than seven calendar days. The division shall provide the claimant any additional information it receives and an opportunity to respond.

If any employer or employing unit fails to respond to the notification or request within seven calendar days after a communication by electronic means of the notification or request, the deputy shall rely entirely on information from other sources, including an affidavit to the best of the knowledge and belief of the claimant with respect to his wages and time worked. Except in the event of a knowing, fraudulent nondisclosure or misrepresentation by the claimant or his agent, if it is determined that any information in such affidavit is erroneous, no penalty shall be imposed on the claimant.

The deputy shall make an initial determination contingent upon the receipt of all necessary information and notify the claimant no later than three weeks from the date on which the division received the claim for benefits. The initial determination shall show the weekly benefit amount payable, the maximum duration of benefits with respect to the employer to whom the determination relates, and the ratio of benefits chargeable to the employer's account for benefit years commencing on or after July 1, 1986, and also shall show whether the claimant is ineligible or disqualified for benefits under the initial determination. The employer whose account may be charged for benefits payable pursuant to said determination shall be promptly notified thereof.

Whenever an initial determination is based upon information other than that supplied by an employer because such employer failed to provide information as required at the time of separation from employment, and failed to respond to the deputy's request for additional information, benefit payments based on the determination shall commence immediately, and such initial determination and any subsequent determination thereunder shall be incontestable by the noncomplying employer, as to any charges to his employer's account because of benefits paid prior to the close of the calendar week following the receipt of his reply. Such initial determination shall be altered if necessary upon receipt of information from the employer, and any benefits paid or payable with respect to weeks occurring subsequent to the close of the calendar week following the receipt of the employer's reply and the determination of the division to alter the initial determination after providing the claimant the information and an opportunity to respond shall be paid in accordance with such altered initial determination.

The deputy shall issue a separate initial benefit determination with respect to each of the claimant's base year employers, starting with the most recent employer and continuing as necessary in the inverse chronological order of the claimant's last date of employment with each such employer. If an appeal is taken from an initial determination, as hereinafter provided, by any employer other than the first chargeable base year employer or for benefit years commencing on or after July 1, 1986, that employer from whom the individual was most recently separated, then such appeal shall be limited in scope to include only one or more of the following matters:

- (A) The correctness of the benefit payments authorized to be made under the determination;
- (B) Fraud in connection with the claim pursuant to which the initial determination is issued;
- (C) The refusal of suitable work offered by the chargeable employer filing the appeal;
- (D) Gross misconduct as provided in subsection (b) of R.S.43:21-5.

In his discretion, the director may appoint special deputies to make initial or subsequent determinations under subsection (f) of R.S.43:21-4 and subsection (d) of R.S.43:21-5.

The amount of benefits payable under an initial determination may be reduced or canceled if necessary to avoid payment of benefits for a number of weeks in excess of the maximum specified in subsection (d) of R.S.43:21-3.

Unless the employer, within seven calendar days after a confirmed receipt of notification of an initial determination, including by electronic means, or the claimant, within 21 calendar days after the notification was mailed to the claimant's last-known address and addresses, or after the notification was delivered to the claimant by electronic means, provided the departmental functionality exists to deliver the notifications by electronic means and provided, further, that the claimant has communicated to the division the choice to receive the notifications by electronic means, files an appeal of the decision, the decision shall be final and benefits shall immediately be paid or denied in accordance therewith, except for such determinations as may be altered in benefit amounts or duration as provided in this paragraph. An appeal concerning an initial determination shall not be filed after whichever is applicable of the seven-day or 21-day period. Benefits payable for periods pending an appeal of the initial determination to the appeal tribunal shall be paid according to the initial determination, and benefits payable for periods pending appeal of the determination of the appeal tribunal to the board of review shall be paid according to the appeal tribunal determination, but shall be, to the extent that the amount paid exceeds the amount determined in the appeal, regarded as an overpayment subject to the provisions of R.S.43:21-16 regarding overpayments, including the requirement of that section that a claimant who makes knowing, fraudulent nondisclosure or misrepresentation is liable to repay the full amount of the overpayment; provided that if the appeal is an appeal of a determination that the claimant is disqualified under the provisions of R.S.43:21-5, benefits pending determination of the appeal shall be withheld only for the period of disqualification as provided for in that section, and while the appeal is pending, the benefits otherwise provided by this act shall be paid for the period subsequent to such period of disqualification; provided further that if it is determined in the appeal that the claimant was not disqualified, the claimant shall be paid the benefits due for the period of the disqualification, except that no such benefits shall be paid to the claimant for any week during which the claimant has failed to provide to the division a weekly certification evidencing the claimant's eligibility for benefits; and provided, also, that if there are two determinations of entitlement, benefits for the period covered by such determinations shall be paid regardless of any appeal which may thereafter be taken, but no employer's account shall be charged with benefits so paid, if the decision is finally reversed. If an employer appeals the charging of benefits to the employer's account after the seven-day period to appeal the initial benefit determination, and, as a result of the appeal on the charging to the employer's account, the division, after the claimant is notified and given the opportunity to respond, reduces the amount charged to the employer's account, any resulting reduction in the amount of benefits shall take effect only after the resolution of the appeal of the charging, and any amount of benefits paid before the resolution of the appeal of the charging which exceeds the amount determined in that appeal shall be regarded as an overpayment caused by employer error, the repayment of which shall be governed by subparagraph (C) of paragraph (4) of subsection (d) of R.S.43:21-16.

(2) (Deleted by amendment, P.L.2022, c.120)

(3) Procedure for making subsequent determinations with respect to benefit years commencing on or after January 1, 1953. The deputy shall make determinations with respect to claims for benefits thereafter in the course of the benefit year, in accordance with any initial determination allowing benefits, and under which benefits have not been exhausted, and each notification of a benefit payment shall be a notification of an affirmative subsequent determination. Any change in the allowance, amount, or other characteristic of benefits by the

deputy in any such determination, or the denial of benefits by the deputy in any such determination, shall be appealable in the same manner and under the same limitations as is provided in the case of initial determinations, except that, after an initial determination, the resolution of any appeal of the initial determination, and the payment of one or more weeks of benefits pursuant to the initial determination, if a subsequent determination will result in any termination or reduction of those benefits from the amount or duration of benefits specified in the initial determination, the claimant shall be provided notification with a full written explanation of why the reduction or termination of benefits will occur, and provided, during the seven calendar days following the notification, an opportunity to file an appeal. If the claimant files an appeal during the seven-day period, benefits shall continue to be paid at the rate, and for the duration, stipulated in the initial determination until the appeal is resolved. If the claimant does not file an appeal, or the claimant files an appeal and it is found in the resolution of the appeal that the amount in benefits paid during the processing of the appeal exceeded the amount determined in the appeal to be correct, or the claimant is found in the appeal to be ineligible for benefits, any resulting excess payment of benefits shall be regarded as an overpayment subject to the provisions of R.S.43:21-16 regarding overpayments, including the requirement of that section that a claimant who makes knowing, fraudulent nondisclosure or misrepresentation is liable to repay the full amount of the overpayment.

(c) Appeals. Unless such appeal is withdrawn, an appeal tribunal, after affording the parties reasonable opportunity for fair hearing, shall affirm or modify the findings of fact and the determination. The parties shall be duly notified of such tribunal's decision, together with its reasons therefor, which shall be deemed to be the final decision of the board of review, unless further appeal is initiated pursuant to subsection (e) of this section within 20 days after the date of notification or mailing of such decision for any decision made after December 1, 2010.

(d) Appeal tribunals. To hear and decide disputed benefit claims, including appeals from determinations with respect to demands for refunds of benefits under subsection (d) of R.S.43:21-16, the director with the approval of the Commissioner of Labor and Workforce Development shall establish impartial appeal tribunals consisting of a salaried body of examiners under the supervision of a Chief Appeals Examiner, all of whom shall be appointed pursuant to the provisions of Title 11A of the New Jersey Statutes, Civil Service and other applicable statutes.

(e) Board of review. The board of review may on its own motion affirm, modify, or set aside any decision of an appeal tribunal on the basis of the evidence previously submitted in such case, or direct the taking of additional evidence, or may permit any of the parties to such decision to initiate further appeals before it. The board of review shall permit such further appeal by any of the parties interested in a decision of an appeal tribunal which is not unanimous and from any determination which has been overruled or modified by any appeal tribunal. The board of review may remove to itself or transfer to another appeal tribunal the proceedings on any claim pending before an appeal tribunal. Any proceedings so removed to the board of review shall be heard by a quorum thereof in accordance with the requirements of subsection (c) of this section. The board of review shall promptly notify the interested parties of its findings and decision.

(f) Procedure. The manner in which disputed benefit claims, and appeals from determinations with respect to (1) claims for benefits and (2) demands for refunds of benefits under subsection (d) of R.S.43:21-16 shall be presented, the reports thereon required from the claimant and from employers, and the conduct of hearings and appeals shall be in accordance with rules prescribed by the board of review for determining the rights of the parties, whether or not such rules conform to common law or statutory rules of evidence and other technical

rules of procedure. A full and complete record shall be kept of all proceedings in connection with a disputed claim. All testimony at any hearing upon a disputed claim shall be recorded, but need not be transcribed unless the disputed claim is further appealed.

(g) Witness fees. Witnesses subpoenaed pursuant to this section shall be allowed fees at a rate fixed by the director. Such fees and all expenses of proceedings involving disputed claims shall be deemed a part of the expense of administering this chapter (R.S.43:21-1 et seq.).

(h) Court review. Any decision of the board of review shall become final as to any party upon the mailing of a copy thereof to such party and to the party's attorney, or upon the mailing of a copy thereof to such party at his last-known address and to the party's attorney. The Division of Unemployment and Temporary Disability Insurance and any party to a proceeding before the board of review may secure judicial review of the final decision of the board of review. Any party not joining in the appeal shall be made a defendant; the board of review shall be deemed to be a party to any judicial action involving the review of, or appeal from, any of its decisions, and may be represented in any such judicial action by any qualified attorney, who may be a regular salaried employee of the board of review or has been designated by it for that purpose, or, at the board of review's request, by the Attorney General.

(i) Failure to give notice. The failure of any public officer or employee at any time heretofore or hereafter to give notice of determination or decision required in subsections (b), (c) and (e) of this section, as originally passed or amended, shall not relieve any employer's account of any charge by reason of any benefits paid, unless and until that employer can show to the satisfaction of the director of the division that the said benefits, in whole or in part, would not have been charged or chargeable to his account had such notice been given. Any determination hereunder by the director shall be subject to court review.

(j) With respect to benefit payments made on or after October 22, 2013, an employer's account shall not be relieved of charges related to a benefit payment that was made erroneously from the division if it is determined that:

(1) The erroneous benefit payment was made because the employer, or an agent of the employer, failed to respond in a timely or adequate manner to a request from the division for information related to the claim for benefits, including failing to provide the information required by subsection (a) of this section upon a separation from employment; and

(2) The employer, or an agent of the employer, has established a pattern of failing to respond in a timely or adequate manner to requests from the division for information related to claims for benefits, including failing to provide the information required by subsection (a) of this section upon a separation from employment.

Determinations of the division prohibiting the relief of charges pursuant to this subsection shall be subject to appeal in the same manner as other determinations of the division related to the charging of employer accounts.

For purposes of subsection (j) of this section:

"Erroneous benefit payment" means a benefit payment that, except for the failure by the employer, or an agent of the employer, to respond in a timely or adequate manner to a request from the division for information with respect to the claim for benefits, would not have been made; and

"Pattern of failing" means repeated documented failure on the part of the employer, or an agent of the employer, to respond to requests from the division to the employer or employer's agent for information related to a claim for benefits, including failing to provide the information required by subsection (a) of this section upon a separation from employment, except that an employer, or an agent of an employer, shall not be determined to have engaged in a "pattern of failing" if the number of failures to provide the required information or respond

to requests from the division for information related to claims for benefits during the previous 365 calendar days is less than three, or if the number of failures is less than two percent of the number of requests from the division, whichever is greater.

(k) The Department of Labor and Workforce Development shall establish and maintain a procedure by which personnel access rights to the department's primary system for unemployment claims receipt and processing are comprehensively reviewed every calendar quarter. The procedure shall include an evaluation of access needs to the primary unemployment claims receipt and processing system for all department personnel and the adjustment, addition, or deletion of access rights for department personnel based on the quarterly review.

(l) The Department of Labor and Workforce Development shall develop within the department's primary system for unemployment claims receipt and processing a mechanism for claimants to electronically access their own benefit payment status and history.

5. R.S.43:21-7 is amended to read as follows:

Contributions.

43:21-7. Employers other than governmental entities, whose benefit financing provisions are set forth in section 4 of P.L.1971, c.346 (C.43:21-7.3), and those nonprofit organizations liable for payment in lieu of contributions on the basis set forth in section 3 of P.L.1971, c.346 (C.43:21-7.2), shall pay to the controller for the unemployment compensation fund, contributions as set forth in subsections (a), (b) and (c) hereof, and the provisions of subsections (d) and (e) shall be applicable to all employers, consistent with the provisions of the "unemployment compensation law" and the "Temporary Disability Benefits Law," P.L.1948, c.110 (C.43:21-25 et al.).

(a) Payment.

(1) Contributions shall accrue and become payable by each employer for each calendar year in which he is subject to this chapter (R.S.43:21-1 et seq.), with respect to having individuals in his employ during that calendar year, at the rates and on the basis hereinafter set forth. Such contributions shall become due and be paid by each employer to the controller for the fund, in accordance with such regulations as may be prescribed, and shall not be deducted, in whole or in part, from the remuneration of individuals in his employ.

(2) In the payment of any contributions, a fractional part of a cent shall be disregarded unless it amounts to \$0.005 or more, in which case it shall be increased to \$0.01.

(b) Rate of contributions. Each employer shall pay the following contributions:

(1) For the calendar year 1947, and each calendar year thereafter, 2 7/10% of wages paid by him during each such calendar year, except as otherwise prescribed by subsection (c) of this section.

(2) The "wages" of any individual, with respect to any one employer, as the term is used in this subsection (b) and in subsections (c), (d) and (e) of this section 7, shall include the first \$4,800.00 paid during calendar year 1975, for services performed either within or without this State; provided that no contribution shall be required by this State with respect to services performed in another state if such other state imposes contribution liability with respect thereto. If an employer (hereinafter referred to as a successor employer) during any calendar year acquires substantially all the property used in a trade or business of another employer (hereinafter referred to as a predecessor), or used in a separate unit of a trade or business of a predecessor, and immediately after the acquisition employs in his trade or business an individual who immediately prior to the acquisition was employed in the trade or business of

such predecessors, then, for the purpose of determining whether the successor employer has paid wages with respect to employment equal to the first \$4,800.00 paid during calendar year 1975, any wages paid to such individual by such predecessor during such calendar year and prior to such acquisition shall be considered as having been paid by such successor employer.

(3) For calendar years beginning on and after January 1, 1976, the "wages" of any individual, as defined in the preceding paragraph (2) of this subsection (b), shall be established and promulgated by the Commissioner of Labor and Workforce Development on or before September 1 of the preceding year and, except as provided in paragraph (4) of this subsection (b), shall be, 28 times the Statewide average weekly remuneration paid to workers by employers, as determined under R.S.43:21-3(c), raised to the next higher multiple of \$100.00 if not already a multiple thereof, provided that if the amount of wages so determined for a calendar year is less than the amount similarly determined for the preceding year, the greater amount will be used; provided, further, that if the amount of such wages so determined does not equal or exceed the amount of wages as defined in subsection (b) of section 3306 of the Internal Revenue Code of 1986 (26 U.S.C. s.3306(b)), the wages as determined in this paragraph in any calendar year shall be raised to equal the amount established under the "Federal Unemployment Tax Act," chapter 23 of the Internal Revenue Code of 1986 (26 U.S.C. s.3301 et seq.), for that calendar year.

(4) For calendar years beginning on and after January 1, 2020, the "wages" of any individual, as defined in the preceding paragraph (2) of this subsection (b) for purposes of contributions of workers to the State disability benefits fund, including the "Family Temporary Disability Leave Account" pursuant to subsection (d) of this section, shall be established and promulgated by the Commissioner of Labor and Workforce Development on or before September 1 of the preceding year and shall be 107 times the Statewide average weekly remuneration paid to workers by employers, as determined under R.S.43:21-3(c), raised to the next higher multiple of \$100.00 if not already a multiple thereof, provided that if the amount of wages so determined for a calendar year is less than the amount similarly determined for the preceding year, the greater amount will be used.

(c) Future rates based on benefit experience.

(1) A separate account for each employer shall be maintained and this shall be credited with all the contributions which he has paid on his own behalf on or before January 31 of any calendar year with respect to employment occurring in the preceding calendar year; provided, however, that if January 31 of any calendar year falls on a Saturday or Sunday, an employer's account shall be credited as of January 31 of such calendar year with all the contributions which he has paid on or before the next succeeding day which is not a Saturday or Sunday. But nothing in this chapter (R.S.43:21-1 et seq.) shall be construed to grant any employer or individuals in his service prior claims or rights to the amounts paid by him into the fund either on his own behalf or on behalf of such individuals. Benefits paid with respect to benefit years commencing on and after January 1, 1953, to any individual on or before December 31 of any calendar year with respect to unemployment in such calendar year and in preceding calendar years shall be charged against the account or accounts of the employer or employers in whose employment such individual established base weeks constituting the basis of such benefits, except that, with respect to benefit years commencing after January 4, 1998, an employer's account shall not be charged for benefits paid to a claimant if: (1) the claimant's employment by that employer was ended in any way which, pursuant to subsection (a), (b), (c), (f), (g) or (h) of R.S.43:21-5, would have disqualified the claimant for benefits if the claimant had applied for benefits at the time when that employment ended, or (2) the claimant's employment by that employer continued and the claimant continued to both perform work for and receive

remuneration from that employer, during the claimant's period of unemployment. Benefits paid under a given benefit determination shall be charged against the account of the employer to whom such determination relates. When each benefit payment is made, notification shall be promptly provided to each employer included in the unemployment insurance monetary calculation of benefits. Such notification shall identify the employer against whose account the amount of such payment is being charged, shall show at least the name and social security account number of the claimant and shall specify the period of unemployment to which said benefit payment applies.

An annual summary statement of unemployment benefits charged to the employer's account shall be provided.

(2) Regulations may be prescribed for the establishment, maintenance, and dissolution of joint accounts by two or more employers, and shall, in accordance with such regulations and upon application by two or more employers to establish such an account, or to merge their several individual accounts in a joint account, maintain such joint account as if it constituted a single employer's account.

(3) No employer's rate shall be lower than 5.4% unless assignment of such lower rate is consistent with the conditions applicable to additional credit allowance for such year under section 3303(a)(1) of the Internal Revenue Code of 1986 (26 U.S.C. s.3303(a)(1)), any other provision of this section to the contrary notwithstanding.

(4) Employer Reserve Ratio. (A) Each employer's rate shall be 2 8/10%, except as otherwise provided in the following provisions. No employer's rate for the 12 months commencing July 1 of any calendar year shall be other than 2 8/10%, unless as of the preceding January 31 such employer shall have paid contributions with respect to wages paid in each of the three calendar years immediately preceding such year, in which case such employer's rate for the 12 months commencing July 1 of any calendar year shall be determined on the basis of his record up to the beginning of such calendar year. If, at the beginning of such calendar year, the total of all his contributions, paid on his own behalf, for all past years exceeds the total benefits charged to his account for all such years, his contribution rate shall be:

(1) 2 5/10%, if such excess equals or exceeds 4%, but less than 5%, of his average annual payroll (as defined in paragraph (2), subsection (a) of R.S.43:21-19);

(2) 2 2/10%, if such excess equals or exceeds 5%, but is less than 6%, of his average annual payroll;

(3) 1 9/10%, if such excess equals or exceeds 6%, but is less than 7%, of his average annual payroll;

(4) 1 6/10%, if such excess equals or exceeds 7%, but is less than 8%, of his average annual payroll;

(5) 1 3/10%, if such excess equals or exceeds 8%, but is less than 9%, of his average annual payroll;

(6) 1%, if such excess equals or exceeds 9%, but is less than 10%, of his average annual payroll;

(7) 7/10 of 1%, if such excess equals or exceeds 10%, but is less than 11%, of his average annual payroll;

(8) 4/10 of 1%, if such excess equals or exceeds 11% of his average annual payroll.

(B) If the total of an employer's contributions, paid on his own behalf, for all past periods for the purposes of this paragraph (4), is less than the total benefits charged against his account during the same period, his rate shall be:

(1) 4%, if such excess is less than 10% of his average annual payroll;

(2) 4 3/10%, if such excess equals or exceeds 10%, but is less than 20%, of his average annual payroll;

(3) 4 6/10%, if such excess equals or exceeds 20% of his average annual payroll.

(C) Specially assigned rates.

(i) If no contributions were paid on wages for employment in any calendar year used in determining the average annual payroll of an employer eligible for an assigned rate under this paragraph (4), the employer's rate shall be specially assigned as follows:

if the reserve balance in its account is positive, its assigned rate shall be the highest rate in effect for positive balance accounts for that period, or 5.4%, whichever is higher, and

if the reserve balance in its account is negative, its assigned rate shall be the highest rate in effect for deficit accounts for that period.

(ii) If, following the purchase of a corporation with little or no activity, known as a corporate shell, the resulting employing unit operates a new or different business activity, the employing unit shall be assigned a new employer rate.

(iii) Entities operating under common ownership, management or control, when the operation of the entities is not identifiable, distinguishable and severable, shall be considered a single employer for the purposes of this chapter (R.S.43:21-1 et seq.).

(D) The contribution rates prescribed by subparagraphs (A) and (B) of this paragraph (4) shall be increased or decreased in accordance with the provisions of paragraph (5) of this subsection (c) for experience rating periods through June 30, 1986.

(5) (A) Unemployment Trust Fund Reserve Ratio. If on March 31 of any calendar year the balance in the unemployment trust fund equals or exceeds 4% but is less than 7% of the total taxable wages reported to the controller as of that date in respect to employment during the preceding calendar year, the contribution rate, effective July 1 following, of each employer eligible for a contribution rate calculation based upon benefit experience, shall be increased by 3/10 of 1% over the contribution rate otherwise established under the provisions of paragraph (3) or (4) of this subsection. If on March 31 of any calendar year the balance of the unemployment trust fund exceeds 2 1/2% but is less than 4% of the total taxable wages reported to the controller as of that date in respect to employment during the preceding calendar year, the contribution rate, effective July 1 following, of each employer eligible for a contribution rate calculation based upon benefit experience, shall be increased by 6/10 of 1% over the contribution rate otherwise established under the provisions of paragraph (3) or (4) of this subsection.

If on March 31 of any calendar year the balance of the unemployment trust fund is less than 2 1/2% of the total taxable wages reported to the controller as of that date in respect to employment during the preceding calendar year, the contribution rate, effective July 1 following, of each employer: (1) eligible for a contribution rate calculation based upon benefit experience, shall be increased by (i) 6/10 of 1% over the contribution rate otherwise established under the provisions of paragraph (3), (4)(A) or (4)(B) of this subsection, and (ii) an additional amount equal to 20% of the total rate established herein, provided, however, that the final contribution rate for each employer shall be computed to the nearest multiple of 1/10% if not already a multiple thereof; (2) not eligible for a contribution rate calculation based upon benefit experience, shall be increased by 6/10 of 1% over the contribution rate otherwise established under the provisions of paragraph (4) of this subsection. For the period commencing July 1, 1984 and ending June 30, 1986, the contribution rate for each employer liable to pay contributions under R.S.43:21-7 shall be increased by a factor of 10% computed to the nearest multiple of 1/10% if not already a multiple thereof.

(B) If on March 31 of any calendar year the balance in the unemployment trust fund equals or exceeds 10% but is less than 12 1/2% of the total taxable wages reported to the controller as of that date in respect to employment during the preceding calendar year, the contribution rate, effective July 1 following, of each employer eligible for a contribution rate calculation

based upon benefit experience, shall be reduced by 3/10 of 1% under the contribution rate otherwise established under the provisions of paragraphs (3) and (4) of this subsection; provided that in no event shall the contribution rate of any employer be reduced to less than 4/10 of 1%. If on March 31 of any calendar year the balance in the unemployment trust fund equals or exceeds 12 1/2% of the total taxable wages reported to the controller as of that date in respect to employment during the preceding calendar year, the contribution rate, effective July 1 following, of each employer eligible for a contribution rate calculation based upon benefit experience, shall be reduced by 6/10 of 1% if his account for all past periods reflects an excess of contributions paid over total benefits charged of 3% or more of his average annual payroll, otherwise by 3/10 of 1% under the contribution rate otherwise established under the provisions of paragraphs (3) and (4) of this subsection; provided that in no event shall the contribution rate of any employer be reduced to less than 4/10 of 1%.

(C) The "balance" in the unemployment trust fund, as the term is used in subparagraphs (A) and (B) above, shall not include moneys credited to the State's account under section 903 of the Social Security Act, as amended (42 U.S.C. s.1103), during any period in which such moneys are appropriated for the payment of expenses incurred in the administration of the "unemployment compensation law."

(D) Prior to July 1 of each calendar year the controller shall determine the Unemployment Trust Fund Reserve Ratio, which shall be calculated by dividing the balance of the unemployment trust fund as of the prior March 31 by total taxable wages reported to the controller by all employers as of March 31 with respect to their employment during the last calendar year.

- (E) (i) (Deleted by amendment, P.L.1997, c.263).
(ii) (Deleted by amendment, P.L.2001, c.152).
(iii) (Deleted by amendment, P.L.2003, c.107).
(iv) (Deleted by amendment, P.L.2004, c.45).
(v) (Deleted by amendment, P.L.2008, c.17).
(vi) (Deleted by amendment, P.L.2013, c.75).
(vii) With respect to experience rating years beginning on or after July 1, 2011, the new employer rate or the unemployment experience rate of an employer under this section shall be the rate which appears in the column headed by the Unemployment Trust Fund Reserve Ratio as of the applicable calculation date and on the line with the Employer Reserve Ratio, as defined in paragraph (4) of this subsection (R.S.43:21-7 (c)(4)), as set forth in the following table:

EXPERIENCE RATING TAX TABLE					
Employer Reserve Ratio ²	Fund Reserve Ratio ¹				
	3.50%	3.00%	2.5%	2.0%	1.99%
	and Over A	to 3.49% B	to 2.99% C	to 2.49% D	and Under E
Positive Reserve Ratio:					
17% and over	0.3	0.4	0.5	0.6	1.2
16.00% to 16.99%	0.4	0.5	0.6	0.6	1.2
15.00% to 15.99%	0.4	0.6	0.7	0.7	1.2
14.00% to 14.99%	0.5	0.6	0.7	0.8	1.2
13.00% to 13.99%	0.6	0.7	0.8	0.9	1.2
12.00% to 12.99%	0.6	0.8	0.9	1.0	1.2
11.00% to 11.99%	0.7	0.8	1.0	1.1	1.2

10.00% to 10.99%	0.9	1.1	1.3	1.5	1.6
9.00% to 9.99%	1.0	1.3	1.6	1.7	1.9
8.00% to 8.99%	1.3	1.6	1.9	2.1	2.3
7.00% to 7.99%	1.4	1.8	2.2	2.4	2.6
6.00% to 6.99%	1.7	2.1	2.5	2.8	3.0
5.00% to 5.99%	1.9	2.4	2.8	3.1	3.4
4.00% to 4.99%	2.0	2.6	3.1	3.4	3.7
3.00% to 3.99%	2.1	2.7	3.2	3.6	3.9
2.00% to 2.99%	2.2	2.8	3.3	3.7	4.0
1.00% to 1.99%	2.3	2.9	3.4	3.8	4.1
0.00% to 0.99%	2.4	3.0	3.6	4.0	4.3
Deficit Reserve Ratio:					
-0.00% to -2.99%	3.4	4.3	5.1	5.6	6.1
-3.00% to -5.99%	3.4	4.3	5.1	5.7	6.2
-6.00% to -8.99%	3.5	4.4	5.2	5.8	6.3
-9.00% to -11.99%	3.5	4.5	5.3	5.9	6.4
-12.00% to -14.99%	3.6	4.6	5.4	6.0	6.5
-15.00% to -19.99%	3.6	4.6	5.5	6.1	6.6
-20.00% to -24.99%	3.7	4.7	5.6	6.2	6.7
-25.00% to -29.99%	3.7	4.8	5.6	6.3	6.8
-30.00% to -34.99%	3.8	4.8	5.7	6.3	6.9
-35.00% and under	5.4	5.4	5.8	6.4	7.0
New Employer Rate	2.8	2.8	2.8	3.1	3.4

¹Fund balance as of March 31 as a percentage of taxable wages in the prior calendar year.

²Employer Reserve Ratio (Contributions minus benefits as a percentage of employer's taxable wages).

(F) (i) (Deleted by amendment, P.L.1997, c.263).

(ii) (Deleted by amendment, P.L.2008, c.17).

(iii) (Deleted by amendment, P.L.2013, c.75).

(iv) With respect to experience rating years beginning on or after July 1, 2011 and before July 1, 2013, if the fund reserve ratio, based on the fund balance as of the prior March 31, is less than 1.0%, the contribution rate for each employer liable to pay contributions, as computed under subparagraph (E) of this paragraph (5), shall be increased by a factor of 10% computed to the nearest multiple of 1/10% if not already a multiple thereof.

(v) With respect to experience rating years beginning on or after July 1, 2014, if the fund reserve ratio, based on the fund balance as of the prior March 31, is less than 1.0%, the contribution rate for each employer liable to pay contributions, as computed under subparagraph (E) of this paragraph (5), shall be increased by a factor of 10% computed to the nearest multiple of 1/10% if not already a multiple thereof.

(G) On or after January 1, 1993, notwithstanding any other provisions of this paragraph (5), the contribution rate for each employer liable to pay contributions, as computed under subparagraph (E) of this paragraph (5), shall be decreased by 0.1%, except that, during any experience rating year starting before January 1, 1998 in which the fund reserve ratio is equal to or greater than 7.00% or during any experience rating year starting on or after January 1, 1998, in which the fund reserve ratio is equal to or greater than 3.5%, there shall be no decrease pursuant to this subparagraph (G) in the contribution of any employer who has a deficit reserve ratio of negative 35.00% or under.

(H) On and after January 1, 1998 until December 31, 2000 and on or after January 1, 2002 until June 30, 2006, the contribution rate for each employer liable to pay contributions, as computed under subparagraph (E) of this paragraph (5), shall be decreased by a factor, as set out below, computed to the nearest multiple of 1/10%, except that, if an employer has a deficit reserve ratio of negative 35.0% or under, the employer's rate of contribution shall not be reduced pursuant to this subparagraph (H) to less than 5.4%:

From January 1, 1998 until December 31, 1998, a factor of 12%;

From January 1, 1999 until December 31, 1999, a factor of 10%;

From January 1, 2000 until December 31, 2000, a factor of 7%;

From January 1, 2002 until March 31, 2002, a factor of 36%;

From April 1, 2002 until June 30, 2002, a factor of 85%;

From July 1, 2002 until June 30, 2003, a factor of 15%;

From July 1, 2003 until June 30, 2004, a factor of 15%;

From July 1, 2004 until June 30, 2005, a factor of 7%;

From July 1, 2005 until December 31, 2005, a factor of 16%; and

From January 1, 2006 until June 30, 2006, a factor of 34%.

The amount of the reduction in the employer contributions stipulated by this subparagraph (H) shall be in addition to the amount of the reduction in the employer contributions stipulated by subparagraph (G) of this paragraph (5), except that the rate of contribution of an employer who has a deficit reserve ratio of negative 35.0% or under shall not be reduced pursuant to this subparagraph (H) to less than 5.4% and the rate of contribution of any other employer shall not be reduced to less than 0.0%.

(I) (Deleted by amendment, P.L.2008, c.17).

(J) On or after July 1, 2001, notwithstanding any other provisions of this paragraph (5), the contribution rate for each employer liable to pay contributions, as computed under subparagraph (E) of this paragraph (5), shall be decreased by 0.0175%, except that, during any experience rating year starting on or after July 1, 2001, in which the fund reserve ratio is equal to or greater than 3.5%, there shall be no decrease pursuant to this subparagraph (J) in the contribution of any employer who has a deficit reserve ratio of negative 35.00% or under. The amount of the reduction in the employer contributions stipulated by this subparagraph (J) shall be in addition to the amount of the reduction in the employer contributions stipulated by subparagraphs (G) and (H) of this paragraph (5), except that the rate of contribution of an employer who has a deficit reserve ratio of negative 35.0% or under shall not be reduced pursuant to this subparagraph (J) to less than 5.4% and the rate of contribution of any other employer shall not be reduced to less than 0.0%.

(K) With respect to experience rating years beginning on or after July 1, 2009, if the fund reserve ratio, based on the fund balance as of the prior March 31, is:

(i) Equal to or greater than 5.00% but less than 7.5%, the contribution rate for each employer liable to pay contributions, as computed under subparagraph (E) of this paragraph (5), shall be reduced by a factor of 25% computed to the nearest multiple of 1/10% if not already a multiple thereof except that there shall be no decrease pursuant to this subparagraph (K) in the contribution of any employer who has a deficit reserve ratio of 35.00% or under;

(ii) Equal to or greater than 7.5%, the contribution rate for each employer liable to pay contributions, as computed under subparagraph (E) of this paragraph (5), shall be reduced by a factor of 50% computed to the nearest multiple of 1/10% if not already a multiple thereof except that there shall be no decrease pursuant to this subparagraph (K) in the contribution of any employer who has a deficit reserve ratio of 35.00% or under.

(L) Notwithstanding any other provision of this paragraph (5) and notwithstanding the actual fund reserve ratio, the contribution rate for employers liable to pay contributions, as computed under subparagraph (E) of this paragraph (5), shall be, for fiscal year 2011, the rates set by column "C" of the table in that subparagraph.

(M) Notwithstanding any other provision of this paragraph (5) and notwithstanding the actual fund reserve ratio, the contribution rate for employers liable to pay contributions, as computed under subparagraph (E) of this paragraph (5), shall be, for fiscal year 2012, the rates set by column "D" of the table in that subparagraph.

(N) Notwithstanding any other provision of this paragraph (5) and notwithstanding the actual fund reserve ratio, the contribution rate for employers liable to pay contributions, as computed under subparagraph (E) of this paragraph (5), shall be, for fiscal year 2013, the rates set by column "E" of the table in that subparagraph.

(O) Notwithstanding any other provision of this paragraph (5) and notwithstanding the actual fund reserve ratio, the contribution rate for employers liable to pay contributions, as computed under subparagraph (E) of this paragraph (5), shall be, for fiscal year 2022, the rates set by column "C" of the table in that subparagraph.

(P) Notwithstanding any other provision of this paragraph (5) and notwithstanding the actual fund reserve ratio, the contribution rate for employers liable to pay contributions, as computed under subparagraph (E) of this paragraph (5), shall be, for fiscal year 2023, the rates set by column "D" of the table in that subparagraph, unless the application of the provisions of this paragraph (5) using the actual fund reserve ratio would result in the contribution rate for employers being set by a column which has lower tax rates than the rates in column "D", in which case the employers shall be liable to pay contributions at the rates set by the column with the lower tax rates.

(Q) Notwithstanding any other provision of this paragraph (5) and notwithstanding the actual fund reserve ratio, the contribution rate for employers liable to pay contributions, as computed under subparagraph (E) of this paragraph (5), shall be, for fiscal year 2024, the rates set by column "E" of the table in that subparagraph, unless the application of the provisions of this paragraph (5) using the actual fund reserve ratio would result in the contribution rate for employers being set by a column which has lower tax rates than the rates in column "E", in which case the employers shall be liable to pay contributions at the rates set by the column with the lower tax rates.

(6) Additional contributions.

Notwithstanding any other provision of law, any employer who has been assigned a contribution rate pursuant to subsection (c) of this section for the year commencing July 1, 1948, and for any year commencing July 1 thereafter, may voluntarily make payment of additional contributions, and upon such payment shall receive a recomputation of the experience rate applicable to such employer, including in the calculation the additional contribution so made, except that, following a transfer as described under R.S.43:21-7(c)(7)(D), neither the predecessor nor successor in interest shall be eligible to make a voluntary payment of additional contributions during the year the transfer occurs and the next full calendar year. Any such additional contribution shall be made during the 30-day period following the notification to the employer of his contribution rate as prescribed in this section, unless, for good cause, the time for payment has been extended by the controller for not to exceed an additional 60 days; provided that in no event may such payments which are made later than 120 days after the beginning of the year for which such rates are effective be considered in determining the experience rate for the year in which the payment is made. Any employer receiving any extended period of time within which to make such additional payment

and failing to make such payment timely shall be, in addition to the required amount of additional payment, liable for a penalty of 5% thereof or \$5.00, whichever is greater, not to exceed \$50.00. Any adjustment under this subsection shall be made only in the form of credits against accrued or future contributions.

(7) Transfers.

(A) Upon the transfer of the organization, trade or business, or substantially all the assets of an employer to a successor in interest, whether by merger, consolidation, sale, transfer, descent or otherwise, the controller shall transfer the employment experience of the predecessor employer to the successor in interest, including credit for past years, contributions paid, annual payrolls, benefit charges, et cetera, applicable to such predecessor employer, pursuant to regulation, if it is determined that the employment experience of the predecessor employer with respect to the organization, trade, assets or business which has been transferred may be considered indicative of the future employment experience of the successor in interest. The successor in interest may, within four months of the date of such transfer of the organization, trade, assets or business, or thereafter upon good cause shown, request a reconsideration of the transfer of employment experience of the predecessor employer. The request for reconsideration shall demonstrate, to the satisfaction of the controller, that the employment experience of the predecessor is not indicative of the future employment experience of the successor.

(B) An employer who transfers part of his or its organization, trade, assets or business to a successor in interest, whether by merger, consolidation, sale, transfer, descent or otherwise, may jointly make application with such successor in interest for transfer of that portion of the employment experience of the predecessor employer relating to the portion of the organization, trade, assets or business transferred to the successor in interest, including credit for past years, contributions paid, annual payrolls, benefit charges, et cetera, applicable to such predecessor employer. The transfer of employment experience may be allowed pursuant to regulation only if it is found that the employment experience of the predecessor employer with respect to the portion of the organization, trade, assets or business which has been transferred may be considered indicative of the future employment experience of the successor in interest. Credit shall be given to the successor in interest only for the years during which contributions were paid by the predecessor employer with respect to that part of the organization, trade, assets or business transferred.

(C) A transfer of the employment experience in whole or in part having become final, the predecessor employer thereafter shall not be entitled to consideration for an adjusted rate based upon his or its experience or the part thereof, as the case may be, which has thus been transferred. A successor in interest to whom employment experience or a part thereof is transferred pursuant to this subsection shall, as of the date of the transfer of the organization, trade, assets or business, or part thereof, immediately become an employer if not theretofore an employer subject to this chapter (R.S.43:21-1 et seq.).

(D) If an employer transfers in whole or in part his or its organization, trade, assets or business to a successor in interest, whether by merger, consolidation, sale, transfer, descent or otherwise and both the employer and successor in interest are at the time of the transfer under common ownership, management or control, then the employment experience attributable to the transferred business shall also be transferred to and combined with the employment experience of the successor in interest. The transfer of the employment experience is mandatory and not subject to appeal or protest.

(E) The transfer of part of an employer's employment experience to a successor in interest shall become effective as of the first day of the calendar quarter following the acquisition by

the successor in interest. As of the effective date, the successor in interest shall have its employer rate recalculated by merging its existing employment experience, if any, with the employment experience acquired. If the successor in interest is not an employer as of the date of acquisition, it shall be assigned the new employer rate until the effective date of the transfer of employment experience.

(F) Upon the transfer in whole or in part of the organization, trade, assets or business to a successor in interest, the employment experience shall not be transferred if the successor in interest is not an employer at the time of the acquisition and the controller finds that the successor in interest acquired the business solely or primarily for the purpose of obtaining a lower rate of contributions.

(d) Contributions of workers to the unemployment compensation fund and the State disability benefits fund.

(1) (A) For periods after January 1, 1975, each worker shall contribute to the fund 1% of his wages with respect to his employment with an employer, which occurs on and after January 1, 1975, after such employer has satisfied the condition set forth in subsection (h) of R.S.43:21-19 with respect to becoming an employer; provided, however, that such contributions shall be at the rate of 1/2 of 1% of wages paid with respect to employment while the worker is in the employ of the State of New Jersey, or any governmental entity or instrumentality which is an employer as defined under R.S.43:21-19(h)(5), or is covered by an approved private plan under the "Temporary Disability Benefits Law" or while the worker is exempt from the provisions of the "Temporary Disability Benefits Law" under section 7 of that law, P.L.1948, c.110 (C.43:21-31).

(B) Effective January 1, 1978 there shall be no contributions by workers in the employ of any governmental or nongovernmental employer electing or required to make payments in lieu of contributions unless the employer is covered by the State plan under the "Temporary Disability Benefits Law" (C.43:21-25 et al.), and in that case contributions shall be at the rate of 1/2 of 1%, except that commencing July 1, 1986, workers in the employ of any nongovernmental employer electing or required to make payments in lieu of contributions shall be required to make contributions to the fund at the same rate prescribed for workers of other nongovernmental employers.

(C) (i) Notwithstanding the above provisions of this paragraph (1), during the period starting July 1, 1986 and ending December 31, 1992, each worker shall contribute to the fund 1.125% of wages paid with respect to his employment with a governmental employer electing or required to pay contributions or nongovernmental employer, including a nonprofit organization which is an employer as defined under R.S.43:21-19(h)(6), regardless of whether that nonprofit organization elects or is required to finance its benefit costs with contributions to the fund or by payments in lieu of contributions, after that employer has satisfied the conditions set forth in subsection R.S.43:21-19(h) with respect to becoming an employer. Contributions, however, shall be at the rate of 0.625% while the worker is covered by an approved private plan under the "Temporary Disability Benefits Law" or while the worker is exempt under section 7 of that law, P.L.1948, c.110 (C.43:21-31) or any other provision of that law; provided that such contributions shall be at the rate of 0.625% of wages paid with respect to employment with the State of New Jersey or any other governmental entity or instrumentality electing or required to make payments in lieu of contributions and which is covered by the State plan under the "Temporary Disability Benefits Law," except that, while the worker is exempt from the provisions of the "Temporary Disability Benefits Law" under section 7 of that law, P.L.1948, c.110 (C.43:21-31) or any other provision of that law, or is

covered for disability benefits by an approved private plan of the employer, the contributions to the fund shall be 0.125%.

(ii) (Deleted by amendment, P.L.1995, c.422.)

(D) Notwithstanding any other provisions of this paragraph (1), during the period starting January 1, 1993 and ending June 30, 1994, each worker shall contribute to the unemployment compensation fund 0.5% of wages paid with respect to the worker's employment with a governmental employer electing or required to pay contributions or nongovernmental employer, including a nonprofit organization which is an employer as defined under paragraph (6) of subsection (h) of R.S.43:21-19, regardless of whether that nonprofit organization elects or is required to finance its benefit costs with contributions to the fund or by payments in lieu of contributions, after that employer has satisfied the conditions set forth in subsection (h) of R.S.43:21-19 with respect to becoming an employer. No contributions, however, shall be made by the worker while the worker is covered by an approved private plan under the "Temporary Disability Benefits Law," P.L.1948, c.110 (C.43:21-25 et al.) or while the worker is exempt under section 7 of P.L.1948, c.110 (C.43:21-31) or any other provision of that law; provided that the contributions shall be at the rate of 0.50% of wages paid with respect to employment with the State of New Jersey or any other governmental entity or instrumentality electing or required to make payments in lieu of contributions and which is covered by the State plan under the "Temporary Disability Benefits Law," except that, while the worker is exempt from the provisions of the "Temporary Disability Benefits Law" under section 7 of that law, P.L.1948, c.110 (C.43:21-31) or any other provision of that law, or is covered for disability benefits by an approved private plan of the employer, no contributions shall be made to the fund.

Each worker shall, starting on January 1, 1996 and ending March 31, 1996, contribute to the unemployment compensation fund 0.60% of wages paid with respect to the worker's employment with a governmental employer electing or required to pay contributions or nongovernmental employer, including a nonprofit organization which is an employer as defined under paragraph (6) of subsection (h) of R.S.43:21-19, regardless of whether that nonprofit organization elects or is required to finance its benefit costs with contributions to the fund or by payments in lieu of contributions, after that employer has satisfied the conditions set forth in subsection (h) of R.S.43:21-19 with respect to becoming an employer, provided that the contributions shall be at the rate of 0.10% of wages paid with respect to employment with the State of New Jersey or any other governmental entity or instrumentality electing or required to make payments in lieu of contributions.

Each worker shall, starting on January 1, 1998 and ending December 31, 1998, contribute to the unemployment compensation fund 0.10% of wages paid with respect to the worker's employment with a governmental employer electing or required to pay contributions or nongovernmental employer, including a nonprofit organization which is an employer as defined under paragraph (6) of subsection (h) of R.S.43:21-19, regardless of whether that nonprofit organization elects or is required to finance its benefit costs with contributions to the fund or by payments in lieu of contributions, after that employer has satisfied the conditions set forth in subsection (h) of R.S.43:21-19 with respect to becoming an employer, provided that the contributions shall be at the rate of 0.10% of wages paid with respect to employment with the State of New Jersey or any other governmental entity or instrumentality electing or required to make payments in lieu of contributions.

Each worker shall, starting on January 1, 1999 until December 31, 1999, contribute to the unemployment compensation fund 0.15% of wages paid with respect to the worker's employment with a governmental employer electing or required to pay contributions or nongovernmental employer, including a nonprofit organization which is an employer as

defined under paragraph (6) of subsection (h) of R.S.43:21-19, regardless of whether that nonprofit organization elects or is required to finance its benefit costs with contributions to the fund or by payments in lieu of contributions, after that employer has satisfied the conditions set forth in subsection (h) of R.S.43:21-19 with respect to becoming an employer, provided that the contributions shall be at the rate of 0.10% of wages paid with respect to employment with the State of New Jersey or any other governmental entity or instrumentality electing or required to make payments in lieu of contributions.

Each worker shall, starting on January 1, 2000 until December 31, 2001, contribute to the unemployment compensation fund 0.20% of wages paid with respect to the worker's employment with a governmental employer electing or required to pay contributions or nongovernmental employer, including a nonprofit organization which is an employer as defined under paragraph (6) of subsection (h) of R.S.43:21-19, regardless of whether that nonprofit organization elects or is required to finance its benefit costs with contributions to the fund or by payments in lieu of contributions, after that employer has satisfied the conditions set forth in subsection (h) of R.S.43:21-19 with respect to becoming an employer, provided that the contributions shall be at the rate of 0.10% of wages paid with respect to employment with the State of New Jersey or any other governmental entity or instrumentality electing or required to make payments in lieu of contributions.

Each worker shall, starting on January 1, 2002 until June 30, 2004, contribute to the unemployment compensation fund 0.1825% of wages paid with respect to the worker's employment with a governmental employer electing or required to pay contributions or a nongovernmental employer, including a nonprofit organization which is an employer as defined under paragraph (6) of subsection (h) of R.S.43:21-19, regardless of whether that nonprofit organization elects or is required to finance its benefit costs with contributions to the fund or by payments in lieu of contributions, after that employer has satisfied the conditions set forth in subsection (h) of R.S.43:21-19 with respect to becoming an employer, provided that the contributions shall be at the rate of 0.0825% of wages paid with respect to employment with the State of New Jersey or any other governmental entity or instrumentality electing or required to make payments in lieu of contributions.

Each worker shall, starting on July 1, 2004 until December 31, 2023, contribute to the unemployment compensation fund 0.3825% of wages paid with respect to the worker's employment with a governmental employer electing or required to pay contributions or nongovernmental employer, including a nonprofit organization which is an employer as defined under paragraph (6) of subsection (h) of R.S.43:21-19, regardless of whether that nonprofit organization elects or is required to finance its benefit costs with contributions to the fund or by payments in lieu of contributions, after that employer has satisfied the conditions set forth in subsection (h) of R.S.43:21-19 with respect to becoming an employer, provided that the contributions shall be at the rate of 0.0825% of wages paid with respect to employment with the State of New Jersey or any other governmental entity or instrumentality electing or required to make payments in lieu of contributions.

Each worker shall, starting on and after January 1, 2024, contribute to the unemployment compensation fund 0.3625% of wages paid with respect to the worker's employment with a governmental employer electing or required to pay contributions or nongovernmental employer, including a nonprofit organization which is an employer as defined under paragraph (6) of subsection (h) of R.S.43:21-19, regardless of whether that nonprofit organization elects or is required to finance its benefit costs with contributions to the fund or by payments in lieu of contributions, after that employer has satisfied the conditions set forth in subsection (h) of R.S.43:21-19 with respect to becoming an employer, provided that the contributions shall be

at the rate of 0.0625% of wages paid with respect to employment with the State of New Jersey or any other governmental entity or instrumentality electing or required to make payments in lieu of contributions.

Each worker shall, starting on and after January 1, 2024, contribute to the unemployment compensation administration fund, established pursuant to R.S.43:21-13, 0.0200% of wages paid with respect to the worker's employment with a governmental employer electing or required to pay contributions, the State of New Jersey or any other governmental entity or instrumentality electing or required to make payments in lieu of contributions, or nongovernmental employer, including a nonprofit organization which is an employer as defined under paragraph (6) of subsection (h) of R.S.43:21-19, regardless of whether that nonprofit organization elects or is required to finance its benefit costs with contributions to the fund or by payments in lieu of contributions, after that employer has satisfied the conditions set forth in subsection (h) of R.S.43:21-19 with respect to becoming an employer.

(E) Each employer shall, notwithstanding any provision of law in this State to the contrary, withhold in trust the amount of his workers' contributions from their wages at the time such wages are paid, shall show such deduction on his payroll records, shall furnish such evidence thereof to his workers as the division or controller may prescribe, and shall transmit all such contributions, in addition to his own contributions, to the office of the controller in such manner and at such times as may be prescribed. If any employer fails to deduct the contributions of any of his workers at the time their wages are paid, or fails to make a deduction therefor at the time wages are paid for the next succeeding payroll period, he alone shall thereafter be liable for such contributions, and for the purpose of R.S.43:21-14, such contributions shall be treated as employer's contributions required from him.

(F) As used in this chapter (R.S.43:21-1 et seq.), except when the context clearly requires otherwise, the term "contributions" shall include the contributions of workers pursuant to this section.

(G) (i) Each worker, with respect to the worker's employment with a government employer electing or required to pay contributions to the State disability benefits fund or nongovernmental employer, including a nonprofit organization which is an employer as defined under paragraph (6) of subsection (h) of R.S.43:21-19, unless the employer is covered by an approved private disability plan or is exempt from the provisions of the "Temporary Disability Benefits Law," P.L.1948, c.110 (C.43:21-25 et al.) under section 7 of that law (C.43:21-31) or any other provision of that law, shall, for calendar year 2012 and each subsequent calendar year, make contributions to the State disability benefits fund at the annual rate of contribution necessary to obtain a total amount of contributions, which, when added to employer contributions made to the State disability benefits fund pursuant to subsection (e) of this section, is, for calendar years prior to calendar year 2018, equal to 120% of the benefits paid for periods of disability, excluding periods of family temporary disability, during the immediately preceding calendar year plus an amount equal to 100% of the cost of administration of the payment of those benefits during the immediately preceding calendar year, less the amount of net assets remaining in the State disability benefits fund, excluding net assets remaining in the "Family Temporary Disability Leave Account" of that fund, as of December 31 of the immediately preceding year, and is, for calendar year 2018 and year 2019, equal to 120% of the benefits paid for periods of disability, excluding periods of family temporary disability, during the last preceding full fiscal year plus an amount equal to 100% of the cost of administration of the payment of those benefits during the last preceding full fiscal year, less the amount of net assets anticipated to be remaining in the "Family Temporary Disability Leave Account" of that fund, as of December 31 of the immediately preceding

calendar year, and is, for each of calendar years 2020 and 2021, equal to 120% of the benefits which the department anticipates will be paid for periods of disability, excluding periods of family temporary disability, during the respective calendar year plus an amount equal to 100% of the cost of administration of the payment of those benefits which the department anticipates during the respective calendar year, less the amount of net assets anticipated to be remaining in the State disability benefits fund, excluding net assets remaining in the "Family Temporary Disability Leave Account" of that fund, as of December 31 of the immediately preceding calendar year, and is, for calendar year 2022 and any subsequent calendar year, equal to 120% of the benefits paid for periods of disability, excluding periods of family temporary disability, during the last preceding full fiscal year plus an amount equal to 100% of the cost of administration of the payment of those benefits during the last preceding full fiscal year, less the amount of net assets anticipated to be remaining in the State disability benefits fund, excluding net assets remaining in the "Family Temporary Disability Leave Account" of that fund, as of December 31 of the immediately preceding calendar year. All increases in the cost of benefits for periods of disability caused by the increases in the weekly benefit rate commencing July 1, 2020, pursuant to section 16 of P.L.1948, c.110 (C.43:21-40), shall be funded by contributions made by workers pursuant to this paragraph (i) and none of those increases shall be funded by employer contributions. The estimated rates for the next calendar year shall be made available on the department's website no later than 60 days after the end of the last preceding full fiscal year. The rates of employer contributions determined pursuant to subsection (e) of this section for any year shall be determined prior to the determination of the rate of employee contributions pursuant to this subparagraph (i) and any consideration of employee contributions in determining employer rates for any year shall be based on amounts of employee contributions made prior to the year to which the rate of employee contributions applies and shall not be based on any projection or estimate of the amount of employee contributions for the year to which that rate applies.

(ii) Each worker shall contribute to the State disability benefits fund, in addition to any amount contributed pursuant to subparagraph (i) of this paragraph (1)(G), an amount equal to, during calendar year 2009, 0.09%, and during calendar year 2010 0.12%, of wages paid with respect to the worker's employment with any covered employer, including a governmental employer which is an employer as defined under R.S.43:21-19(h)(5), unless the employer is covered by an approved private disability plan for benefits during periods of family temporary disability leave. The contributions made pursuant to this subparagraph (ii) to the State disability benefits fund shall be deposited into an account of that fund reserved for the payment of benefits during periods of family temporary disability leave as defined in section 3 of the "Temporary Disability Benefits Law," P.L.1948, c.110 (C.43:21-27) and for the administration of those payments and shall not be used for any other purpose. This account shall be known as the "Family Temporary Disability Leave Account." For calendar year 2011 and each subsequent calendar year until 2018, the annual rate of contribution to be paid by workers pursuant to this subparagraph (ii) shall be, for calendar years prior to calendar year 2018, the rate necessary to obtain a total amount of contributions equal to 125% of the benefits paid for periods of family temporary disability leave during the immediately preceding calendar year plus an amount equal to 100% of the cost of administration of the payment of those benefits during the immediately preceding calendar year, less the amount of net assets remaining in the account as of December 31 of the immediately preceding year, and shall be, for calendar year 2018 and calendar year 2019, the rate necessary to obtain a total amount of contributions equal to 125% of the benefits paid for periods of family temporary disability leave during the last preceding full fiscal year plus an amount equal to 100% of the cost of administration of the

payment of those benefits during the last preceding full fiscal year, less the amount of net assets anticipated to be remaining in the account as of December 31 of the immediately preceding calendar year. For each of calendar years 2020 and 2021, the annual rate of contribution to be paid by workers pursuant to this subparagraph (ii) shall be the rate necessary to obtain a total amount of contributions equal to 125% of the benefits which the department anticipates will be paid for periods of family temporary disability leave during the respective calendar year plus an amount equal to 100% of the cost of administration of the payment of those benefits which the department anticipates during the respective calendar year, less the amount of net assets remaining in the account as of December 31 of the immediately preceding calendar year. For 2022 and any subsequent calendar year, the annual rate of contribution to be paid by workers pursuant to this subparagraph (ii) shall be the rate necessary to obtain a total amount of contributions equal to 125% of the benefits which were paid for periods of family temporary disability leave during the last preceding full fiscal year plus an amount equal to 100% of the cost of administration of the payment of those benefits during the last preceding full fiscal year, less the amount of net assets remaining in the account as of December 31 of the immediately preceding calendar year. All increases in the cost of benefits for periods of family temporary disability leave caused by the increases in the weekly benefit rate commencing July 1, 2020 pursuant to section 16 of P.L.1948, c.110 (C.43:21-40) and increases in the maximum duration of benefits commencing July 1, 2020 pursuant to sections 14 and 15 of P.L.1948, c.110 (C.43:21-38 and 43:21-39) shall be funded by contributions made by workers pursuant to this paragraph (ii) and none of those increases shall be funded by employer contributions. The estimated rates for the next calendar year shall be made available on the department's website no later than 60 days after the end of the last preceding full fiscal year. Necessary administrative costs shall include the cost of an outreach program to inform employees of the availability of the benefits and the cost of issuing the reports required or permitted pursuant to section 13 of P.L.2008, c.17 (C.43:21-39.4). No monies, other than the funds in the "Family Temporary Disability Leave Account," shall be used for the payment of benefits during periods of family temporary disability leave or for the administration of those payments, with the sole exception that, during calendar years 2008 and 2009, a total amount not exceeding \$25 million may be transferred to that account from the revenues received in the State disability benefits fund pursuant to subparagraph (i) of this paragraph (1)(G) and be expended for those payments and their administration, including the administration of the collection of contributions made pursuant to this subparagraph (ii) and any other necessary administrative costs. Any amount transferred to the account pursuant to this subparagraph (ii) shall be repaid during a period beginning not later than January 1, 2011 and ending not later than December 31, 2015. No monies, other than the funds in the "Family Temporary Disability Leave Account," shall be used under any circumstances after December 31, 2009, for the payment of benefits during periods of family temporary disability leave or for the administration of those payments, including for the administration of the collection of contributions made pursuant to this subparagraph (ii).

(2) (A) (Deleted by amendment, P.L.1984, c.24.)

(B) (Deleted by amendment, P.L.1984, c.24.)

(C) (Deleted by amendment, P.L.1994, c.112.)

(D) (Deleted by amendment, P.L.1994, c.112.)

(E) (i) (Deleted by amendment, P.L.1994, c.112.)

(ii) (Deleted by amendment, P.L.1996, c.28.)

(iii) (Deleted by amendment, P.L.1994, c.112.)

(3) (A) If an employee receives wages from more than one employer during any calendar year, and either the sum of his contributions deposited in and credited to the State disability benefits fund plus the amount of his contributions, if any, required towards the costs of benefits under one or more approved private plans under the provisions of section 9 of the "Temporary Disability Benefits Law" (C.43:21-33) and deducted from his wages, or the sum of such latter contributions, if the employee is covered during such calendar year only by two or more private plans, exceeds an amount equal to $\frac{1}{2}$ of 1% of the "wages" determined in accordance with the provisions of R.S.43:21-7(b)(3) during the calendar years beginning on or after January 1, 1976 or, during calendar year 2012 or any subsequent calendar year, the total amount of his contributions for the year exceeds the amount set by the annual rate of contribution determined by the Commissioner of Labor and Workforce Development pursuant to subparagraph (i) of paragraph (1)(G) of this subsection (d), the employee shall be entitled to a refund of the excess if he makes a claim to the controller within two years after the end of the calendar year in which the wages are received with respect to which the refund is claimed and establishes his right to such refund. Such refund shall be made by the controller from the State disability benefits fund. No interest shall be allowed or paid with respect to any such refund. The controller shall, in accordance with prescribed regulations, determine the portion of the aggregate amount of such refunds made during any calendar year which is applicable to private plans for which deductions were made under section 9 of the "Temporary Disability Benefits Law" (C.43:21-33) such determination to be based upon the ratio of the amount of such wages exempt from contributions to such fund, as provided in subparagraph (B) of paragraph (1) of this subsection with respect to coverage under private plans, to the total wages so exempt plus the amount of such wages subject to contributions to the disability benefits fund, as provided in subparagraph (G) of paragraph (1) of this subsection. The controller shall, in accordance with prescribed regulations, prorate the amount so determined among the applicable private plans in the proportion that the wages covered by each plan bear to the total private plan wages involved in such refunds, and shall assess against and recover from the employer, or the insurer if the insurer has indemnified the employer with respect thereto, the amount so prorated. The provisions of R.S.43:21-14 with respect to collection of employer contributions shall apply to such assessments. The amount so recovered by the controller shall be paid into the State disability benefits fund.

(B) If an employee receives wages from more than one employer during any calendar year, and the sum of his contributions deposited in the "Family Temporary Disability Leave Account" of the State disability benefits fund plus the amount of his contributions, if any, required towards the costs of family temporary disability leave benefits under one or more approved private plans under the provisions of the "Temporary Disability Benefits Law" (C.43:21-25 et al.) and deducted from his wages, exceeds an amount equal to, during calendar year 2009, 0.09% of the "wages" determined in accordance with the provisions of R.S.43:21-7(b)(3), or during calendar year 2010, 0.12% of those wages, or, during calendar year 2011 or any subsequent calendar year, the percentage of those wages set by the annual rate of contribution determined by the Commissioner of Labor and Workforce Development pursuant to subparagraph (ii) of paragraph (1)(G) of this subsection (d), the employee shall be entitled to a refund of the excess if he makes a claim to the controller within two years after the end of the calendar year in which the wages are received with respect to which the refund is claimed and establishes his right to the refund. The refund shall be made by the controller from the "Family Temporary Disability Leave Account" of the State disability benefits fund. No interest shall be allowed or paid with respect to any such refund. The controller shall, in accordance with prescribed regulations, determine the portion of the aggregate amount of the refunds made

during any calendar year which is applicable to private plans for which deductions were made under section 9 of the "Temporary Disability Benefits Law" (C.43:21-33), with that determination based upon the ratio of the amount of such wages exempt from contributions to the fund, as provided in paragraph (1)(B) of this subsection (d) with respect to coverage under private plans, to the total wages so exempt plus the amount of such wages subject to contributions to the "Family Temporary Disability Leave Account" of the State disability benefits fund, as provided in subparagraph (ii) of paragraph (1)(G) of this subsection (d). The controller shall, in accordance with prescribed regulations, prorate the amount so determined among the applicable private plans in the proportion that the wages covered by each plan bear to the total private plan wages involved in such refunds, and shall assess against and recover from the employer, or the insurer if the insurer has indemnified the employer with respect thereto, the prorated amount. The provisions of R.S.43:21-14 with respect to collection of employer contributions shall apply to such assessments. The amount so recovered by the controller shall be paid into the "Family Temporary Disability Leave Account" of the State disability benefits fund.

(4) If an individual does not receive any wages from the employing unit which for the purposes of this chapter (R.S.43:21-1 et seq.) is treated as his employer, or receives his wages from some other employing unit, such employer shall nevertheless be liable for such individual's contributions in the first instance; and after payment thereof such employer may deduct the amount of such contributions from any sums payable by him to such employing unit, or may recover the amount of such contributions from such employing unit, or, in the absence of such an employing unit, from such individual, in a civil action; provided proceedings therefor are instituted within three months after the date on which such contributions are payable. General rules shall be prescribed whereby such an employing unit may recover the amount of such contributions from such individuals in the same manner as if it were the employer.

(5) Every employer who has elected to become an employer subject to this chapter (R.S.43:21-1 et seq.), or to cease to be an employer subject to this chapter (R.S.43:21-1 et seq.), pursuant to the provisions of R.S.43:21-8, shall post and maintain printed notices of such election on his premises, of such design, in such numbers, and at such places as the director may determine to be necessary to give notice thereof to persons in his service.

(6) Contributions by workers, payable to the controller as herein provided, shall be exempt from garnishment, attachment, execution, or any other remedy for the collection of debts.

(e) Contributions by employers to the State disability benefits fund.

(1) Except as hereinafter provided, each employer shall, in addition to the contributions required by subsections (a), (b), and (c) of this section, contribute 1/2 of 1% of the wages paid by such employer to workers with respect to employment unless he is not a covered employer as defined in subsection (a) of section 3 of the "Temporary Disability Benefits Law" (C.43:21-27 (a)), except that the rate for the State of New Jersey shall be 1/10 of 1% for the calendar year 1980 and for the first six months of 1981. Prior to July 1, 1981 and prior to July 1 each year thereafter, the controller shall review the experience accumulated in the account of the State of New Jersey and establish a rate for the next following fiscal year which, in combination with worker contributions, will produce sufficient revenue to keep the account in balance; except that the rate so established shall not be less than 1/10 of 1%. Such contributions shall become due and be paid by the employer to the controller for the State disability benefits fund as established by law, in accordance with such regulations as may be prescribed, and shall not be deducted, in whole or in part, from the remuneration of individuals in his employ. In

the payment of any contributions, a fractional part of a cent shall be disregarded unless it amounts to \$0.005 or more, in which case it shall be increased to \$0.01.

(2) During the continuance of coverage of a worker by an approved private plan of disability benefits under the "Temporary Disability Benefits Law," the employer shall be exempt from the contributions required by paragraph (1) above with respect to wages paid to such worker.

(3) (A) The rates of contribution as specified in paragraph (1) above shall be subject to modification as provided herein with respect to employer contributions due on and after July 1, 1951.

(B) A separate disability benefits account shall be maintained for each employer required to contribute to the State disability benefits fund and such account shall be credited with contributions deposited in and credited to such fund with respect to employment occurring on and after January 1, 1949. Each employer's account shall be credited with all contributions paid on or before January 31 of any calendar year on his own behalf and on behalf of individuals in his service with respect to employment occurring in preceding calendar years; provided, however, that if January 31 of any calendar year falls on a Saturday or Sunday an employer's account shall be credited as of January 31 of such calendar year with all the contributions which he has paid on or before the next succeeding day which is not a Saturday or Sunday. But nothing in this act shall be construed to grant any employer or individuals in his service prior claims or rights to the amounts paid by him to the fund either on his own behalf or on behalf of such individuals. Benefits paid to any covered individual in accordance with Article III of the "Temporary Disability Benefits Law" on or before December 31 of any calendar year with respect to disability in such calendar year and in preceding calendar years shall be charged against the account of the employer by whom such individual was employed at the commencement of such disability or by whom he was last employed, if out of employment.

(C) The controller may prescribe regulations for the establishment, maintenance, and dissolution of joint accounts by two or more employers, and shall, in accordance with such regulations and upon application by two or more employers to establish such an account, or to merge their several individual accounts in a joint account, maintain such joint account as if it constituted a single employer's account.

(D) Prior to July 1 of each calendar year, the controller shall make a preliminary determination of the rate of contribution for the 12 months commencing on such July 1 for each employer subject to the contribution requirements of this subsection (e).

(1) Such preliminary rate shall be 1/2 of 1% unless on the preceding January 31 of such year such employer shall have been a covered employer who has paid contributions to the State disability benefits fund with respect to employment in the three calendar years immediately preceding such year.

(2) If the minimum requirements in subparagraph (D) (1) above have been fulfilled and the credited contributions exceed the benefits charged by more than \$500.00, such preliminary rate shall be as follows:

(i) 2/10 of 1% if such excess over \$500.00 exceeds 1% but is less than 1 1/4% of his average annual payroll as defined in this chapter (R.S.43:21-1 et seq.);

(ii) 15/100 of 1% if such excess over \$500.00 equals or exceeds 1 1/4% but is less than 1 1/2% of his average annual payroll;

(iii) 1/10 of 1% if such excess over \$500.00 equals or exceeds 1 1/2% of his average annual payroll.

(3) If the minimum requirements in subparagraph (D) (1) above have been fulfilled and the contributions credited exceed the benefits charged but by not more than \$500.00 plus 1% of

his average annual payroll, or if the benefits charged exceed the contributions credited but by not more than \$500.00, the preliminary rate shall be 1/4 of 1%.

(4) If the minimum requirements in subparagraph (D) (1) above have been fulfilled and the benefits charged exceed the contributions credited by more than \$500.00, such preliminary rate shall be as follows:

(i) 35/100 of 1% if such excess over \$500.00 is less than 1/4 of 1% of his average annual payroll;

(ii) 45/100 of 1% if such excess over \$500.00 equals or exceeds 1/4 of 1% but is less than 1/2 of 1% of his average annual payroll;

(iii) 55/100 of 1% if such excess over \$500.00 equals or exceeds 1/2 of 1% but is less than 3/4 of 1% of his average annual payroll;

(iv) 65/100 of 1% if such excess over \$500.00 equals or exceeds 3/4 of 1% but is less than 1% of his average annual payroll;

(v) 75/100 of 1% if such excess over \$500.00 equals or exceeds 1% of his average annual payroll.

(5) Determination of the preliminary rate as specified in subparagraphs (D)(2), (3) and (4) above shall be subject, however, to the condition that it shall in no event be decreased by more than 1/10 of 1% of wages or increased by more than 2/10 of 1% of wages from the preliminary rate determined for the preceding year in accordance with subparagraph (D) (1), (2), (3) or (4), whichever shall have been applicable.

(E) (1) Prior to July 1 of each calendar year the controller shall determine the amount of the State disability benefits fund as of December 31 of the preceding calendar year, increased by the contributions paid thereto during January of the current calendar year with respect to employment occurring in the preceding calendar year. If such amount exceeds the net amount withdrawn from the unemployment trust fund pursuant to section 23 of the "Temporary Disability Benefits Law," P.L.1948, c.110 (C.43:21-47) plus the amount at the end of such preceding calendar year of the unemployment disability account as defined in section 22 of said law (C.43:21-46), such excess shall be expressed as a percentage of the wages on which contributions were paid to the State disability benefits fund on or before January 31 with respect to employment in the preceding calendar year.

(2) The controller shall then make a final determination of the rates of contribution for the 12 months commencing July 1 of such year for employers whose preliminary rates are determined as provided in subparagraph (D) hereof, as follows:

(i) If the percentage determined in accordance with subparagraph (E)(1) of this paragraph equals or exceeds 1 1/4%, the final employer rates shall be the preliminary rates determined as provided in subparagraph (D) hereof, except that if the employer's preliminary rate is determined as provided in subparagraph (D)(2) or subparagraph (D)(3) hereof, the final employer rate shall be the preliminary employer rate decreased by such percentage of excess taken to the nearest 5/100 of 1%, but in no case shall such final rate be less than 1/10 of 1%.

(ii) If the percentage determined in accordance with subparagraph (E)(1) of this paragraph equals or exceeds 3/4 of 1% and is less than 1 1/4 of 1%, the final employer rates shall be the preliminary employer rates.

(iii) If the percentage determined in accordance with subparagraph (E)(1) of this paragraph is less than 3/4 of 1%, but in excess of 1/4 of 1%, the final employer rates shall be the preliminary employer rates determined as provided in subparagraph (D) hereof increased by the difference between 3/4 of 1% and such percentage taken to the nearest 5/100 of 1%; provided, however, that no such final rate shall be more than 1/4 of 1% in the case of an employer whose preliminary rate is determined as provided in subparagraph (D)(2) hereof, more than 1/2 of 1% in the case of an employer whose preliminary rate is determined as

provided in subparagraph (D)(1) and subparagraph (D)(3) hereof, nor more than $\frac{3}{4}$ of 1% in the case of an employer whose preliminary rate is determined as provided in subparagraph (D)(4) hereof.

(iv) If the amount of the State disability benefits fund determined as provided in subparagraph (E)(1) of this paragraph is equal to or less than $\frac{1}{4}$ of 1%, then the final rate shall be $\frac{2}{5}$ of 1% in the case of an employer whose preliminary rate is determined as provided in subparagraph (D)(2) hereof, $\frac{7}{10}$ of 1% in the case of an employer whose preliminary rate is determined as provided in subparagraph (D)(1) and subparagraph (D)(3) hereof, and 1.1% in the case of an employer whose preliminary rate is determined as provided in subparagraph (D)(4) hereof. Notwithstanding any other provision of law or any determination made by the controller with respect to any 12-month period commencing on July 1, 1970, the final rates for all employers for the period beginning January 1, 1971, shall be as set forth herein.

(F) Notwithstanding any other provisions of this subsection (e), the rate of contribution paid to the State disability benefits fund by each covered employer as defined in paragraph (1) of subsection (a) of section 3 of P.L.1948, c.110 (C.43:21-27), shall be determined as if:

(i) No disability benefits have been paid with respect to periods of family temporary disability leave;

(ii) No worker paid any contributions to the State disability benefits fund pursuant to paragraph (1)(G)(ii) of subsection (d) of this section;

(iii) No amounts were transferred from the State disability benefits fund to the "Family Temporary Disability Leave Account" pursuant to paragraph (1)(G)(ii) of subsection (d) of this section; and

(iv) The total amount of benefits paid for periods of disability were not subject to the increases in the weekly benefit rate for those benefits commencing July 1, 2020 pursuant to section 16 of P.L.1948, c.110 (C.43:21-40).

6. R.S.43:21-16 is amended to read as follows:

Unemployment compensation offenses and penalties.

43:21-16. (a) (1) Whoever makes a false statement or representation, knowing it to be false, or knowingly fails to disclose a material fact, to obtain or increase or attempts to obtain or increase any benefit or other payment under this chapter (R.S.43:21-1 et seq.), or under an employment security law of any other state or of the federal government, either for himself or for any other person, shall be liable to a fine of 25% of the amount fraudulently obtained, to be recovered in an action at law in the name of the Division of Unemployment and Temporary Disability Insurance of the Department of Labor and Workforce Development of the State of New Jersey or as provided in subsection (e) of R.S.43:21-14, said fine when recovered shall be immediately deposited in the following manner: 10 percent of the amount fraudulently obtained deposited into the unemployment compensation auxiliary fund for the use of said fund, and 15 percent of the amount fraudulently obtained deposited into the unemployment compensation fund; and each such false statement or representation or failure to disclose a material fact shall constitute a separate offense. Any penalties imposed by this subsection shall be in addition to those otherwise prescribed in this chapter (R.S.43:21-1 et seq.).

(2) For purposes of any unemployment compensation program of the United States, if the department determines that any benefit amount is obtained by an individual due to fraud committed by the individual, the department shall assess a fine on the individual and deposit the recovered fine in the same manner as provided in paragraph (1) of subsection (a) of this

section. As used in this paragraph, "unemployment compensation program of the United States" means:

(A) Unemployment compensation for federal civilian employees pursuant to 5 U.S.C. 8501 et seq.;

(B) Unemployment compensation for ex-service members pursuant to 5 U.S.C. 8521 et seq.;

(C) Trade readjustment allowances pursuant to 19 U.S.C. 2291-2294;

(D) Disaster unemployment assistance pursuant to 42 U.S.C. 5177(a);

(E) Any federal temporary extension of unemployment compensation;

(F) Any federal program that increases the weekly amount of unemployment compensation payable to individuals; and

(G) Any other federal program providing for the payment of unemployment compensation.

(b) (1) An employing unit or any officer or agent of an employing unit or any other person who makes a false statement or representation, knowing it to be false, or who knowingly fails to disclose a material fact, to prevent or reduce the payment of benefits to any individual entitled thereto or to avoid becoming or remaining subject hereto or to avoid or reduce any contribution or other payment required from an employing unit under this chapter (R.S.43:21-1 et seq.), or under an employment security law of any other state or of the federal government, or who willfully fails or refuses to furnish any reports or information required hereunder, including failing to provide the information required by subsection (a) of R.S.43:21-6 immediately upon a separation from employment, or to produce or permit the inspection or copying of records, as required hereunder, shall be liable to a fine of \$500, or 25% of any amount fraudulently withheld, whichever is greater, to be recovered in an action at law in the name of the Division of Unemployment and Temporary Disability Insurance of the Department of Labor and Workforce Development of the State of New Jersey or as provided in subsection (e) of R.S.43:21-14, said fine when recovered to be paid to the unemployment compensation auxiliary fund for the use of said fund; and each such false statement or representation or failure to disclose a material fact, and each day of such failure or refusal shall constitute a separate offense. Any penalties imposed by this paragraph shall be in addition to those otherwise prescribed in this chapter (R.S.43:21-1 et seq.).

(2) (Deleted by amendment, P.L.2022, c.120).

(3) Any employing unit, officer or agent of the employing unit, or any other person, determined by the controller to have knowingly violated, or attempted to violate, or advised another person to violate the transfer of employment experience provisions found at R.S.43:21-7 (c)(7), or who otherwise knowingly attempts to obtain a lower rate of contributions by failing to disclose material information, or by making a false statement, or by a misrepresentation of fact, shall be subject to a fine of \$5,000 or 25% of the contributions under-reported or attempted to be under-reported, whichever is greater, to be recovered as provided in subsection (e) of R.S.43:21-14, and when recovered to be paid to the unemployment compensation auxiliary fund for the use of said fund. For the purposes of this subsection, "knowingly" means having actual knowledge of, or acting with deliberate ignorance or reckless disregard for the prohibition involved.

(c) Any person who shall willfully violate any provision of this chapter (R.S.43:21-1 et seq.) or any rule or regulation thereunder, the violation of which is made unlawful or the observance of which is required under the terms of this chapter (R.S.43:21-1 et seq.), and for which a penalty is neither prescribed herein nor provided by any other applicable statute, shall be liable to a fine of \$50.00, to be recovered in an action at law in the name of the Division of Unemployment and Temporary Disability Insurance of the Department of Labor and Workforce Development of the State of New Jersey or as provided in subsection (e) of

R.S.43:21-14, said fine when recovered to be paid to the unemployment compensation auxiliary fund for the use of said fund; and each day such violation continues shall be deemed to be a separate offense.

(d) (1) When it is determined by a representative or representatives designated by the Director of the Division of Unemployment Insurance or the Division of Temporary Disability Insurance, as appropriate, of the Department of Labor and Workforce Development of the State of New Jersey that any person has received any sum as benefits under this chapter (R.S.43:21-1 et seq.) while any conditions for the receipt of benefits imposed by this chapter (R.S.43:21-1 et seq.) were not fulfilled in his case, or while he was disqualified from receiving benefits, or while otherwise not entitled to receive such sum as benefits, such person, unless the Director of the Division of Unemployment Insurance or the Division of Temporary Disability Insurance, as appropriate, has waived the claimant's repayment obligation, pursuant to paragraph (4) or paragraph (5) of this subsection (d), shall be liable to repay those benefits in full. The employer's account shall not be charged for the amount of an overpayment of benefits if the overpayment was caused by an error of the division and not by any error of the employer. The sum shall be deducted from any future benefits payable to the individual under this chapter (R.S.43:21-1 et seq.) or shall be paid by the individual to the division for the unemployment compensation fund, and such sum shall be collectible in the manner provided for by law, including, but not limited to, the filing of a certificate of debt with the Clerk of the Superior Court of New Jersey; provided, however, that, except in the event of fraud, no person shall be liable for any such refunds or deductions against future benefits unless so notified before four years have elapsed from the time the benefits in question were paid. Such person shall be promptly notified of the determination and the reasons therefor. The person shall be provided a written notification of any determination regarding the repayment of an overpayment and the opportunity to file an appeal of the determination within 20 calendar days after a confirmed receipt of a notice of the determination or 30 calendar days after the notice was mailed to the last known address of the person, and a recovery of an overpayment shall not commence until the end of whichever is applicable of the 20- or 30-day periods and the resolution of any appeal made during those periods.

(2) Interstate and cross-offset of state and federal unemployment benefits. To the extent permissible under the laws and Constitution of the United States, the commissioner is authorized to enter into or cooperate in arrangements or reciprocal agreements with appropriate and duly authorized agencies of other states or the United States Secretary of Labor, or both, whereby:

(A) Overpayments of unemployment benefits as determined under subsection (d) of R.S.43:21-16 shall be recovered by offset from unemployment benefits otherwise payable under the unemployment compensation law of another state, and overpayments of unemployment benefits as determined under the unemployment compensation law of another state shall be recovered by offset from unemployment benefits otherwise payable under R.S.43:21-1 et seq.; and

(B) Overpayments of unemployment benefits as determined under applicable federal law, with respect to benefits or allowances for unemployment provided under a federal program administered by this State under an agreement with the United States Secretary of Labor, shall be recovered by offset from unemployment benefits otherwise payable under R.S.43:21-1 et seq., or any federal program administered by this State, or under the unemployment compensation law of another state or any federal unemployment benefit or allowance program administered by another state under an agreement with the United States Secretary of Labor, if the other state has in effect a reciprocal agreement with the United States Secretary of Labor

as authorized by subsection (g) of 42 U.S.C.s.503, and if the United States agrees, as provided in the reciprocal agreement with this State entered into under subsection (g) of 42 U.S.C.s.503, that overpayments of unemployment benefits as determined under subsection (d) of R.S.43:21-16 and overpayments as determined under the unemployment compensation law of another state which has in effect a reciprocal agreement with the United States Secretary of Labor as authorized by subsection (g) of 42 U.S.C.s.503, shall be recovered by offset from benefits or allowances otherwise payable under a federal program administered by this State or another state under an agreement with the United States Secretary of Labor.

(3) The provisions of this subsection shall not be construed as requiring or permitting a waiver of the recovery of any overpayments of unemployment benefits if the waiver is prohibited by any federal law, regulation or administrative directive. A recovery shall not be waived unless the division determines that the claimant is without fault and the repayment would be contrary to equity and good conscience in the case of the recovery of an overpayment of benefit under any of the following programs authorized by the federal "Coronavirus Aid, Relief, and Economic Security (CARES) Act," Pub.L.116-136: Federal Pandemic Unemployment Compensation (FPUC), Pandemic Emergency Unemployment Compensation (PEUC), Mixed Earners Unemployment Compensation (MEUC), Pandemic Unemployment Assistance (PUA), or the first week of regular Unemployment Compensation that is reimbursed in accordance with Section 2105 of the CARES Act".

(4) Upon request by the claimant, the Director of the Division of Unemployment Insurance or the Division of Temporary Disability Insurance, as appropriate, shall grant the claimant a full waiver of recovery of an overpayment of benefits only after the director has determined that the claimant has not misrepresented or withheld any material fact to obtain benefits and only under the following circumstances:

- (A) Where the claimant is deceased;
- (B) Where the claimant is disabled and no longer able to work;
- (C) Where the claimant received the overpayment of benefits due to an error by the division, or due to an error of the employer or a failure by the employer to provide information; or
- (D) Where the director determines that recovery of the overpayment would be contrary to equity and good conscience.

(5) In the event that the Director of the Division of Unemployment Insurance or the Division of Temporary Disability Insurance, as appropriate, becomes aware, without a request from the claimant pursuant to subparagraph (C) of paragraph (4) of this subsection (d), that the claimant received an overpayment of benefits due to an error by the division, or due to an error of the employer or a failure by the employer to provide information, the director shall grant a full waiver of recovery of an overpayment of benefits, provided that the director has first determined that the claimant did not misrepresent or withhold any material fact to obtain benefits.

(e) (1) Any employing unit, or any officer or agent of an employing unit, which officer or agent is directly or indirectly responsible for collecting, truthfully accounting for, remitting when payable any contribution, or filing or causing to be filed any report or statement required by this chapter, or employer, or person failing to remit, when payable, any employer contributions, or worker contributions (if withheld or deducted), or the amount of such worker contributions (if not withheld or deducted), or filing or causing to be filed with the controller or the Division of Unemployment and Temporary Disability Insurance of the Department of Labor and Workforce Development of the State of New Jersey, any false or fraudulent report or statement, and any person who aids or abets an employing unit, employer, or any person in the preparation or filing of any false or fraudulent report or statement with intent to defraud the State of New Jersey or an employment security agency of any other state or of the federal

government, or with intent to evade the payment of any contributions, interest or penalties, or any part thereof, which shall be due under the provisions of this chapter (R.S.43:21-1 et seq.), shall be liable for each offense upon conviction before any Superior Court or municipal court, to a fine not to exceed \$1,000.00 or by imprisonment for a term not to exceed 90 days, or both, at the discretion of the court. The fine upon conviction shall be payable to the unemployment compensation auxiliary fund. Any penalties imposed by this subsection shall be in addition to those otherwise prescribed in this chapter (R.S.43:21-1 et seq.).

(2) Any employing unit, officer or agent of the employing unit, or any other person, who knowingly violates, or attempts to violate, or advise another person to violate the transfer of employment experience provisions found at R.S.43:21-7 (c)(7) shall be, upon conviction before any Superior Court or municipal court, guilty of a crime of the fourth degree. For the purposes of this subsection, "knowingly" means having actual knowledge of, or acting with deliberate ignorance or reckless disregard for the prohibition involved.

(f) Any employing unit or any officer or agent of an employing unit or any other person who aids and abets any person to obtain any sum of benefits under this chapter to which he is not entitled, or a larger amount as benefits than that to which he is justly entitled, shall be liable for each offense upon conviction before any Superior Court or municipal court, to a fine not to exceed \$1,000.00 or by imprisonment for a term not to exceed 90 days, or both, at the discretion of the court. The fine upon conviction shall be payable to the unemployment compensation auxiliary fund. Any penalties imposed by this subsection shall be in addition to those otherwise prescribed in this chapter (R.S.43:21-1 et seq.).

(g) There shall be created in the Division of Unemployment and Temporary Disability Insurance of the Department of Labor and Workforce Development of the State of New Jersey an investigative staff for the purpose of investigating violations referred to in this section and enforcing the provisions thereof.

(h) An employing unit or any officer or agent of an employing unit who makes a false statement or representation, knowing it to be false, or who knowingly fails to disclose a material fact, to reduce benefit charges to the employing unit pursuant to paragraph (1) of subsection (c) of R.S.43:21-7, shall be liable to a fine of \$1,000, to be recovered in an action at law in the name of the Division of Unemployment and Temporary Disability Insurance of the Department of Labor and Workforce Development of the State of New Jersey or as provided in subsection (e) of R.S.43:21-14. The fine when recovered shall be paid to the unemployment compensation auxiliary fund for the use of the fund. Each false statement or representation or failure to disclose a material fact, and each day of that failure or refusal shall constitute a separate offense. Any penalties imposed by this subsection shall be in addition to those otherwise prescribed in R.S.43:21-1 et seq.

(i) The Department of Labor and Workforce Development shall arrange for the electronic receipt of death record notifications from the New Jersey Electronic Death Registration System, pursuant to section 16 of P.L.2003, c.221 (C.26:8-24.1), and establish a verification system to confirm that benefits paid pursuant to the "Temporary Disability Benefits Law," P.L.1948, c.110 (C.43:21-25 et al.), and the "unemployment compensation law," R.S.43:21-1 et seq., are not being paid to deceased individuals.

(j) The Department of Labor and Workforce Development shall arrange for the electronic receipt of identifying information from the Department of Corrections, pursuant to section 6 of P.L.1976, c.98 (C.30:1B-6), and from the Administrative Office of the Courts and any county which does not provide county inmate incarceration information to the Administrative Office of the Courts, and establish a verification system to confirm that benefits paid pursuant

to the "unemployment compensation law," R.S.43:21-1 et seq., are not being paid to individuals who are incarcerated.

7. R.S.43:21-19 is amended to read as follows:

Definitions.

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

(a) (1) "Annual payroll" means the total amount of wages paid during a calendar year (regardless of when earned) by an employer for employment.

(2) "Average annual payroll" means the average of the annual payrolls of any employer for the last three or five preceding calendar years, whichever average is higher, except that any year or years throughout which an employer has had no "annual payroll" because of military service shall be deleted from the reckoning; the "average annual payroll" in such case is to be determined on the basis of the prior three or five calendar years in each of which the employer had an "annual payroll" in the operation of his business, if the employer resumes his business within 12 months after separation, discharge or release from such service, under conditions other than dishonorable, and makes application to have his "average annual payroll" determined on the basis of such deletion within 12 months after he resumes his business; provided, however, that "average annual payroll" solely for the purposes of paragraph (3) of subsection (e) of R.S.43:21-7 means the average of the annual payrolls of any employer on which he paid contributions to the State disability benefits fund for the last three or five preceding calendar years, whichever average is higher; provided further that only those wages be included on which employer contributions have been paid on or before January 31 (or the next succeeding day if such January 31 is a Saturday or Sunday) immediately preceding the beginning of the 12-month period for which the employer's contribution rate is computed.

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

(c) (1) "Base year" with respect to benefit years commencing on or after July 1, 1986, shall mean the first four of the last five completed calendar quarters immediately preceding an individual's benefit year.

With respect to a benefit year commencing on or after July 1, 1995, if an individual does not have sufficient qualifying weeks or wages in his base year to qualify for benefits, the individual shall have the option of designating that his base year shall be the "alternative base year," which means the last four completed calendar quarters immediately preceding the individual's benefit year; except that, with respect to a benefit year commencing on or after October 1, 1995, if the individual also does not have sufficient qualifying weeks or wages in the last four completed calendar quarters immediately preceding his benefit year to qualify for benefits, "alternative base year" means the last three completed calendar quarters immediately preceding his benefit year and, of the calendar quarter in which the benefit year commences, the portion of the quarter which occurs before the commencing of the benefit year.

The division shall inform the individual of his options under this section as amended by P.L.1995, c.234. If information regarding weeks and wages for the calendar quarter or quarters immediately preceding the benefit year is not available to the division from the regular quarterly reports of wage information and the division is not able to obtain the information using other means pursuant to State or federal law, the division may base the determination of eligibility for benefits on the affidavit of an individual with respect to weeks and wages for that calendar quarter. The individual shall furnish payroll documentation, if available, in

support of the affidavit. A determination of benefits based on an alternative base year shall be adjusted when the quarterly report of wage information from the employer is received if that information causes a change in the determination.

(2) With respect to a benefit year commencing on or after June 1, 1990 for an individual who immediately preceding the benefit year was subject to a disability compensable under the provisions of the "Temporary Disability Benefits Law," P.L.1948, c.110 (C.43:21-25 et seq.), "base year" shall mean the first four of the last five completed calendar quarters immediately preceding the individual's period of disability, if the employment held by the individual immediately preceding the period of disability is no longer available at the conclusion of that period and the individual files a valid claim for unemployment benefits after the conclusion of that period. For the purposes of this paragraph, "period of disability" means the period defined as a period of disability by section 3 of the "Temporary Disability Benefits Law," P.L.1948, c.110 (C.43:21-27). An individual who files a claim under the provisions of this paragraph (2) shall not be regarded as having left work voluntarily for the purposes of subsection (a) of R.S.43:21-5.

(3) With respect to a benefit year commencing on or after June 1, 1990 for an individual who immediately preceding the benefit year was subject to a disability compensable under the provisions of the workers' compensation law (chapter 15 of Title 34 of the Revised Statutes), "base year" shall mean the first four of the last five completed calendar quarters immediately preceding the individual's period of disability, if the period of disability was not longer than two years, if the employment held by the individual immediately preceding the period of disability is no longer available at the conclusion of that period and if the individual files a valid claim for unemployment benefits after the conclusion of that period. For the purposes of this paragraph, "period of disability" means the period from the time at which the individual becomes unable to work because of the compensable disability until the time that the individual becomes able to resume work and continue work on a permanent basis. An individual who files a claim under the provisions of this paragraph (3) shall not be regarded as having left work voluntarily for the purposes of subsection (a) of R.S.43:21-5.

(d) "Benefit year" with respect to any individual means the 364 consecutive calendar days beginning with the day on, or as of, which he first files a valid claim for benefits, and thereafter beginning with the day on, or as of, which the individual next files a valid claim for benefits after the termination of his last preceding benefit year. Any claim for benefits made in accordance with subsection (a) of R.S.43:21-6 shall be deemed to be a "valid claim" for the purpose of this subsection if (1) he is unemployed for the week in which, or as of which, he files a claim for benefits; and (2) he has fulfilled the conditions imposed by subsection (e) of R.S.43:21-4.

(e) (1) "Division" means the Division of Unemployment and Temporary Disability Insurance of the Department of Labor and Workforce Development, and any transaction or exercise of authority by the director of the division thereunder, or under this chapter (R.S.43:21-1 et seq.), shall be deemed to be performed by the division.

(2) "Controller" means the Office of the Assistant Commissioner for Finance and Controller of the Department of Labor and Workforce Development, established by the 1982 Reorganization Plan of the Department of Labor.

(f) "Contributions" means the money payments to the State Unemployment Compensation Fund, required by R.S.43:21-7. "Payments in lieu of contributions" means the money payments to the State Unemployment Compensation Fund by employers electing or required to make payments in lieu of contributions, as provided in section 3 or section 4 of P.L.1971, c.346 (C.43:21-7.2 or 43:21-7.3).

(g) "Employing unit" means the State or any of its instrumentalities or any political subdivision thereof or any of its instrumentalities or any instrumentality of more than one of the foregoing or any instrumentality of any of the foregoing and one or more other states or political subdivisions or any individual or type of organization, any partnership, association, trust, estate, joint-stock company, insurance company or corporation, whether domestic or foreign, or the receiver, trustee in bankruptcy, trustee or successor thereof, or the legal representative of a deceased person, which has or subsequent to January 1, 1936, had in its employ one or more individuals performing services for it within this State. All individuals performing services within this State for any employing unit which maintains two or more separate establishments within this State shall be deemed to be employed by a single employing unit for all the purposes of this chapter (R.S.43:21-1 et seq.). Each individual employed to perform or to assist in performing the work of any agent or employee of an employing unit shall be deemed to be employed by such employing unit for all the purposes of this chapter (R.S.43:21-1 et seq.), whether such individual was hired or paid directly by such employing unit or by such agent or employee; provided the employing unit had actual or constructive knowledge of the work.

(h) "Employer" means:

(1) Any employing unit which in either the current or the preceding calendar year paid remuneration for employment in the amount of \$1,000.00 or more;

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

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

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

(5) Any employing unit for which service in employment as defined in R.S.43:21-19 (i) (1) (B) (i) is performed after December 31, 1971; and as defined in R.S.43:21-19 (i) (1) (B) (ii) is performed after December 31, 1977;

(6) Any employing unit for which service in employment as defined in R.S.43:21-19 (i) (1) (c) is performed after December 31, 1971 and which in either the current or the preceding calendar year paid remuneration for employment in the amount of \$1,000.00 or more;

(7) Any employing unit not an employer by reason of any other paragraph of this subsection (h) for which, within either the current or preceding calendar year, service is or was performed with respect to which such employing unit is liable for any federal tax against which credit may be taken for contributions required to be paid into a state unemployment fund; or which, as a condition for approval of the "unemployment compensation law" for full tax credit against the tax imposed by the Federal Unemployment Tax Act, is required pursuant to such act to be an employer under this chapter (R.S.43:21-1 et seq.);

(8) (Deleted by amendment, P.L.1977, c.307.)

(9) (Deleted by amendment, P.L.1977, c.307.)

(10) (Deleted by amendment, P.L.1977, c.307.)

(11) Any employing unit subject to the provisions of the Federal Unemployment Tax Act within either the current or the preceding calendar year, except for employment hereinafter excluded under paragraph (7) of subsection (i) of this section;

(12) Any employing unit for which agricultural labor in employment as defined in R.S.43:21-19 (i) (1) (I) is performed after December 31, 1977;

(13) Any employing unit for which domestic service in employment as defined in R.S.43:21-19 (i) (1) (J) is performed after December 31, 1977;

(14) Any employing unit which having become an employer under the "unemployment compensation law" (R.S.43:21-1 et seq.), has not under R.S.43:21-8 ceased to be an employer; or for the effective period of its election pursuant to R.S.43:21-8, any other employing unit which has elected to become fully subject to this chapter (R.S.43:21-1 et seq.).

(i) (1) "Employment" means:

(A) Any service performed prior to January 1, 1972, which was employment as defined in the "unemployment compensation law" (R.S.43:21-1 et seq.) prior to such date, and, subject to the other provisions of this subsection, service performed on or after January 1, 1972, including service in interstate commerce, performed for remuneration or under any contract of hire, written or oral, express or implied.

(B) (i) Service performed after December 31, 1971 by an individual in the employ of this State or any of its instrumentalities or in the employ of this State and one or more other states or their instrumentalities for a hospital or institution of higher education located in this State, if such service is not excluded from "employment" under paragraph (D) below.

(ii) Service performed after December 31, 1977, in the employ of this State or any of its instrumentalities or any political subdivision thereof or any of its instrumentalities or any instrumentality of more than one of the foregoing or any instrumentality of the foregoing and one or more other states or political subdivisions, if such service is not excluded from "employment" under paragraph (D) below.

(C) Service performed after December 31, 1971 by an individual in the employ of a religious, charitable, educational, or other organization, which is excluded from "employment" as defined in the Federal Unemployment Tax Act, solely by reason of section 3306 (c)(8) of that act, if such service is not excluded from "employment" under paragraph (D) below.

(D) For the purposes of paragraphs (B) and (C), the term "employment" does not apply to services performed

(i) In the employ of (I) a church or convention or association of churches, or (II) an organization, or school which is operated primarily for religious purposes and which is operated, supervised, controlled or principally supported by a church or convention or association of churches;

(ii) By a duly ordained, commissioned, or licensed minister of a church in the exercise of his ministry or by a member of a religious order in the exercise of duties required by such order;

(iii) Prior to January 1, 1978, in the employ of a school which is not an institution of higher education, and after December 31, 1977, in the employ of a governmental entity referred to in R.S.43:21-19 (i) (1) (B), if such service is performed by an individual in the exercise of duties

(aa) as an elected official;

(bb) as a member of a legislative body, or a member of the judiciary, of a state or political subdivision;

(cc) as a member of the State National Guard or Air National Guard;

(dd) as an employee serving on a temporary basis in case of fire, storm, snow, earthquake, flood or similar emergency;

(ee) in a position which, under or pursuant to the laws of this State, is designated as a major nontenured policy making or advisory position, or a policy making or advisory position, the performance of the duties of which ordinarily does not require more than eight hours per week; or

(iv) By an individual receiving rehabilitation or remunerative work in a facility conducted for the purpose of carrying out a program of rehabilitation of individuals whose earning capacity is impaired by age or physical or mental deficiency or injury or providing remunerative work for individuals who because of their impaired physical or mental capacity cannot be readily absorbed in the competitive labor market;

(v) By an individual receiving work-relief or work-training as part of an unemployment work-relief or work-training program assisted in whole or in part by any federal agency or an agency of a state or political subdivision thereof; or

(vi) Prior to January 1, 1978, for a hospital in a State prison or other State correctional institution by an inmate of the prison or correctional institution and after December 31, 1977, by an inmate of a custodial or penal institution.

(E) The term "employment" shall include the services of an individual who is a citizen of the United States, performed outside the United States after December 31, 1971 (except in Canada and in the case of the Virgin Islands, after December 31, 1971) and prior to January 1 of the year following the year in which the U.S. Secretary of Labor approves the unemployment compensation law of the Virgin Islands, under section 3304 (a) of the Internal Revenue Code of 1986 (26 U.S.C. s.3304 (a)) in the employ of an American employer (other than the service which is deemed employment under the provisions of R.S.43:21-19 (i) (2) or (5) or the parallel provisions of another state's unemployment compensation law), if

(i) The American employer's principal place of business in the United States is located in this State; or

(ii) The American employer has no place of business in the United States, but (I) the American employer is an individual who is a resident of this State; or (II) the American employer is a corporation which is organized under the laws of this State; or (III) the American employer is a partnership or trust and the number of partners or trustees who are residents of this State is greater than the number who are residents of another state; or

(iii) None of the criteria of divisions (i) and (ii) of this subparagraph (E) is met but the American employer has elected to become an employer subject to the "unemployment compensation law" (R.S.43:21-1 et seq.) in this State, or the American employer having failed to elect to become an employer in any state, the individual has filed a claim for benefits, based on such service, under the law of this State;

(iv) An "American employer," for the purposes of this subparagraph (E), means (I) an individual who is a resident of the United States; or (II) a partnership, if two-thirds or more of the partners are residents of the United States; or (III) a trust, if all the trustees are residents of the United States; or (IV) a corporation organized under the laws of the United States or of any state.

(F) Notwithstanding R.S.43:21-19 (i) (2), all service performed after January 1, 1972 by an officer or member of the crew of an American vessel or American aircraft on or in connection with such vessel or aircraft, if the operating office from which the operations of such vessel or aircraft operating within, or within and without, the United States are ordinarily and regularly supervised, managed, directed, and controlled, is within this State.

(G) Notwithstanding any other provision of this subsection, service in this State with respect to which the taxes required to be paid under any federal law imposing a tax against which credit may be taken for contributions required to be paid into a state unemployment fund or

which as a condition for full tax credit against the tax imposed by the Federal Unemployment Tax Act is required to be covered under the "unemployment compensation law" (R.S.43:21-1 et seq.).

(H) The term "United States" when used in a geographical sense in subsection R.S.43:21-19 (i) includes the states, the District of Columbia, the Commonwealth of Puerto Rico and, effective on the day after the day on which the U.S. Secretary of Labor approves for the first time under section 3304 (a) of the Internal Revenue Code of 1986 (26 U.S.C. s.3304 (a)) an unemployment compensation law submitted to the Secretary by the Virgin Islands for such approval, the Virgin Islands.

(I) (i) Service performed after December 31, 1977 in agricultural labor in a calendar year for an entity which is an employer as defined in the "unemployment compensation law," (R.S.43:21-1 et seq.) as of January 1 of such year; or for an employing unit which

(aa) during any calendar quarter in either the current or the preceding calendar year paid remuneration in cash of \$20,000.00 or more for individuals employed in agricultural labor, or

(bb) for some portion of a day in each of 20 different calendar weeks, whether or not such weeks were consecutive, in either the current or the preceding calendar year, employed in agricultural labor 10 or more individuals, regardless of whether they were employed at the same moment in time.

(ii) for the purposes of this subsection any individual who is a member of a crew furnished by a crew leader to perform service in agricultural labor for any other entity shall be treated as an employee of such crew leader

(aa) if such crew leader holds a certification of registration under the Migrant and Seasonal Agricultural Worker Protection Act, Pub.L.97-470 (29 U.S.C. s.1801 et seq.), or P.L.1971, c.192 (C.34:8A-7 et seq.); or substantially all the members of such crew operate or maintain tractors, mechanized harvesting or cropdusting equipment, or any other mechanized equipment, which is provided by such crew leader; and

(bb) if such individual is not an employee of such other person for whom services were performed.

(iii) For the purposes of subparagraph (I) (i) in the case of any individual who is furnished by a crew leader to perform service in agricultural labor or any other entity and who is not treated as an employee of such crew leader under (I) (ii)

(aa) such other entity and not the crew leader shall be treated as the employer of such individual; and

(bb) such other entity shall be treated as having paid cash remuneration to such individual in an amount equal to the amount of cash remuneration paid to such individual by the crew leader (either on his own behalf or on behalf of such other entity) for the service in agricultural labor performed for such other entity.

(iv) For the purpose of subparagraph (I)(ii), the term "crew leader" means an individual who

(aa) furnishes individuals to perform service in agricultural labor for any other entity;

(bb) pays (either on his own behalf or on behalf of such other entity) the individuals so furnished by him for the service in agricultural labor performed by them; and

(cc) has not entered into a written agreement with such other entity under which such individual is designated as an employee of such other entity.

(J) (i) Domestic service after December 31, 1977 and before the effective date of P.L.2023, c.262 (C.34:11-69 et al.) performed in the private home of an employing unit which paid cash remuneration of \$1,000.00 or more to one or more individuals for such domestic service in any calendar quarter in the current or preceding calendar year.

(ii) Domestic services after the effective date of P.L.2023, c.262 (C.34:11-69 et al.), performed in the private home of an employing unit which in either the current or preceding calendar year paid remuneration for employment in the amount of \$1,000 or more.

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

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

(B) The service is not localized in any state but some of the service is performed in this State, and (i) the base of operations, or, if there is no base of operations, then the place from which such service is directed or controlled, is in this State; or (ii) the base of operations or place from which such service is directed or controlled is not in any state in which some part of the service is performed, but the individual's residence is in this State.

(3) Services performed within this State but not covered under paragraph (2) of this subsection shall be deemed to be employment subject to this chapter (R.S.43:21-1 et seq.) if contributions are not required and paid with respect to such services under an unemployment compensation law of any other state or of the federal government.

(4) Services not covered under paragraph (2) of this subsection and performed entirely without this State, with respect to no part of which contributions are required and paid under an unemployment compensation law of any other state or of the federal government, shall be deemed to be employment subject to this chapter (R.S.43:21-1 et seq.) if the individual performing such services is a resident of this State and the employing unit for whom such services are performed files with the division an election that the entire service of such individual shall be deemed to be employment subject to this chapter (R.S.43:21-1 et seq.).

(5) Service shall be deemed to be localized within a state if:

(A) The service is performed entirely within such state; or

(B) The service is performed both within and without such state, but the service performed without such state is incidental to the individual's service within the state; for example, is temporary or transitory in nature or consists of isolated transactions.

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

(A) Such individual has been and will continue to be free from control or direction over the performance of such service, both under his contract of service and in fact;

(B) Such service is either outside the usual course of the business for which such service is performed, or that such service is performed outside of all the places of business of the enterprise for which such service is performed; and

(C) Such individual is customarily engaged in an independently established trade, occupation, profession or business.

(7) Provided that such services are also exempt under the Federal Unemployment Tax Act, as amended, or that contributions with respect to such services are not required to be paid into a state unemployment fund as a condition for a tax offset credit against the tax imposed by the Federal Unemployment Tax Act, as amended, the term "employment" shall not include:

(A) Agricultural labor performed prior to January 1, 1978; and after December 31, 1977, only if performed in a calendar year for an entity which is not an employer as defined in the "unemployment compensation law," (R.S.43:21-1 et seq.) as of January 1 of such calendar year; or unless performed for an employing unit which

(i) during a calendar quarter in either the current or the preceding calendar year paid remuneration in cash of \$20,000.00 or more to individuals employed in agricultural labor, or

(ii) for some portion of a day in each of 20 different calendar weeks, whether or not such weeks were consecutive, in either the current or the preceding calendar year, employed in agricultural labor 10 or more individuals, regardless of whether they were employed at the same moment in time;

(B) Domestic service in a private home performed prior to January 1, 1978; and after December 31, 1977, unless performed in the private home of an employing unit which paid cash remuneration of \$1,000.00 or more to one or more individuals for such domestic service in any calendar quarter in the current or preceding calendar year;

(C) Service performed by an individual in the employ of his son, daughter or spouse, and service performed by a child under the age of 18 in the employ of his father or mother;

(D) Service performed prior to January 1, 1978, in the employ of this State or of any political subdivision thereof or of any instrumentality of this State or its political subdivisions, except as provided in R.S.43:21-19 (i) (1) (B) above, and service in the employ of the South Jersey Port Corporation or its successors;

(E) Service performed in the employ of any other state or its political subdivisions or of an instrumentality of any other state or states or their political subdivisions to the extent that such instrumentality is with respect to such service exempt under the Constitution of the United States from the tax imposed under the Federal Unemployment Tax Act, as amended, except as provided in R.S.43:21-19 (i) (1) (B) above;

(F) Service performed in the employ of the United States Government or of any instrumentality of the United States exempt under the Constitution of the United States from the contributions imposed by the "unemployment compensation law," except that to the extent that the Congress of the United States shall permit states to require any instrumentalities of the United States to make payments into an unemployment fund under a state unemployment compensation law, all of the provisions of this act shall be applicable to such instrumentalities, and to service performed for such instrumentalities, in the same manner, to the same extent and on the same terms as to all other employers, employing units, individuals and services; provided that if this State shall not be certified for any year by the Secretary of Labor of the United States under section 3304 of the federal Internal Revenue Code of 1986 (26 U.S.C. s.3304), the payments required of such instrumentalities with respect to such year shall be refunded by the division from the fund in the same manner and within the same period as is provided in R.S.43:21-14 (f) with respect to contributions erroneously paid to or collected by the division;

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

(H) Services performed as a member of the board of directors, a board of trustees, a board of managers, or a committee of any bank, building and loan, or savings and loan association, incorporated or organized under the laws of this State or of the United States, where such services do not constitute the principal employment of the individual;

(I) Service with respect to which unemployment insurance is payable under an unemployment insurance program established by an Act of Congress;

(J) Service performed by agents of mutual fund brokers or dealers in the sale of mutual funds or other securities, by agents of insurance companies, exclusive of industrial insurance agents or by agents of investment companies, if the compensation to such agents for such services is wholly on a commission basis;

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

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

(M) Service performed for or in behalf of the owner or operator of any theater, ballroom, amusement hall or other place of entertainment, not in excess of 10 weeks in any calendar year for the same owner or operator, by any leader or musician of a band or orchestra, commonly called a "name band," entertainer, vaudeville artist, actor, actress, singer or other entertainer;

(N) Services performed after January 1, 1973 by an individual for a labor union organization, known and recognized as a union local, as a member of a committee or committees reimbursed by the union local for time lost from regular employment, or as a part-time officer of a union local and the remuneration for such services is less than \$1,000.00 in a calendar year;

(O) Services performed in the sale or distribution of merchandise by home-to-home salespersons or in-the-home demonstrators whose remuneration consists wholly of commissions or commissions and bonuses;

(P) Service performed in the employ of a foreign government, including service as a consular, nondiplomatic representative, or other officer or employee;

(Q) Service performed in the employ of an instrumentality wholly owned by a foreign government if (i) the service is of a character similar to that performed in foreign countries by employees of the United States Government or of an instrumentality thereof, and (ii) the division finds that the United States Secretary of State has certified to the United States Secretary of the Treasury that the foreign government, with respect to whose instrumentality exemption is claimed, grants an equivalent exemption with respect to similar services performed in the foreign country by employees of the United States Government and of instrumentalities thereof;

(R) Service in the employ of an international organization entitled to enjoy the privileges, exemptions and immunities under the International Organizations Immunities Act (22 U.S.C. s.288 et seq.);

(S) Service covered by an election duly approved by an agency charged with the administration of any other state or federal unemployment compensation or employment security law, in accordance with an arrangement pursuant to R.S.43:21-21 during the effective period of such election;

(T) Service performed in the employ of a school, college, or university if such service is performed (i) by a student enrolled at such school, college, or university on a full-time basis in an educational program or completing such educational program leading to a degree at any of the severally recognized levels, or (ii) by the spouse of such a student, if such spouse is advised at the time such spouse commences to perform such service that (I) the employment of such spouse to perform such service is provided under a program to provide financial assistance to such student by such school, college, or university, and (II) such employment will not be covered by any program of unemployment insurance;

(U) Service performed by an individual who is enrolled at a nonprofit or public educational institution which normally maintains a regular faculty and curriculum and normally has a regularly organized body of students in attendance at the place where its educational activities are carried on, as a student in a full-time program, taken for credit at such institution, which combines academic instruction with work experience, if such service is an integral part of such program, and such institution has so certified to the employer, except that this subparagraph

shall not apply to service performed in a program established for or on behalf of an employer or group of employers;

(V) Service performed in the employ of a hospital, if such service is performed by a patient of the hospital; service performed as a student nurse in the employ of a hospital or a nurses' training school by an individual who is enrolled and regularly attending classes in a nurses' training school approved under the laws of this State;

(W) Services performed after the effective date of this amendatory act by agents of mutual benefit associations if the compensation to such agents for such services is wholly on a commission basis;

(X) Services performed by operators of motor vehicles weighing 18,000 pounds or more, licensed for commercial use and used for the highway movement of motor freight, who own their equipment or who lease or finance the purchase of their equipment through an entity which is not owned or controlled directly or indirectly by the entity for which the services were performed and who were compensated by receiving a percentage of the gross revenue generated by the transportation move or by a schedule of payment based on the distance and weight of the transportation move;

(Y) (Deleted by amendment, P.L.2009, c.211.)

(Z) Services performed, using facilities provided by a travel agent, by a person, commonly known as an outside travel agent, who acts as an independent contractor, is paid on a commission basis, sets his own work schedule and receives no benefits, sick leave, vacation or other leave from the travel agent owning the facilities.

(AA) Services provided by a commercial fisherman whose compensation is comprised solely of a percentage of fish caught or a percentage of the proceeds from the sale of the catch.

(8) If one-half or more of the services in any pay period performed by an individual for an employing unit constitutes employment, all the services of such individual shall be deemed to be employment; but if more than one-half of the service in any pay period performed by an individual for an employing unit does not constitute employment, then none of the service of such individual shall be deemed to be employment. As used in this paragraph, the term "pay period" means a period of not more than 31 consecutive days for which a payment for service is ordinarily made by an employing unit to individuals in its employ.

(9) Services performed by the owner of a limousine franchise (franchisee) shall not be deemed to be employment subject to the "unemployment compensation law," R.S.43:21-1 et seq., with regard to the franchisor if:

(A) The limousine franchisee is incorporated;

(B) The franchisee is subject to regulation by the Interstate Commerce Commission;

(C) The limousine franchise exists pursuant to a written franchise arrangement between the franchisee and the franchisor as defined by section 3 of P.L.1971, c.356 (C.56:10-3); and

(D) The franchisee registers with the Department of Labor and Workforce Development and receives an employer registration number.

(10) Services performed by a legal transcriber, or certified court reporter certified pursuant to P.L.1940, c.175 (C.45:15B-1 et seq.), shall not be deemed to be employment subject to the "unemployment compensation law," R.S.43:21-1 et seq., if those services are provided to a third party by the transcriber or reporter who is referred to the third party pursuant to an agreement with another legal transcriber or legal transcription service, or certified court reporter or court reporting service, on a freelance basis, compensation for which is based upon a fee per transcript page, flat attendance fee, or other flat minimum fee, or combination thereof, set forth in the agreement.

For purposes of this paragraph (10): "legal transcription service" and "legal transcribing" mean making use, by audio, video or voice recording, of a verbatim record of court proceedings, depositions, other judicial proceedings, meetings of boards, agencies, corporations, or other bodies or groups, and causing that record to be printed in readable form or produced on a computer screen in readable form; and "legal transcriber" means a person who engages in "legal transcribing."

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

(k) (Deleted by amendment, P.L.1984, c.24.)

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

(m) "Unemployment."

(1) An individual shall be deemed "unemployed" for any week during which:

(A) The individual is not engaged in full-time work and with respect to which his remuneration is less than his weekly benefit rate, including any week during which he is on vacation without pay; provided such vacation is not the result of the individual's voluntary action, except that for benefit years commencing on or after July 1, 1984, an officer of a corporation, or a person who has more than a 5% equitable or debt interest in the corporation, whose claim for benefits is based on wages with that corporation shall not be deemed to be unemployed in any week during the individual's term of office or ownership in the corporation; or

(B) The individual is eligible for and receiving a self-employment assistance allowance pursuant to the requirements of P.L.1995, c.394 (C.43:21-67 et al.).

(2) The term "remuneration" with respect to any individual for benefit years commencing on or after July 1, 1961, and as used in this subsection, shall include only that part of the same which in any week exceeds 20% of his weekly benefit rate (fractional parts of a dollar omitted) or \$5.00, whichever is the larger, and shall not include any moneys paid to an individual by a county board of elections for work as a board worker on an election day or for work pursuant to subsection d. of section 1 of P.L.2021, c.40 (C.19:15A-1) during the early voting period.

(3) An individual's week of unemployment shall be deemed to commence only after the individual has filed a claim at an unemployment insurance claims office, except as the division may by regulation otherwise prescribe.

(n) "Unemployment compensation administration fund" means the unemployment compensation administration fund established by this chapter (R.S.43:21-1 et seq.), from which administrative expenses under this chapter (R.S.43:21-1 et seq.) shall be paid.

(o) "Wages" means remuneration paid by employers for employment. If a worker receives gratuities regularly in the course of his employment from other than his employer, his "wages" shall also include the gratuities so received, if reported in writing to his employer in accordance with regulations of the division, and if not so reported, his "wages" shall be determined in accordance with the minimum wage rates prescribed under any labor law or regulation of this State or of the United States, or the amount of remuneration actually received by the employee from his employer, whichever is the higher.

(p) "Remuneration" means all compensation for personal services, including commission and bonuses and the cash value of all compensation in any medium other than cash.

(q) "Week" means for benefit years commencing on or after October 1, 1984, the calendar week ending at midnight Saturday, or as the division may by regulation prescribe.

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

(s) "Investment company" means any company as defined in subsection a. of section 1 of P.L.1938, c.322 (C.17:16A-1).

(t) (1) (Deleted by amendment, P.L.2001, c.17).

(2) "Base week," commencing on or after January 1, 1996 and before January 1, 2001, means:

(A) Any calendar week during which the individual earned in employment from an employer remuneration not less than an amount which is 20% of the Statewide average weekly remuneration defined in subsection (c) of R.S.43:21-3 which amount shall be adjusted to the next higher multiple of \$1.00 if not already a multiple thereof, except that if in any calendar week an individual subject to this subparagraph (A) is in employment with more than one employer, the individual may in that calendar week establish a base week with respect to each of the employers from whom the individual earns remuneration equal to not less than the amount defined in this subparagraph (A) during that week; or

(B) If the individual does not establish in his base year 20 or more base weeks as defined in subparagraph (A) of this paragraph (2), any calendar week of an individual's base year during which the individual earned in employment from an employer remuneration not less than an amount 20 times the minimum wage in effect pursuant to section 5 of P.L.1966, c.113 (C.34:11-56a4) on October 1 of the calendar year preceding the calendar year in which the benefit year commences, which amount shall be adjusted to the next higher multiple of \$1.00 if not already a multiple thereof, except that if in any calendar week an individual subject to this subparagraph (B) is in employment with more than one employer, the individual may in that calendar week establish a base week with respect to each of the employers from whom the individual earns remuneration not less than the amount defined in this subparagraph (B) during that week.

(3) "Base week," commencing on or after January 1, 2001, means any calendar week during which the individual earned in employment from an employer remuneration not less than an amount 20 times the minimum wage in effect pursuant to section 5 of P.L.1966, c.113 (C.34:11-56a4) on October 1 of the calendar year preceding the calendar year in which the benefit year commences, which amount shall be adjusted to the next higher multiple of \$1.00 if not already a multiple thereof, except that if in any calendar week an individual subject to this paragraph (3) is in employment with more than one employer, the individual may in that calendar week establish a base week with respect to each of the employers from whom the individual earns remuneration equal to not less than the amount defined in this paragraph (3) during that week.

(u) "Average weekly wage" means the amount derived by dividing an individual's total base year wages by the number of base weeks worked by the individual during the base year; provided that for the purpose of computing the average weekly wage, the maximum number of base weeks used in the divisor shall be 52. In the event that such claimant had no employer in his base year with whom he had established at least 20 base weeks, then such individual's average weekly wage shall be computed as if all of his base week wages were received from one employer and as if all his base weeks of employment had been performed in the employ of one employer.

For the purpose of computing the average weekly wage, the monetary alternative in subparagraph (B) of paragraph (4) or subparagraph (B) of paragraph (5) of subsection (e) of R.S.43:21-4 shall only apply in those instances where the individual did not have at least 20 base weeks in the base year.

(v) "Initial determination" means, subject to the provisions of R.S.43:21-6(b)(2) and (3), a determination of benefit rights as measured by an eligible individual's base year employment with a single employer covering all periods of employment with that employer during the base year.

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

(x) "Most recent base year employer" means that employer with whom the individual most recently, in point of time, performed service in employment in the base year.

(y) (1) "Educational institution" means any public or other nonprofit institution (including an institution of higher education):

(A) In which participants, trainees, or students are offered an organized course of study or training designed to transfer to them knowledge, skills, information, doctrines, attitudes or abilities from, by or under the guidance of an instructor or teacher;

(B) Which is approved, licensed or issued a permit to operate as a school by the State Department of Education or other government agency that is authorized within the State to approve, license or issue a permit for the operation of a school; and

(C) Which offers courses of study or training which may be academic, technical, trade, or preparation for gainful employment in a recognized occupation.

(2) "Institution of higher education" means an educational institution which:

(A) Admits as regular students only individuals having a certificate of graduation from a high school, or the recognized equivalent of such a certificate;

(B) Is legally authorized in this State to provide a program of education beyond high school;

(C) Provides an educational program for which it awards a bachelor's or higher degree, or provides a program which is acceptable for full credit toward such a degree, a program of post-graduate or post-doctoral studies, or a program of training to prepare students for gainful employment in a recognized occupation; and

(D) Is a public or other nonprofit institution.

Notwithstanding any of the foregoing provisions of this subsection, all colleges and universities in this State are institutions of higher education for purposes of this section.

(z) "Hospital" means an institution which has been licensed, certified or approved under the law of this State as a hospital.

8. Section 2 of P.L.1981, c.90 (C.43:21-24.19) is amended to read as follows:

C.43:21-24.19 Ineligibility for benefits; failure to accept offer of, apply for or actively engage in seeking suitable work or dismissal for misconduct.

2. a. Notwithstanding the provisions of section 6 of P.L.1970, c.324 (C.43:21-24.12) an individual shall be ineligible for payment of extended benefits for any week of unemployment in his eligibility period if it is determined during such period:

(1) The individual failed to accept any offer of suitable work as defined in paragraph c. or failed to apply for any suitable work to which the individual was referred to by the employment service or the director; or

(2) The individual failed to actively engage in seeking work as prescribed under paragraph e.

b. Any individual who has been found ineligible for extended benefits by reason of the provisions in paragraph a. of this section shall also be denied benefits beginning with the first day of the week following the week in which the failure occurred and until the individual has been employed in each of 4 subsequent weeks (whether or not consecutive) and has earned remuneration equal to not less than 4 times the individual's weekly extended benefit rate.

c. For purposes of this section the term suitable work means, with respect to any individual, any work which is within such individual's capabilities; this work shall be held to be suitable only:

(1) If the gross average weekly remuneration payable for the work exceeds the sum of: the individual's weekly extended benefit rate as determined under section 8 of P.L.1970, c.324 (C.43:21-24.14), plus the amount, if any, of supplemental unemployment benefits (as defined in Section 501(c)(17) of the Internal Revenue Code of 1954) payable to the individual for the respective week;

(2) If the position pays wages not less than the higher of

(a) The minimum wage provided by Section 6(a)(1) of the Fair Labor Standards Act of 1938 (29 U.S.C. s. 206), without regard to any exemption; or

(b) The applicable state or local minimum wage;

(3) Provided, however, that no individual shall be denied extended benefits for failure to accept an offer of or apply for any job which meets the definition of suitable work as described above if:

(a) The position was not offered to the individual in writing or was not listed with the employment service;

(b) The failure could not result in a denial of benefits under the definition of suitable work for regular benefits as provided under subsection (c) of R.S.43:21-5 to the extent that the criteria of suitability in that section are not inconsistent with the provisions of this paragraph c.;

(c) The individual furnishes satisfactory evidence to the division that his prospects for obtaining work in his customary occupation within a reasonably short period are good. If the evidence is deemed satisfactory for this purpose, the determination of whether any work is suitable with respect to the individual shall be made in accordance with the definition of suitable work for regular benefit claimants as provided under subsection (c) of R.S.43:21-5 without regard to the definition specified by this paragraph c.

d. Notwithstanding the provisions of section 6 of P.L.1970, c.324 (C.43:21-24.12) to the contrary, no work shall be deemed to be suitable work for an individual which does not accord with the labor standard provisions required by Section 3304(a)(5) of the Internal Revenue Code of 1954 and subsection (c) of R.S.43:21-5.

e. For the purposes of subparagraph (2) of paragraph a. of this section, an individual shall be treated as actively engaged in seeking work during any week if

(1) The individual has engaged in a systematic and sustained effort to obtain work during the week, and

(2) The individual furnishes tangible evidence that he has engaged in this effort during the week.

f. The employment service shall refer any claimant entitled to extended benefits under this act to any suitable work which meets the criteria prescribed in paragraph c.

g. An individual who has been disqualified for regular benefits under the provisions of subsection (b) or (c) of R.S.43:21-5 will not meet the eligibility requirements for the payment of extended benefits unless the individual has completed the period of disqualification under subsection (b) or (c) of R.S.43:21-5, and would otherwise be eligible for the payment of extended benefits.

h. (1) An individual claiming extended benefits who is an exhaustee, as defined under paragraph j. of section 5 of P.L.1970, c.324 (C.43:21-24.11), and who is subsequently discharged or suspended for misconduct connected with his work as provided in subsection (b) of R.S.43:21-5, shall be disqualified for extended benefits for the week in which the separation occurs and for each week thereafter until he has earned in employment remuneration equal to at least four times his weekly extended benefit rate, notwithstanding the disqualifying period for regular benefits for misconduct imposed under the provisions of subsection (b) of R.S.43:21-5.

(2) An individual claiming extended benefits who is an exhaustee, as defined under paragraph j. of section 5 of P.L.1970, c.324 (C.43:21-24.11), but has satisfied the requirements of subparagraph c.(3)(c) of this section concerning prospects for employment, and who subsequently fails without good cause either to apply for available, suitable work when so directed by the employment office or the director or to accept suitable work as defined in subsection (c) of R.S.43:21-5 when offered to him, or to return to his customary self-employment when directed by the director, shall be disqualified for extended benefits. The disqualification shall be only for the week in which the refusal occurs and for each week thereafter, until he has earned in employment remuneration equal to at least four times his weekly extended benefit rate, notwithstanding the disqualifying period for regular benefits for the refusal normally imposed under the provisions of subsection (c) of R.S.43:21-5 or the disqualification imposed in paragraph b. of this section for individuals who have not satisfied the requirements of subparagraph c.(3)(c) of this section.

9. This act shall take effect immediately, except that sections 4 and 6 of this act shall be effective retroactively to July 31, 2023.

Approved December 12, 2024.

ASSEMBLY, No. 4047

STATE OF NEW JERSEY

221st LEGISLATURE

INTRODUCED MARCH 7, 2024

Sponsored by:

Assemblyman WILLIAM B. SAMPSON, IV

District 31 (Hudson)

Assemblyman ANTHONY S. VERRELLI

District 15 (Hunterdon and Mercer)

Assemblyman CODY D. MILLER

District 4 (Atlantic, Camden and Gloucester)

Senator PAUL D. MORIARTY

District 4 (Atlantic, Camden and Gloucester)

Senator RAJ MUKHERJI

District 32 (Hudson)

Co-Sponsored by:

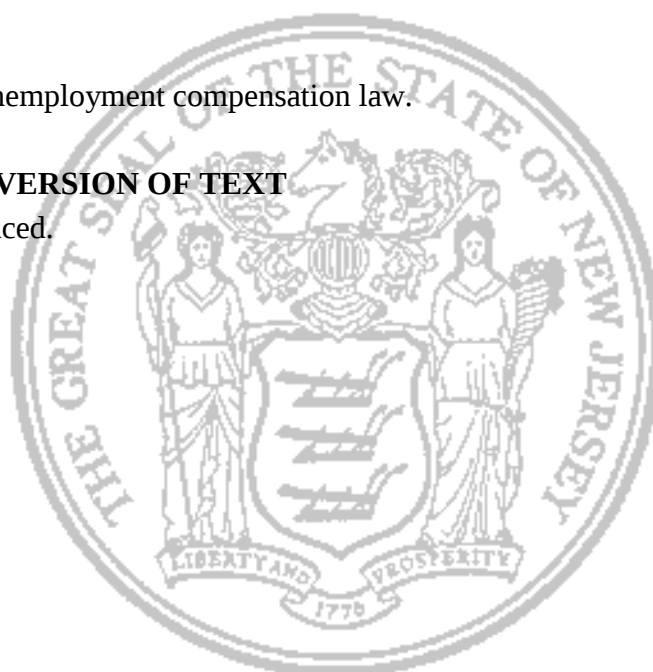
**Assemblyman Marengo, Assemblywoman McCann Stamato,
Assemblyman Rodriguez, Assemblywoman Reynolds-Jackson and Senator
McKnight**

SYNOPSIS

Revises unemployment compensation law.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 10/28/2024)

1 AN ACT concerning unemployment compensation and amending
2 various parts of the statutory law.

3

4 **BE IT ENACTED** *by the Senate and General Assembly of the State*
5 *of New Jersey:*

6

7 1. R.S.43:21-3 is amended to read as follows:

8 43:21-3. Benefits.

9 (a) Payment of benefits.

10 All benefits shall be promptly paid from the fund in accordance
11 with such regulations as may be prescribed hereunder.

12 (b) Weekly benefits for unemployment.

13 With respect to an individual's benefit year commencing on or
14 after July 1, 1961, such individual, if eligible and unemployed (as
15 defined in subsection (m) of R.S.43:21-19), shall be paid an amount
16 (except as to final payment) equal to his weekly benefit rate less
17 any remuneration, other than remuneration from self-employment
18 paid to an individual who is receiving a self-employment assistance
19 allowance, paid or payable to him for such week in excess of 20%
20 of his weekly benefit rate (fractional part of a dollar omitted) or
21 \$5.00, whichever is the greater; provided that such amount shall be
22 computed to the next lower multiple of \$1.00 if not already a
23 multiple thereof.

24 (c) Weekly benefit rate.

25 (1) With respect to an individual whose benefit year commences
26 after September 30, 1984, his weekly benefit rate under each
27 determination shall be 60% of his average weekly wage, subject to a
28 maximum of $56 \frac{2}{3}$ % of the Statewide average weekly
29 remuneration paid to workers by employers subject to this chapter
30 (R.S.43:21-1 et seq.), as determined and promulgated by the
31 Commissioner of Labor and Workforce Development; provided,
32 however, that such individual's weekly benefit rate shall be
33 computed to the next lower multiple of \$1.00 if not already a
34 multiple thereof.

35 (2) Dependency benefits.

36 (A) With respect to an individual whose benefit year commences
37 after September 30, 1984, the individual's weekly benefit rate as
38 determined in paragraph (1) of this subsection (c) will be increased
39 by 7% for the first dependent and 4% each for the next two
40 dependents (up to a maximum of three dependents), computed to
41 the next lower multiple of \$1.00 if not already a multiple thereof,
42 except that the maximum weekly benefit rate payable for an
43 individual claiming dependency benefits shall not exceed the
44 maximum amount determined under paragraph (1) of this
45 subsection (c).

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

Matter underlined thus is new matter.

1 (B) For the purposes of this paragraph (2), a dependent is
2 defined as an individual's unemployed spouse or an unemployed
3 unmarried child (including a stepchild or a legally adopted child)
4 under the age of 19 **【or】**, an unemployed unmarried child, who is
5 attending an educational institution as defined in subsection (y) of
6 R.S.43:21-19 on a full-time basis and is under the age of 22, or an
7 unemployed unmarried disabled adult child who has blindness or a
8 disability which began before the age of 22. The burden of proof
9 shall be on the claimant to establish that an individual is a
10 dependent, as that term is defined in this subparagraph (B). For the
11 purpose of this subparagraph (B), blindness or disability shall be
12 determined using the standard set forth within 20 C.F.R. Part 404,
13 Subpart P, which is used by the Social Security Administration to
14 determine disability and blindness when evaluating eligibility for
15 Disabled Adult Child benefits under the Social Security Act. For the
16 purpose of determining under this subparagraph (B) whether an
17 individual is a dependent, because the individual is an adult child
18 who has blindness or a disability which began before the age of 22,
19 written proof of a determination by the Social Security
20 Administration that the individual is currently eligible for Disabled
21 Adult Child benefits under the Social Security Act shall be
22 considered conclusive proof of dependent status. If an individual's
23 spouse is employed during the week the individual files an initial
24 claim for benefits, this paragraph (2) shall not apply. If both
25 spouses establish a claim for benefits in accordance with the
26 provisions of this chapter (R.S.43:21-1 et seq.), only one shall be
27 entitled to dependency benefits as provided in this paragraph (2).

28 (C) Any determination establishing dependency benefits under
29 this paragraph (2) shall remain fixed for the duration of the
30 individual's benefit year and shall not be increased or decreased
31 unless it is determined by the division that the individual
32 wrongfully claimed dependency benefits as a result of false or
33 fraudulent representation.

34 (D) Notwithstanding the provisions of any other law, the
35 division shall use every available administrative means to insure
36 that dependency benefits are paid only to individuals who meet the
37 requirements of this paragraph (2). These administrative actions
38 may include, but shall not be limited to, the following:

39 (i) All married individuals claiming dependents under this
40 paragraph (2) shall be required to provide the social security
41 number of the individual's spouse. If the individual indicates that
42 the spouse is unemployed, the division shall match the social
43 security number of the spouse against available wage records to
44 determine whether earnings were reported on the last quarterly
45 earnings report filed by employers under R.S.43:21-14. If earnings
46 were reported, the division shall contact in writing the last employer
47 to determine whether the spouse is currently employed.

1 (ii) Where a child is claimed as a dependent by an individual
2 under this paragraph (2), the individual shall be required to provide
3 to the division the most recent federal income tax return filed by the
4 individual to assist the division in verifying the claim.

5 (3) For the purposes of this subsection (c), the "Statewide
6 average weekly remuneration paid to workers by employers" shall
7 be computed and determined by the Commissioner of Labor and
8 Workforce Development on or before September 1 of each year on
9 the basis of one-fifty-second of the total remuneration reported for
10 the preceding calendar year by employers subject to this chapter,
11 divided by the average of the number of workers reported by such
12 employers, and shall be effective as to benefit determinations in the
13 calendar year following such computation and determination.

14 (d) Maximum total benefits.

15 (1) (A) (Deleted by amendment, P.L.2003, c.107).

16 (B) (i) With respect to an individual for whom benefits shall be
17 payable for benefit years commencing on or after July 1, 1986, and
18 before July 1, 2003 as provided in this section, the individual shall
19 be entitled to receive a total amount of benefits equal to three-
20 quarters of the individual's base weeks with all employers in the
21 base year multiplied by the individual's weekly benefit rate; but the
22 amount of benefits thus resulting under that determination shall be
23 adjusted to the next lower multiple of \$1.00 if not already a
24 multiple thereof. With respect to an individual for whom benefits
25 shall be payable for benefit years commencing on or after July 1,
26 2003 as provided in this section, the individual shall be entitled to
27 receive a total amount of benefits equal to the number of the
28 individual's base weeks with all employers in the base year
29 multiplied by the individual's weekly benefit rate; but the amount of
30 benefits thus resulting under that determination shall be adjusted to
31 the next lower multiple of \$1.00 if not already a multiple thereof.

32 (ii) Except as provided pursuant to paragraph (1) of subsection
33 (c) of R.S.43:21-7, benefits paid to an individual for benefit years
34 commencing on or after July 1, 1986 shall be charged against the
35 accounts of the individual's base year employers in the following
36 manner:

37 Each week of benefits paid to an eligible individual shall be
38 charged against each base year employer's account in the same
39 proportion that the wages paid by each employer to the individual
40 during the base year bear to the wages paid by all employers to that
41 individual during the base year.

42 (iii) (Deleted by amendment, P.L.1997, c.255.)

43 (2) No such individual shall be entitled to receive benefits under
44 this chapter (R.S.43:21-1 et seq.) in excess of 26 times his weekly
45 benefit rate in any benefit year under either of subsections (c) and
46 (f) of R.S. 43:21-4. In the event that any individual qualifies for
47 benefits under both of said subsections during any benefit year, the
48 maximum total amount of benefits payable under said subsections

1 combined to such individual during the benefit year shall be one
2 and one-half times the maximum amount of benefits payable under
3 one of said subsections.

4 (3) (Deleted by amendment, P.L.1984, c.24.)
5 (cf: P.L.2004, c.45, s.1)
6

7 2. R.S.43:21-4 is amended to read as follows:

8 43:21-4. Benefit eligibility conditions. An unemployed
9 individual shall be eligible to receive benefits with respect to any
10 week eligible only if:

11 (a) The individual has filed a claim at an unemployment
12 insurance claims office and thereafter continues to report at an
13 employment service office or unemployment insurance claims
14 office, as directed by the division in accordance with such
15 regulations as the division may prescribe, except that the division
16 may, by regulation, waive or alter either or both of the requirements
17 of this subsection as to individuals attached to regular jobs, and as
18 to such other types of cases or situations with respect to which the
19 division finds that compliance with such requirements would be
20 oppressive, or would be inconsistent with the purpose of this act;
21 provided that no such regulation shall conflict with subsection (a) of
22 R.S.43:21-3.

23 (b) The individual has made a claim for benefits in accordance
24 with the provisions of subsection (a) of R.S.43:21-6.

25 (c) (1) The individual is able to work, and is available for work,
26 and has demonstrated to be actively seeking work, except as
27 hereinafter provided in this subsection or in subsection (f) of this
28 section.

29 (2) The director may modify the requirement of actively seeking
30 work if such modification of this requirement is warranted by
31 economic conditions.

32 (3) No individual, who is otherwise eligible, shall be deemed
33 ineligible, or unavailable for work, because the individual is on
34 vacation, without pay, during said week, if said vacation is not the
35 result of the individual's own action as distinguished from any
36 collective action of a collective bargaining agent or other action
37 beyond the individual's control.

38 (4) (A) Subject to such limitations and conditions as the division
39 may prescribe, an individual, who is otherwise eligible, shall not be
40 deemed unavailable for work or ineligible because the individual is
41 attending a training program approved for the individual by the
42 division to enhance the individual's employment opportunities or
43 because the individual failed or refused to accept work while
44 attending such program.

45 (B) For the purpose of this paragraph (4), any training program
46 shall be regarded as approved by the division for the individual if
47 the program and the individual meet the following requirements:

1 (i) The training is for a labor demand occupation and is likely to
2 enhance the individual's marketable skills and earning power,
3 except that the training may be for an occupation other than a labor
4 demand occupation if the individual is receiving short-time benefits
5 pursuant to the provisions of P.L.2011, c.154 (C.43:21-20.3 et al.)
6 and the training is necessary to prevent a likely loss of jobs;

7 (ii) The training is provided by a competent and reliable private
8 or public entity approved by the Commissioner of Labor and
9 Workforce Development pursuant to the provisions of section 8 of
10 the "1992 New Jersey Employment and Workforce Development
11 Act," P.L.1992, c.43 (C.34:15D-8);

12 (iii) The individual can reasonably be expected to complete the
13 program, either during or after the period of benefits;

14 (iv) The training does not include on the job training or other
15 training under which the individual is paid by an employer for work
16 performed by the individual during the time that the individual
17 receives benefits; and

18 (v) The individual enrolls in vocational training, remedial
19 education or a combination of both on a full-time basis, except that
20 the training or education may be on a part-time basis if the
21 individual is receiving short-time benefits pursuant to the provisions
22 of P.L.2011, c.154 (C.43:21-20.3 et al.).

23 (C) If the requirements of subparagraph (B) of this paragraph (4)
24 are met, the division shall not withhold approval of the training
25 program for the individual for any of the following reasons:

26 (i) The training includes remedial basic skills education
27 necessary for the individual to successfully complete the vocational
28 component of the training;

29 (ii) The training is provided in connection with a program under
30 which the individual may obtain a college degree, including a post-
31 graduate degree;

32 (iii) The length of the training period under the program; or

33 (iv) The lack of a prior guarantee of employment upon
34 completion of the training.

35 (D) For the purpose of this paragraph (4), "labor demand
36 occupation" means an occupation for which there is or is likely to
37 be an excess of demand over supply for adequately trained workers,
38 including, but not limited to, an occupation designated as a labor
39 demand occupation by the Center for Occupational Employment
40 Information pursuant to the provisions of subsection d. of section
41 27 of P.L.2005, c.354 (C.34:1A-86).

42 (5) An unemployed individual, who is otherwise eligible, shall
43 not be deemed unavailable for work or ineligible solely by reason of
44 the individual's attendance before a court in response to a summons
45 for service on a jury.

46 (6) An unemployed individual, who is otherwise eligible, shall
47 not be deemed unavailable for work or ineligible solely by reason of
48 the individual's attendance at the funeral of an immediate family

1 member, provided that the duration of the attendance does not
2 extend beyond a two-day period.

3 For purposes of this paragraph, "immediate family member"
4 includes any of the following individuals: father, mother, mother-
5 in-law, father-in-law, grandmother, grandfather, grandchild, spouse,
6 child, child placed by the Division of Youth and Family Services in
7 the Department of Children and Families, sister or brother of the
8 unemployed individual and any relatives of the unemployed
9 individual residing in the unemployed individual's household.

10 (7) No individual, who is otherwise eligible, shall be deemed
11 ineligible or unavailable for work with respect to any week because,
12 during that week, the individual fails or refuses to accept work
13 while the individual is participating on a full-time basis in self-
14 employment assistance activities authorized by the division,
15 whether or not the individual is receiving a self-employment
16 allowance during that week.

17 (8) Any individual who is determined to be likely to exhaust
18 regular benefits and need reemployment services based on
19 information obtained by the worker profiling system shall not be
20 eligible to receive benefits if the individual fails to participate in
21 available reemployment services to which the individual is referred
22 by the division or in similar services, unless the division determines
23 that:

24 (A) The individual has completed the reemployment services; or
25 (B) There is justifiable cause for the failure to participate, which
26 shall include participation in employment and training, self-
27 employment assistance activities or other activities authorized by
28 the division to assist reemployment or enhance the marketable skills
29 and earning power of the individual and which shall include any
30 other circumstance indicated pursuant to this section in which an
31 individual is not required to be available for and actively seeking
32 work to receive benefits.

33 (9) An unemployed individual, who is otherwise eligible, shall
34 not be deemed unavailable for work or ineligible solely by reason of
35 the individual's work as a board worker for a county board of
36 elections on an election day.

37 (10) An individual who is employed by a shared work employer
38 and is otherwise eligible for benefits shall not be deemed ineligible
39 for short-time benefits because the individual is unavailable for
40 work with employers other than the shared work employer, so long
41 as:

42 (A) The individual is able to work and is available to work the
43 individual's normal full-time hours for the shared work employer;
44 or

45 (B) The individual is attending a training program which is in
46 compliance with the provisions of paragraph (4) of subsection (c) of
47 this section and the agreements and certifications required pursuant
48 to the provisions of section 2 of P.L.2011, c.154 (C.43:21-20.4).

1 (11) An unemployed individual, who is otherwise eligible, shall
2 not be deemed unavailable for work or ineligible solely because the
3 individual is a student in full-time attendance at, or on vacation
4 from, an educational institution, as defined in subsection (y) of
5 R.S. 43:21-19; provided that the unemployed individual's full-time
6 attendance at the educational institution does not, in fact, result in
7 the unemployed individual being unable to work or being
8 unavailable for work, and provided that notwithstanding the
9 unemployed individual's full-time attendance at the educational
10 institution, the unemployed individual is able to demonstrate that
11 the individual is actively seeking work.

12 (12) An unemployed individual, who is otherwise eligible, shall
13 not be deemed unavailable for work or ineligible solely because the
14 individual is attending a training program approved by the division
15 to enhance the individual's employment opportunities, in
16 accordance with the provisions of paragraph (4) of subsection (c) of
17 R.S. 43:21-4.

18 (d) With respect to any benefit year commencing before January
19 1, 2002, the individual has been totally or partially unemployed for
20 a waiting period of one week in the benefit year which includes that
21 week. When benefits become payable with respect to the third
22 consecutive week next following the waiting period, the individual
23 shall be eligible to receive benefits as appropriate with respect to
24 the waiting period. No week shall be counted as a week of
25 unemployment for the purposes of this subsection:

26 (1) If benefits have been paid, or are payable with respect
27 thereto; provided that the requirements of this paragraph shall be
28 waived with respect to any benefits paid or payable for a waiting
29 period as provided in this subsection;

30 (2) If it has constituted a waiting period week under the
31 "Temporary Disability Benefits Law," P.L.1948, c.110 (C.43:21-25
32 et al.);

33 (3) Unless the individual fulfills the requirements of subsections
34 (a) and (c) of this section;

35 (4) If with respect thereto, claimant was disqualified for benefits
36 in accordance with the provisions of subsection (d) of R.S.43:21-5.

37 The waiting period provided by this subsection shall not apply to
38 benefit years commencing on or after January 1, 2002. An
39 individual whose total benefit amount was reduced by the
40 application of the waiting period to a claim which occurred on or
41 after January 1, 2002 and before the effective date of P.L.2002,
42 c.13, shall be permitted to file a claim for the additional benefits
43 attributable to the waiting period in the form and manner prescribed
44 by the division, but not later than the 180th day following the
45 effective date of P.L.2002, c.13 unless the division determines that
46 there is good cause for a later filing.

47 (e) (1) (Deleted by amendment, P.L.2001, c.17).

48 (2) (Deleted by amendment, P.L.2008, c.17).

1 (3) (Deleted by amendment, P.L.2008, c.17).

2 (4) With respect to benefit years commencing on or after
3 January 7, 2001, except as otherwise provided in paragraph (5) of
4 this subsection, the individual has, during his base year as defined
5 in subsection (c) of R.S.43:21-19:

6 (A) Established at least 20 base weeks as defined in paragraphs
7 (2) and (3) of subsection (t) of R.S.43:21-19; or

8 (B) If the individual has not met the requirements of
9 subparagraph (A) of this paragraph (4), earned remuneration not
10 less than an amount 1,000 times the minimum wage in effect
11 pursuant to section 5 of P.L.1966, c.113 (C.34:11-56a4) on October
12 1 of the calendar year preceding the calendar year in which the
13 benefit year commences, which amount shall be adjusted to the next
14 higher multiple of \$100 if not already a multiple thereof.

15 (5) With respect to benefit years commencing on or after
16 January 7, 2001, notwithstanding the provisions of paragraph (4) of
17 this subsection, an unemployed individual claiming benefits on the
18 basis of service performed in the production and harvesting of
19 agricultural crops shall, subject to the limitations of subsection (i)
20 of R.S.43:21-19, be eligible to receive benefits if during his base
21 year, as defined in subsection (c) of R.S.43:21-19, the individual:

22 (A) Has established at least 20 base weeks as defined in
23 paragraphs (2) and (3) of subsection (t) of R.S.43:21-19; or

24 (B) Has earned remuneration not less than an amount 1,000
25 times the minimum wage in effect pursuant to section 5 of
26 P.L.1966, c.113 (C.34:11-56a4) on October 1 of the calendar year
27 preceding the calendar year in which the benefit year commences,
28 which amount shall be adjusted to the next higher multiple of \$100
29 if not already a multiple thereof; or

30 (C) Has performed at least 770 hours of service in the
31 production and harvesting of agricultural crops.

32 (6) The individual applying for benefits in any successive
33 benefit year has earned at least six times his previous weekly
34 benefit amount and has had four weeks of employment since the
35 beginning of the immediately preceding benefit year. This
36 provision shall be in addition to the earnings requirements specified
37 in paragraph (4) or (5) of this subsection, as applicable.

38 (f) (1) The individual has suffered any accident or sickness not
39 compensable under the workers' compensation law, R.S.34:15-1 et
40 seq. and resulting in the individual's total disability to perform any
41 work for remuneration, and would be eligible to receive benefits
42 under this chapter (R.S.43:21-1 et seq.) (without regard to the
43 maximum amount of benefits payable during any benefit year)
44 except for the inability to work and has furnished notice and proof
45 of claim to the division, in accordance with its rules and
46 regulations, and payment is not precluded by the provisions of
47 R.S.43:21-3(d); provided, however, that benefits paid under this
48 subsection (f) shall be computed on the basis of only those base

1 year wages earned by the claimant as a "covered individual," as
2 defined in subsection (b) of section 3 of P.L.1948, c.110
3 (C.43:21-27); provided further that no benefits shall be payable
4 under this subsection to any individual:

5 (A) For any period during which such individual is not under the
6 care of a legally licensed physician, dentist, optometrist, podiatrist,
7 practicing psychologist, advanced practice nurse, or chiropractor,
8 who, when requested by the division, shall certify within the scope
9 of the practitioner's practice, the disability of the individual, the
10 probable duration thereof, and, where applicable, the medical facts
11 within the practitioner's knowledge;

12 (B) (Deleted by amendment, P.L.1980, c.90.)

13 (C) For any period of disability due to willfully or intentionally
14 self-inflicted injury, or to injuries sustained in the perpetration by
15 the individual of a crime of the first, second or third degree;

16 (D) For any week with respect to which or a part of which the
17 individual has received or is seeking benefits under any
18 unemployment compensation or disability benefits law of any other
19 state or of the United States; provided that if the appropriate agency
20 of such other state or the United States finally determines that the
21 individual is not entitled to such benefits, this disqualification shall
22 not apply;

23 (E) For any week with respect to which or part of which the
24 individual has received or is seeking disability benefits under the
25 "Temporary Disability Benefits Law," P.L.1948, c.110 (C.43:21-25
26 et al.);

27 (F) For any period of disability commencing while such
28 individual is a "covered individual," as defined in subsection (b) of
29 section 3 of the "Temporary Disability Benefits Law," P.L.1948,
30 c.110 (C.43:21-27).

31 (2) The individual is taking family temporary disability leave to
32 provide care for a family member with a serious health condition or
33 to be with a child during the first 12 months after the child's birth or
34 placement of the child for adoption or as a foster child with the
35 individual, and the individual would be eligible to receive benefits
36 under R.S.43:21-1 et seq. (without regard to the maximum amount
37 of benefits payable during any benefit year) except for the
38 individual's unavailability for work while taking the family
39 temporary disability leave, and the individual has furnished notice
40 and proof of claim to the division, in accordance with its rules and
41 regulations, and payment is not precluded by the provisions of
42 R.S.43:21-3(d) provided, however, that benefits paid under this
43 subsection (f) shall be computed on the basis of only those base
44 year wages earned by the claimant as a "covered individual," as
45 defined in subsection (b) of section 3 of P.L.1948, c.110 (C.43:21-
46 27); provided further that no benefits shall be payable under this
47 subsection to any individual:

1 (A) For any week with respect to which or a part of which the
2 individual has received or is seeking benefits under any
3 unemployment compensation or disability benefits law of any other
4 state or of the United States; provided that if the appropriate agency
5 of such other state or the United States finally determines that the
6 individual is not entitled to such benefits, this disqualification shall
7 not apply;

8 (B) For any week with respect to which or part of which the
9 individual has received or is seeking disability benefits for a
10 disability of the individual under the "Temporary Disability
11 Benefits Law," P.L.1948, c.110 (C.43:21-25 et al.);

12 (C) For any period of family temporary disability leave
13 commencing while the individual is a "covered individual," as
14 defined in subsection (b) of section 3 of the "Temporary Disability
15 Benefits Law," P.L.1948, c.110 (C.43:21-27); or

16 (D) For any period of family temporary disability leave for a
17 serious health condition of a family member of the claimant during
18 which the family member is not receiving inpatient care in a
19 hospital, hospice, or residential medical care facility and is not
20 subject to continuing medical treatment or continuing supervision
21 by a health care provider, who, when requested by the division,
22 shall certify within the scope of the provider's practice, the serious
23 health condition of the family member, the probable duration
24 thereof, and, where applicable, the medical facts within the
25 provider's knowledge.

26 (3) Benefit payments under this subsection (f) shall be charged
27 to and paid from the State disability benefits fund established by the
28 "Temporary Disability Benefits Law," P.L.1948, c.110 (C.43:21-25
29 et al.), and shall not be charged to any employer account in
30 computing any employer's experience rate for contributions payable
31 under this chapter.

32 (g) Benefits based on service in employment defined in
33 subparagraphs (B) and (C) of R.S.43:21-19 (i)(1) shall be payable
34 in the same amount and on the terms and subject to the same
35 conditions as benefits payable on the basis of other service subject
36 to the "unemployment compensation law"; except that,
37 notwithstanding any other provisions of the "unemployment
38 compensation law":

39 (1) With respect to service performed after December 31, 1977,
40 in an instructional, research, or principal administrative capacity for
41 an educational institution, benefits shall not be paid based on such
42 services for any week of unemployment commencing during the
43 period between two successive academic years, or during a similar
44 period between two regular terms, whether or not successive, or
45 during a period of paid sabbatical leave provided for in the
46 individual's contract, to any individual if such individual performs
47 such services in the first of such academic years (or terms) and if
48 there is a contract or a reasonable assurance that such individual

1 will perform services in any such capacity for any educational
2 institution in the second of such academic years or terms;

3 (2) With respect to weeks of unemployment beginning after
4 September 3, 1982, on the basis of service performed in any other
5 capacity for an educational institution, benefits shall not be paid on
6 the basis of such services to any individual for any week which
7 commences during a period between two successive academic years
8 or terms if such individual performs such services in the first of
9 such academic years or terms and there is a reasonable assurance
10 that such individual will perform such services in the second of
11 such academic years or terms, except that if benefits are denied to
12 any individual under this paragraph (2) and the individual was not
13 offered an opportunity to perform these services for the educational
14 institution for the second of any academic years or terms, the
15 individual shall be entitled to a retroactive payment of benefits for
16 each week for which the individual filed a timely claim for benefits
17 and for which benefits were denied solely by reason of this clause;

18 (3) With respect to those services described in paragraphs (1)
19 and (2) above, benefits shall not be paid on the basis of such
20 services to any individual for any week which commences during
21 an established and customary vacation period or holiday recess if
22 such individual performs such services in the period immediately
23 before such vacation period or holiday recess, and there is a
24 reasonable assurance that such individual will perform such
25 services in the period immediately following such period or holiday
26 recess;

27 (4) With respect to any services described in paragraphs (1) and
28 (2) above, benefits shall not be paid as specified in paragraphs (1),
29 (2), and (3) above to any individual who performed those services
30 in an educational institution while in the employ of an educational
31 service agency, and for this purpose the term "educational service
32 agency" means a governmental agency or governmental entity
33 which is established and operated exclusively for the purpose of
34 providing those services to one or more educational institutions;

35 (5) As used in this subsection (g) in order for there to be a
36 "reasonable assurance" all of the following requirements shall be
37 met:

38 (A) The educational institution has made an offer of employment
39 in the following academic year or term that is either written, oral, or
40 implied;

41 (B) The offer of employment in the following academic year or
42 term was made by an individual with actual authority to offer
43 employment;

44 (C) The employment offered in the following academic year or
45 term shall be in the same capacity;

46 (D) The economic conditions of the employment offered may not
47 be considerably less in the following academic year or term than in
48 the then current academic year or term. For the purpose of this

1 paragraph, "considerably less" means that the claimant will earn
2 less than 90 percent of the amount the claimant earned in the then
3 current academic year or term;

4 (E) The offer of employment in the following academic year or
5 term is not contingent upon a factor or factors that are within the
6 educational institution's control, including but not limited to, course
7 programming, decisions on how to allocate available funding, final
8 course offerings, program changes, and facility availability; and

9 (F) Based on a totality of the circumstances, it is highly
10 probable that there is a job available for the claimant in the
11 following academic year or term. If a job offer contains a
12 contingency, primary weight should be given to the contingent
13 nature of the offer of employment. Contingencies that are not
14 necessarily within the educational institution's control, such as
15 funding, enrollment and seniority, may be taken into consideration
16 but the existence of any one contingency should not determine
17 whether it is highly probable that there is a job available for the
18 claimant in the following academic year or term.

19 (6) Determinations by the department whether claimants have a
20 "reasonable assurance" shall be done on a case-by-case basis.

21 (7) Each educational institution shall provide the following to
22 the department, in a form, including electronic form, prescribed by
23 the commissioner, no less than 10 business days prior to the end of
24 the academic year or term:

25 (A) A list of all employees who the educational institution has
26 concluded do not have a reasonable assurance of employment in the
27 following academic year or term, along with information prescribed
28 by the commissioner regarding each such employee, which
29 information shall include, but not be limited to, name and social
30 security number; and

31 (B) For each employee that the educational institution maintains
32 does have a reasonable assurance of employment in the following
33 academic year or term, a statement explaining the manner in which
34 the employee was given a reasonable assurance of employment, that
35 is, whether it was in writing, oral, or implied, and what information
36 about the offer, including contingencies, was communicated to the
37 individual.

38 (8) The statement required under subparagraph (B) of paragraph
39 (7) of this subsection (g) may be used by the department in its
40 analysis under paragraphs (5) and (6) of this subsection (g), but it
41 does not conclusively demonstrate that the claimant has a
42 reasonable assurance of employment in the following academic year
43 or term.

44 (9) Failure of an educational institution to provide the statement
45 required under subparagraph (B) of paragraph (7) of this subsection
46 (g) not less than 10 business days prior to the end of the academic
47 year or term shall result in a rebuttable presumption that the
48 claimant does not have a reasonable assurance of employment in the

1 following academic year or term. This rebuttable presumption shall
2 give rise to an inference that the claimant does not have a
3 reasonable assurance of employment in the following academic year
4 or term, but shall not conclusively demonstrate that the claimant
5 does not have a reasonable assurance of employment in the
6 following academic year or term.

7 (10) If any part of P.L.2020, c.122 is found to be in conflict with
8 federal requirements that are a prescribed condition to the allocation
9 of federal funds to the State or the eligibility of employers in this
10 State for federal unemployment tax credits, the conflicting part of
11 that act is inoperative solely to the extent of the conflict, and the
12 finding or determination does not affect the operation of the
13 remainder of this act. Rules adopted under this act shall meet
14 federal requirements that are a necessary condition to the receipt of
15 federal funds by the State or the granting of federal unemployment
16 tax credits to employers in this State.

17 (h) Benefits shall not be paid to any individual on the basis of
18 any services, substantially all of which consist of participating in
19 sports or athletic events or training or preparing to so participate,
20 for any week which commences during the period between two
21 successive sports seasons (or similar periods) if such individual
22 performed such services in the first of such seasons (or similar
23 periods) and there is a reasonable assurance that such individual
24 will perform such services in the later of such seasons (or similar
25 periods).

26 (i) (1) Benefits shall not be paid on the basis of services
27 performed by an alien unless such alien is an individual who was
28 lawfully admitted for permanent residence at the time the services
29 were performed and was lawfully present for the purpose of
30 performing the services or otherwise was permanently residing in
31 the United States under color of law at the time the services were
32 performed (including an alien who is lawfully present in the United
33 States as a result of the application of the provisions of section
34 212(d)(5) (8 U.S.C. s.1182 (d)(5)) of the Immigration and
35 Nationality Act (8 U.S.C. s.1101 et seq.)); provided that any
36 modifications of the provisions of section 3304(a)(14) of the
37 Federal Unemployment Tax Act (26 U.S.C. s. 3304 (a) (14)) as
38 provided by Pub.L.94-566, which specify other conditions or other
39 effective dates than stated herein for the denial of benefits based on
40 services performed by aliens and which modifications are required
41 to be implemented under State law as a condition for full tax credit
42 against the tax imposed by the Federal Unemployment Tax Act,
43 shall be deemed applicable under the provisions of this section.

44 (2) Any data or information required of individuals applying for
45 benefits to determine whether benefits are not payable to them
46 because of their alien status shall be uniformly required from all
47 applicants for benefits.

1 (3) In the case of an individual whose application for benefits
2 would otherwise be approved, no determination that benefits to such
3 individual are not payable because of alien status shall be made
4 except upon a preponderance of the evidence.

5 (j) Notwithstanding any other provision of this chapter, the
6 director may, to the extent that it may be deemed efficient and
7 economical, provide for consolidated administration by one or more
8 representatives or deputies of claims made pursuant to subsection
9 (f) of this section with those made pursuant to Article III (State
10 plan) of the "Temporary Disability Benefits Law," P.L.1948, c.110
11 (C.43:21-25 et al.).
12 (cf: P.L.2020, c.122)

13
14 3. R.S.43:21-5 is amended to read as follows:

15 43:21-5. An individual shall be disqualified for benefits:

16 (a) For the week in which the individual has left work voluntarily
17 without good cause attributable to such work, and for each week
18 thereafter until the individual becomes reemployed and works eight
19 weeks in employment, which may include employment for the
20 federal government, and has earned in employment at least ten
21 times the individual's weekly benefit rate, as determined in each
22 case. This subsection shall apply to any individual seeking
23 unemployment benefits on the basis of employment in the
24 production and harvesting of agricultural crops, including any
25 individual who was employed in the production and harvesting of
26 agricultural crops on a contract basis and who has refused an offer
27 of continuing work with that employer following the completion of
28 the minimum period of work required to fulfill the contract. This
29 subsection shall not apply to an individual who voluntarily leaves
30 work with one employer to accept from another employer
31 employment which commences not more than seven days after the
32 individual leaves employment with the first employer, if the
33 employment with the second employer has weekly hours or pay not
34 less than the hours or pay of the employment of the first employer,
35 except that if the individual gives notice to the first employer that
36 the individual will leave employment on a specified date and the
37 first employer terminates the individual before that date, the seven-
38 day period will commence from the specified date.

39 (b) For the week in which the individual has been suspended or
40 discharged for misconduct connected with the work, and for the five
41 weeks which immediately follow that week, as determined in each
42 case.

43 "Misconduct" means conduct which is improper, intentional,
44 connected with the individual's work, within the individual's
45 control, not a good faith error of judgment or discretion, and is
46 either a deliberate refusal, without good cause, to comply with the
47 employer's lawful and reasonable rules made known to the
48 employee or a deliberate disregard of standards of behavior the

1 employer has a reasonable right to expect, including reasonable
2 safety standards and reasonable standards for a workplace free of
3 drug and substance use.

4 In the event the discharge should be rescinded by the employer
5 voluntarily or as a result of mediation or arbitration, this subsection
6 (b) shall not apply, provided, however, an individual who is
7 restored to employment with back pay shall return any benefits
8 received under this chapter for any week of unemployment for
9 which the individual is subsequently compensated by the employer.

10 If the discharge was for gross misconduct connected with the
11 work because of the commission of an act punishable as a crime of
12 the first, second, third or fourth degree under the "New Jersey Code
13 of Criminal Justice," N.J.S.2C:1-1 et seq., the individual shall be
14 disqualified in accordance with the disqualification prescribed in
15 subsection (a) of this section and no benefit rights shall accrue to
16 any individual based upon wages from that employer for services
17 rendered prior to the day upon which the individual was discharged.

18 The director shall ensure that any appeal of a determination
19 holding the individual disqualified for gross misconduct in
20 connection with the work shall be expeditiously processed by the
21 appeal tribunal.

22 To sustain disqualification from benefits because of misconduct
23 under this subsection (b), the burden of proof is upon the employer,
24 who shall, prior to a determination by the department of
25 misconduct, provide written documentation demonstrating that the
26 employee's actions constitute misconduct or gross misconduct.

27 Nothing within this subsection (b) shall be construed to interfere
28 with the exercise of rights protected under the "National Labor
29 Relations Act," (29 U.S.C. s.151 et seq.) or the "New Jersey
30 Employer-Employee Relations Act," P.L.1941, c.100 (C.34:13A-1
31 et seq.).

32 (c) If it is found that the individual has failed, without good
33 cause, either to apply for available, suitable work when so directed
34 by the employment office or the director or to accept suitable work
35 when it is offered, or to return to the individual's customary self-
36 employment (if any) when so directed by the director. The
37 disqualification shall continue for the week in which the failure
38 occurred and for the three weeks which immediately follow that
39 week, as determined:

40 (1) In determining whether or not any work is suitable for an
41 individual, consideration shall be given to the degree of risk
42 involved to health, safety, and morals, the individual's physical
43 fitness and prior training, experience and prior earnings, the
44 individual's length of unemployment and prospects for securing
45 local work in the individual's customary occupation, and the
46 distance of the available work from the individual's residence. In
47 the case of work in the production and harvesting of agricultural
48 crops, the work shall be deemed to be suitable without regard to the

1 distance of the available work from the individual's residence if all
2 costs of transportation are provided to the individual and the terms
3 and conditions of hire are as favorable or more favorable to the
4 individual as the terms and conditions of the individual's base year
5 employment.

6 (2) Notwithstanding any other provisions of this chapter, no
7 work shall be deemed suitable and benefits shall not be denied
8 under this chapter to any otherwise eligible individual for refusing
9 to accept new work under any of the following conditions: the
10 position offered is vacant due directly to a strike, lockout, or other
11 labor dispute; the remuneration, hours, or other conditions of the
12 work offered are substantially less favorable to the individual than
13 those prevailing for similar work in the locality; or, the individual,
14 as a condition of being employed, would be required to join a
15 company union or to resign from or refrain from joining any bona
16 fide labor organization.

17 (d) If it is found that this unemployment is due to a stoppage of
18 work which exists because of a labor dispute at the factory,
19 establishment or other premises at which the individual is or was
20 last employed, except as otherwise provided by this subsection (d).

21 (1) No disqualification under this subsection (d) shall apply if it
22 is shown that:

23 (i) The individual is not participating in or financing or directly
24 interested in the labor dispute which caused the stoppage of work;
25 and

26 (ii) The individual does not belong to a grade or class of workers
27 of which, immediately before the commencement of the stoppage,
28 there were members employed at the premises at which the
29 stoppage occurs, any of whom are participating in or financing or
30 directly interested in the dispute; provided that if in any case in
31 which subparagraphs (i) or (ii) of this paragraph (1) applies,
32 separate branches of work which are commonly conducted as
33 separate businesses in separate premises are conducted in separate
34 departments of the same premises, each department shall, for the
35 purpose of this subsection, be deemed to be a separate factory,
36 establishment, or other premises.

37 (2) For any claim for a period of unemployment commencing on
38 or after December 1, 2004 due to a stoppage of work which exists
39 because of a labor dispute at the factory, establishment or other
40 premises at which the individual is or was last employed, no
41 disqualification under this subsection (d) shall apply if it is shown
42 that the individual has been prevented from working by the
43 employer, even though the individual's recognized or certified
44 majority representative has directed the employees in the
45 individual's collective bargaining unit to work under the preexisting
46 terms and conditions of employment, and, if the period of
47 unemployment commenced before January 1, 2022, the employees
48 had not engaged in a strike immediately before being prevented

1 from working, or if the a period of unemployment commenced on
2 or after January 1, 2022, whether or not the employees had engaged
3 in a strike immediately before being prevented from working.

4 (3) For any claim for a period of unemployment commencing on
5 or after July 1, 2018 due to a stoppage of work which exists because
6 of a labor dispute at the factory, establishment or other premises at
7 which the individual is or was last employed, no disqualification
8 under this subsection (d) shall apply if an issue in the labor dispute
9 is a failure or refusal of the employer to comply with an agreement
10 or contract between the employer and the claimant, including a
11 collective bargaining agreement with a union representing the
12 claimant, or a failure or refusal to comply with a State or federal
13 law pertaining to hours, wages, or other conditions of work.

14 (4) For any claim for a period of unemployment commencing on
15 or after July 1, 2018 and before January 1, 2022, if the
16 unemployment is caused by a labor dispute, including a strike or
17 other concerted activities of employees at the claimant's workplace,
18 whether or not authorized or sanctioned by a union representing the
19 claimant, but not including a dispute subject to the provisions of
20 paragraph (2) or (3) of this subsection (d), the claimant shall not be
21 provided benefits for a period of the first 30 days following the
22 commencement of the unemployment caused by the labor dispute,
23 except that the period without benefits shall not apply if the
24 employer hires a permanent replacement worker for the claimant's
25 position. A replacement worker shall be presumed to be permanent
26 unless the employer certifies in writing that the claimant will be
27 permitted to return to his or her prior position upon conclusion of
28 the dispute. If the employer does not permit the return, the claimant
29 shall be entitled to recover any benefits lost as a result of the 30-day
30 waiting period before receiving benefits, and the department may
31 impose a penalty upon the employer of up to \$750 per employee per
32 week of benefits lost. The penalty collected shall be paid into the
33 unemployment compensation auxiliary fund established pursuant to
34 subsection (g) of R.S.43:21-14. For any claim for a period of
35 unemployment commencing on or after January 1, 2022 due to a
36 stoppage of work which exists because of a labor dispute at the
37 factory, establishment or other premises at which the individual is
38 or was last employed, including a strike or other concerted activities
39 of employees at the claimant's workplace, whether or not authorized
40 or sanctioned by a union representing the claimant, but not
41 including a dispute subject to the provisions of paragraph (2) or (3)
42 of this subsection (d), the claimant shall not be provided benefits
43 for a period of the first 14 days following the commencement of the
44 unemployment caused by the labor dispute, except that the claimant
45 shall be provided benefits during any part of that the 14-day period
46 in which the employer engages the services of a replacement worker
47 for the claimant's position, whether that replacement worker is
48 engaged on a permanent or temporary basis, or is an existing worker

1 reassigned permanently or temporarily from other duties to perform
2 the duties of the claimant's position. For any claim for a period of
3 unemployment commencing on or after January 1, 2022 which
4 exists because of a labor dispute at the factory, establishment or
5 other premises at which the individual is or was last employed, if
6 the labor dispute has not resulted in a stoppage of work, no
7 disqualification under this subsection (d) shall apply, and the 14-
8 day waiting period in this paragraph (4) shall not apply.

9 (e) For any week with respect to which the individual is
10 receiving or has received remuneration in lieu of notice.

11 (f) For any week with respect to which or a part of which the
12 individual has received or is seeking unemployment benefits under
13 an unemployment compensation law of any other state or of the
14 United States; provided that if the appropriate agency of the other
15 state or of the United States finally determines that the individual is
16 not entitled to unemployment benefits, this disqualification shall not
17 apply.

18 (g) (1) For a period of one year from the date of the discovery by
19 the division of the illegal receipt or attempted receipt of benefits
20 contrary to the provisions of this chapter, as the result of any false
21 or fraudulent representation; provided that any disqualification may
22 be appealed in the same manner as any other disqualification
23 imposed hereunder; and provided further that a conviction in the
24 courts of this State arising out of the illegal receipt or attempted
25 receipt of these benefits in any proceeding instituted against the
26 individual under the provisions of this chapter or any other law of
27 this State shall be conclusive upon the appeals tribunal and the
28 board of review.

29 (2) A disqualification under this subsection shall not preclude the
30 prosecution of any civil, criminal or administrative action or
31 proceeding to enforce other provisions of this chapter for the
32 assessment and collection of penalties or the refund of any amounts
33 collected as benefits under the provisions of R.S.43:21-16, or to
34 enforce any other law, where an individual obtains or attempts to
35 obtain by theft or robbery or false statements or representations any
36 money from any fund created or established under this chapter or
37 any negotiable or nonnegotiable instrument for the payment of
38 money from these funds, or to recover money erroneously or
39 illegally obtained by an individual from any fund created or
40 established under this chapter.

41 (h) (1) Notwithstanding any other provisions of this chapter
42 (R.S.43:21-1 et seq.), no otherwise eligible individual shall be
43 denied benefits for any week because the individual is in training
44 approved under section 236(a)(1) of the "Trade Act of 1974,"
45 Pub.L.93-618 (19 U.S.C. s.2296 (a)(1)) nor shall the individual be
46 denied benefits by reason of leaving work to enter this training,
47 provided the work left is not suitable employment, or because of the
48 application to any week in training of provisions in this chapter

1 (R.S.43:21-1 et seq.), or any applicable federal unemployment
2 compensation law, relating to availability for work, active search
3 for work, or refusal to accept work.

4 (2) For purposes of this subsection (h), the term "suitable"
5 employment means, with respect to an individual, work of a
6 substantially equal or higher skill level than the individual's past
7 adversely affected employment, as defined for purposes of the
8 "Trade Act of 1974," Pub.L.93-618 (19 U.S.C. s.2101 et seq.) and
9 wages for this work at not less than 80 percent of the individual's
10 average weekly wage, as determined for the purposes of the "Trade
11 Act of 1974."

12 (i) **For benefit years commencing after June 30, 1984, for any**
13 week in which the individual is a student in full attendance at, or on
14 vacation from, an educational institution, as defined in subsection
15 (y) of R.S.43:21-19; except that this subsection shall not apply to
16 any individual attending a training program approved by the
17 division to enhance the individual's employment opportunities, as
18 defined under subsection (c) of R.S.43:21-4; nor shall this
19 subsection apply to any individual who, during the individual's base
20 year, earned sufficient wages, as defined under subsection (e) of
21 R.S.43:21-4, while attending an educational institution during
22 periods other than established and customary vacation periods or
23 holiday recesses at the educational institution, to establish a claim
24 for benefits. For purposes of this subsection, an individual shall be
25 treated as a full-time student for any period:

26 (1) During which the individual is enrolled as a full-time student
27 at an educational institution, or

28 (2) Which is between academic years or terms, if the individual
29 was enrolled as a full-time student at an educational institution for
30 the immediately preceding academic year or term. **Deleted by**
31 amendment, P.L. _____, C. _____ (pending before the Legislature as
32 this bill)

33 (j) Notwithstanding any other provisions of this chapter
34 (R.S.43:21-1 et seq.), no otherwise eligible individual shall be
35 denied benefits because the individual left work or was discharged
36 due to circumstances resulting from the individual being a victim of
37 domestic violence as defined in section 3 of P.L.1991, c.261
38 (C.2C:25-19). No employer's account shall be charged for the
39 payment of benefits to an individual who left work due to
40 circumstances resulting from the individual being a victim of
41 domestic violence.

42 For the purposes of this subsection (j), the individual shall be
43 treated as being a victim of domestic violence if the individual
44 provides one or more of the following:

45 (1) A restraining order or other documentation of equitable relief
46 issued by a court of competent jurisdiction;

47 (2) A police record documenting the domestic violence;

(3) Documentation that the perpetrator of the domestic violence has been convicted of one or more of the offenses enumerated in section 3 of P.L.1991, c.261 (C.2C:25-19);

(4) Medical documentation of the domestic violence;

(5) Certification from a certified Domestic Violence Specialist or the director of a designated domestic violence agency that the individual is a victim of domestic violence; or

(6) Other documentation or certification of the domestic violence provided by a social worker, member of the clergy, shelter worker or other professional who has assisted the individual in dealing with the domestic violence.

For the purposes of this subsection (j):

"Certified Domestic Violence Specialist" means a person who has fulfilled the requirements of certification as a Domestic Violence Specialist established by the New Jersey Association of Domestic Violence Professionals; and "designated domestic violence agency" means a county-wide organization with a primary purpose to provide services to victims of domestic violence, and which provides services that conform to the core domestic violence services profile as defined by the Division of Child Permanency and Protection in the Department of Children and Families and is under contract with the division for the express purpose of providing such services.

(k) Notwithstanding any other provisions of this chapter (R.S.43:21-1 et seq.), no otherwise eligible individual shall be denied benefits for any week in which the individual left work voluntarily and without good cause attributable to the work, if the individual left work to accompany his or her spouse who is an active member of the United States Armed Forces, as defined in N.J.S.38A:1-1(g), to a new place of residence outside the State, due to the armed forces member's transfer to a new assignment in a different geographical location outside the State, and the individual moves to the new place of residence not more than nine months after the spouse is transferred, and upon arrival at the new place of residence the individual was in all respects available for suitable work. No employer's account shall be charged for the payment of benefits to an individual who left work under the circumstances contained in this subsection (k), except that this shall not be construed as relieving the State of New Jersey and any other governmental entity or instrumentality or nonprofit organization electing or required to make payments in lieu of contributions from its responsibility to make all benefit payments otherwise required by law and from being charged for those benefits as otherwise required by law.

(cf: P.L.2023, c.177, s.126)

1 4. R.S.43:21-6 is amended to read as follows:
2 43:21-6. (a) Filing. (1) Claims for benefits shall be made in
3 accordance with such regulations as the Director of the Division of
4 Unemployment and Temporary Disability Insurance of the
5 Department of Labor and Workforce Development of the State of
6 New Jersey may approve. Each employer shall post and maintain
7 on his premises printed notices of his subject status, of such design,
8 in such numbers and at such places as the director of the division
9 may determine to be necessary to give notice thereof to persons in
10 the employer's service. Each employer shall give to each individual
11 at the time he becomes unemployed, for any reason, whether the
12 unemployment is permanent or temporary, a printed copy of benefit
13 instructions. The benefit instructions given to the individual shall
14 include, but not be limited to, the following information: (A) the
15 date upon which the individual becomes unemployed, and, in the
16 case that the unemployment is temporary, to the extent possible, the
17 date upon which the individual is expected to be recalled to work;
18 and (B) that the individual may lose some or all of the benefits to
19 which he is entitled if he fails to file a claim in a timely manner.
20 Both the aforesaid notices and instructions, including information
21 detailing the time sensitivity of filing a claim, and directions
22 provided in advance to all employers regarding what information
23 the division requires employers to provide to the division by
24 electronic means immediately upon a separation from employment
25 sufficient to enable the division to make a benefit determination,
26 including any information relevant to whether the individual may be
27 disqualified pursuant to subsections (a),(b),(d), or (e) of R.S.43:21-
28 5, shall be supplied by the division to employers without cost to
29 them. The directions provided to all employers in advance shall
30 include that each employer provide the division with an email
31 address for communications to and from the division. When an
32 employer provides benefit instructions to the individual which
33 disclose the date on which unemployment will commence, the
34 employer shall immediately and simultaneously provide by
35 electronic means that disclosure to the division together with the
36 information required by the division pursuant to the directions
37 provided in advance by the division. An employer who fails to
38 make the immediate and simultaneous disclosure to the department
39 as required by this paragraph shall be liable for the penalties
40 imposed by subsection (b) of R.S.43:21-16 on employers for willful
41 failure to furnish reports. The division shall notify the employer by
42 electronic means not more than seven calendar days after the
43 department receives the disclosure of any failure of the employer to
44 provide all of the information needed by the division to make a
45 benefit determination. Nothing in this section shall be construed so
46 as to require an employer to re-hire an individual formerly in the
47 employer's service. Nothing in this section shall be construed as
48 requiring the division to issue a benefit determination solely based

1 on the information supplied by the employer. Notwithstanding the
2 provisions of this section which require employers to provide
3 information to the division by electronic means, and the division to
4 provide notifications to an employer by electronic means, the
5 commissioner shall have the discretion to establish by rule an
6 alternate method or methods for employers to provide the required
7 information to the division and for the division to provide the
8 required notifications to an employer in circumstances where it is
9 established, to the satisfaction of the commissioner, that the
10 employer is unable to provide the information to the division or is
11 unable to receive notifications from the division by electronic
12 means.

13 (2) Any claimant may choose to certify, cancel or close his claim
14 for unemployment insurance benefits at any time, 24 hours a day
15 and seven days a week, via the Internet on a website developed by
16 the division; however, any claim that is certified, cancelled or
17 closed after 7:00 PM will not be processed by the division until the
18 next scheduled posting date.

19 (3) The division may request that claimants obtain digital
20 identity credentials, but only if the division provides opportunities
21 for claimants to verify their identities even if they do not have the
22 knowledge or access to the equipment needed to obtain the digital
23 identity credentials. Any request by the division for a claimant to
24 obtain digital identity credentials shall include a statement that the
25 claimant may use alternative procedures to verify identification, and
26 fully describe the alternative procedures, which shall include
27 personal assistance in person or by phone which shall be made
28 available by representatives of the division as needed to prevent any
29 delay in processing claims. If the division requests that a claimant
30 obtain digital identity credentials, and the claimant chooses to
31 request a digital identity credential rather than utilize an alternative
32 procedure, but is denied the digital identity credential, the division
33 shall issue the claimant a written appealable determination.

34 (4) Any system that the division establishes for claimants or
35 recipients of benefits to verify identity, to apply for, or to make
36 appeals regarding, benefits either by phone or on-line, shall provide
37 a clearly and prominently expressed option for the claimant or
38 recipient, if not immediately provided personal assistance, to select
39 from available appointment times an appointment time to speak
40 with a representative to obtain assistance in verifying identity, filing
41 a claim or appeal, or obtaining information regarding the status of a
42 claim or appeal.

43 (b) (1) Procedure for making initial determinations with respect
44 to benefit years commencing on or after January 1, 1953.

45 A representative or representatives designated by the director of
46 the division and hereafter referred to as a "deputy" shall promptly
47 examine any disclosure of information to the division by an
48 employer required by paragraph (1) of subsection (a) of this section

1 upon a separation from work and any claim for benefits, and shall,
2 by electronic means, notify the most recent employing unit and,
3 successively as necessary, each employer in inverse chronological
4 order during the base year. The notification shall be made not later
5 than seven calendar days after the employer provides to the
6 department the disclosure required by paragraph (1) of subsection
7 (a) of this section, or seven calendar days after the filing of the
8 claim, whichever occurs first, and require said employing unit and
9 employer to furnish, by electronic means, not more than seven
10 calendar days after the notification is made, any information to the
11 deputy which the employer failed to provide as required by
12 paragraph (1) of subsection (a) of this section as may be necessary
13 to determine the claimant's eligibility and his benefit rights with
14 respect to the employer in question. The claimant shall, at the time
15 the claim is filed, be provided any information the division has
16 received from the employer upon the separation from work and an
17 opportunity to respond to that information. If a claim is filed and
18 the employer has provided the information required upon separation
19 from work, the employer shall immediately be notified by electronic
20 means of the opportunity to provide, by electronic means and in not
21 more than seven calendar days, additional information in response
22 to the claim for benefits. If a claim is filed and the employer has
23 failed to provide the information required upon the separation from
24 work, the division shall immediately, by electronic means, request
25 the required information and the employer shall provide the
26 information, by electronic means and in not more than seven
27 calendar days. The division shall provide the claimant any
28 additional information it receives and an opportunity to respond.

29 If any employer or employing unit fails to respond to the
30 notification or request within seven calendar days after a
31 communication by electronic means of the notification or request,
32 the deputy shall rely entirely on information from other sources,
33 including an affidavit to the best of the knowledge and belief of the
34 claimant with respect to his wages and time worked. Except in the
35 event of a knowing, fraudulent nondisclosure or misrepresentation
36 by the claimant or his agent, if it is determined that any information
37 in such affidavit is erroneous, no penalty shall be imposed on the
38 claimant.

39 The deputy shall make an initial determination contingent upon
40 the receipt of all necessary information and notify the claimant no
41 later than three weeks from the date on which the division received
42 the claim for benefits. The initial determination shall show the
43 weekly benefit amount payable, the maximum duration of benefits
44 with respect to the employer to whom the determination relates, and
45 the ratio of benefits chargeable to the employer's account for benefit
46 years commencing on or after July 1, 1986, and also shall show
47 whether the claimant is ineligible or disqualified for benefits under
48 the initial determination. The employer whose account may be

1 charged for benefits payable pursuant to said determination shall be
2 promptly notified thereof.

3 Whenever an initial determination is based upon information
4 other than that supplied by an employer because such employer
5 failed to provide information as required at the time of separation
6 from employment, and failed to respond to the deputy's request for
7 additional information, benefit payments based on the determination
8 shall commence immediately, and such initial determination and
9 any subsequent determination thereunder shall be incontestable by
10 the noncomplying employer, as to any charges to his employer's
11 account because of benefits paid prior to the close of the calendar
12 week following the receipt of his reply. Such initial determination
13 shall be altered if necessary upon receipt of information from the
14 employer, and any benefits paid or payable with respect to weeks
15 occurring subsequent to the close of the calendar week following
16 the receipt of the employer's reply and the determination of the
17 division to alter the initial determination after providing the
18 claimant the information and an opportunity to respond shall be
19 paid in accordance with such altered initial determination.

20 The deputy shall issue a separate initial benefit determination
21 with respect to each of the claimant's base year employers, starting
22 with the most recent employer and continuing as necessary in the
23 inverse chronological order of the claimant's last date of
24 employment with each such employer. If an appeal is taken from
25 an initial determination, as hereinafter provided, by any employer
26 other than the first chargeable base year employer or for benefit
27 years commencing on or after July 1, 1986, that employer from
28 whom the individual was most recently separated, then such appeal
29 shall be limited in scope to include only one or more of the
30 following matters:

31 (A) The correctness of the benefit payments authorized to be
32 made under the determination;

33 (B) Fraud in connection with the claim pursuant to which the
34 initial determination is issued;

35 (C) The refusal of suitable work offered by the chargeable
36 employer filing the appeal;

37 (D) Gross misconduct as provided in subsection (b) of
38 R.S.43:21-5.

39 In his discretion, the director may appoint special deputies to
40 make initial or subsequent determinations under subsection (f) of
41 R.S.43:21-4 and subsection (d) of R.S.43:21-5.

42 The amount of benefits payable under an initial determination
43 may be reduced or canceled if necessary to avoid payment of
44 benefits for a number of weeks in excess of the maximum specified
45 in subsection (d) of R.S.43:21-3.

46 Unless the employer, within seven calendar days after a
47 confirmed receipt of notification of an initial determination,
48 including by electronic means, or the claimant, within 21 calendar

1 days after the notification was mailed to the claimant's last-known
2 address and addresses, or after the notification was delivered to the
3 claimant by electronic means, provided the departmental
4 functionality exists to deliver the notifications by electronic means
5 and provided, further, that the claimant has communicated to the
6 division the choice to receive the notifications by electronic means,
7 files an appeal of the decision, the decision shall be final and
8 benefits shall immediately be paid or denied in accordance
9 therewith, except for such determinations as may be altered in
10 benefit amounts or duration as provided in this paragraph. An
11 appeal concerning an initial determination shall not be filed after
12 whichever is applicable of the seven-day or 21-day period. Benefits
13 payable for periods pending an appeal of the initial determination to
14 the appeal tribunal shall be paid **【**as such benefits accrue and be
15 paid**】** according to the initial determination, and benefits payable
16 for periods pending appeal of the determination of the appeal
17 tribunal to the board of review shall be paid according to the appeal
18 tribunal determination, but shall be, to the extent that the amount
19 paid exceeds the amount determined in the appeal, regarded as an
20 overpayment subject to the provisions of R.S.43:21-16 regarding
21 overpayments, including the requirement of that section that a
22 claimant who makes knowing, fraudulent nondisclosure or
23 misrepresentation is liable to repay the full amount of the
24 overpayment; provided that if the appeal is an appeal of a
25 determination that the claimant is disqualified under the provisions
26 of R.S.43:21-5, benefits pending determination of the appeal shall
27 be withheld only for the period of disqualification as provided for in
28 that section, and while the appeal is pending, the benefits otherwise
29 provided by this act shall be paid for the period subsequent to such
30 period of disqualification; provided further that if it is determined in
31 the appeal that the claimant was not disqualified, the claimant shall
32 be paid the benefits due for the period of the disqualification,
33 except that no such benefits shall be paid to the claimant for any
34 week during which the claimant has failed to provide to the division
35 a weekly certification evidencing the claimant's eligibility for
36 benefits; and provided, also, that if there are two determinations of
37 entitlement, benefits for the period covered by such determinations
38 shall be paid regardless of any appeal which may thereafter be
39 taken, but no employer's account shall be charged with benefits so
40 paid, if the decision is finally reversed. If an employer appeals the
41 charging of benefits to the employer's account after the seven-day
42 period to appeal the initial benefit determination, and, as a result of
43 the appeal on the charging to the employer's account, the division,
44 after the claimant is notified and given the opportunity to respond,
45 reduces the amount charged to the employer's account, any resulting
46 reduction in the amount of benefits shall take effect only after the
47 resolution of the appeal of the charging, and any amount of benefits
48 paid before the resolution of the appeal of the charging which

1 exceeds the amount determined in that appeal shall be regarded as
2 an overpayment caused by employer error [and shall be charged to
3 the employer's account, and the claimant shall not be liable to repay
4 any portion of that overpayment where the overpayment is of
5 regular Unemployment Compensation. In the case of the recovery
6 of an overpayment of benefit under any of the following programs
7 authorized by the federal "Coronavirus Aid, Relief, and Economic
8 Security (CARES) Act," Pub.L.116-136: Federal Pandemic
9 Unemployment Compensation (FPUC), Pandemic Emergency
10 Unemployment Compensation (PEUC), Mixed Earners
11 Unemployment Compensation (MEUC), Pandemic Unemployment
12 Assistance (PUA), or the first week of regular Unemployment
13 Compensation that is reimbursed in accordance with Section 2105
14 of the CARES Act, a recovery shall not be waived unless the
15 division determines that the claimant is without fault and the
16 repayment would be contrary to equity and good conscience], the
17 repayment of which shall be governed by subparagraph (C) of
18 paragraph (4) of subsection (d) of R.S. 43:21-16.

19 (2) (Deleted by amendment, P.L.2022, c.120)

20 (3) Procedure for making subsequent determinations with respect
21 to benefit years commencing on or after January 1, 1953. The
22 deputy shall make determinations with respect to claims for benefits
23 thereafter in the course of the benefit year, in accordance with any
24 initial determination allowing benefits, and under which benefits
25 have not been exhausted, and each notification of a benefit payment
26 shall be a notification of an affirmative subsequent determination.
27 Any change in the allowance, amount, or other characteristic of
28 benefits by the deputy in any such determination, or the denial of
29 benefits by the deputy in any such determination, shall be
30 appealable in the same manner and under the same limitations as is
31 provided in the case of initial determinations, except that, after an
32 initial determination, the resolution of any appeal of the initial
33 determination, and the payment of one or more weeks of benefits
34 pursuant to the initial determination, if a subsequent determination
35 will result in any termination or reduction of those benefits from the
36 amount or duration of benefits specified in the initial determination,
37 the claimant shall be provided notification with a full written
38 explanation of why the reduction or termination of benefits will
39 occur, and provided, during the seven calendar days following the
40 notification, an opportunity to file an appeal [before the reduction
41 or termination goes into effect]. If the claimant files an appeal
42 during the seven-day period, benefits shall continue to be paid at the
43 rate, and for the duration, stipulated in the initial determination until
44 the appeal is resolved. If the claimant does not file an appeal, or the
45 claimant files an appeal and it is found in the resolution of the
46 appeal that the amount in benefits paid during the processing of the
47 appeal exceeded the amount determined in the appeal to be correct,
48 or the claimant is found in the appeal to be ineligible for benefits,

1 any resulting excess payment of benefits shall be regarded as an
2 overpayment subject to the provisions of R.S.43:21-16 regarding
3 overpayments, including the requirement of that section that a
4 claimant who makes knowing, fraudulent nondisclosure or
5 misrepresentation is liable to repay the full amount of the
6 overpayment.

7 (c) Appeals. Unless such appeal is withdrawn, an appeal
8 tribunal, after affording the parties reasonable opportunity for fair
9 hearing, shall affirm or modify the findings of fact and the
10 determination. The parties shall be duly notified of such tribunal's
11 decision, together with its reasons therefor, which shall be deemed
12 to be the final decision of the board of review, unless further appeal
13 is initiated pursuant to subsection (e) of this section within 20 days
14 after the date of notification or mailing of such decision for any
15 decision made after December 1, 2010.

16 (d) Appeal tribunals. To hear and decide disputed benefit
17 claims, including appeals from determinations with respect to
18 demands for refunds of benefits under subsection (d) of R.S.43:21-
19 16, the director with the approval of the Commissioner of Labor and
20 Workforce Development shall establish impartial appeal tribunals
21 consisting of a salaried body of examiners under the supervision of
22 a Chief Appeals Examiner, all of whom shall be appointed pursuant
23 to the provisions of Title 11A of the New Jersey Statutes, Civil
24 Service and other applicable statutes.

25 (e) Board of review. The board of review may on its own motion
26 affirm, modify, or set aside any decision of an appeal tribunal on
27 the basis of the evidence previously submitted in such case, or
28 direct the taking of additional evidence, or may permit any of the
29 parties to such decision to initiate further appeals before it. The
30 board of review shall permit such further appeal by any of the
31 parties interested in a decision of an appeal tribunal which is not
32 unanimous and from any determination which has been overruled or
33 modified by any appeal tribunal. The board of review may remove
34 to itself or transfer to another appeal tribunal the proceedings on
35 any claim pending before an appeal tribunal. Any proceedings so
36 removed to the board of review shall be heard by a quorum thereof
37 in accordance with the requirements of subsection (c) of this
38 section. The board of review shall promptly notify the interested
39 parties of its findings and decision.

40 (f) Procedure. The manner in which disputed benefit claims, and
41 appeals from determinations with respect to (1) claims for benefits
42 and (2) demands for refunds of benefits under subsection (d) of
43 R.S.43:21-16 shall be presented, the reports thereon required from
44 the claimant and from employers, and the conduct of hearings and
45 appeals shall be in accordance with rules prescribed by the board of
46 review for determining the rights of the parties, whether or not such
47 rules conform to common law or statutory rules of evidence and
48 other technical rules of procedure. A full and complete record shall

1 be kept of all proceedings in connection with a disputed claim. All
2 testimony at any hearing upon a disputed claim shall be recorded,
3 but need not be transcribed unless the disputed claim is further
4 appealed.

5 (g) Witness fees. Witnesses subpoenaed pursuant to this section
6 shall be allowed fees at a rate fixed by the director. Such fees and
7 all expenses of proceedings involving disputed claims shall be
8 deemed a part of the expense of administering this chapter
9 (R.S.43:21-1 et seq.).

10 (h) Court review. Any decision of the board of review shall
11 become final as to any party upon the mailing of a copy thereof to
12 such party and to the party's attorney, or upon the mailing of a copy
13 thereof to such party at his last-known address and to the party's
14 attorney. The Division of Unemployment and Temporary Disability
15 Insurance and any party to a proceeding before the board of review
16 may secure judicial review of the final decision of the board of
17 review. Any party not joining in the appeal shall be made a
18 defendant; the board of review shall be deemed to be a party to any
19 judicial action involving the review of, or appeal from, any of its
20 decisions, and may be represented in any such judicial action by
21 any qualified attorney, who may be a regular salaried employee of
22 the board of review or has been designated by it for that purpose,
23 or, at the board of review's request, by the Attorney General.

24 (i) Failure to give notice. The failure of any public officer or
25 employee at any time heretofore or hereafter to give notice of
26 determination or decision required in subsections (b), (c) and (e) of
27 this section, as originally passed or amended, shall not relieve any
28 employer's account of any charge by reason of any benefits paid,
29 unless and until that employer can show to the satisfaction of the
30 director of the division that the said benefits, in whole or in part,
31 would not have been charged or chargeable to his account had such
32 notice been given. Any determination hereunder by the director
33 shall be subject to court review.

34 (j) With respect to benefit payments made on or after October 22,
35 2013, an employer's account shall not be relieved of charges related
36 to a benefit payment that was made erroneously from the division if
37 it is determined that:

38 (1) The erroneous benefit payment was made because the
39 employer, or an agent of the employer, failed to respond in a timely
40 or adequate manner to a request from the division for information
41 related to the claim for benefits, including failing to provide the
42 information required by subsection (a) of this section upon a
43 separation from employment; and

44 (2) The employer, or an agent of the employer, has established a
45 pattern of failing to respond in a timely or adequate manner to
46 requests from the division for information related to claims for
47 benefits, including failing to provide the information required by
48 subsection (a) of this section upon a separation from employment.

1 Determinations of the division prohibiting the relief of charges
2 pursuant to this subsection shall be subject to appeal in the same
3 manner as other determinations of the division related to the
4 charging of employer accounts.

5 For purposes of subsection (j) of this section:

6 "Erroneous benefit payment" means a benefit payment that,
7 except for the failure by the employer, or an agent of the employer,
8 to respond in a timely or adequate manner to a request from the
9 division for information with respect to the claim for benefits,
10 would not have been made; and

11 "Pattern of failing" means repeated documented failure on the
12 part of the employer, or an agent of the employer, to respond to
13 requests from the division to the employer or employer's agent for
14 information related to a claim for benefits, including failing to
15 provide the information required by subsection (a) of this section
16 upon a separation from employment, except that an employer, or an
17 agent of an employer, shall not be determined to have engaged in a
18 "pattern of failing" if the number of failures to provide the required
19 information or respond to requests from the division for information
20 related to claims for benefits during the previous 365 calendar days
21 is less than three, or if the number of failures is less than two
22 percent of the number of requests from the division, whichever is
23 greater.

24 (k) The Department of Labor and Workforce Development shall
25 establish and maintain a procedure by which personnel access rights
26 to the department's primary system for unemployment claims
27 receipt and processing are comprehensively reviewed every
28 calendar quarter. The procedure shall include an evaluation of
29 access needs to the primary unemployment claims receipt and
30 processing system for all department personnel and the adjustment,
31 addition, or deletion of access rights for department personnel based
32 on the quarterly review.

33 (l) The Department of Labor and Workforce Development shall
34 develop within the department's primary system for unemployment
35 claims receipt and processing a mechanism for claimants to
36 electronically access their own benefit payment status and history.
37 (cf: P.L.2022, c.120, s.1)

38

39 5. R.S.43:21-7 is amended to read as follows:

40 43:21-7. Employers other than governmental entities, whose
41 benefit financing provisions are set forth in section 4 of P.L.1971,
42 c.346 (C.43:21-7.3), and those nonprofit organizations liable for
43 payment in lieu of contributions on the basis set forth in section 3 of
44 P.L.1971, c.346 (C.43:21-7.2), shall pay to the controller for the
45 unemployment compensation fund, contributions as set forth in
46 subsections (a), (b) and (c) hereof, and the provisions of subsections
47 (d) and (e) shall be applicable to all employers, consistent with the
48 provisions of the "unemployment compensation law" and the

1 "Temporary Disability Benefits Law," P.L.1948, c.110 (C.43:21-25
2 et al.).

3 (a) Payment.

4 (1) Contributions shall accrue and become payable by each
5 employer for each calendar year in which he is subject to this
6 chapter (R.S.43:21-1 et seq.), with respect to having individuals in
7 his employ during that calendar year, at the rates and on the basis
8 hereinafter set forth. Such contributions shall become due and be
9 paid by each employer to the controller for the fund, in accordance
10 with such regulations as may be prescribed, and shall not be
11 deducted, in whole or in part, from the remuneration of individuals
12 in his employ.

13 (2) In the payment of any contributions, a fractional part of a
14 cent shall be disregarded unless it amounts to \$0.005 or more, in
15 which case it shall be increased to \$0.01.

16 (b) Rate of contributions. Each employer shall pay the following
17 contributions:

18 (1) For the calendar year 1947, and each calendar year
19 thereafter, 2 7/10% of wages paid by him during each such calendar
20 year, except as otherwise prescribed by subsection (c) of this
21 section.

22 (2) The "wages" of any individual, with respect to any one
23 employer, as the term is used in this subsection (b) and in
24 subsections (c), (d) and (e) of this section 7, shall include the first
25 \$4,800.00 paid during calendar year 1975, for services performed
26 either within or without this State; provided that no contribution
27 shall be required by this State with respect to services performed in
28 another state if such other state imposes contribution liability with
29 respect thereto. If an employer (hereinafter referred to as a
30 successor employer) during any calendar year acquires substantially
31 all the property used in a trade or business of another employer
32 (hereinafter referred to as a predecessor), or used in a separate unit
33 of a trade or business of a predecessor, and immediately after the
34 acquisition employs in his trade or business an individual who
35 immediately prior to the acquisition was employed in the trade or
36 business of such predecessors, then, for the purpose of determining
37 whether the successor employer has paid wages with respect to
38 employment equal to the first \$4,800.00 paid during calendar year
39 1975, any wages paid to such individual by such predecessor during
40 such calendar year and prior to such acquisition shall be considered
41 as having been paid by such successor employer.

42 (3) For calendar years beginning on and after January 1, 1976,
43 the "wages" of any individual, as defined in the preceding
44 paragraph (2) of this subsection (b), shall be established and
45 promulgated by the Commissioner of Labor and Workforce
46 Development on or before September 1 of the preceding year and,
47 except as provided in paragraph (4) of this subsection (b), shall be,
48 28 times the Statewide average weekly remuneration paid to

1 workers by employers, as determined under R.S.43:21-3(c), raised
2 to the next higher multiple of \$100.00 if not already a multiple
3 thereof, provided that if the amount of wages so determined for a
4 calendar year is less than the amount similarly determined for the
5 preceding year, the greater amount will be used; provided, further,
6 that if the amount of such wages so determined does not equal or
7 exceed the amount of wages as defined in subsection (b) of section
8 3306 of the Internal Revenue Code of 1986 (26 U.S.C. s.3306(b)),
9 the wages as determined in this paragraph in any calendar year shall
10 be raised to equal the amount established under the "Federal
11 Unemployment Tax Act," chapter 23 of the Internal Revenue Code
12 of 1986 (26 U.S.C. s.3301 et seq.), for that calendar year.

13 (4) For calendar years beginning on and after January 1, 2020,
14 the "wages" of any individual, as defined in the preceding
15 paragraph (2) of this subsection (b) for purposes of contributions of
16 workers to the State disability benefits fund, including the "Family
17 Temporary Disability Leave Account" pursuant to subsection (d) of
18 this section, shall be established and promulgated by the
19 Commissioner of Labor and Workforce Development on or before
20 September 1 of the preceding year and shall be 107 times the
21 Statewide average weekly remuneration paid to workers by
22 employers, as determined under R.S.43:21-3(c), raised to the next
23 higher multiple of \$100.00 if not already a multiple thereof,
24 provided that if the amount of wages so determined for a calendar
25 year is less than the amount similarly determined for the preceding
26 year, the greater amount will be used.

27 (c) Future rates based on benefit experience.

28 (1) A separate account for each employer shall be maintained
29 and this shall be credited with all the contributions which he has
30 paid on his own behalf on or before January 31 of any calendar year
31 with respect to employment occurring in the preceding calendar
32 year; provided, however, that if January 31 of any calendar year
33 falls on a Saturday or Sunday, an employer's account shall be
34 credited as of January 31 of such calendar year with all the
35 contributions which he has paid on or before the next succeeding
36 day which is not a Saturday or Sunday. But nothing in this chapter
37 (R.S.43:21-1 et seq.) shall be construed to grant any employer or
38 individuals in his service prior claims or rights to the amounts paid
39 by him into the fund either on his own behalf or on behalf of such
40 individuals. Benefits paid with respect to benefit years commencing
41 on and after January 1, 1953, to any individual on or before
42 December 31 of any calendar year with respect to unemployment in
43 such calendar year and in preceding calendar years shall be charged
44 against the account or accounts of the employer or employers in
45 whose employment such individual established base weeks
46 constituting the basis of such benefits, except that, with respect to
47 benefit years commencing after January 4, 1998, an employer's
48 account shall not be charged for benefits paid to a claimant if: (1)

1 the claimant's employment by that employer was ended in any way
2 which, pursuant to subsection (a), (b), (c), (f), (g) or (h) of
3 R.S.43:21-5, would have disqualified the claimant for benefits if the
4 claimant had applied for benefits at the time when that employment
5 ended, or (2) the claimant's employment by that employer
6 continued and the claimant continued to both perform work for and
7 receive remuneration from that employer, during the claimant's
8 period of unemployment. Benefits paid under a given benefit
9 determination shall be charged against the account of the employer
10 to whom such determination relates. When each benefit payment is
11 made, notification shall be promptly provided to each employer
12 included in the unemployment insurance monetary calculation of
13 benefits. Such notification shall identify the employer against
14 whose account the amount of such payment is being charged, shall
15 show at least the name and social security account number of the
16 claimant and shall specify the period of unemployment to which
17 said benefit payment applies.

18 An annual summary statement of unemployment benefits
19 charged to the employer's account shall be provided.

20 (2) Regulations may be prescribed for the establishment,
21 maintenance, and dissolution of joint accounts by two or more
22 employers, and shall, in accordance with such regulations and upon
23 application by two or more employers to establish such an account,
24 or to merge their several individual accounts in a joint account,
25 maintain such joint account as if it constituted a single employer's
26 account.

27 (3) No employer's rate shall be lower than 5.4% unless
28 assignment of such lower rate is consistent with the conditions
29 applicable to additional credit allowance for such year under section
30 3303(a)(1) of the Internal Revenue Code of 1986 (26 U.S.C.
31 s.3303(a)(1)), any other provision of this section to the contrary
32 notwithstanding.

33 (4) Employer Reserve Ratio. (A) Each employer's rate shall be
34 $2\frac{8}{10}\%$, except as otherwise provided in the following provisions.
35 No employer's rate for the 12 months commencing July 1 of any
36 calendar year shall be other than $2\frac{8}{10}\%$, unless as of the
37 preceding January 31 such employer shall have paid contributions
38 with respect to wages paid in each of the three calendar years
39 immediately preceding such year, in which case such employer's
40 rate for the 12 months commencing July 1 of any calendar year
41 shall be determined on the basis of his record up to the beginning of
42 such calendar year. If, at the beginning of such calendar year, the
43 total of all his contributions, paid on his own behalf, for all past
44 years exceeds the total benefits charged to his account for all such
45 years, his contribution rate shall be:

46 (1) $2\frac{5}{10}\%$, if such excess equals or exceeds 4%, but less than
47 5%, of his average annual payroll (as defined in paragraph (2),
48 subsection (a) of R.S.43:21-19);

1 (2) 2 2/10%, if such excess equals or exceeds 5%, but is less
2 than 6%, of his average annual payroll;
3 (3) 1 9/10%, if such excess equals or exceeds 6%, but is less
4 than 7%, of his average annual payroll;
5 (4) 1 6/10%, if such excess equals or exceeds 7%, but is less
6 than 8%, of his average annual payroll;
7 (5) 1 3/10%, if such excess equals or exceeds 8%, but is less
8 than 9%, of his average annual payroll;
9 (6) 1%, if such excess equals or exceeds 9%, but is less than
10 10%, of his average annual payroll;
11 (7) 7/10 of 1%, if such excess equals or exceeds 10%, but is less
12 than 11%, of his average annual payroll;
13 (8) 4/10 of 1%, if such excess equals or exceeds 11% of his
14 average annual payroll.
15 (B) If the total of an employer's contributions, paid on his own
16 behalf, for all past periods for the purposes of this paragraph (4), is
17 less than the total benefits charged against his account during the
18 same period, his rate shall be:
19 (1) 4%, if such excess is less than 10% of his average annual
20 payroll;
21 (2) 4 3/10%, if such excess equals or exceeds 10%, but is less
22 than 20%, of his average annual payroll;
23 (3) 4 6/10%, if such excess equals or exceeds 20% of his
24 average annual payroll.
25 (C) Specially assigned rates.
26 (i) If no contributions were paid on wages for employment in
27 any calendar year used in determining the average annual payroll of
28 an employer eligible for an assigned rate under this paragraph (4),
29 the employer's rate shall be specially assigned as follows:
30 if the reserve balance in its account is positive, its assigned rate
31 shall be the highest rate in effect for positive balance accounts for
32 that period, or 5.4%, whichever is higher, and
33 if the reserve balance in its account is negative, its assigned rate
34 shall be the highest rate in effect for deficit accounts for that period.
35 (ii) If, following the purchase of a corporation with little or no
36 activity, known as a corporate shell, the resulting employing unit
37 operates a new or different business activity, the employing unit
38 shall be assigned a new employer rate.
39 (iii) Entities operating under common ownership, management or
40 control, when the operation of the entities is not identifiable,
41 distinguishable and severable, shall be considered a single employer
42 for the purposes of this chapter (R.S.43:21-1 et seq.).
43 (D) The contribution rates prescribed by subparagraphs (A) and
44 (B) of this paragraph (4) shall be increased or decreased in
45 accordance with the provisions of paragraph (5) of this subsection
46 (c) for experience rating periods through June 30, 1986.
47 (5) (A) Unemployment Trust Fund Reserve Ratio. If on March
48 31 of any calendar year the balance in the unemployment trust fund

1 equals or exceeds 4% but is less than 7% of the total taxable wages
2 reported to the controller as of that date in respect to employment
3 during the preceding calendar year, the contribution rate, effective
4 July 1 following, of each employer eligible for a contribution rate
5 calculation based upon benefit experience, shall be increased by
6 3/10 of 1% over the contribution rate otherwise established under
7 the provisions of paragraph (3) or (4) of this subsection. If on
8 March 31 of any calendar year the balance of the unemployment
9 trust fund exceeds 2 1/2% but is less than 4% of the total taxable
10 wages reported to the controller as of that date in respect to
11 employment during the preceding calendar year, the contribution
12 rate, effective July 1 following, of each employer eligible for a
13 contribution rate calculation based upon benefit experience, shall be
14 increased by 6/10 of 1% over the contribution rate otherwise
15 established under the provisions of paragraph (3) or (4) of this
16 subsection.

17 If on March 31 of any calendar year the balance of the
18 unemployment trust fund is less than 2 1/2% of the total taxable
19 wages reported to the controller as of that date in respect to
20 employment during the preceding calendar year, the contribution
21 rate, effective July 1 following, of each employer: (1) eligible for a
22 contribution rate calculation based upon benefit experience, shall be
23 increased by (i) 6/10 of 1% over the contribution rate otherwise
24 established under the provisions of paragraph (3), (4)(A) or (4)(B)
25 of this subsection, and (ii) an additional amount equal to 20% of the
26 total rate established herein, provided, however, that the final
27 contribution rate for each employer shall be computed to the nearest
28 multiple of 1/10% if not already a multiple thereof; (2) not eligible
29 for a contribution rate calculation based upon benefit experience,
30 shall be increased by 6/10 of 1% over the contribution rate
31 otherwise established under the provisions of paragraph (4) of this
32 subsection. For the period commencing July 1, 1984 and ending
33 June 30, 1986, the contribution rate for each employer liable to pay
34 contributions under R.S.43:21-7 shall be increased by a factor of
35 10% computed to the nearest multiple of 1/10% if not already a
36 multiple thereof.

37 (B) If on March 31 of any calendar year the balance in the
38 unemployment trust fund equals or exceeds 10% but is less than 12
39 1/2% of the total taxable wages reported to the controller as of that
40 date in respect to employment during the preceding calendar year,
41 the contribution rate, effective July 1 following, of each employer
42 eligible for a contribution rate calculation based upon benefit
43 experience, shall be reduced by 3/10 of 1% under the contribution
44 rate otherwise established under the provisions of paragraphs (3)
45 and (4) of this subsection; provided that in no event shall the
46 contribution rate of any employer be reduced to less than 4/10 of
47 1%. If on March 31 of any calendar year the balance in the
48 unemployment trust fund equals or exceeds 12 1/2% of the total

1 taxable wages reported to the controller as of that date in respect to
2 employment during the preceding calendar year, the contribution
3 rate, effective July 1 following, of each employer eligible for a
4 contribution rate calculation based upon benefit experience, shall be
5 reduced by 6/10 of 1% if his account for all past periods reflects an
6 excess of contributions paid over total benefits charged of 3% or
7 more of his average annual payroll, otherwise by 3/10 of 1% under
8 the contribution rate otherwise established under the provisions of
9 paragraphs (3) and (4) of this subsection; provided that in no event
10 shall the contribution rate of any employer be reduced to less than
11 4/10 of 1%.

12 (C) The "balance" in the unemployment trust fund, as the term is
13 used in subparagraphs (A) and (B) above, shall not include moneys
14 credited to the State's account under section 903 of the Social
15 Security Act, as amended (42 U.S.C. s.1103), during any period in
16 which such moneys are appropriated for the payment of expenses
17 incurred in the administration of the "unemployment compensation
18 law."

19 (D) Prior to July 1 of each calendar year the controller shall
20 determine the Unemployment Trust Fund Reserve Ratio, which
21 shall be calculated by dividing the balance of the unemployment
22 trust fund as of the prior March 31 by total taxable wages reported
23 to the controller by all employers as of March 31 with respect to
24 their employment during the last calendar year.

25 (E) (i) (Deleted by amendment, P.L.1997, c.263).

26 (ii) (Deleted by amendment, P.L.2001, c.152).

27 (iii) (Deleted by amendment, P.L.2003, c.107).

28 (iv) (Deleted by amendment, P.L.2004, c.45).

29 (v) (Deleted by amendment, P.L.2008, c.17).

30 (vi) (Deleted by amendment, P.L.2013, c.75).

31 (vii) With respect to experience rating years beginning on or
32 after July 1, 2011, the new employer rate or the unemployment
33 experience rate of an employer under this section shall be the rate
34 which appears in the column headed by the Unemployment Trust
35 Fund Reserve Ratio as of the applicable calculation date and on the
36 line with the Employer Reserve Ratio, as defined in paragraph (4)
37 of this subsection (R.S.43:21-7 (c)(4)), as set forth in the following
38 table:
39

40 EXPERIENCE RATING TAX TABLE

Employer Reserve Ratio ²	Fund Reserve Ratio ¹				
	3.50%	3.00%	2.5%	2.0%	1.99%
	and Over A	to 3.49% B	to 2.99% C	to 2.49% D	and Under E
Positive Reserve Ratio:					
17% and over	0.3	0.4	0.5	0.6	1.2
16.00% to 16.99%	0.4	0.5	0.6	0.6	1.2

1	15.00% to 15.99%	0.4	0.6	0.7	0.7	1.2
2	14.00% to 14.99%	0.5	0.6	0.7	0.8	1.2
3	13.00% to 13.99%	0.6	0.7	0.8	0.9	1.2
4	12.00% to 12.99%	0.6	0.8	0.9	1.0	1.2
5	11.00% to 11.99%	0.7	0.8	1.0	1.1	1.2
6	10.00% to 10.99%	0.9	1.1	1.3	1.5	1.6
7	9.00% to 9.99%	1.0	1.3	1.6	1.7	1.9
8	8.00% to 8.99%	1.3	1.6	1.9	2.1	2.3
9	7.00% to 7.99%	1.4	1.8	2.2	2.4	2.6
10	6.00% to 6.99%	1.7	2.1	2.5	2.8	3.0
11	5.00% to 5.99%	1.9	2.4	2.8	3.1	3.4
12	4.00% to 4.99%	2.0	2.6	3.1	3.4	3.7
13	3.00% to 3.99%	2.1	2.7	3.2	3.6	3.9
14	2.00% to 2.99%	2.2	2.8	3.3	3.7	4.0
15	1.00% to 1.99%	2.3	2.9	3.4	3.8	4.1
16	0.00% to 0.99%	2.4	3.0	3.6	4.0	4.3
17	Deficit Reserve Ratio:					
18	-0.00% to -2.99%	3.4	4.3	5.1	5.6	6.1
19	-3.00% to -5.99%	3.4	4.3	5.1	5.7	6.2
20	-6.00% to -8.99%	3.5	4.4	5.2	5.8	6.3
21	-9.00% to -11.99%	3.5	4.5	5.3	5.9	6.4
22	-12.00% to -14.99%	3.6	4.6	5.4	6.0	6.5
23	-15.00% to -19.99%	3.6	4.6	5.5	6.1	6.6
24	-20.00% to -24.99%	3.7	4.7	5.6	6.2	6.7
25	-25.00% to -29.99%	3.7	4.8	5.6	6.3	6.8
26	-30.00% to -34.99%	3.8	4.8	5.7	6.3	6.9
27	-35.00% and under	5.4	5.4	5.8	6.4	7.0
28	New Employer Rate	2.8	2.8	2.8	3.1	3.4

29 1Fund balance as of March 31 as a percentage of taxable wages
30 in the prior calendar year.

31 2Employer Reserve Ratio (Contributions minus benefits as a
32 percentage of employer's taxable wages).

33 (F) (i) (Deleted by amendment, P.L.1997, c.263).

34 (ii) (Deleted by amendment, P.L.2008, c.17).

35 (iii) (Deleted by amendment, P.L.2013, c.75).

36 (iv) With respect to experience rating years beginning on or
37 after July 1, 2011 and before July 1, 2013, if the fund reserve ratio,
38 based on the fund balance as of the prior March 31, is less than
39 1.0%, the contribution rate for each employer liable to pay
40 contributions, as computed under subparagraph (E) of this
41 paragraph (5), shall be increased by a factor of 10% computed to
42 the nearest multiple of 1/10% if not already a multiple thereof.

43 (v) With respect to experience rating years beginning on or after
44 July 1, 2014, if the fund reserve ratio, based on the fund balance as
45 of the prior March 31, is less than 1.0%, the contribution rate for
46 each employer liable to pay contributions, as computed under
47 subparagraph (E) of this paragraph (5), shall be increased by a

1 factor of 10% computed to the nearest multiple of 1/10% if not
2 already a multiple thereof.

3 (G) On or after January 1, 1993, notwithstanding any other
4 provisions of this paragraph (5), the contribution rate for each
5 employer liable to pay contributions, as computed under
6 subparagraph (E) of this paragraph (5), shall be decreased by 0.1%,
7 except that, during any experience rating year starting before
8 January 1, 1998 in which the fund reserve ratio is equal to or greater
9 than 7.00% or during any experience rating year starting on or after
10 January 1, 1998, in which the fund reserve ratio is equal to or
11 greater than 3.5%, there shall be no decrease pursuant to this
12 subparagraph (G) in the contribution of any employer who has a
13 deficit reserve ratio of negative 35.00% or under.

14 (H) On and after January 1, 1998 until December 31, 2000 and
15 on or after January 1, 2002 until June 30, 2006, the contribution rate
16 for each employer liable to pay contributions, as computed under
17 subparagraph (E) of this paragraph (5), shall be decreased by a
18 factor, as set out below, computed to the nearest multiple of 1/10%,
19 except that, if an employer has a deficit reserve ratio of negative
20 35.0% or under, the employer's rate of contribution shall not be
21 reduced pursuant to this subparagraph (H) to less than 5.4%:

22 From January 1, 1998 until December 31, 1998, a factor of 12%;
23 From January 1, 1999 until December 31, 1999, a factor of 10%;
24 From January 1, 2000 until December 31, 2000, a factor of 7%;
25 From January 1, 2002 until March 31, 2002, a factor of 36%;
26 From April 1, 2002 until June 30, 2002, a factor of 85%;
27 From July 1, 2002 until June 30, 2003, a factor of 15%;
28 From July 1, 2003 until June 30, 2004, a factor of 15%;
29 From July 1, 2004 until June 30, 2005, a factor of 7%;
30 From July 1, 2005 until December 31, 2005, a factor of 16%; and
31 From January 1, 2006 until June 30, 2006, a factor of 34%.

32 The amount of the reduction in the employer contributions
33 stipulated by this subparagraph (H) shall be in addition to the
34 amount of the reduction in the employer contributions stipulated by
35 subparagraph (G) of this paragraph (5), except that the rate of
36 contribution of an employer who has a deficit reserve ratio of
37 negative 35.0% or under shall not be reduced pursuant to this
38 subparagraph (H) to less than 5.4% and the rate of contribution of
39 any other employer shall not be reduced to less than 0.0%.

40 (I) (Deleted by amendment, P.L.2008, c.17).

41 (J) On or after July 1, 2001, notwithstanding any other
42 provisions of this paragraph (5), the contribution rate for each
43 employer liable to pay contributions, as computed under
44 subparagraph (E) of this paragraph (5), shall be decreased by
45 0.0175%, except that, during any experience rating year starting on
46 or after July 1, 2001, in which the fund reserve ratio is equal to or
47 greater than 3.5%, there shall be no decrease pursuant to this
48 subparagraph (J) in the contribution of any employer who has a

1 deficit reserve ratio of negative 35.00% or under. The amount of the
2 reduction in the employer contributions stipulated by this
3 subparagraph (J) shall be in addition to the amount of the reduction
4 in the employer contributions stipulated by subparagraphs (G) and
5 (H) of this paragraph (5), except that the rate of contribution of an
6 employer who has a deficit reserve ratio of negative 35.0% or under
7 shall not be reduced pursuant to this subparagraph (J) to less than
8 5.4% and the rate of contribution of any other employer shall not be
9 reduced to less than 0.0%.

10 (K) With respect to experience rating years beginning on or after
11 July 1, 2009, if the fund reserve ratio, based on the fund balance as
12 of the prior March 31, is:

13 (i) Equal to or greater than 5.00% but less than 7.5%, the
14 contribution rate for each employer liable to pay contributions, as
15 computed under subparagraph (E) of this paragraph (5), shall be
16 reduced by a factor of 25% computed to the nearest multiple of
17 1/10% if not already a multiple thereof except that there shall be no
18 decrease pursuant to this subparagraph (K) in the contribution of
19 any employer who has a deficit reserve ratio of 35.00% or under;

20 (ii) Equal to or greater than 7.5%, the contribution rate for each
21 employer liable to pay contributions, as computed under
22 subparagraph (E) of this paragraph (5), shall be reduced by a factor
23 of 50% computed to the nearest multiple of 1/10% if not already a
24 multiple thereof except that there shall be no decrease pursuant to
25 this subparagraph (K) in the contribution of any employer who has
26 a deficit reserve ratio of 35.00% or under.

27 (L) Notwithstanding any other provision of this paragraph (5)
28 and notwithstanding the actual fund reserve ratio, the contribution
29 rate for employers liable to pay contributions, as computed under
30 subparagraph (E) of this paragraph (5), shall be, for fiscal year
31 2011, the rates set by column "C" of the table in that subparagraph.

32 (M) Notwithstanding any other provision of this paragraph (5)
33 and notwithstanding the actual fund reserve ratio, the contribution
34 rate for employers liable to pay contributions, as computed under
35 subparagraph (E) of this paragraph (5), shall be, for fiscal year
36 2012, the rates set by column "D" of the table in that subparagraph.

37 (N) Notwithstanding any other provision of this paragraph (5)
38 and notwithstanding the actual fund reserve ratio, the contribution
39 rate for employers liable to pay contributions, as computed under
40 subparagraph (E) of this paragraph (5), shall be, for fiscal year
41 2013, the rates set by column "E" of the table in that subparagraph.

42 (O) Notwithstanding any other provision of this paragraph (5)
43 and notwithstanding the actual fund reserve ratio, the contribution
44 rate for employers liable to pay contributions, as computed under
45 subparagraph (E) of this paragraph (5), shall be, for fiscal year
46 2022, the rates set by column "C" of the table in that subparagraph.

47 (P) Notwithstanding any other provision of this paragraph (5)
48 and notwithstanding the actual fund reserve ratio, the contribution

1 rate for employers liable to pay contributions, as computed under
2 subparagraph (E) of this paragraph (5), shall be, for fiscal year
3 2023, the rates set by column "D" of the table in that subparagraph,
4 unless the application of the provisions of this paragraph (5) using
5 the actual fund reserve ratio would result in the contribution rate for
6 employers being set by a column which has lower tax rates than the
7 rates in column "D", in which case the employers shall be liable to
8 pay contributions at the rates set by the column with the lower tax
9 rates.

10 (Q) Notwithstanding any other provision of this paragraph (5)
11 and notwithstanding the actual fund reserve ratio, the contribution
12 rate for employers liable to pay contributions, as computed under
13 subparagraph (E) of this paragraph (5), shall be, for fiscal year
14 2024, the rates set by column "E" of the table in that subparagraph,
15 unless the application of the provisions of this paragraph (5) using
16 the actual fund reserve ratio would result in the contribution rate for
17 employers being set by a column which has lower tax rates than the
18 rates in column "E", in which case the employers shall be liable to
19 pay contributions at the rates set by the column with the lower tax
20 rates.

21 (6) Additional contributions.

22 Notwithstanding any other provision of law, any employer who
23 has been assigned a contribution rate pursuant to subsection (c) of
24 this section for the year commencing July 1, 1948, and for any year
25 commencing July 1 thereafter, may voluntarily make payment of
26 additional contributions, and upon such payment shall receive a
27 recomputation of the experience rate applicable to such employer,
28 including in the calculation the additional contribution so made,
29 except that, following a transfer as described under R.S.43:21-
30 7(c)(7)(D), neither the predecessor nor successor in interest shall be
31 eligible to make a voluntary payment of additional contributions
32 during the year the transfer occurs and the next full calendar year.
33 Any such additional contribution shall be made during the 30-day
34 period following the notification to the employer of his contribution
35 rate as prescribed in this section, unless, for good cause, the time
36 for payment has been extended by the controller for not to exceed
37 an additional 60 days; provided that in no event may such payments
38 which are made later than 120 days after the beginning of the year
39 for which such rates are effective be considered in determining the
40 experience rate for the year in which the payment is made. Any
41 employer receiving any extended period of time within which to
42 make such additional payment and failing to make such payment
43 timely shall be, in addition to the required amount of additional
44 payment, liable for a penalty of 5% thereof or \$5.00, whichever is
45 greater, not to exceed \$50.00. Any adjustment under this subsection
46 shall be made only in the form of credits against accrued or future
47 contributions.

48 (7) Transfers.

1 (A) Upon the transfer of the organization, trade or business, or
2 substantially all the assets of an employer to a successor in interest,
3 whether by merger, consolidation, sale, transfer, descent or
4 otherwise, the controller shall transfer the employment experience
5 of the predecessor employer to the successor in interest, including
6 credit for past years, contributions paid, annual payrolls, benefit
7 charges, et cetera, applicable to such predecessor employer,
8 pursuant to regulation, if it is determined that the employment
9 experience of the predecessor employer with respect to the
10 organization, trade, assets or business which has been transferred
11 may be considered indicative of the future employment experience
12 of the successor in interest. The successor in interest may, within
13 four months of the date of such transfer of the organization, trade,
14 assets or business, or thereafter upon good cause shown, request a
15 reconsideration of the transfer of employment experience of the
16 predecessor employer. The request for reconsideration shall
17 demonstrate, to the satisfaction of the controller, that the
18 employment experience of the predecessor is not indicative of the
19 future employment experience of the successor.

20 (B) An employer who transfers part of his or its organization,
21 trade, assets or business to a successor in interest, whether by
22 merger, consolidation, sale, transfer, descent or otherwise, may
23 jointly make application with such successor in interest for transfer
24 of that portion of the employment experience of the predecessor
25 employer relating to the portion of the organization, trade, assets or
26 business transferred to the successor in interest, including credit for
27 past years, contributions paid, annual payrolls, benefit charges, et
28 cetera, applicable to such predecessor employer. The transfer of
29 employment experience may be allowed pursuant to regulation only
30 if it is found that the employment experience of the predecessor
31 employer with respect to the portion of the organization, trade,
32 assets or business which has been transferred may be considered
33 indicative of the future employment experience of the successor in
34 interest. Credit shall be given to the successor in interest only for
35 the years during which contributions were paid by the predecessor
36 employer with respect to that part of the organization, trade, assets
37 or business transferred.

38 (C) A transfer of the employment experience in whole or in part
39 having become final, the predecessor employer thereafter shall not
40 be entitled to consideration for an adjusted rate based upon his or its
41 experience or the part thereof, as the case may be, which has thus
42 been transferred. A successor in interest to whom employment
43 experience or a part thereof is transferred pursuant to this
44 subsection shall, as of the date of the transfer of the organization,
45 trade, assets or business, or part thereof, immediately become an
46 employer if not theretofore an employer subject to this chapter
47 (R.S.43:21-1 et seq.).

1 (D) If an employer transfers in whole or in part his or its
2 organization, trade, assets or business to a successor in interest,
3 whether by merger, consolidation, sale, transfer, descent or
4 otherwise and both the employer and successor in interest are at the
5 time of the transfer under common ownership, management or
6 control, then the employment experience attributable to the
7 transferred business shall also be transferred to and combined with
8 the employment experience of the successor in interest. The
9 transfer of the employment experience is mandatory and not subject
10 to appeal or protest.

11 (E) The transfer of part of an employer's employment experience
12 to a successor in interest shall become effective as of the first day of
13 the calendar quarter following the acquisition by the successor in
14 interest. As of the effective date, the successor in interest shall
15 have its employer rate recalculated by merging its existing
16 employment experience, if any, with the employment experience
17 acquired. If the successor in interest is not an employer as of the
18 date of acquisition, it shall be assigned the new employer rate until
19 the effective date of the transfer of employment experience.

20 (F) Upon the transfer in whole or in part of the organization,
21 trade, assets or business to a successor in interest, the employment
22 experience shall not be transferred if the successor in interest is not
23 an employer at the time of the acquisition and the controller finds
24 that the successor in interest acquired the business solely or
25 primarily for the purpose of obtaining a lower rate of contributions.

26 (d) Contributions of workers to the unemployment
27 compensation fund and the State disability benefits fund.

28 (1) (A) For periods after January 1, 1975, each worker shall
29 contribute to the fund 1% of his wages with respect to his
30 employment with an employer, which occurs on and after January
31 1, 1975, after such employer has satisfied the condition set forth in
32 subsection (h) of R.S.43:21-19 with respect to becoming an
33 employer; provided, however, that such contributions shall be at the
34 rate of 1/2 of 1% of wages paid with respect to employment while
35 the worker is in the employ of the State of New Jersey, or any
36 governmental entity or instrumentality which is an employer as
37 defined under R.S.43:21-19(h)(5), or is covered by an approved
38 private plan under the "Temporary Disability Benefits Law" or
39 while the worker is exempt from the provisions of the "Temporary
40 Disability Benefits Law" under section 7 of that law, P.L.1948,
41 c.110 (C.43:21-31).

42 (B) Effective January 1, 1978 there shall be no contributions by
43 workers in the employ of any governmental or nongovernmental
44 employer electing or required to make payments in lieu of
45 contributions unless the employer is covered by the State plan under
46 the "Temporary Disability Benefits Law" (C.43:21-25 et al.), and in
47 that case contributions shall be at the rate of 1/2 of 1%, except that
48 commencing July 1, 1986, workers in the employ of any

1 nongovernmental employer electing or required to make payments
2 in lieu of contributions shall be required to make contributions to
3 the fund at the same rate prescribed for workers of other
4 nongovernmental employers.

5 (C) (i) Notwithstanding the above provisions of this paragraph
6 (1), during the period starting July 1, 1986 and ending December
7 31, 1992, each worker shall contribute to the fund 1.125% of wages
8 paid with respect to his employment with a governmental employer
9 electing or required to pay contributions or nongovernmental
10 employer, including a nonprofit organization which is an employer
11 as defined under R.S.43:21-19(h)(6), regardless of whether that
12 nonprofit organization elects or is required to finance its benefit
13 costs with contributions to the fund or by payments in lieu of
14 contributions, after that employer has satisfied the conditions set
15 forth in subsection R.S.43:21-19(h) with respect to becoming an
16 employer. Contributions, however, shall be at the rate of 0.625%
17 while the worker is covered by an approved private plan under the
18 "Temporary Disability Benefits Law" or while the worker is exempt
19 under section 7 of that law, P.L.1948, c.110 (C.43:21-31) or any
20 other provision of that law; provided that such contributions shall
21 be at the rate of 0.625% of wages paid with respect to employment
22 with the State of New Jersey or any other governmental entity or
23 instrumentality electing or required to make payments in lieu of
24 contributions and which is covered by the State plan under the
25 "Temporary Disability Benefits Law," except that, while the worker
26 is exempt from the provisions of the "Temporary Disability Benefits
27 Law" under section 7 of that law, P.L.1948, c.110 (C.43:21-31) or
28 any other provision of that law, or is covered for disability benefits
29 by an approved private plan of the employer, the contributions to
30 the fund shall be 0.125%.

31 (ii) (Deleted by amendment, P.L.1995, c.422.)

32 (D) Notwithstanding any other provisions of this paragraph (1),
33 during the period starting January 1, 1993 and ending June 30,
34 1994, each worker shall contribute to the unemployment
35 compensation fund 0.5% of wages paid with respect to the worker's
36 employment with a governmental employer electing or required to
37 pay contributions or nongovernmental employer, including a
38 nonprofit organization which is an employer as defined under
39 paragraph (6) of subsection (h) of R.S.43:21-19, regardless of
40 whether that nonprofit organization elects or is required to finance
41 its benefit costs with contributions to the fund or by payments in
42 lieu of contributions, after that employer has satisfied the conditions
43 set forth in subsection (h) of R.S.43:21-19 with respect to becoming
44 an employer. No contributions, however, shall be made by the
45 worker while the worker is covered by an approved private plan
46 under the "Temporary Disability Benefits Law," P.L.1948, c.110
47 (C.43:21-25 et al.) or while the worker is exempt under section 7 of
48 P.L.1948, c.110 (C.43:21-31) or any other provision of that law;

1 provided that the contributions shall be at the rate of 0.50% of
2 wages paid with respect to employment with the State of New
3 Jersey or any other governmental entity or instrumentality electing
4 or required to make payments in lieu of contributions and which is
5 covered by the State plan under the "Temporary Disability Benefits
6 Law," except that, while the worker is exempt from the provisions
7 of the "Temporary Disability Benefits Law" under section 7 of that
8 law, P.L.1948, c.110 (C.43:21-31) or any other provision of that
9 law, or is covered for disability benefits by an approved private plan
10 of the employer, no contributions shall be made to the fund.

11 Each worker shall, starting on January 1, 1996 and ending March
12 31, 1996, contribute to the unemployment compensation fund
13 0.60% of wages paid with respect to the worker's employment with
14 a governmental employer electing or required to pay contributions
15 or nongovernmental employer, including a nonprofit organization
16 which is an employer as defined under paragraph (6) of subsection
17 (h) of R.S.43:21-19, regardless of whether that nonprofit
18 organization elects or is required to finance its benefit costs with
19 contributions to the fund or by payments in lieu of contributions,
20 after that employer has satisfied the conditions set forth in
21 subsection (h) of R.S.43:21-19 with respect to becoming an
22 employer, provided that the contributions shall be at the rate of
23 0.10% of wages paid with respect to employment with the State of
24 New Jersey or any other governmental entity or instrumentality
25 electing or required to make payments in lieu of contributions.

26 Each worker shall, starting on January 1, 1998 and ending
27 December 31, 1998, contribute to the unemployment compensation
28 fund 0.10% of wages paid with respect to the worker's employment
29 with a governmental employer electing or required to pay
30 contributions or nongovernmental employer, including a nonprofit
31 organization which is an employer as defined under paragraph (6)
32 of subsection (h) of R.S.43:21-19, regardless of whether that
33 nonprofit organization elects or is required to finance its benefit
34 costs with contributions to the fund or by payments in lieu of
35 contributions, after that employer has satisfied the conditions set
36 forth in subsection (h) of R.S.43:21-19 with respect to becoming an
37 employer, provided that the contributions shall be at the rate of
38 0.10% of wages paid with respect to employment with the State of
39 New Jersey or any other governmental entity or instrumentality
40 electing or required to make payments in lieu of contributions.

41 Each worker shall, starting on January 1, 1999 until December
42 31, 1999, contribute to the unemployment compensation fund
43 0.15% of wages paid with respect to the worker's employment with
44 a governmental employer electing or required to pay contributions
45 or nongovernmental employer, including a nonprofit organization
46 which is an employer as defined under paragraph (6) of subsection
47 (h) of R.S.43:21-19, regardless of whether that nonprofit
48 organization elects or is required to finance its benefit costs with

1 contributions to the fund or by payments in lieu of contributions,
2 after that employer has satisfied the conditions set forth in
3 subsection (h) of R.S.43:21-19 with respect to becoming an
4 employer, provided that the contributions shall be at the rate of
5 0.10% of wages paid with respect to employment with the State of
6 New Jersey or any other governmental entity or instrumentality
7 electing or required to make payments in lieu of contributions.

8 Each worker shall, starting on January 1, 2000 until December
9 31, 2001, contribute to the unemployment compensation fund
10 0.20% of wages paid with respect to the worker's employment with
11 a governmental employer electing or required to pay contributions
12 or nongovernmental employer, including a nonprofit organization
13 which is an employer as defined under paragraph (6) of subsection
14 (h) of R.S.43:21-19, regardless of whether that nonprofit
15 organization elects or is required to finance its benefit costs with
16 contributions to the fund or by payments in lieu of contributions,
17 after that employer has satisfied the conditions set forth in
18 subsection (h) of R.S.43:21-19 with respect to becoming an
19 employer, provided that the contributions shall be at the rate of
20 0.10% of wages paid with respect to employment with the State of
21 New Jersey or any other governmental entity or instrumentality
22 electing or required to make payments in lieu of contributions.

23 Each worker shall, starting on January 1, 2002 until June 30,
24 2004, contribute to the unemployment compensation fund 0.1825%
25 of wages paid with respect to the worker's employment with a
26 governmental employer electing or required to pay contributions or
27 a nongovernmental employer, including a nonprofit organization
28 which is an employer as defined under paragraph (6) of subsection
29 (h) of R.S.43:21-19, regardless of whether that nonprofit
30 organization elects or is required to finance its benefit costs with
31 contributions to the fund or by payments in lieu of contributions,
32 after that employer has satisfied the conditions set forth in
33 subsection (h) of R.S.43:21-19 with respect to becoming an
34 employer, provided that the contributions shall be at the rate of
35 0.0825% of wages paid with respect to employment with the State
36 of New Jersey or any other governmental entity or instrumentality
37 electing or required to make payments in lieu of contributions.

38 Each worker shall, starting on and after July 1, 2004, contribute
39 to the unemployment compensation fund 0.3825% of wages paid
40 with respect to the worker's employment with a governmental
41 employer electing or required to pay contributions or
42 nongovernmental employer, including a nonprofit organization
43 which is an employer as defined under paragraph (6) of subsection
44 (h) of R.S.43:21-19, regardless of whether that nonprofit
45 organization elects or is required to finance its benefit costs with
46 contributions to the fund or by payments in lieu of contributions,
47 after that employer has satisfied the conditions set forth in
48 subsection (h) of R.S.43:21-19 with respect to becoming an

1 employer, provided that the contributions shall be at the rate of
2 0.0825% of wages paid with respect to employment with the State
3 of New Jersey or any other governmental entity or instrumentality
4 electing or required to make payments in lieu of contributions.

5 (E) Each employer shall, notwithstanding any provision of law
6 in this State to the contrary, withhold in trust the amount of his
7 workers' contributions from their wages at the time such wages are
8 paid, shall show such deduction on his payroll records, shall furnish
9 such evidence thereof to his workers as the division or controller
10 may prescribe, and shall transmit all such contributions, in addition
11 to his own contributions, to the office of the controller in such
12 manner and at such times as may be prescribed. If any employer
13 fails to deduct the contributions of any of his workers at the time
14 their wages are paid, or fails to make a deduction therefor at the
15 time wages are paid for the next succeeding payroll period, he alone
16 shall thereafter be liable for such contributions, and for the purpose
17 of R.S.43:21-14, such contributions shall be treated as employer's
18 contributions required from him.

19 (F) As used in this chapter (R.S.43:21-1 et seq.), except when
20 the context clearly requires otherwise, the term "contributions" shall
21 include the contributions of workers pursuant to this section.

22 (G) (i) Each worker, with respect to the worker's employment
23 with a government employer electing or required to pay
24 contributions to the State disability benefits fund or
25 nongovernmental employer, including a nonprofit organization
26 which is an employer as defined under paragraph (6) of subsection
27 (h) of R.S.43:21-19, unless the employer is covered by an approved
28 private disability plan or is exempt from the provisions of the
29 "Temporary Disability Benefits Law," P.L.1948, c.110 (C.43:21-25
30 et al.) under section 7 of that law (C.43:21-31) or any other
31 provision of that law, shall, for calendar year 2012 and each
32 subsequent calendar year, make contributions to the State disability
33 benefits fund at the annual rate of contribution necessary to obtain a
34 total amount of contributions, which, when added to employer
35 contributions made to the State disability benefits fund pursuant to
36 subsection (e) of this section, is, for calendar years prior to calendar
37 year 2018, equal to 120% of the benefits paid for periods of
38 disability, excluding periods of family temporary disability, during
39 the immediately preceding calendar year plus an amount equal to
40 100% of the cost of administration of the payment of those benefits
41 during the immediately preceding calendar year, less the amount of
42 net assets remaining in the State disability benefits fund, excluding
43 net assets remaining in the "Family Temporary Disability Leave
44 Account" of that fund, as of December 31 of the immediately
45 preceding year, and is, for calendar year 2018 and year 2019, equal
46 to 120% of the benefits paid for periods of disability, excluding
47 periods of family temporary disability, during the last preceding full
48 fiscal year plus an amount equal to 100% of the cost of

1 administration of the payment of those benefits during the last
2 preceding full fiscal year, less the amount of net assets anticipated
3 to be remaining in the "Family Temporary Disability Leave
4 Account" of that fund, as of December 31 of the immediately
5 preceding calendar year, and is, for each of calendar years 2020 and
6 2021, equal to 120% of the benefits which the department
7 anticipates will be paid for periods of disability, excluding periods
8 of family temporary disability, during the respective calendar year
9 plus an amount equal to 100% of the cost of administration of the
10 payment of those benefits which the department anticipates during
11 the respective calendar year, less the amount of net assets
12 anticipated to be remaining in the State disability benefits fund,
13 excluding net assets remaining in the "Family Temporary Disability
14 Leave Account" of that fund, as of December 31 of the immediately
15 preceding calendar year, and is, for calendar year 2022 and any
16 subsequent calendar year, equal to 120% of the benefits paid for
17 periods of disability, excluding periods of family temporary
18 disability, during the last preceding full fiscal year plus an amount
19 equal to 100% of the cost of administration of the payment of those
20 benefits during the last preceding full fiscal year, less the amount of
21 net assets anticipated to be remaining in the State disability benefits
22 fund, excluding net assets remaining in the "Family Temporary
23 Disability Leave Account" of that fund, as of December 31 of the
24 immediately preceding calendar year. All increases in the cost of
25 benefits for periods of disability caused by the increases in the
26 weekly benefit rate commencing July 1, 2020, pursuant to section
27 16 of P.L.1948, c.110 (C.43:21-40), shall be funded by
28 contributions made by workers pursuant to this paragraph (i) and
29 none of those increases shall be funded by employer contributions.
30 The estimated rates for the next calendar year shall be made
31 available on the department's website no later than 60 days after the
32 end of the last preceding full fiscal year. The rates of employer
33 contributions determined pursuant to subsection (e) of this section
34 for any year shall be determined prior to the determination of the
35 rate of employee contributions pursuant to this subparagraph (i) and
36 any consideration of employee contributions in determining
37 employer rates for any year shall be based on amounts of employee
38 contributions made prior to the year to which the rate of employee
39 contributions applies and shall not be based on any projection or
40 estimate of the amount of employee contributions for the year to
41 which that rate applies.

42 (ii) Each worker shall contribute to the State disability benefits
43 fund, in addition to any amount contributed pursuant to
44 subparagraph (i) of this paragraph (1)(G), an amount equal to,
45 during calendar year 2009, 0.09%, and during calendar year 2010
46 0.12%, of wages paid with respect to the worker's employment with
47 any covered employer, including a governmental employer which is
48 an employer as defined under R.S.43:21-19(h)(5), unless the

1 employer is covered by an approved private disability plan for
2 benefits during periods of family temporary disability leave. The
3 contributions made pursuant to this subparagraph (ii) to the State
4 disability benefits fund shall be deposited into an account of that
5 fund reserved for the payment of benefits during periods of family
6 temporary disability leave as defined in section 3 of the "Temporary
7 Disability Benefits Law," P.L.1948, c.110 (C.43:21-27) and for the
8 administration of those payments and shall not be used for any other
9 purpose. This account shall be known as the "Family Temporary
10 Disability Leave Account." For calendar year 2011 and each
11 subsequent calendar year until 2018, the annual rate of contribution
12 to be paid by workers pursuant to this subparagraph (ii) shall be, for
13 calendar years prior to calendar year 2018, the rate necessary to
14 obtain a total amount of contributions equal to 125% of the benefits
15 paid for periods of family temporary disability leave during the
16 immediately preceding calendar year plus an amount equal to 100%
17 of the cost of administration of the payment of those benefits during
18 the immediately preceding calendar year, less the amount of net
19 assets remaining in the account as of December 31 of the
20 immediately preceding year, and shall be, for calendar year 2018
21 and calendar year 2019, the rate necessary to obtain a total amount
22 of contributions equal to 125% of the benefits paid for periods of
23 family temporary disability leave during the last preceding full
24 fiscal year plus an amount equal to 100% of the cost of
25 administration of the payment of those benefits during the last
26 preceding full fiscal year, less the amount of net assets anticipated
27 to be remaining in the account as of December 31 of the
28 immediately preceding calendar year. For each of calendar years
29 2020 and 2021, the annual rate of contribution to be paid by
30 workers pursuant to this subparagraph (ii) shall be the rate
31 necessary to obtain a total amount of contributions equal to 125% of
32 the benefits which the department anticipates will be paid for
33 periods of family temporary disability leave during the respective
34 calendar year plus an amount equal to 100% of the cost of
35 administration of the payment of those benefits which the
36 department anticipates during the respective calendar year, less the
37 amount of net assets remaining in the account as of December 31 of
38 the immediately preceding calendar year. For 2022 and any
39 subsequent calendar year, the annual rate of contribution to be paid
40 by workers pursuant to this subparagraph (ii) shall be the rate
41 necessary to obtain a total amount of contributions equal to 125% of
42 the benefits which were paid for periods of family temporary
43 disability leave during the last preceding full fiscal year plus an
44 amount equal to 100% of the cost of administration of the payment
45 of those benefits during the last preceding full fiscal year, less the
46 amount of net assets remaining in the account as of December 31 of
47 the immediately preceding calendar year. All increases in the cost
48 of benefits for periods of family temporary disability leave caused

1 by the increases in the weekly benefit rate commencing July 1, 2020
2 pursuant to section 16 of P.L.1948, c.110 (C.43:21-40) and
3 increases in the maximum duration of benefits commencing July 1,
4 2020 pursuant to sections 14 and 15 of P.L.1948, c.110 (C.43:21-38
5 and 43:21-39) shall be funded by contributions made by workers
6 pursuant to this paragraph (ii) and none of those increases shall be
7 funded by employer contributions. The estimated rates for the next
8 calendar year shall be made available on the department's website
9 no later than 60 days after the end of the last preceding full fiscal
10 year. Necessary administrative costs shall include the cost of an
11 outreach program to inform employees of the availability of the
12 benefits and the cost of issuing the reports required or permitted
13 pursuant to section 13 of P.L.2008, c.17 (C.43:21-39.4). No
14 monies, other than the funds in the "Family Temporary Disability
15 Leave Account," shall be used for the payment of benefits during
16 periods of family temporary disability leave or for the
17 administration of those payments, with the sole exception that,
18 during calendar years 2008 and 2009, a total amount not exceeding
19 \$25 million may be transferred to that account from the revenues
20 received in the State disability benefits fund pursuant to
21 subparagraph (i) of this paragraph (1)(G) and be expended for those
22 payments and their administration, including the administration of
23 the collection of contributions made pursuant to this subparagraph
24 (ii) and any other necessary administrative costs. Any amount
25 transferred to the account pursuant to this subparagraph (ii) shall be
26 repaid during a period beginning not later than January 1, 2011 and
27 ending not later than December 31, 2015. No monies, other than
28 the funds in the "Family Temporary Disability Leave Account,"
29 shall be used under any circumstances after December 31, 2009, for
30 the payment of benefits during periods of family temporary
31 disability leave or for the administration of those payments,
32 including for the administration of the collection of contributions
33 made pursuant to this subparagraph (ii).

34 (2) (A) (Deleted by amendment, P.L.1984, c.24.)

35 (B) (Deleted by amendment, P.L.1984, c.24.)

36 (C) (Deleted by amendment, P.L.1994, c.112.)

37 (D) (Deleted by amendment, P.L.1994, c.112.)

38 (E) (i) (Deleted by amendment, P.L.1994, c.112.)

39 (ii) (Deleted by amendment, P.L.1996, c.28.)

40 (iii) (Deleted by amendment, P.L.1994, c.112.)

41 (3) (A) If an employee receives wages from more than one
42 employer during any calendar year, and either the sum of his
43 contributions deposited in and credited to the State disability
44 benefits fund plus the amount of his contributions, if any, required
45 towards the costs of benefits under one or more approved private
46 plans under the provisions of section 9 of the "Temporary Disability
47 Benefits Law" (C.43:21-33) and deducted from his wages, or the
48 sum of such latter contributions, if the employee is covered during

1 such calendar year only by two or more private plans, exceeds an
2 amount equal to 1/2 of 1% of the "wages" determined in accordance
3 with the provisions of R.S.43:21-7(b)(3) during the calendar years
4 beginning on or after January 1, 1976 or, during calendar year 2012
5 or any subsequent calendar year, the total amount of his
6 contributions for the year exceeds the amount set by the annual rate
7 of contribution determined by the Commissioner of Labor and
8 Workforce Development pursuant to subparagraph (i) of paragraph
9 (1)(G) of this subsection (d), the employee shall be entitled to a
10 refund of the excess if he makes a claim to the controller within two
11 years after the end of the calendar year in which the wages are
12 received with respect to which the refund is claimed and establishes
13 his right to such refund. Such refund shall be made by the controller
14 from the State disability benefits fund. No interest shall be allowed
15 or paid with respect to any such refund. The controller shall, in
16 accordance with prescribed regulations, determine the portion of the
17 aggregate amount of such refunds made during any calendar year
18 which is applicable to private plans for which deductions were
19 made under section 9 of the "Temporary Disability Benefits Law"
20 (C.43:21-33) such determination to be based upon the ratio of the
21 amount of such wages exempt from contributions to such fund, as
22 provided in subparagraph (B) of paragraph (1) of this subsection
23 with respect to coverage under private plans, to the total wages so
24 exempt plus the amount of such wages subject to contributions to
25 the disability benefits fund, as provided in subparagraph (G) of
26 paragraph (1) of this subsection. The controller shall, in accordance
27 with prescribed regulations, prorate the amount so determined
28 among the applicable private plans in the proportion that the wages
29 covered by each plan bear to the total private plan wages involved
30 in such refunds, and shall assess against and recover from the
31 employer, or the insurer if the insurer has indemnified the employer
32 with respect thereto, the amount so prorated. The provisions of
33 R.S.43:21-14 with respect to collection of employer contributions
34 shall apply to such assessments. The amount so recovered by the
35 controller shall be paid into the State disability benefits fund.

36 (B) If an employee receives wages from more than one employer
37 during any calendar year, and the sum of his contributions deposited
38 in the "Family Temporary Disability Leave Account" of the State
39 disability benefits fund plus the amount of his contributions, if any,
40 required towards the costs of family temporary disability leave
41 benefits under one or more approved private plans under the
42 provisions of the "Temporary Disability Benefits Law" (C.43:21-25
43 et al.) and deducted from his wages, exceeds an amount equal to,
44 during calendar year 2009, 0.09% of the "wages" determined in
45 accordance with the provisions of R.S.43:21-7(b)(3), or during
46 calendar year 2010, 0.12% of those wages, or, during calendar year
47 2011 or any subsequent calendar year, the percentage of those
48 wages set by the annual rate of contribution determined by the

1 Commissioner of Labor and Workforce Development pursuant to
2 subparagraph (ii) of paragraph (1)(G) of this subsection (d), the
3 employee shall be entitled to a refund of the excess if he makes a
4 claim to the controller within two years after the end of the calendar
5 year in which the wages are received with respect to which the
6 refund is claimed and establishes his right to the refund. The refund
7 shall be made by the controller from the "Family Temporary
8 Disability Leave Account" of the State disability benefits fund. No
9 interest shall be allowed or paid with respect to any such refund.
10 The controller shall, in accordance with prescribed regulations,
11 determine the portion of the aggregate amount of the refunds made
12 during any calendar year which is applicable to private plans for
13 which deductions were made under section 9 of the "Temporary
14 Disability Benefits Law" (C.43:21-33), with that determination
15 based upon the ratio of the amount of such wages exempt from
16 contributions to the fund, as provided in paragraph (1)(B) of this
17 subsection (d) with respect to coverage under private plans, to the
18 total wages so exempt plus the amount of such wages subject to
19 contributions to the "Family Temporary Disability Leave Account"
20 of the State disability benefits fund, as provided in subparagraph (ii)
21 of paragraph (1)(G) of this subsection (d). The controller shall, in
22 accordance with prescribed regulations, prorate the amount so
23 determined among the applicable private plans in the proportion
24 that the wages covered by each plan bear to the total private plan
25 wages involved in such refunds, and shall assess against and
26 recover from the employer, or the insurer if the insurer has
27 indemnified the employer with respect thereto, the prorated amount.
28 The provisions of R.S.43:21-14 with respect to collection of
29 employer contributions shall apply to such assessments. The
30 amount so recovered by the controller shall be paid into the "Family
31 Temporary Disability Leave Account" of the State disability
32 benefits fund.

33 (4) If an individual does not receive any wages from the
34 employing unit which for the purposes of this chapter (R.S.43:21-1
35 et seq.) is treated as his employer, or receives his wages from some
36 other employing unit, such employer shall nevertheless be liable for
37 such individual's contributions in the first instance; and after
38 payment thereof such employer may deduct the amount of such
39 contributions from any sums payable by him to such employing
40 unit, or may recover the amount of such contributions from such
41 employing unit, or, in the absence of such an employing unit, from
42 such individual, in a civil action; provided proceedings therefor are
43 instituted within three months after the date on which such
44 contributions are payable. General rules shall be prescribed
45 whereby such an employing unit may recover the amount of such
46 contributions from such individuals in the same manner as if it were
47 the employer.

1 (5) Every employer who has elected to become an employer
2 subject to this chapter (R.S.43:21-1 et seq.), or to cease to be an
3 employer subject to this chapter (R.S.43:21-1 et seq.), pursuant to
4 the provisions of R.S.43:21-8, shall post and maintain printed
5 notices of such election on his premises, of such design, in such
6 numbers, and at such places as the director may determine to be
7 necessary to give notice thereof to persons in his service.

8 (6) Contributions by workers, payable to the controller as herein
9 provided, shall be exempt from garnishment, attachment, execution,
10 or any other remedy for the collection of debts.

11 (e) Contributions by employers to the State disability benefits
12 fund.

13 (1) Except as hereinafter provided, each employer shall, in
14 addition to the contributions required by subsections (a), (b), and
15 (c) of this section, contribute $\frac{1}{2}$ of 1% of the wages paid by such
16 employer to workers with respect to employment unless he is not a
17 covered employer as defined in subsection (a) of section 3 of the
18 "Temporary Disability Benefits Law" (C.43:21-27 (a)), except that
19 the rate for the State of New Jersey shall be $\frac{1}{10}$ of 1% for the
20 calendar year 1980 and for the first six months of 1981. Prior to
21 July 1, 1981 and prior to July 1 each year thereafter, the controller
22 shall review the experience accumulated in the account of the State
23 of New Jersey and establish a rate for the next following fiscal year
24 which, in combination with worker contributions, will produce
25 sufficient revenue to keep the account in balance; except that the
26 rate so established shall not be less than $\frac{1}{10}$ of 1%. Such
27 contributions shall become due and be paid by the employer to the
28 controller for the State disability benefits fund as established by
29 law, in accordance with such regulations as may be prescribed, and
30 shall not be deducted, in whole or in part, from the remuneration of
31 individuals in his employ. In the payment of any contributions, a
32 fractional part of a cent shall be disregarded unless it amounts to
33 \$0.005 or more, in which case it shall be increased to \$0.01.

34 (2) During the continuance of coverage of a worker by an
35 approved private plan of disability benefits under the "Temporary
36 Disability Benefits Law," the employer shall be exempt from the
37 contributions required by paragraph (1) above with respect to wages
38 paid to such worker.

39 (3) (A) The rates of contribution as specified in paragraph (1)
40 above shall be subject to modification as provided herein with
41 respect to employer contributions due on and after July 1, 1951.

42 (B) A separate disability benefits account shall be maintained for
43 each employer required to contribute to the State disability benefits
44 fund and such account shall be credited with contributions
45 deposited in and credited to such fund with respect to employment
46 occurring on and after January 1, 1949. Each employer's account
47 shall be credited with all contributions paid on or before January 31
48 of any calendar year on his own behalf and on behalf of individuals

1 in his service with respect to employment occurring in preceding
2 calendar years; provided, however, that if January 31 of any
3 calendar year falls on a Saturday or Sunday an employer's account
4 shall be credited as of January 31 of such calendar year with all the
5 contributions which he has paid on or before the next succeeding
6 day which is not a Saturday or Sunday. But nothing in this act shall
7 be construed to grant any employer or individuals in his service
8 prior claims or rights to the amounts paid by him to the fund either
9 on his own behalf or on behalf of such individuals. Benefits paid to
10 any covered individual in accordance with Article III of the
11 "Temporary Disability Benefits Law" on or before December 31 of
12 any calendar year with respect to disability in such calendar year
13 and in preceding calendar years shall be charged against the account
14 of the employer by whom such individual was employed at the
15 commencement of such disability or by whom he was last
16 employed, if out of employment.

17 (C) The controller may prescribe regulations for the
18 establishment, maintenance, and dissolution of joint accounts by
19 two or more employers, and shall, in accordance with such
20 regulations and upon application by two or more employers to
21 establish such an account, or to merge their several individual
22 accounts in a joint account, maintain such joint account as if it
23 constituted a single employer's account.

24 (D) Prior to July 1 of each calendar year, the controller shall
25 make a preliminary determination of the rate of contribution for the
26 12 months commencing on such July 1 for each employer subject to
27 the contribution requirements of this subsection (e).

28 (1) Such preliminary rate shall be $\frac{1}{2}$ of 1% unless on the
29 preceding January 31 of such year such employer shall have been a
30 covered employer who has paid contributions to the State disability
31 benefits fund with respect to employment in the three calendar
32 years immediately preceding such year.

33 (2) If the minimum requirements in subparagraph (D) (1) above
34 have been fulfilled and the credited contributions exceed the
35 benefits charged by more than \$500.00, such preliminary rate shall
36 be as follows:

37 (i) $\frac{2}{10}$ of 1% if such excess over \$500.00 exceeds 1% but is
38 less than $1\frac{1}{4}\%$ of his average annual payroll as defined in this
39 chapter (R.S.43:21-1 et seq.);

40 (ii) $\frac{15}{100}$ of 1% if such excess over \$500.00 equals or exceeds
41 $1\frac{1}{4}\%$ but is less than $1\frac{1}{2}\%$ of his average annual payroll;

42 (iii) $\frac{1}{10}$ of 1% if such excess over \$500.00 equals or exceeds $1\frac{1}{2}\%$
43 of his average annual payroll.

44 (3) If the minimum requirements in subparagraph (D) (1) above
45 have been fulfilled and the contributions credited exceed the
46 benefits charged but by not more than \$500.00 plus 1% of his
47 average annual payroll, or if the benefits charged exceed the

1 contributions credited but by not more than \$500.00, the
2 preliminary rate shall be 1/4 of 1%.

3 (4) If the minimum requirements in subparagraph (D) (1) above
4 have been fulfilled and the benefits charged exceed the
5 contributions credited by more than \$500.00, such preliminary rate
6 shall be as follows:

7 (i) 35/100 of 1% if such excess over \$500.00 is less than 1/4 of
8 1% of his average annual payroll;

9 (ii) 45/100 of 1% if such excess over \$500.00 equals or exceeds
10 1/4 of 1% but is less than 1/2 of 1% of his average annual payroll;

11 (iii) 55/100 of 1% if such excess over \$500.00 equals or exceeds
12 1/2 of 1% but is less than 3/4 of 1% of his average annual payroll;

13 (iv) 65/100 of 1% if such excess over \$500.00 equals or exceeds
14 3/4 of 1% but is less than 1% of his average annual payroll;

15 (v) 75/100 of 1% if such excess over \$500.00 equals or exceeds
16 1% of his average annual payroll.

17 (5) Determination of the preliminary rate as specified in
18 subparagraphs (D)(2), (3) and (4) above shall be subject, however,
19 to the condition that it shall in no event be decreased by more than
20 1/10 of 1% of wages or increased by more than 2/10 of 1% of
21 wages from the preliminary rate determined for the preceding year
22 in accordance with subparagraph (D) (1), (2), (3) or (4), whichever
23 shall have been applicable.

24 (E) (1) Prior to July 1 of each calendar year the controller shall
25 determine the amount of the State disability benefits fund as of
26 December 31 of the preceding calendar year, increased by the
27 contributions paid thereto during January of the current calendar
28 year with respect to employment occurring in the preceding
29 calendar year. If such amount exceeds the net amount withdrawn
30 from the unemployment trust fund pursuant to section 23 of the
31 "Temporary Disability Benefits Law," P.L.1948, c.110 (C.43:21-47)
32 plus the amount at the end of such preceding calendar year of the
33 unemployment disability account as defined in section 22 of said
34 law (C.43:21-46), such excess shall be expressed as a percentage of
35 the wages on which contributions were paid to the State disability
36 benefits fund on or before January 31 with respect to employment
37 in the preceding calendar year.

38 (2) The controller shall then make a final determination of the
39 rates of contribution for the 12 months commencing July 1 of such
40 year for employers whose preliminary rates are determined as
41 provided in subparagraph (D) hereof, as follows:

42 (i) If the percentage determined in accordance with
43 subparagraph (E)(1) of this paragraph equals or exceeds 1 1/4%, the
44 final employer rates shall be the preliminary rates determined as
45 provided in subparagraph (D) hereof, except that if the employer's
46 preliminary rate is determined as provided in subparagraph (D)(2)
47 or subparagraph (D)(3) hereof, the final employer rate shall be the
48 preliminary employer rate decreased by such percentage of excess

1 taken to the nearest 5/100 of 1%, but in no case shall such final rate
2 be less than 1/10 of 1%.

3 (ii) If the percentage determined in accordance with
4 subparagraph (E)(1) of this paragraph equals or exceeds 3/4 of 1%
5 and is less than 1 1/4 of 1%, the final employer rates shall be the
6 preliminary employer rates.

7 (iii) If the percentage determined in accordance with
8 subparagraph (E)(1) of this paragraph is less than 3/4 of 1%, but in
9 excess of 1/4 of 1%, the final employer rates shall be the
10 preliminary employer rates determined as provided in subparagraph
11 (D) hereof increased by the difference between 3/4 of 1% and such
12 percentage taken to the nearest 5/100 of 1%; provided, however,
13 that no such final rate shall be more than 1/4 of 1% in the case of an
14 employer whose preliminary rate is determined as provided in
15 subparagraph (D)(2) hereof, more than 1/2 of 1% in the case of an
16 employer whose preliminary rate is determined as provided in
17 subparagraph (D)(1) and subparagraph (D)(3) hereof, nor more than
18 3/4 of 1% in the case of an employer whose preliminary rate is
19 determined as provided in subparagraph (D)(4) hereof.

20 (iv) If the amount of the State disability benefits fund determined
21 as provided in subparagraph (E)(1) of this paragraph is equal to or
22 less than 1/4 of 1%, then the final rate shall be 2/5 of 1% in the case
23 of an employer whose preliminary rate is determined as provided in
24 subparagraph (D)(2) hereof, 7/10 of 1% in the case of an employer
25 whose preliminary rate is determined as provided in subparagraph
26 (D)(1) and subparagraph (D)(3) hereof, and 1.1% in the case of an
27 employer whose preliminary rate is determined as provided in
28 subparagraph (D)(4) hereof. Notwithstanding any other provision of
29 law or any determination made by the controller with respect to any
30 12-month period commencing on July 1, 1970, the final rates for all
31 employers for the period beginning January 1, 1971, shall be as set
32 forth herein.

33 (F) Notwithstanding any other provisions of this subsection (e),
34 the rate of contribution paid to the State disability benefits fund by
35 each covered employer as defined in paragraph (1) of subsection (a)
36 of section 3 of P.L.1948, c.110 (C.43:21-27), shall be determined as
37 if:

38 (i) No disability benefits have been paid with respect to periods
39 of family temporary disability leave;

40 (ii) No worker paid any contributions to the State disability
41 benefits fund pursuant to paragraph (1)(G)(ii) of subsection (d) of
42 this section;

43 (iii) No amounts were transferred from the State disability
44 benefits fund to the "Family Temporary Disability Leave Account"
45 pursuant to paragraph (1)(G)(ii) of subsection (d) of this section;
46 and

47 (iv) The total amount of benefits paid for periods of disability
48 were not subject to the increases in the weekly benefit rate for those

1 benefits commencing July 1, 2020 pursuant to section 16 of
2 P.L.1948, c.110 (C.43:21-40).
3 (cf: P.L.2020, c.150, s.2)
4

5 6. R.S.43:21-16 is amended to read as follows:

6 43:21-16. (a) (1) Whoever makes a false statement or
7 representation, knowing it to be false, or knowingly fails to disclose
8 a material fact, to obtain or increase or attempts to obtain or
9 increase any benefit or other payment under this chapter
10 (R.S.43:21-1 et seq.), or under an employment security law of any
11 other state or of the federal government, either for himself or for
12 any other person, shall be liable to a fine of 25% of the amount
13 fraudulently obtained, to be recovered in an action at law in the
14 name of the Division of Unemployment and Temporary Disability
15 Insurance of the Department of Labor and Workforce Development
16 of the State of New Jersey or as provided in subsection (e) of
17 R.S.43:21-14, said fine when recovered shall be immediately
18 deposited in the following manner: 10 percent of the amount
19 fraudulently obtained deposited into the unemployment
20 compensation auxiliary fund for the use of said fund, and 15 percent
21 of the amount fraudulently obtained deposited into the
22 unemployment compensation fund; and each such false statement or
23 representation or failure to disclose a material fact shall constitute a
24 separate offense. Any penalties imposed by this subsection shall be
25 in addition to those otherwise prescribed in this chapter (R.S.43:21-
26 1 et seq.).

27 (2) For purposes of any unemployment compensation program of
28 the United States, if the department determines that any benefit
29 amount is obtained by an individual due to fraud committed by the
30 individual, the department shall assess a fine on the individual and
31 deposit the recovered fine in the same manner as provided in
32 paragraph (1) of subsection (a) of this section. As used in this
33 paragraph, "unemployment compensation program of the United
34 States" means:

35 (A) Unemployment compensation for federal civilian employees
36 pursuant to 5 U.S.C. 8501 et seq.;

37 (B) Unemployment compensation for ex-service members
38 pursuant to 5 U.S.C. 8521 et seq.;

39 (C) Trade readjustment allowances pursuant to 19 U.S.C.
40 2291-2294;

41 (D) Disaster unemployment assistance pursuant to 42 U.S.C.
42 5177(a);

43 (E) Any federal temporary extension of unemployment
44 compensation;

45 (F) Any federal program that increases the weekly amount of
46 unemployment compensation payable to individuals; and

47 (G) Any other federal program providing for the payment of
48 unemployment compensation.

1 (b) (1) An employing unit or any officer or agent of an
2 employing unit or any other person who makes a false statement or
3 representation, knowing it to be false, or who knowingly fails to
4 disclose a material fact, to prevent or reduce the payment of
5 benefits to any individual entitled thereto or to avoid becoming or
6 remaining subject hereto or to avoid or reduce any contribution or
7 other payment required from an employing unit under this chapter
8 (R.S.43:21-1 et seq.), or under an employment security law of any
9 other state or of the federal government, or who willfully fails or
10 refuses to furnish any reports or information required hereunder,
11 including failing to provide the information required by subsection
12 (a) of R.S.43:21-6 immediately upon a separation from
13 employment, or to produce or permit the inspection or copying of
14 records, as required hereunder, shall be liable to a fine of \$500, or
15 25% of any amount fraudulently withheld, whichever is greater, to
16 be recovered in an action at law in the name of the Division of
17 Unemployment and Temporary Disability Insurance of the
18 Department of Labor and Workforce Development of the State of
19 New Jersey or as provided in subsection (e) of R.S.43:21-14, said
20 fine when recovered to be paid to the unemployment compensation
21 auxiliary fund for the use of said fund; and each such false
22 statement or representation or failure to disclose a material fact, and
23 each day of such failure or refusal shall constitute a separate
24 offense. Any penalties imposed by this paragraph shall be in
25 addition to those otherwise prescribed in this chapter (R.S.43:21-1
26 et seq.).

27 (2) (Deleted by amendment, P.L.2022, c.120).

28 (3) Any employing unit, officer or agent of the employing unit,
29 or any other person, determined by the controller to have knowingly
30 violated, or attempted to violate, or advised another person to
31 violate the transfer of employment experience provisions found at
32 R.S.43:21-7 (c)(7), or who otherwise knowingly attempts to obtain
33 a lower rate of contributions by failing to disclose material
34 information, or by making a false statement, or by a
35 misrepresentation of fact, shall be subject to a fine of \$5,000 or
36 25% of the contributions under-reported or attempted to be under-
37 reported, whichever is greater, to be recovered as provided in
38 subsection (e) of R.S.43:21-14, and when recovered to be paid to
39 the unemployment compensation auxiliary fund for the use of said
40 fund. For the purposes of this subsection, "knowingly" means
41 having actual knowledge of, or acting with deliberate ignorance or
42 reckless disregard for the prohibition involved.

43 (c) Any person who shall willfully violate any provision of this
44 chapter (R.S.43:21-1 et seq.) or any rule or regulation thereunder,
45 the violation of which is made unlawful or the observance of which
46 is required under the terms of this chapter (R.S.43:21-1 et seq.), and
47 for which a penalty is neither prescribed herein nor provided by any
48 other applicable statute, shall be liable to a fine of \$50.00, to be

1 recovered in an action at law in the name of the Division of
2 Unemployment and Temporary Disability Insurance of the
3 Department of Labor and Workforce Development of the State of
4 New Jersey or as provided in subsection (e) of R.S.43:21-14, said
5 fine when recovered to be paid to the unemployment compensation
6 auxiliary fund for the use of said fund; and each day such violation
7 continues shall be deemed to be a separate offense.

8 (d) (1) When it is determined by a representative or
9 representatives designated by the Director of the Division of
10 Unemployment **and** Insurance or the Division of Temporary
11 Disability Insurance, as appropriate, of the Department of Labor
12 and Workforce Development of the State of New Jersey that any
13 person**,** by reason of the knowing, fraudulent nondisclosure or
14 misrepresentation by him, or by anyone acting as his agent, of a
15 material fact,**]** has received any sum as benefits under this chapter
16 (R.S.43:21-1 et seq.) while any conditions for the receipt of benefits
17 imposed by this chapter (R.S.43:21-1 et seq.) were not fulfilled in
18 his case, or while he was disqualified from receiving benefits, or
19 while otherwise not entitled to receive such sum as benefits, such
20 person, unless the **[**director (with the concurrence of the controller)
21 directs otherwise by regulation,**]** Director of the Division of
22 Unemployment Insurance or the Division of Temporary Disability
23 Insurance, as appropriate, has waived the claimant's repayment
24 obligation, pursuant to paragraph (4) or paragraph (5) of this
25 subsection (d), shall be liable to repay those benefits in full. **[**The
26 person shall not be liable to repay all or any portion of the
27 overpayment if the representative finds that the person received the
28 overpayment of benefits because of errors or failures to provide
29 information by the employer or errors by the division, and not
30 because of an error, or knowing, fraudulent nondisclosure or
31 misrepresentation, by the person. If the representative finds that
32 errors made by the person were a cause of the overpayment together
33 with errors of the division, or errors or failures to provide
34 information by the employer, but the person did not make a
35 knowing, fraudulent nondisclosure or misrepresentation, the
36 representative shall determine a portion of the overpayment for
37 which the person is liable taking into consideration possible
38 financial hardship to the person, whether recovery would be against
39 equity and good conscience, and how much the person's errors,
40 compared to errors of the division or employer, contributed to the
41 overpayment occurring, but the amount to which the person shall be
42 liable shall not exceed 50 percent of the overpayment.**]** The
43 employer's account shall not be charged for the amount of an
44 overpayment of benefits if the overpayment was caused by an error
45 of the division and not by any error of the employer**,** but shall be
46 charged if the overpayment was caused by an error or failure to
47 provide information of the employer**].** The sum **[**for which the

1 person is found liable to repay] shall be deducted from any future
2 benefits payable to the individual under this chapter (R.S.43:21-1 et
3 seq.) or shall be paid by the individual to the division for the
4 unemployment compensation fund, and such sum shall be
5 collectible in the manner provided for by law, including, but not
6 limited to, the filing of a certificate of debt with the Clerk of the
7 Superior Court of New Jersey; provided, however, that, except in
8 the event of fraud, no person shall be liable for any such refunds or
9 deductions against future benefits unless so notified before four
10 years have elapsed from the time the benefits in question were paid.
11 Such person shall be promptly notified of the determination and the
12 reasons therefor. The person shall be provided a written
13 notification of any determination regarding the repayment of an
14 overpayment and the opportunity to file an appeal of the
15 determination within 20 calendar days after a confirmed receipt of a
16 notice of the determination or 30 calendar days after the notice was
17 mailed to the last known address of the person, and a recovery of an
18 overpayment shall not commence until the end of whichever is
19 applicable of the 20- or 30-day periods and the resolution of any
20 appeal made during those periods.

21 (2) Interstate and cross-offset of state and federal unemployment
22 benefits. To the extent permissible under the laws and Constitution
23 of the United States, the commissioner is authorized to enter into or
24 cooperate in arrangements or reciprocal agreements with
25 appropriate and duly authorized agencies of other states or the
26 United States Secretary of Labor, or both, whereby:

27 (A) Overpayments of unemployment benefits as determined
28 under subsection (d) of R.S.43:21-16 shall be recovered by offset
29 from unemployment benefits otherwise payable under the
30 unemployment compensation law of another state, and
31 overpayments of unemployment benefits as determined under the
32 unemployment compensation law of another state shall be
33 recovered by offset from unemployment benefits otherwise payable
34 under R.S.43:21-1 et seq.; and

35 (B) Overpayments of unemployment benefits as determined
36 under applicable federal law, with respect to benefits or allowances
37 for unemployment provided under a federal program administered
38 by this State under an agreement with the United States Secretary of
39 Labor, shall be recovered by offset from unemployment benefits
40 otherwise payable under R.S.43:21-1 et seq., or any federal program
41 administered by this State, or under the unemployment
42 compensation law of another state or any federal unemployment
43 benefit or allowance program administered by another state under
44 an agreement with the United States Secretary of Labor, if the other
45 state has in effect a reciprocal agreement with the United States
46 Secretary of Labor as authorized by subsection (g) of 42
47 U.S.C.s.503, and if the United States agrees, as provided in the
48 reciprocal agreement with this State entered into under subsection

1 (g) of 42 U.S.C.s.503, that overpayments of unemployment benefits
2 as determined under subsection (d) of R.S.43:21-16 and
3 overpayments as determined under the unemployment
4 compensation law of another state which has in effect a reciprocal
5 agreement with the United States Secretary of Labor as authorized
6 by subsection (g) of 42 U.S.C.s.503, shall be recovered by offset
7 from benefits or allowances otherwise payable under a federal
8 program administered by this State or another state under an
9 agreement with the United States Secretary of Labor.

10 (3) The provisions of this subsection shall not be construed as
11 requiring or permitting a waiver of the recovery of any
12 overpayments of unemployment benefits if the waiver is prohibited
13 by any federal law, regulation or administrative directive. A
14 recovery shall not be waived unless the division determines that the
15 claimant is without fault and the repayment would be contrary to
16 equity and good conscience in the case of the recovery of an
17 overpayment of benefit under any of the following programs
18 authorized by the federal "Coronavirus Aid, Relief, and Economic
19 Security (CARES) Act," Pub.L.116-136: Federal Pandemic
20 Unemployment Compensation (FPUC), Pandemic Emergency
21 Unemployment Compensation (PEUC), Mixed Earners
22 Unemployment Compensation (MEUC), Pandemic Unemployment
23 Assistance (PUA), or the first week of regular Unemployment
24 Compensation that is reimbursed in accordance with Section 2105
25 of the CARES Act".

26 (4) Upon request by the claimant, the Director of the Division of
27 Unemployment Insurance or the Division of Temporary Disability
28 Insurance, as appropriate, shall grant the claimant a full waiver of
29 recovery of an overpayment of benefits only after the director has
30 determined that the claimant has not misrepresented or withheld any
31 material fact to obtain benefits and only under the following
32 circumstances:

33 (A) Where the claimant is deceased;

34 (B) Where the claimant is disabled and no longer able to work;

35 (C) Where the claimant received the overpayment of benefits due
36 to an error by the division, or due to an error of the employer or a
37 failure by the employer to provide information; or

38 (D) Where the director determines that recovery of the
39 overpayment would be contrary to equity and good conscience.

40 (5) In the event that the Director of the Division of
41 Unemployment Insurance or the Division of Temporary Disability
42 Insurance, as appropriate, becomes aware, without a request from
43 the claimant pursuant to subparagraph (C) of paragraph (4) of this
44 subsection (d), that the claimant received an overpayment of
45 benefits due to an error by the division, or due to an error of the
46 employer or a failure by the employer to provide information, the
47 director shall grant a full waiver of recovery of an overpayment of
48 benefits, provided that the director has first determined that the

1 claimant did not misrepresent or withhold any material fact to
2 obtain benefits.

3 (e) (1) Any employing unit, or any officer or agent of an
4 employing unit, which officer or agent is directly or indirectly
5 responsible for collecting, truthfully accounting for, remitting when
6 payable any contribution, or filing or causing to be filed any report
7 or statement required by this chapter, or employer, or person failing
8 to remit, when payable, any employer contributions, or worker
9 contributions (if withheld or deducted), or the amount of such
10 worker contributions (if not withheld or deducted), or filing or
11 causing to be filed with the controller or the Division of
12 Unemployment and Temporary Disability Insurance of the
13 Department of Labor and Workforce Development of the State of
14 New Jersey, any false or fraudulent report or statement, and any
15 person who aids or abets an employing unit, employer, or any
16 person in the preparation or filing of any false or fraudulent report
17 or statement with intent to defraud the State of New Jersey or an
18 employment security agency of any other state or of the federal
19 government, or with intent to evade the payment of any
20 contributions, interest or penalties, or any part thereof, which shall
21 be due under the provisions of this chapter (R.S.43:21-1 et seq.),
22 shall be liable for each offense upon conviction before any Superior
23 Court or municipal court, to a fine not to exceed \$1,000.00 or by
24 imprisonment for a term not to exceed 90 days, or both, at the
25 discretion of the court. The fine upon conviction shall be payable
26 to the unemployment compensation auxiliary fund. Any penalties
27 imposed by this subsection shall be in addition to those otherwise
28 prescribed in this chapter (R.S.43:21-1 et seq.).

29 (2) Any employing unit, officer or agent of the employing unit,
30 or any other person, who knowingly violates, or attempts to violate,
31 or advise another person to violate the transfer of employment
32 experience provisions found at R.S.43:21-7 (c)(7) shall be, upon
33 conviction before any Superior Court or municipal court, guilty of a
34 crime of the fourth degree. For the purposes of this subsection,
35 "knowingly" means having actual knowledge of, or acting with
36 deliberate ignorance or reckless disregard for the prohibition
37 involved.

38 (f) Any employing unit or any officer or agent of an employing
39 unit or any other person who aids and abets any person to obtain
40 any sum of benefits under this chapter to which he is not entitled, or
41 a larger amount as benefits than that to which he is justly entitled,
42 shall be liable for each offense upon conviction before any Superior
43 Court or municipal court, to a fine not to exceed \$1,000.00 or by
44 imprisonment for a term not to exceed 90 days, or both, at the
45 discretion of the court. The fine upon conviction shall be payable
46 to the unemployment compensation auxiliary fund. Any penalties
47 imposed by this subsection shall be in addition to those otherwise
48 prescribed in this chapter (R.S.43:21-1 et seq.).

1 (g) There shall be created in the Division of Unemployment and
2 Temporary Disability Insurance of the Department of Labor and
3 Workforce Development of the State of New Jersey an investigative
4 staff for the purpose of investigating violations referred to in this
5 section and enforcing the provisions thereof.

6 (h) An employing unit or any officer or agent of an employing
7 unit who makes a false statement or representation, knowing it to be
8 false, or who knowingly fails to disclose a material fact, to reduce
9 benefit charges to the employing unit pursuant to paragraph (1) of
10 subsection (c) of R.S.43:21-7, shall be liable to a fine of \$1,000, to
11 be recovered in an action at law in the name of the Division of
12 Unemployment and Temporary Disability Insurance of the
13 Department of Labor and Workforce Development of the State of
14 New Jersey or as provided in subsection (e) of R.S.43:21-14. The
15 fine when recovered shall be paid to the unemployment
16 compensation auxiliary fund for the use of the fund. Each false
17 statement or representation or failure to disclose a material fact, and
18 each day of that failure or refusal shall constitute a separate offense.
19 Any penalties imposed by this subsection shall be in addition to
20 those otherwise prescribed in R.S.43:21-1 et seq.

21 (i) The Department of Labor and Workforce Development shall
22 arrange for the electronic receipt of death record notifications from
23 the New Jersey Electronic Death Registration System, pursuant to
24 section 16 of P.L.2003, c.221 (C.26:8-24.1), and establish a
25 verification system to confirm that benefits paid pursuant to the
26 "Temporary Disability Benefits Law," P.L.1948, c.110 (C.43:21-25
27 et al.), and the "unemployment compensation law," R.S.43:21-1 et
28 seq., are not being paid to deceased individuals.

29 (j) The Department of Labor and Workforce Development shall
30 arrange for the electronic receipt of identifying information from
31 the Department of Corrections, pursuant to section 6 of P.L.1976,
32 c.98 (C.30:1B-6), and from the Administrative Office of the Courts
33 and any county which does not provide county inmate incarceration
34 information to the Administrative Office of the Courts, and
35 establish a verification system to confirm that benefits paid
36 pursuant to the "unemployment compensation law," R.S.43:21-1 et
37 seq., are not being paid to individuals who are incarcerated.

38 3. This act shall take effect on the 270th day following
39 enactment, except that the division shall, prior to the 270th day after
40 enactment, take all administrative measures necessary to implement
41 this act, including making all needed changes in forms and
42 materials to be provided to employers, and notifying them of what
43 is required to be in compliance with this act, including the
44 requirements to provide the division with an email address for
45 communication to and from the division and to use electronic means
46 to communicate with the department.

47 (cf: P.L.2022, c.120, s.2)

1 7. R.S.43:21-19 is amended to read as follows:

2 43:21-19. Definitions. As used in this chapter (R.S.43:21-1 et
3 seq.), unless the context clearly requires otherwise:

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

7 (2) "Average annual payroll" means the average of the annual
8 payrolls of any employer for the last three or five preceding
9 calendar years, whichever average is higher, except that any year or
10 years throughout which an employer has had no "annual payroll"
11 because of military service shall be deleted from the reckoning; the
12 "average annual payroll" in such case is to be determined on the
13 basis of the prior three or five calendar years in each of which the
14 employer had an "annual payroll" in the operation of his business, if
15 the employer resumes his business within 12 months after
16 separation, discharge or release from such service, under conditions
17 other than dishonorable, and makes application to have his "average
18 annual payroll" determined on the basis of such deletion within 12
19 months after he resumes his business; provided, however, that
20 "average annual payroll" solely for the purposes of paragraph (3) of
21 subsection (e) of R.S.43:21-7 means the average of the annual
22 payrolls of any employer on which he paid contributions to the
23 State disability benefits fund for the last three or five preceding
24 calendar years, whichever average is higher; provided further that
25 only those wages be included on which employer contributions have
26 been paid on or before January 31 (or the next succeeding day if
27 such January 31 is a Saturday or Sunday) immediately preceding
28 the beginning of the 12-month period for which the employer's
29 contribution rate is computed.

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

33 (c) (1) "Base year" with respect to benefit years commencing on
34 or after July 1, 1986, shall mean the first four of the last five
35 completed calendar quarters immediately preceding an individual's
36 benefit year.

37 With respect to a benefit year commencing on or after July 1,
38 1995, if an individual does not have sufficient qualifying weeks or
39 wages in his base year to qualify for benefits, the individual shall
40 have the option of designating that his base year shall be the
41 "alternative base year," which means the last four completed
42 calendar quarters immediately preceding the individual's benefit
43 year; except that, with respect to a benefit year commencing on or
44 after October 1, 1995, if the individual also does not have sufficient
45 qualifying weeks or wages in the last four completed calendar
46 quarters immediately preceding his benefit year to qualify for
47 benefits, "alternative base year" means the last three completed
48 calendar quarters immediately preceding his benefit year and, of the

1 calendar quarter in which the benefit year commences, the portion
2 of the quarter which occurs before the commencing of the benefit
3 year.

4 The division shall inform the individual of his options under this
5 section as amended by P.L.1995, c.234. If information regarding
6 weeks and wages for the calendar quarter or quarters immediately
7 preceding the benefit year is not available to the division from the
8 regular quarterly reports of wage information and the division is not
9 able to obtain the information using other means pursuant to State
10 or federal law, the division may base the determination of eligibility
11 for benefits on the affidavit of an individual with respect to weeks
12 and wages for that calendar quarter. The individual shall furnish
13 payroll documentation, if available, in support of the affidavit. A
14 determination of benefits based on an alternative base year shall be
15 adjusted when the quarterly report of wage information from the
16 employer is received if that information causes a change in the
17 determination.

18 (2) With respect to a benefit year commencing on or after June 1,
19 1990 for an individual who immediately preceding the benefit year
20 was subject to a disability compensable under the provisions of the
21 "Temporary Disability Benefits Law," P.L.1948, c.110 (C.43:21-25
22 et seq.), "base year" shall mean the first four of the last five
23 completed calendar quarters immediately preceding the individual's
24 period of disability, if the employment held by the individual
25 immediately preceding the period of disability is no longer
26 available at the conclusion of that period and the individual files a
27 valid claim for unemployment benefits after the conclusion of that
28 period. For the purposes of this paragraph, "period of disability"
29 means the period defined as a period of disability by section 3 of
30 the "Temporary Disability Benefits Law," P.L.1948, c.110
31 (C.43:21-27). An individual who files a claim under the provisions
32 of this paragraph (2) shall not be regarded as having left work
33 voluntarily for the purposes of subsection (a) of R.S.43:21-5.

34 (3) With respect to a benefit year commencing on or after June 1,
35 1990 for an individual who immediately preceding the benefit year
36 was subject to a disability compensable under the provisions of the
37 workers' compensation law (chapter 15 of Title 34 of the Revised
38 Statutes), "base year" shall mean the first four of the last five
39 completed calendar quarters immediately preceding the individual's
40 period of disability, if the period of disability was not longer than
41 two years, if the employment held by the individual immediately
42 preceding the period of disability is no longer available at the
43 conclusion of that period and if the individual files a valid claim for
44 unemployment benefits after the conclusion of that period. For the
45 purposes of this paragraph, "period of disability" means the period
46 from the time at which the individual becomes unable to work
47 because of the compensable disability until the time that the
48 individual becomes able to resume work and continue work on a

1 permanent basis. An individual who files a claim under the
2 provisions of this paragraph (3) shall not be regarded as having left
3 work voluntarily for the purposes of subsection (a) of R.S.43:21-5.

4 (d) "Benefit year" with respect to any individual means the 364
5 consecutive calendar days beginning with the day on, or as of,
6 which he first files a valid claim for benefits, and thereafter
7 beginning with the day on, or as of, which the individual next files a
8 valid claim for benefits after the termination of his last preceding
9 benefit year. Any claim for benefits made in accordance with
10 subsection (a) of R.S.43:21-6 shall be deemed to be a "valid claim"
11 for the purpose of this subsection if (1) he is unemployed for the
12 week in which, or as of which, he files a claim for benefits; and (2)
13 he has fulfilled the conditions imposed by subsection (e) of
14 R.S.43:21-4.

15 (e) (1) "Division" means the Division of Unemployment and
16 Temporary Disability Insurance of the Department of Labor and
17 Workforce Development, and any transaction or exercise of
18 authority by the director of the division thereunder, or under this
19 chapter (R.S.43:21-1 et seq.), shall be deemed to be performed by
20 the division.

21 (2) "Controller" means the Office of the Assistant Commissioner
22 for Finance and Controller of the Department of Labor and
23 Workforce Development, established by the 1982 Reorganization
24 Plan of the Department of Labor.

25 (f) "Contributions" means the money payments to the State
26 Unemployment Compensation Fund, required by R.S.43:21-7.
27 "Payments in lieu of contributions" means the money payments to
28 the State Unemployment Compensation Fund by employers electing
29 or required to make payments in lieu of contributions, as provided
30 in section 3 or section 4 of P.L.1971, c.346 (C.43:21-7.2 or
31 43:21-7.3).

32 (g) "Employing unit" means the State or any of its
33 instrumentalities or any political subdivision thereof or any of its
34 instrumentalities or any instrumentality of more than one of the
35 foregoing or any instrumentality of any of the foregoing and one or
36 more other states or political subdivisions or any individual or type
37 of organization, any partnership, association, trust, estate, joint-
38 stock company, insurance company or corporation, whether
39 domestic or foreign, or the receiver, trustee in bankruptcy, trustee or
40 successor thereof, or the legal representative of a deceased person,
41 which has or subsequent to January 1, 1936, had in its employ one
42 or more individuals performing services for it within this State. All
43 individuals performing services within this State for any employing
44 unit which maintains two or more separate establishments within
45 this State shall be deemed to be employed by a single employing
46 unit for all the purposes of this chapter (R.S.43:21-1 et seq.). Each
47 individual employed to perform or to assist in performing the work
48 of any agent or employee of an employing unit shall be deemed to

1 be employed by such employing unit for all the purposes of this
2 chapter (R.S.43:21-1 et seq.), whether such individual was hired or
3 paid directly by such employing unit or by such agent or employee;
4 provided the employing unit had actual or constructive knowledge
5 of the work.

6 (h) "Employer" means:

7 (1) Any employing unit which in either the current or the
8 preceding calendar year paid remuneration for employment in the
9 amount of \$1,000.00 or more;

10 (2) Any employing unit (whether or not an employing unit at the
11 time of acquisition) which acquired the organization, trade or
12 business, or substantially all the assets thereof, of another which, at
13 the time of such acquisition, was an employer subject to this chapter
14 (R.S.43:21-1 et seq.);

15 (3) Any employing unit which acquired the organization, trade or
16 business, or substantially all the assets thereof, of another
17 employing unit and which, if treated as a single unit with such other
18 employing unit, would be an employer under paragraph (1) of this
19 subsection;

20 (4) Any employing unit which together with one or more other
21 employing units is owned or controlled (by legally enforceable
22 means or otherwise), directly or indirectly by the same interests, or
23 which owns or controls one or more other employing units (by
24 legally enforceable means or otherwise), and which, if treated as a
25 single unit with such other employing unit or interest, would be an
26 employer under paragraph (1) of this subsection;

27 (5) Any employing unit for which service in employment as
28 defined in R.S.43:21-19 (i) (1) (B) (i) is performed after December
29 31, 1971; and as defined in R.S.43:21-19 (i) (1) (B) (ii) is
30 performed after December 31, 1977;

31 (6) Any employing unit for which service in employment as
32 defined in R.S.43:21-19 (i) (1) (c) is performed after December 31,
33 1971 and which in either the current or the preceding calendar year
34 paid remuneration for employment in the amount of \$1,000.00 or
35 more;

36 (7) Any employing unit not an employer by reason of any other
37 paragraph of this subsection (h) for which, within either the current
38 or preceding calendar year, service is or was performed with respect
39 to which such employing unit is liable for any federal tax against
40 which credit may be taken for contributions required to be paid into
41 a state unemployment fund; or which, as a condition for approval of
42 the "unemployment compensation law" for full tax credit against
43 the tax imposed by the Federal Unemployment Tax Act, is required
44 pursuant to such act to be an employer under this chapter
45 (R.S.43:21-1 et seq.);

46 (8) (Deleted by amendment, P.L.1977, c.307.)

47 (9) (Deleted by amendment, P.L.1977, c.307.)

48 (10) (Deleted by amendment, P.L.1977, c.307.)

1 (11) Any employing unit subject to the provisions of the Federal
2 Unemployment Tax Act within either the current or the preceding
3 calendar year, except for employment hereinafter excluded under
4 paragraph (7) of subsection (i) of this section;

5 (12) Any employing unit for which agricultural labor in
6 employment as defined in R.S.43:21-19 (i) (1) (I) is performed after
7 December 31, 1977;

8 (13) Any employing unit for which domestic service in
9 employment as defined in R.S.43:21-19 (i) (1) (J) is performed after
10 December 31, 1977;

11 (14) Any employing unit which having become an employer
12 under the "unemployment compensation law" (R.S.43:21-1 et seq.),
13 has not under R.S.43:21-8 ceased to be an employer; or for the
14 effective period of its election pursuant to R.S.43:21-8, any other
15 employing unit which has elected to become fully subject to this
16 chapter (R.S.43:21-1 et seq.).

17 (i) (1) "Employment" means:

18 (A) Any service performed prior to January 1, 1972, which was
19 employment as defined in the "unemployment compensation law"
20 (R.S.43:21-1 et seq.) prior to such date, and, subject to the other
21 provisions of this subsection, service performed on or after January
22 1, 1972, including service in interstate commerce, performed for
23 remuneration or under any contract of hire, written or oral, express
24 or implied.

25 (B) (i) Service performed after December 31, 1971 by an
26 individual in the employ of this State or any of its instrumentalities
27 or in the employ of this State and one or more other states or their
28 instrumentalities for a hospital or institution of higher education
29 located in this State, if such service is not excluded from
30 "employment" under paragraph (D) below.

31 (ii) Service performed after December 31, 1977, in the employ of
32 this State or any of its instrumentalities or any political subdivision
33 thereof or any of its instrumentalities or any instrumentality of more
34 than one of the foregoing or any instrumentality of the foregoing
35 and one or more other states or political subdivisions, if such
36 service is not excluded from "employment" under paragraph (D)
37 below.

38 (C) Service performed after December 31, 1971 by an individual
39 in the employ of a religious, charitable, educational, or other
40 organization, which is excluded from "employment" as defined in
41 the Federal Unemployment Tax Act, solely by reason of section
42 3306 (c)(8) of that act, if such service is not excluded from
43 "employment" under paragraph (D) below.

44 (D) For the purposes of paragraphs (B) and (C), the term
45 "employment" does not apply to services performed

46 (i) In the employ of (I) a church or convention or association of
47 churches, or (II) an organization, or school which is operated
48 primarily for religious purposes and which is operated, supervised,

1 controlled or principally supported by a church or convention or
2 association of churches;

3 (ii) By a duly ordained, commissioned, or licensed minister of a
4 church in the exercise of his ministry or by a member of a religious
5 order in the exercise of duties required by such order;

6 (iii) Prior to January 1, 1978, in the employ of a school which is
7 not an institution of higher education, and after December 31, 1977,
8 in the employ of a governmental entity referred to in R.S.43:21-19

9 (i) (1) (B), if such service is performed by an individual in the
10 exercise of duties

11 (aa) as an elected official;

12 (bb) as a member of a legislative body, or a member of the
13 judiciary, of a state or political subdivision;

14 (cc) as a member of the State National Guard or Air National
15 Guard;

16 (dd) as an employee serving on a temporary basis in case of fire,
17 storm, snow, earthquake, flood or similar emergency;

18 (ee) in a position which, under or pursuant to the laws of this
19 State, is designated as a major nontenured policy making or
20 advisory position, or a policy making or advisory position, the
21 performance of the duties of which ordinarily does not require more
22 than eight hours per week; or

23 (iv) By an individual receiving rehabilitation or remunerative
24 work in a facility conducted for the purpose of carrying out a
25 program of rehabilitation of individuals whose earning capacity is
26 impaired by age or physical or mental deficiency or injury or
27 providing remunerative work for individuals who because of their
28 impaired physical or mental capacity cannot be readily absorbed in
29 the competitive labor market;

30 (v) By an individual receiving work-relief or work-training as
31 part of an unemployment work-relief or work-training program
32 assisted in whole or in part by any federal agency or an agency of a
33 state or political subdivision thereof; or

34 (vi) Prior to January 1, 1978, for a hospital in a State prison or
35 other State correctional institution by an inmate of the prison or
36 correctional institution and after December 31, 1977, by an inmate
37 of a custodial or penal institution.

38 (E) The term "employment" shall include the services of an
39 individual who is a citizen of the United States, performed outside
40 the United States after December 31, 1971 (except in Canada and in
41 the case of the Virgin Islands, after December 31, 1971) and prior
42 to January 1 of the year following the year in which the U.S.
43 Secretary of Labor approves the unemployment compensation law
44 of the Virgin Islands, under section 3304 (a) of the Internal
45 Revenue Code of 1986 (26 U.S.C. s.3304 (a)) in the employ of an
46 American employer (other than the service which is deemed
47 employment under the provisions of R.S.43:21-19 (i) (2) or (5) or

1 the parallel provisions of another state's unemployment
2 compensation law), if

3 (i) The American employer's principal place of business in the
4 United States is located in this State; or

5 (ii) The American employer has no place of business in the
6 United States, but (I) the American employer is an individual who
7 is a resident of this State; or (II) the American employer is a
8 corporation which is organized under the laws of this State; or (III)
9 the American employer is a partnership or trust and the number of
10 partners or trustees who are residents of this State is greater than the
11 number who are residents of another state; or

12 (iii) None of the criteria of divisions (i) and (ii) of this
13 subparagraph (E) is met but the American employer has elected to
14 become an employer subject to the "unemployment compensation
15 law" (R.S.43:21-1 et seq.) in this State, or the American employer
16 having failed to elect to become an employer in any state, the
17 individual has filed a claim for benefits, based on such service,
18 under the law of this State;

19 (iv) An "American employer," for the purposes of this
20 subparagraph (E), means (I) an individual who is a resident of the
21 United States; or (II) a partnership, if two-thirds or more of the
22 partners are residents of the United States; or (III) a trust, if all the
23 trustees are residents of the United States; or (IV) a corporation
24 organized under the laws of the United States or of any state.

25 (F) Notwithstanding R.S.43:21-19 (i) (2), all service performed
26 after January 1, 1972 by an officer or member of the crew of an
27 American vessel or American aircraft on or in connection with such
28 vessel or aircraft, if the operating office from which the operations
29 of such vessel or aircraft operating within, or within and without,
30 the United States are ordinarily and regularly supervised, managed,
31 directed, and controlled, is within this State.

32 (G) Notwithstanding any other provision of this subsection,
33 service in this State with respect to which the taxes required to be
34 paid under any federal law imposing a tax against which credit may
35 be taken for contributions required to be paid into a state
36 unemployment fund or which as a condition for full tax credit
37 against the tax imposed by the Federal Unemployment Tax Act is
38 required to be covered under the "unemployment compensation
39 law" (R.S.43:21-1 et seq.).

40 (H) The term "United States" when used in a geographical sense
41 in subsection R.S.43:21-19 (i) includes the states, the District of
42 Columbia, the Commonwealth of Puerto Rico and, effective on the
43 day after the day on which the U.S. Secretary of Labor approves for
44 the first time under section 3304 (a) of the Internal Revenue Code
45 of 1986 (26 U.S.C. s.3304 (a)) an unemployment compensation law
46 submitted to the Secretary by the Virgin Islands for such approval,
47 the Virgin Islands.

1 (I) (i) Service performed after December 31, 1977 in agricultural
2 labor in a calendar year for an entity which is an employer as
3 defined in the "unemployment compensation law," (R.S.43:21-1 et
4 seq.) as of January 1 of such year; or for an employing unit which
5 (aa) during any calendar quarter in either the current or the
6 preceding calendar year paid remuneration in cash of \$20,000.00 or
7 more for individuals employed in agricultural labor, or
8 (bb) for some portion of a day in each of 20 different calendar
9 weeks, whether or not such weeks were consecutive, in either the
10 current or the preceding calendar year, employed in agricultural
11 labor 10 or more individuals, regardless of whether they were
12 employed at the same moment in time.

13 (ii) for the purposes of this subsection any individual who is a
14 member of a crew furnished by a crew leader to perform service in
15 agricultural labor for any other entity shall be treated as an
16 employee of such crew leader

17 (aa) if such crew leader holds a certification of registration under
18 the Migrant and Seasonal Agricultural Worker Protection Act,
19 Pub.L.97-470 (29 U.S.C. s.1801 et seq.), or P.L.1971, c.192
20 (C.34:8A-7 et seq.); or substantially all the members of such crew
21 operate or maintain tractors, mechanized harvesting or cropdusting
22 equipment, or any other mechanized equipment, which is provided
23 by such crew leader; and

24 (bb) if such individual is not an employee of such other person
25 for whom services were performed.

26 (iii) For the purposes of subparagraph (I) (i) in the case of any
27 individual who is furnished by a crew leader to perform service in
28 agricultural labor or any other entity and who is not treated as an
29 employee of such crew leader under (I) (ii)

30 (aa) such other entity and not the crew leader shall be treated as
31 the employer of such individual; and

32 (bb) such other entity shall be treated as having paid cash
33 remuneration to such individual in an amount equal to the amount
34 of cash remuneration paid to such individual by the crew leader
35 (either on his own behalf or on behalf of such other entity) for the
36 service in agricultural labor performed for such other entity.

37 (iv) For the purpose of subparagraph (I)(ii), the term "crew
38 leader" means an individual who

39 (aa) furnishes individuals to perform service in agricultural labor
40 for any other entity;

41 (bb) pays (either on his own behalf or on behalf of such other
42 entity) the individuals so furnished by him for the service in
43 agricultural labor performed by them; and

44 (cc) has not entered into a written agreement with such other
45 entity under which such individual is designated as an employee of
46 such other entity.

47 (J) Domestic service after December 31, 1977 performed in the
48 private home of an employing unit which paid cash remuneration of

1 \$1,000.00 or more to one or more individuals for such domestic
2 service in any calendar quarter in the current or preceding calendar
3 year.

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

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

7 (B) The service is not localized in any state but some of the
8 service is performed in this State, and (i) the base of operations, or,
9 if there is no base of operations, then the place from which such
10 service is directed or controlled, is in this State; or (ii) the base of
11 operations or place from which such service is directed or
12 controlled is not in any state in which some part of the service is
13 performed, but the individual's residence is in this State.

14 (3) Services performed within this State but not covered under
15 paragraph (2) of this subsection shall be deemed to be employment
16 subject to this chapter (R.S.43:21-1 et seq.) if contributions are not
17 required and paid with respect to such services under an
18 unemployment compensation law of any other state or of the federal
19 government.

20 (4) Services not covered under paragraph (2) of this subsection
21 and performed entirely without this State, with respect to no part of
22 which contributions are required and paid under an unemployment
23 compensation law of any other state or of the federal government,
24 shall be deemed to be employment subject to this chapter
25 (R.S.43:21-1 et seq.) if the individual performing such services is a
26 resident of this State and the employing unit for whom such
27 services are performed files with the division an election that the
28 entire service of such individual shall be deemed to be employment
29 subject to this chapter (R.S.43:21-1 et seq.).

30 (5) Service shall be deemed to be localized within a state if:

31 (A) The service is performed entirely within such state; or

32 (B) The service is performed both within and without such state,
33 but the service performed without such state is incidental to the
34 individual's service within the state; for example, is temporary or
35 transitory in nature or consists of isolated transactions.

36 (6) Services performed by an individual for remuneration shall
37 be deemed to be employment subject to this chapter (R.S.43:21-1 et
38 seq.) unless and until it is shown to the satisfaction of the division
39 that:

40 (A) Such individual has been and will continue to be free from
41 control or direction over the performance of such service, both
42 under his contract of service and in fact;

43 (B) Such service is either outside the usual course of the business
44 for which such service is performed, or that such service is
45 performed outside of all the places of business of the enterprise for
46 which such service is performed; and

47 (C) Such individual is customarily engaged in an independently
48 established trade, occupation, profession or business.

1 (7) Provided that such services are also exempt under the Federal
2 Unemployment Tax Act, as amended, or that contributions with
3 respect to such services are not required to be paid into a state
4 unemployment fund as a condition for a tax offset credit against the
5 tax imposed by the Federal Unemployment Tax Act, as amended,
6 the term "employment" shall not include:

7 (A) Agricultural labor performed prior to January 1, 1978; and
8 after December 31, 1977, only if performed in a calendar year for
9 an entity which is not an employer as defined in the "unemployment
10 compensation law," (R.S.43:21-1 et seq.) as of January 1 of such
11 calendar year; or unless performed for an employing unit which

12 (i) during a calendar quarter in either the current or the preceding
13 calendar year paid remuneration in cash of \$20,000.00 or more to
14 individuals employed in agricultural labor, or

15 (ii) for some portion of a day in each of 20 different calendar
16 weeks, whether or not such weeks were consecutive, in either the
17 current or the preceding calendar year, employed in agricultural
18 labor 10 or more individuals, regardless of whether they were
19 employed at the same moment in time;

20 (B) Domestic service in a private home performed prior to
21 January 1, 1978; and after December 31, 1977, unless performed in
22 the private home of an employing unit which paid cash
23 remuneration of \$1,000.00 or more to one or more individuals for
24 such domestic service in any calendar quarter in the current or
25 preceding calendar year;

26 (C) Service performed by an individual in the employ of his son,
27 daughter or spouse, and service performed by a child under the age
28 of 18 in the employ of his father or mother;

29 (D) Service performed prior to January 1, 1978, in the employ of
30 this State or of any political subdivision thereof or of any
31 instrumentality of this State or its political subdivisions, except as
32 provided in R.S.43:21-19 (i) (1) (B) above, and service in the
33 employ of the South Jersey Port Corporation or its successors;

34 (E) Service performed in the employ of any other state or its
35 political subdivisions or of an instrumentality of any other state or
36 states or their political subdivisions to the extent that such
37 instrumentality is with respect to such service exempt under the
38 Constitution of the United States from the tax imposed under the
39 Federal Unemployment Tax Act, as amended, except as provided in
40 R.S.43:21-19 (i) (1) (B) above;

41 (F) Service performed in the employ of the United States
42 Government or of any instrumentality of the United States exempt
43 under the Constitution of the United States from the contributions
44 imposed by the "unemployment compensation law," except that to
45 the extent that the Congress of the United States shall permit states
46 to require any instrumentalities of the United States to make
47 payments into an unemployment fund under a state unemployment
48 compensation law, all of the provisions of this act shall be

1 applicable to such instrumentalities, and to service performed for
2 such instrumentalities, in the same manner, to the same extent and
3 on the same terms as to all other employers, employing units,
4 individuals and services; provided that if this State shall not be
5 certified for any year by the Secretary of Labor of the United States
6 under section 3304 of the federal Internal Revenue Code of 1986
7 (26 U.S.C. s.3304), the payments required of such instrumentalities
8 with respect to such year shall be refunded by the division from the
9 fund in the same manner and within the same period as is provided
10 in R.S.43:21-14 (f) with respect to contributions erroneously paid to
11 or collected by the division;

12 (G) Services performed in the employ of fraternal beneficiary
13 societies, orders, or associations operating under the lodge system
14 or for the exclusive benefit of the members of a fraternity itself
15 operating under the lodge system and providing for the payment of
16 life, sick, accident, or other benefits to the members of such society,
17 order, or association, or their dependents;

18 (H) Services performed as a member of the board of directors, a
19 board of trustees, a board of managers, or a committee of any bank,
20 building and loan, or savings and loan association, incorporated or
21 organized under the laws of this State or of the United States, where
22 such services do not constitute the principal employment of the
23 individual;

24 (I) Service with respect to which unemployment insurance is
25 payable under an unemployment insurance program established by
26 an Act of Congress;

27 (J) Service performed by agents of mutual fund brokers or
28 dealers in the sale of mutual funds or other securities, by agents of
29 insurance companies, exclusive of industrial insurance agents or by
30 agents of investment companies, if the compensation to such agents
31 for such services is wholly on a commission basis;

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

34 (L) Services performed in the employ of any veterans'
35 organization chartered by Act of Congress or of any auxiliary
36 thereof, no part of the net earnings of which organization, or
37 auxiliary thereof, inures to the benefit of any private shareholder or
38 individual;

39 (M) Service performed for or in behalf of the owner or operator
40 of any theater, ballroom, amusement hall or other place of
41 entertainment, not in excess of 10 weeks in any calendar year for
42 the same owner or operator, by any leader or musician of a band or
43 orchestra, commonly called a "name band," entertainer, vaudeville
44 artist, actor, actress, singer or other entertainer;

45 (N) Services performed after January 1, 1973 by an individual
46 for a labor union organization, known and recognized as a union
47 local, as a member of a committee or committees reimbursed by the
48 union local for time lost from regular employment, or as a part-time

1 officer of a union local and the remuneration for such services is
2 less than \$1,000.00 in a calendar year;

3 (O) Services performed in the sale or distribution of merchandise
4 by home-to-home salespersons or in-the-home demonstrators whose
5 remuneration consists wholly of commissions or commissions and
6 bonuses;

7 (P) Service performed in the employ of a foreign government,
8 including service as a consular, nondiplomatic representative, or
9 other officer or employee;

10 (Q) Service performed in the employ of an instrumentality
11 wholly owned by a foreign government if (i) the service is of a
12 character similar to that performed in foreign countries by
13 employees of the United States Government or of an instrumentality
14 thereof, and (ii) the division finds that the United States Secretary
15 of State has certified to the United States Secretary of the Treasury
16 that the foreign government, with respect to whose instrumentality
17 exemption is claimed, grants an equivalent exemption with respect
18 to similar services performed in the foreign country by employees
19 of the United States Government and of instrumentalities thereof;

20 (R) Service in the employ of an international organization
21 entitled to enjoy the privileges, exemptions and immunities under
22 the International Organizations Immunities Act (22 U.S.C. s.288 et
23 seq.);

24 (S) Service covered by an election duly approved by an agency
25 charged with the administration of any other state or federal
26 unemployment compensation or employment security law, in
27 accordance with an arrangement pursuant to R.S.43:21-21 during
28 the effective period of such election;

29 (T) Service performed in the employ of a school, college, or
30 university if such service is performed (i) by a student enrolled at
31 such school, college, or university on a full-time basis in an
32 educational program or completing such educational program
33 leading to a degree at any of the severally recognized levels, or (ii)
34 by the spouse of such a student, if such spouse is advised at the time
35 such spouse commences to perform such service that (I) the
36 employment of such spouse to perform such service is provided
37 under a program to provide financial assistance to such student by
38 such school, college, or university, and (II) such employment will
39 not be covered by any program of unemployment insurance;

40 (U) Service performed by an individual who is enrolled at a
41 nonprofit or public educational institution which normally
42 maintains a regular faculty and curriculum and normally has a
43 regularly organized body of students in attendance at the place
44 where its educational activities are carried on, as a student in a full-
45 time program, taken for credit at such institution, which combines
46 academic instruction with work experience, if such service is an
47 integral part of such program, and such institution has so certified
48 to the employer, except that this subparagraph shall not apply to

1 service performed in a program established for or on behalf of an
2 employer or group of employers;

3 (V) Service performed in the employ of a hospital, if such
4 service is performed by a patient of the hospital; service performed
5 as a student nurse in the employ of a hospital or a nurses' training
6 school by an individual who is enrolled and regularly attending
7 classes in a nurses' training school approved under the laws of this
8 State;

9 (W) Services performed after the effective date of this
10 amendatory act by agents of mutual benefit associations if the
11 compensation to such agents for such services is wholly on a
12 commission basis;

13 (X) Services performed by operators of motor vehicles weighing
14 18,000 pounds or more, licensed for commercial use and used for
15 the highway movement of motor freight, who own their equipment
16 or who lease or finance the purchase of their equipment through an
17 entity which is not owned or controlled directly or indirectly by the
18 entity for which the services were performed and who were
19 compensated by receiving a percentage of the gross revenue
20 generated by the transportation move or by a schedule of payment
21 based on the distance and weight of the transportation move;

22 (Y) (Deleted by amendment, P.L.2009, c.211.)

23 (Z) Services performed, using facilities provided by a travel
24 agent, by a person, commonly known as an outside travel agent,
25 who acts as an independent contractor, is paid on a commission
26 basis, sets his own work schedule and receives no benefits, sick
27 leave, vacation or other leave from the travel agent owning the
28 facilities.

29 (AA) Services provided by a commercial fisherman whose
30 compensation is comprised solely of a percentage of fish caught or
31 a percentage of the proceeds from the sale of the catch.

32 (8) If one-half or more of the services in any pay period
33 performed by an individual for an employing unit constitutes
34 employment, all the services of such individual shall be deemed to
35 be employment; but if more than one-half of the service in any pay
36 period performed by an individual for an employing unit does not
37 constitute employment, then none of the service of such individual
38 shall be deemed to be employment. As used in this paragraph, the
39 term "pay period" means a period of not more than 31 consecutive
40 days for which a payment for service is ordinarily made by an
41 employing unit to individuals in its employ.

42 (9) Services performed by the owner of a limousine franchise
43 (franchisee) shall not be deemed to be employment subject to the
44 "unemployment compensation law," R.S.43:21-1 et seq., with
45 regard to the franchisor if:

46 (A) The limousine franchisee is incorporated;

47 (B) The franchisee is subject to regulation by the Interstate
48 Commerce Commission;

1 (C) The limousine franchise exists pursuant to a written franchise
2 arrangement between the franchisee and the franchisor as defined
3 by section 3 of P.L.1971, c.356 (C.56:10-3); and

4 (D) The franchisee registers with the Department of Labor and
5 Workforce Development and receives an employer registration
6 number.

7 (10) Services performed by a legal transcriber, or certified court
8 reporter certified pursuant to P.L.1940, c.175 (C.45:15B-1 et seq.),
9 shall not be deemed to be employment subject to the
10 "unemployment compensation law," R.S.43:21-1 et seq., if those
11 services are provided to a third party by the transcriber or reporter
12 who is referred to the third party pursuant to an agreement with
13 another legal transcriber or legal transcription service, or certified
14 court reporter or court reporting service, on a freelance basis,
15 compensation for which is based upon a fee per transcript page, flat
16 attendance fee, or other flat minimum fee, or combination thereof,
17 set forth in the agreement.

18 For purposes of this paragraph (10): "legal transcription service"
19 and "legal transcribing" mean making use, by audio, video or voice
20 recording, of a verbatim record of court proceedings, depositions,
21 other judicial proceedings, meetings of boards, agencies,
22 corporations, or other bodies or groups, and causing that record to
23 be printed in readable form or produced on a computer screen in
24 readable form; and "legal transcriber" means a person who engages
25 in "legal transcribing."

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

29 (k) (Deleted by amendment, P.L.1984, c.24.)

30 (l) "State" includes, in addition to the states of the United States
31 of America, the District of Columbia, the Virgin Islands and Puerto
32 Rico.

33 (m) "Unemployment."

34 (1) An individual shall be deemed "unemployed" for any week
35 during which:

36 (A) The individual is not engaged in full-time work and with
37 respect to which his remuneration is less than his weekly benefit
38 rate, including any week during which he is on vacation without
39 pay; provided such vacation is not the result of the individual's
40 voluntary action, except that for benefit years commencing on or
41 after July 1, 1984, an officer of a corporation, or a person who has
42 more than a 5% equitable or debt interest in the corporation, whose
43 claim for benefits is based on wages with that corporation shall not
44 be deemed to be unemployed in any week during the individual's
45 term of office or ownership in the corporation; or

46 (B) The individual is eligible for and receiving a self-
47 employment assistance allowance pursuant to the requirements of
48 P.L.1995, c.394 (C.43:21-67 et al.).

1 (2) The term "remuneration" with respect to any individual for
2 benefit years commencing on or after July 1, 1961, and as used in
3 this subsection, shall include only that part of the same which in
4 any week exceeds 20% of his weekly benefit rate (fractional parts
5 of a dollar omitted) or \$5.00, whichever is the larger, and shall not
6 include any moneys paid to an individual by a county board of
7 elections for work as a board worker on an election day or for work
8 pursuant to subsection d. of section 1 of P.L.2021, c.40 (C.19:15A-
9 1) during the early voting period.

10 (3) An individual's week of unemployment shall be deemed to
11 commence only after the individual has filed a claim at an
12 unemployment insurance claims office, except as the division may
13 by regulation otherwise prescribe.

14 (n) "Unemployment compensation administration fund" means
15 the unemployment compensation administration fund established by
16 this chapter (R.S.43:21-1 et seq.), from which administrative
17 expenses under this chapter (R.S.43:21-1 et seq.) shall be paid.

18 (o) "Wages" means remuneration paid by employers for
19 employment. If a worker receives gratuities regularly in the course
20 of his employment from other than his employer, his "wages" shall
21 also include the gratuities so received, if reported in writing to his
22 employer in accordance with regulations of the division, and if not
23 so reported, his "wages" shall be determined in accordance with the
24 minimum wage rates prescribed under any labor law or regulation
25 of this State or of the United States, or the amount of remuneration
26 actually received by the employee from his employer, whichever is
27 the higher.

28 (p) "Remuneration" means all compensation for personal
29 services, including commission and bonuses and the cash value of
30 all compensation in any medium other than cash.

31 (q) "Week" means for benefit years commencing on or after
32 October 1, 1984, the calendar week ending at midnight Saturday, or
33 as the division may by regulation prescribe.

34 (r) "Calendar quarter" means the period of three consecutive
35 calendar months ending March 31, June 30, September 30, or
36 December 31.

37 (s) "Investment company" means any company as defined in
38 subsection a. of section 1 of P.L.1938, c.322 (C.17:16A-1).

39 (t) (1) (Deleted by amendment, P.L.2001, c.17).

40 (2) "Base week," commencing on or after January 1, 1996 and
41 before January 1, 2001, means:

42 (A) Any calendar week during which the individual earned in
43 employment from an employer remuneration not less than an
44 amount which is 20% of the Statewide average weekly
45 remuneration defined in subsection (c) of R.S.43:21-3 which
46 amount shall be adjusted to the next higher multiple of \$1.00 if not
47 already a multiple thereof, except that if in any calendar week an
48 individual subject to this subparagraph (A) is in employment with

1 more than one employer, the individual may in that calendar week
2 establish a base week with respect to each of the employers from
3 whom the individual earns remuneration equal to not less than the
4 amount defined in this subparagraph (A) during that week; or

5 (B) If the individual does not establish in his base year 20 or
6 more base weeks as defined in subparagraph (A) of this paragraph
7 (2), any calendar week of an individual's base year during which the
8 individual earned in employment from an employer remuneration
9 not less than an amount 20 times the minimum wage in effect
10 pursuant to section 5 of P.L.1966, c.113 (C.34:11-56a4) on October
11 1 of the calendar year preceding the calendar year in which the
12 benefit year commences, which amount shall be adjusted to the next
13 higher multiple of \$1.00 if not already a multiple thereof, except
14 that if in any calendar week an individual subject to this
15 subparagraph (B) is in employment with more than one employer,
16 the individual may in that calendar week establish a base week with
17 respect to each of the employers from whom the individual earns
18 remuneration not less than the amount defined in this subparagraph
19 (B) during that week.

20 (3) "Base week," commencing on or after January 1, 2001,
21 means any calendar week during which the individual earned in
22 employment from an employer remuneration not less than an
23 amount 20 times the minimum wage in effect pursuant to section 5
24 of P.L.1966, c.113 (C.34:11-56a4) on October 1 of the calendar
25 year preceding the calendar year in which the benefit year
26 commences, which amount shall be adjusted to the next higher
27 multiple of \$1.00 if not already a multiple thereof, except that if in
28 any calendar week an individual subject to this paragraph (3) is in
29 employment with more than one employer, the individual may in
30 that calendar week establish a base week with respect to each of the
31 employers from whom the individual earns remuneration equal to
32 not less than the amount defined in this paragraph (3) during that
33 week.

34 (u) "Average weekly wage" means the amount derived by
35 dividing an individual's total base year wages [received during his
36 base year base weeks (as defined in subsection (t) of this section)
37 from that most recent base year employer with whom he has
38 established at least 20 base weeks, by the number of base weeks in
39 which such wages were earned] by the number of base weeks
40 worked by the individual during the base year; provided that for the
41 purpose of computing the average weekly wage, the maximum
42 number of base weeks used in the divisor shall be 52. In the event
43 that such claimant had no employer in his base year with whom he
44 had established at least 20 base weeks, then such individual's
45 average weekly wage shall be computed as if all of his base week
46 wages were received from one employer and as if all his base weeks
47 of employment had been performed in the employ of one employer.

1 For the purpose of computing the average weekly wage, the
2 monetary alternative in subparagraph (B) of **paragraph (2)**
3 paragraph (4) or subparagraph (B) of paragraph (5) of subsection
4 (e) of R.S.43:21-4 shall only apply in those instances where the
5 individual did not have at least 20 base weeks in the base year.
6 **For benefit years commencing on or after July 1, 1986, "average**
7 **weekly wage" means the amount derived by dividing an individual's**
8 **total base year wages by the number of base weeks worked by the**
9 **individual during the base year; provided that for the purpose of**
10 **computing the average weekly wage, the maximum number of base**
11 **weeks used in the divisor shall be 52.**

12 (v) "Initial determination" means, subject to the provisions of
13 R.S.43:21-6(b)(2) and (3), a determination of benefit rights as
14 measured by an eligible individual's base year employment with a
15 single employer covering all periods of employment with that
16 employer during the base year.

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

20 (x) "Most recent base year employer" means that employer with
21 whom the individual most recently, in point of time, performed
22 service in employment in the base year.

23 (y) (1) "Educational institution" means any public or other
24 nonprofit institution (including an institution of higher education):

25 (A) In which participants, trainees, or students are offered an
26 organized course of study or training designed to transfer to them
27 knowledge, skills, information, doctrines, attitudes or abilities from,
28 by or under the guidance of an instructor or teacher;

29 (B) Which is approved, licensed or issued a permit to operate as
30 a school by the State Department of Education or other government
31 agency that is authorized within the State to approve, license or
32 issue a permit for the operation of a school; and

33 (C) Which offers courses of study or training which may be
34 academic, technical, trade, or preparation for gainful employment in
35 a recognized occupation.

36 (2) "Institution of higher education" means an educational
37 institution which:

38 (A) Admits as regular students only individuals having a
39 certificate of graduation from a high school, or the recognized
40 equivalent of such a certificate;

41 (B) Is legally authorized in this State to provide a program of
42 education beyond high school;

43 (C) Provides an educational program for which it awards a
44 bachelor's or higher degree, or provides a program which is
45 acceptable for full credit toward such a degree, a program of post-
46 graduate or post-doctoral studies, or a program of training to
47 prepare students for gainful employment in a recognized
48 occupation; and

1 (D) Is a public or other nonprofit institution.

2 Notwithstanding any of the foregoing provisions of this
3 subsection, all colleges and universities in this State are institutions
4 of higher education for purposes of this section.

5 (z) "Hospital" means an institution which has been licensed,
6 certified or approved under the law of this State as a hospital.
7 (cf: P.L.2022, c.71, s.4)

8

9 8. Section 2 of P.L.1981, c.90 (C.43:21-24.19) is amended to
10 read as follows:

11 2. a. Notwithstanding the provisions of section 6 of P.L.1970, c.
12 324 (C. 43:21-24.12) an individual shall be ineligible for payment
13 of extended benefits for any week of unemployment in his
14 eligibility period if it is determined during such period:

15 (1) The individual failed to accept any offer of suitable work as
16 defined in paragraph c. or failed to apply for any suitable work to
17 which the individual was referred to by the employment service or
18 the director; or

19 (2) The individual failed to actively engage in seeking work as
20 prescribed under paragraph e.

21 b. Any individual who has been found ineligible for extended
22 benefits by reason of the provisions in paragraph a. of this section
23 shall also be denied benefits beginning with the first day of the
24 week following the week in which the failure occurred and until the
25 individual has been employed in each of 4 subsequent weeks
26 (whether or not consecutive) and has earned remuneration equal to
27 not less than 4 times the individual's weekly extended benefit rate.

28 c. For purposes of this section the term suitable work means,
29 with respect to any individual, any work which is within such
30 individual's capabilities; this work shall be held to be suitable
31 only:

32 (1) If the gross average weekly remuneration payable for the
33 work exceeds the sum of: the individual's weekly extended benefit
34 rate as determined under section 8 of P.L.1970, c. 324 (C. 43:21-
35 24.14), plus the amount, if any, of supplemental unemployment
36 benefits (as defined in Section 501(c)(17) of the Internal Revenue
37 Code of 1954) payable to the individual for the respective week;

38 (2) If the position pays wages not less than the higher of

39 (a) The minimum wage provided by Section 6(a)(1) of the Fair
40 Labor Standards Act of 1938 (29 U.S.C. s. 206), without regard to
41 any exemption; or

42 (b) The applicable state or local minimum wage;

43 (3) Provided, however, that no individual shall be denied
44 extended benefits for failure to accept an offer of or apply for any
45 job which meets the definition of suitable work as described above
46 if:

47 (a) The position was not offered to the individual in writing or
48 was not listed with the employment service;

1 (b) The failure could not result in a denial of benefits under the
2 definition of suitable work for regular benefits as provided under
3 subsection (c) of R.S. 43:21-5 to the extent that the criteria of
4 suitability in that section are not inconsistent with the provisions of
5 this paragraph c.;

6 (c) The individual furnishes satisfactory evidence to the division
7 that his prospects for obtaining work in his customary occupation
8 within a reasonably short period are good. If the evidence is
9 deemed satisfactory for this purpose, the determination of whether
10 any work is suitable with respect to the individual shall be made in
11 accordance with the definition of suitable work for regular benefit
12 claimants as provided under subsection (c) of R.S. 43:21-5 without
13 regard to the definition specified by this paragraph c.

14 d. Notwithstanding the provisions of section 6 of P.L.1970, c.
15 324 (C. 43:21-24.12) to the contrary, no work shall be deemed to be
16 suitable work for an individual which does not accord with the labor
17 standard provisions required by Section 3304(a)(5) of the Internal
18 Revenue Code of 1954 and subsection (c) of R.S. 43:21-5.

19 e. For the purposes of subparagraph (2) of paragraph a. of this
20 section, an individual shall be treated as actively engaged in
21 seeking work during any week if

22 (1) The individual has engaged in a systematic and sustained
23 effort to obtain work during the week, and

24 (2) The individual furnishes tangible evidence that he has
25 engaged in this effort during the week.

26 f. The employment service shall refer any claimant entitled to
27 extended benefits under this act to any suitable work which meets
28 the criteria prescribed in paragraph c.

29 g. An individual who has been disqualified for regular benefits
30 under the provisions of subsection (b) or (c) of R.S. 43:21-5 will not
31 meet the eligibility requirements for the payment of extended
32 benefits unless the individual has **【had employment subsequent to**
33 **the effective date of disqualification for regular benefits and has**
34 **earned in employment remuneration equal to not less than four**
35 **times the individual's weekly benefit rate】** completed the period of
36 disqualification under subsection (b) or (c) of R.S. 43:21-5, and
37 would otherwise be eligible for the payment of extended benefits.

38 h. (1) An individual claiming extended benefits who is an
39 exhaustee, as defined under paragraph j. of section 5 of P.L.1970, c.
40 324 (C. 43:21-24.11), and who is subsequently discharged or
41 suspended for misconduct connected with his work as provided in
42 subsection (b) of R.S. 43:21-5, shall be disqualified for extended
43 benefits for the week in which the separation occurs and for each
44 week thereafter until he has earned in employment remuneration
45 equal to at least four times his weekly extended benefit rate,
46 notwithstanding the disqualifying period for regular benefits for
47 misconduct imposed under the provisions of subsection (b) of R.S.
48 43:21-5.

1 (2) An individual claiming extended benefits who is an
2 exhaustee, as defined under paragraph j. of section 5 of P.L.1970, c.
3 324 (C. 43:21-24.11), but has satisfied the requirements of
4 subparagraph c.(3)(c) of this section concerning prospects for
5 employment, and who subsequently fails without good cause either
6 to apply for available, suitable work when so directed by the
7 employment office or the director or to accept suitable work as
8 defined in subsection (c) of R.S. 43:21-5 when offered to him, or to
9 return to his customary self-employment when directed by the
10 director, shall be disqualified for extended benefits. The
11 disqualification shall be only for the week in which the refusal
12 occurs and for each week thereafter, until he has earned in
13 employment remuneration equal to at least four times his weekly
14 extended benefit rate, notwithstanding the disqualifying period for
15 regular benefits for the refusal normally imposed under the
16 provisions of subsection (c) of R.S. 43:21-5 or the disqualification
17 imposed in paragraph b. of this section for individuals who have not
18 satisfied the requirements of subparagraph c.(3)(c) of this section.
19 (cf: P.L.1982, c.144, s.5)

20
21 9. This act shall take effect immediately, except that sections 4
22 and 6 of this act shall be effective retroactively to July 31, 2023.

23 24 25 STATEMENT

26
27 This bill amends the State law regarding unemployment
28 insurance (UI) to:

29 1. Add any disabled, unmarried adult child of a UI benefit
30 claimant, whose disability began before the age of 22, to the
31 dependents counted for the purpose of calculating weekly UI
32 benefit amounts.

33 2. Provide that an individual otherwise eligible for UI benefits
34 is not deemed ineligible for the benefits solely because the
35 individual is a student in full-time attendance, or on vacation from,
36 at an educational institution, so long as the individual remains
37 available for work, eliminating the current benefit eligibility
38 requirement for the individual to have earned sufficient wages while
39 enrolled in full-time in education.

40 3. Shift the current provisions of the UI law that permit the
41 payment of UI benefits to a claimant who is a participant in a
42 department-approved training program from being an exception to
43 the disqualification from benefits when enrolled in full-time
44 education to being a circumstance under which a claimant is
45 eligible, and specify that the claimant's participation in the program
46 is required to be in accordance with the provisions of paragraph (4)
47 of subsection (c) of R.S.43:21-4, which states that a claimant is not

1 disqualified for benefits for failing or refusing to accept work while
2 attending the program.

3 4. Permit a claimant to request that the department make its
4 notification of its initial determination of the benefit claim by
5 electronic means.

6 5. Provide that the current requirement that benefits paid
7 pending an appeal be paid according to the initial determination
8 applies only to the period before the appeal tribunal makes a
9 decision regarding the appeal and provide that the benefits then will
10 be paid according to the decision of the appeal tribunal, pending
11 any appeal of the appeal tribunal decision made to the board of
12 review.

13 6. Remove the requirement in the current law that in cases
14 where an appeal made by an employer of a charge to its UI tax
15 account results in a reduction of benefits to a claimant, any
16 overpayment of benefits paid before the resolution of the appeal is
17 charged to the employer's UI tax account.

18 7. Require the Department of Labor and Workforce
19 Development to develop a mechanism for claimants to have
20 electronic access to their own benefit payment status and history.

21 8. Remove the provision of current law that a claimant is not
22 required to repay any of an overpayment of UI benefits if the
23 overpayment is not caused by a knowing, fraudulent nondisclosure
24 or misrepresentation by the claimant or representative of the
25 claimant, and is not required to repay more than 50 percent of the
26 overpayment if it was made because of both claimant error and
27 department error or employer error or nondisclosure, but without
28 knowing, fraudulent nondisclosure or misrepresentation by the
29 claimant. Instead, the bill provides that if a claimant requests a
30 waiver of the repayment, the department is required to provide a
31 full waiver repayment if the claimant did not withhold or
32 misrepresent any material fact to obtain benefits and the
33 overpayment is due to an error of the department or an error of the
34 employer or failure of the employers to provide information, or also
35 if the claimant has died or become disabled, or recovery is
36 determined to be contrary to equity and good conscience. The bill
37 also requires the department to provide a waiver, even if the
38 claimant makes no request, for an overpayment caused by
39 department error, employer error, or employer failure to provide
40 information, if the department has determined that the claimant did
41 not misrepresent or withhold any material fact to obtain benefits.

42 9. Provide that the calculation of the claimant's average weekly
43 wage used to determine a claimant's weekly benefit amount is
44 based on wages with all base year employers, not just the wages of
45 the most recent employer before the layoff, but with the total
46 number of base weeks limited to 52. The bill also prevents a base-
47 year employer's UI tax account from being charged for UI benefits

1 paid to a claimant while the claimant continues to work for that
2 employer but is laid off by another base year employer.

3 10. Remove, in the case of joint State-federal extended UI
4 benefits, the requirement that a claimant who has been disqualified
5 because of misconduct or failure to apply for or accept suitable
6 work not receive benefits until the claimant is reemployed and earns
7 at least four times the claimant's weekly benefit rate, and replace
8 that by providing that the claimant need only complete the period of
9 regular UI disqualification to be eligible for the extended benefits.

10 The provisions of sections 4 and 6 of the bill apply retroactively
11 back to July 21, 2023. Because all of the provisions of the current
12 law which are removed by section 4 and 6 of the bill were added by
13 P.L.2022, c.120 which went into effect on that date, having those
14 sections apply retroactively to that date would make it as if those
15 provisions had never been allowed to take effect.

ASSEMBLY LABOR COMMITTEE

STATEMENT TO

ASSEMBLY, No. 4047

STATE OF NEW JERSEY

DATED: MARCH 11, 2024

The Assembly Labor Committee reports favorably Assembly Bill No. 4047.

This bill amends the State law regarding unemployment insurance (UI) to:

1. Add any disabled, unmarried adult child of a UI benefit claimant, whose disability began before the age of 22, to the dependents counted for the purpose of calculating weekly UI benefit amounts.

2. Provide that an individual otherwise eligible for UI benefits is not deemed ineligible for the benefits solely because the individual is a student in full-time attendance, or on vacation from, at an educational institution, so long as the individual remains available for work, eliminating the current benefit eligibility requirement for the individual to have earned sufficient wages while enrolled in full-time in education.

3. Shift the current provisions of the UI law that permit the payment of UI benefits to a claimant who is a participant in a department-approved training program from being an exception to the disqualification from benefits when enrolled in full-time education to being a circumstance under which a claimant is eligible, and specify that the claimant's participation in the program is required to be in accordance with the provisions of paragraph (4) of subsection (c) of R.S.43:21-4, which states that a claimant is not disqualified for benefits for failing or refusing to accept work while attending the program.

4. Permit a claimant to request that the department make its notification of its initial determination of the benefit claim by electronic means.

5. Provide that the current requirement that benefits paid pending an appeal be paid according to the initial determination applies only to the period before the appeal tribunal makes a decision regarding the appeal and provide that the benefits then will be paid according to the decision of the appeal tribunal, pending any appeal of the appeal tribunal decision made to the board of review.

6. Remove the requirement in the current law that in cases where an appeal made by an employer of a charge to its UI tax account results in a reduction of benefits to a claimant, any overpayment of

benefits paid before the resolution of the appeal is charged to the employer's UI tax account.

7. Require the Department of Labor and Workforce Development to develop a mechanism for claimants to have electronic access to their own benefit payment status and history.

8. Remove the provision of current law that a claimant is not required to repay any of an overpayment of UI benefits if the overpayment is not caused by a knowing, fraudulent nondisclosure or misrepresentation by the claimant or representative of the claimant, and is not required to repay more than 50 percent of the overpayment if it was made because of both claimant error and department error or employer error or nondisclosure, but without knowing, fraudulent nondisclosure or misrepresentation by the claimant. Instead, the bill provides that if a claimant requests a waiver of the repayment, the department is required to provide a full waiver repayment if the claimant did not withhold or misrepresent any material fact to obtain benefits and the overpayment is due to an error of the department or an error of the employer or failure of the employers to provide information, or also if the claimant has died or become disabled, or recovery is determined to be contrary to equity and good conscience. The bill also requires the department to provide a waiver, even if the claimant makes no request, for an overpayment caused by department error, employer error, or employer failure to provide information, if the department has determined that the claimant did not misrepresent or withhold any material fact to obtain benefits.

9. Provide that the calculation of the claimant's average weekly wage used to determine a claimant's weekly benefit amount is based on wages with all base year employers, not just the wages of the most recent employer before the layoff, but with the total number of base weeks limited to 52. The bill also prevents a base-year employer's UI tax account from being charged for UI benefits paid to a claimant while the claimant continues to work for that employer but is laid off by another base year employer.

10. Remove, in the case of joint State-federal extended UI benefits, the requirement that a claimant who has been disqualified because of misconduct or failure to apply for or accept suitable work not receive benefits until the claimant is reemployed and earns at least four times the claimant's weekly benefit rate, and replace that by providing that the claimant need only complete the period of regular UI disqualification to be eligible for the extended benefits.

The provisions of sections 4 and 6 of the bill apply retroactively back to July 21, 2023. Because all of the provisions of the current law which are removed by section 4 and 6 of the bill were added by P.L.2022, c.120 which went into effect on that date, having those sections apply retroactively to that date would make it as if those provisions had never been allowed to take effect.

ASSEMBLY BUDGET COMMITTEE

STATEMENT TO

ASSEMBLY, No. 4047

STATE OF NEW JERSEY

DATED: JUNE 26, 2024

The Assembly Budget Committee reports favorably Assembly Bill No. 4047.

This bill amends the State law regarding unemployment insurance (UI) to:

1. Add any disabled, unmarried adult child of a UI benefit claimant, whose disability began before the age of 22, to the dependents counted for the purpose of calculating weekly UI benefit amounts.

2. Provide that an individual otherwise eligible for UI benefits is not deemed ineligible for the benefits solely because the individual is a student in full-time attendance, or on vacation from, at an educational institution, so long as the individual remains available for work, eliminating the current benefit eligibility requirement for the individual to have earned sufficient wages while enrolled in full-time in education.

3. Shift the current provisions of the UI law that permit the payment of UI benefits to a claimant who is a participant in a department-approved training program from being an exception to the disqualification from benefits when enrolled in full-time education to being a circumstance under which a claimant is eligible, and specify that the claimant's participation in the program is required to be in accordance with the provisions of paragraph (4) of subsection (c) of R.S.43:21-4, which states that a claimant is not disqualified for benefits for failing or refusing to accept work while attending the program.

4. Permit a claimant to request that the department make its notification of its initial determination of the benefit claim by electronic means.

5. Provide that the current requirement that benefits paid pending an appeal be paid according to the initial determination applies only to the period before the appeal tribunal makes a decision regarding the appeal and provide that the benefits then will be paid according to the decision of the appeal tribunal, pending any appeal of the appeal tribunal decision made to the board of review.

6. Remove the requirement in the current law that in cases where an appeal made by an employer of a charge to its UI tax account results in a reduction of benefits to a claimant, any overpayment of

benefits paid before the resolution of the appeal is charged to the employer's UI tax account.

7. Require the Department of Labor and Workforce Development to develop a mechanism for claimants to have electronic access to their own benefit payment status and history.

8. Remove the provision of current law that a claimant is not required to repay any of an overpayment of UI benefits if the overpayment is not caused by a knowing, fraudulent nondisclosure or misrepresentation by the claimant or representative of the claimant, and is not required to repay more than 50 percent of the overpayment if it was made because of both claimant error and department error or employer error or nondisclosure, but without knowing, fraudulent nondisclosure or misrepresentation by the claimant. Instead, the bill provides that if a claimant requests a waiver of the repayment, the department is required to provide a full waiver repayment if the claimant did not withhold or misrepresent any material fact to obtain benefits and the overpayment is due to an error of the department or an error of the employer or failure of the employers to provide information, or also if the claimant has died or become disabled, or recovery is determined to be contrary to equity and good conscience. The bill also requires the department to provide a waiver, even if the claimant makes no request, for an overpayment caused by department error, employer error, or employer failure to provide information, if the department has determined that the claimant did not misrepresent or withhold any material fact to obtain benefits.

9. Provide that the calculation of the claimant's average weekly wage used to determine a claimant's weekly benefit amount is based on wages with all base year employers, not just the wages of the most recent employer before the layoff, but with the total number of base weeks limited to 52. The bill also prevents a base-year employer's UI tax account from being charged for UI benefits paid to a claimant while the claimant continues to work for that employer but is laid off by another base year employer.

10. Remove, in the case of joint State-federal extended UI benefits, the requirement that a claimant who has been disqualified because of misconduct or failure to apply for or accept suitable work not receive benefits until the claimant is reemployed and earns at least four times the claimant's weekly benefit rate, and replace that by providing that the claimant need only complete the period of regular UI disqualification to be eligible for the extended benefits.

The provisions of sections 4 and 6 of the bill apply retroactively back to July 21, 2023. Because all of the provisions of the current law which are removed by section 4 and 6 of the bill were added by P.L.2022, c.120 which went into effect on that date, having those sections apply retroactively to that date would make it as if those provisions had never been allowed to take effect.

FISCAL IMPACT:

The Office of Legislative Services (OLS) estimates that this bill's revisions to unemployment compensation law would increase State expenditures from the unemployment compensation fund by \$14.4 million in the first year and by approximately \$11.5 million in subsequent years.

The OLS finds there are three distinct changes proposed by this bill that will have fiscal impacts: (1) increased benefits for claimants caring for adult dependents with a disability; (2) removing the unemployment insurance overpayment requirement under certain circumstances; and (3) moderation of restrictions on full-time students.

SENATE, No. 2949

STATE OF NEW JERSEY

221st LEGISLATURE

INTRODUCED MARCH 11, 2024

Sponsored by:

Senator PAUL D. MORIARTY

District 4 (Atlantic, Camden and Gloucester)

Senator RAJ MUKHERJI

District 32 (Hudson)

Co-Sponsored by:

Senator McKnight

i

SYNOPSIS

Revises unemployment compensation law.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 10/28/2024)

1 AN ACT concerning unemployment compienensation and amending
2 various parts of the statutory law.

3

4 **BE IT ENACTED** *by the Senate and General Assembly of the State*
5 *of New Jersey:*

6

7 1. R.S.43:21-3 is amended to read as follows:

8 43:21-3. Benefits.

9 (a) Payment of benefits.

10 All benefits shall be promptly paid from the fund in accordance
11 with such regulations as may be prescribed hereunder.

12 (b) Weekly benefits for unemployment.

13 With respect to an individual's benefit year commencing on or
14 after July 1, 1961, such individual, if eligible and unemployed (as
15 defined in subsection (m) of R.S.43:21-19), shall be paid an amount
16 (except as to final payment) equal to his weekly benefit rate less
17 any remuneration, other than remuneration from self-employment
18 paid to an individual who is receiving a self-employment assistance
19 allowance, paid or payable to him for such week in excess of 20%
20 of his weekly benefit rate (fractional part of a dollar omitted) or
21 \$5.00, whichever is the greater; provided that such amount shall be
22 computed to the next lower multiple of \$1.00 if not already a
23 multiple thereof.

24 (c) Weekly benefit rate.

25 (1) With respect to an individual whose benefit year commences
26 after September 30, 1984, his weekly benefit rate under each
27 determination shall be 60% of his average weekly wage, subject to a
28 maximum of 56 $\frac{2}{3}$ % of the Statewide average weekly
29 remuneration paid to workers by employers subject to this chapter
30 (R.S.43:21-1 et seq.), as determined and promulgated by the
31 Commissioner of Labor and Workforce Development; provided,
32 however, that such individual's weekly benefit rate shall be
33 computed to the next lower multiple of \$1.00 if not already a
34 multiple thereof.

35 (2) Dependency benefits.

36 (A) With respect to an individual whose benefit year commences
37 after September 30, 1984, the individual's weekly benefit rate as
38 determined in paragraph (1) of this subsection (c) will be increased
39 by 7% for the first dependent and 4% each for the next two
40 dependents (up to a maximum of three dependents), computed to
41 the next lower multiple of \$1.00 if not already a multiple thereof,
42 except that the maximum weekly benefit rate payable for an
43 individual claiming dependency benefits shall not exceed the
44 maximum amount determined under paragraph (1) of this
45 subsection (c).

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

Matter underlined thus is new matter.

1 (B) For the purposes of this paragraph (2), a dependent is
2 defined as an individual's unemployed spouse or an unemployed
3 unmarried child (including a stepchild or a legally adopted child)
4 under the age of 19 **【or】**, an unemployed unmarried child, who is
5 attending an educational institution as defined in subsection (y) of
6 R.S.43:21-19 on a full-time basis and is under the age of 22, or an
7 unemployed unmarried disabled adult child who has blindness or a
8 disability which began before the age of 22. The burden of proof
9 shall be on the claimant to establish that an individual is a
10 dependent, as that term is defined in this subparagraph (B). For the
11 purpose of this subparagraph (B), blindness or disability shall be
12 determined using the standard set forth within 20 C.F.R. Part 404,
13 Subpart P, which is used by the Social Security Administration to
14 determine disability and blindness when evaluating eligibility for
15 Disabled Adult Child benefits under the Social Security Act. For the
16 purpose of determining under this subparagraph (B) whether an
17 individual is a dependent, because the individual is an adult child
18 who has blindness or a disability which began before the age of 22,
19 written proof of a determination by the Social Security
20 Administration that the individual is currently eligible for Disabled
21 Adult Child benefits under the Social Security Act shall be
22 considered conclusive proof of dependent status. If an individual's
23 spouse is employed during the week the individual files an initial
24 claim for benefits, this paragraph (2) shall not apply. If both
25 spouses establish a claim for benefits in accordance with the
26 provisions of this chapter (R.S.43:21-1 et seq.), only one shall be
27 entitled to dependency benefits as provided in this paragraph (2).

28 (C) Any determination establishing dependency benefits under
29 this paragraph (2) shall remain fixed for the duration of the
30 individual's benefit year and shall not be increased or decreased
31 unless it is determined by the division that the individual
32 wrongfully claimed dependency benefits as a result of false or
33 fraudulent representation.

34 (D) Notwithstanding the provisions of any other law, the
35 division shall use every available administrative means to insure
36 that dependency benefits are paid only to individuals who meet the
37 requirements of this paragraph (2). These administrative actions
38 may include, but shall not be limited to, the following:

39 (i) All married individuals claiming dependents under this
40 paragraph (2) shall be required to provide the social security
41 number of the individual's spouse. If the individual indicates that
42 the spouse is unemployed, the division shall match the social
43 security number of the spouse against available wage records to
44 determine whether earnings were reported on the last quarterly
45 earnings report filed by employers under R.S.43:21-14. If earnings
46 were reported, the division shall contact in writing the last employer
47 to determine whether the spouse is currently employed.

1 (ii) Where a child is claimed as a dependent by an individual
2 under this paragraph (2), the individual shall be required to provide
3 to the division the most recent federal income tax return filed by the
4 individual to assist the division in verifying the claim.

5 (3) For the purposes of this subsection (c), the "Statewide
6 average weekly remuneration paid to workers by employers" shall
7 be computed and determined by the Commissioner of Labor and
8 Workforce Development on or before September 1 of each year on
9 the basis of one-fifty-second of the total remuneration reported for
10 the preceding calendar year by employers subject to this chapter,
11 divided by the average of the number of workers reported by such
12 employers, and shall be effective as to benefit determinations in the
13 calendar year following such computation and determination.

14 (d) Maximum total benefits.

15 (1) (A) (Deleted by amendment, P.L.2003, c.107).

16 (B) (i) With respect to an individual for whom benefits shall be
17 payable for benefit years commencing on or after July 1, 1986, and
18 before July 1, 2003 as provided in this section, the individual shall
19 be entitled to receive a total amount of benefits equal to three-
20 quarters of the individual's base weeks with all employers in the
21 base year multiplied by the individual's weekly benefit rate; but the
22 amount of benefits thus resulting under that determination shall be
23 adjusted to the next lower multiple of \$1.00 if not already a
24 multiple thereof. With respect to an individual for whom benefits
25 shall be payable for benefit years commencing on or after July 1,
26 2003 as provided in this section, the individual shall be entitled to
27 receive a total amount of benefits equal to the number of the
28 individual's base weeks with all employers in the base year
29 multiplied by the individual's weekly benefit rate; but the amount of
30 benefits thus resulting under that determination shall be adjusted to
31 the next lower multiple of \$1.00 if not already a multiple thereof.

32 (ii) Except as provided pursuant to paragraph (1) of subsection
33 (c) of R.S.43:21-7, benefits paid to an individual for benefit years
34 commencing on or after July 1, 1986 shall be charged against the
35 accounts of the individual's base year employers in the following
36 manner:

37 Each week of benefits paid to an eligible individual shall be
38 charged against each base year employer's account in the same
39 proportion that the wages paid by each employer to the individual
40 during the base year bear to the wages paid by all employers to that
41 individual during the base year.

42 (iii) (Deleted by amendment, P.L.1997, c.255.)

43 (2) No such individual shall be entitled to receive benefits under
44 this chapter (R.S.43:21-1 et seq.) in excess of 26 times his weekly
45 benefit rate in any benefit year under either of subsections (c) and
46 (f) of R.S. 43:21-4. In the event that any individual qualifies for
47 benefits under both of said subsections during any benefit year, the
48 maximum total amount of benefits payable under said subsections

1 combined to such individual during the benefit year shall be one
2 and one-half times the maximum amount of benefits payable under
3 one of said subsections.

4 (3) (Deleted by amendment, P.L.1984, c.24.)
5 (cf: P.L.2004, c.45, s.1)
6

7 2. R.S.43:21-4 is amended to read as follows:

8 43:21-4. Benefit eligibility conditions. An unemployed
9 individual shall be eligible to receive benefits with respect to any
10 week eligible only if:

11 (a) The individual has filed a claim at an unemployment
12 insurance claims office and thereafter continues to report at an
13 employment service office or unemployment insurance claims
14 office, as directed by the division in accordance with such
15 regulations as the division may prescribe, except that the division
16 may, by regulation, waive or alter either or both of the requirements
17 of this subsection as to individuals attached to regular jobs, and as
18 to such other types of cases or situations with respect to which the
19 division finds that compliance with such requirements would be
20 oppressive, or would be inconsistent with the purpose of this act;
21 provided that no such regulation shall conflict with subsection (a) of
22 R.S.43:21-3.

23 (b) The individual has made a claim for benefits in accordance
24 with the provisions of subsection (a) of R.S.43:21-6.

25 (c) (1) The individual is able to work, and is available for work,
26 and has demonstrated to be actively seeking work, except as
27 hereinafter provided in this subsection or in subsection (f) of this
28 section.

29 (2) The director may modify the requirement of actively seeking
30 work if such modification of this requirement is warranted by
31 economic conditions.

32 (3) No individual, who is otherwise eligible, shall be deemed
33 ineligible, or unavailable for work, because the individual is on
34 vacation, without pay, during said week, if said vacation is not the
35 result of the individual's own action as distinguished from any
36 collective action of a collective bargaining agent or other action
37 beyond the individual's control.

38 (4) (A) Subject to such limitations and conditions as the
39 division may prescribe, an individual, who is otherwise eligible,
40 shall not be deemed unavailable for work or ineligible because the
41 individual is attending a training program approved for the
42 individual by the division to enhance the individual's employment
43 opportunities or because the individual failed or refused to accept
44 work while attending such program.

45 (B) For the purpose of this paragraph (4), any training program
46 shall be regarded as approved by the division for the individual if
47 the program and the individual meet the following requirements:

1 (i) The training is for a labor demand occupation and is likely to
2 enhance the individual's marketable skills and earning power,
3 except that the training may be for an occupation other than a labor
4 demand occupation if the individual is receiving short-time benefits
5 pursuant to the provisions of P.L.2011, c.154 (C.43:21-20.3 et al.)
6 and the training is necessary to prevent a likely loss of jobs;

7 (ii) The training is provided by a competent and reliable private
8 or public entity approved by the Commissioner of Labor and
9 Workforce Development pursuant to the provisions of section 8 of
10 the "1992 New Jersey Employment and Workforce Development
11 Act," P.L.1992, c.43 (C.34:15D-8);

12 (iii) The individual can reasonably be expected to complete the
13 program, either during or after the period of benefits;

14 (iv) The training does not include on the job training or other
15 training under which the individual is paid by an employer for work
16 performed by the individual during the time that the individual
17 receives benefits; and

18 (v) The individual enrolls in vocational training, remedial
19 education or a combination of both on a full-time basis, except that
20 the training or education may be on a part-time basis if the
21 individual is receiving short-time benefits pursuant to the provisions
22 of P.L.2011, c.154 (C.43:21-20.3 et al.).

23 (C) If the requirements of subparagraph (B) of this paragraph (4)
24 are met, the division shall not withhold approval of the training
25 program for the individual for any of the following reasons:

26 (i) The training includes remedial basic skills education
27 necessary for the individual to successfully complete the vocational
28 component of the training;

29 (ii) The training is provided in connection with a program under
30 which the individual may obtain a college degree, including a post-
31 graduate degree;

32 (iii) The length of the training period under the program; or

33 (iv) The lack of a prior guarantee of employment upon
34 completion of the training.

35 (D) For the purpose of this paragraph (4), "labor demand
36 occupation" means an occupation for which there is or is likely to
37 be an excess of demand over supply for adequately trained workers,
38 including, but not limited to, an occupation designated as a labor
39 demand occupation by the Center for Occupational Employment
40 Information pursuant to the provisions of subsection d. of section
41 27 of P.L.2005, c.354 (C.34:1A-86).

42 (5) An unemployed individual, who is otherwise eligible, shall
43 not be deemed unavailable for work or ineligible solely by reason of
44 the individual's attendance before a court in response to a summons
45 for service on a jury.

46 (6) An unemployed individual, who is otherwise eligible, shall
47 not be deemed unavailable for work or ineligible solely by reason of
48 the individual's attendance at the funeral of an immediate family

1 member, provided that the duration of the attendance does not
2 extend beyond a two-day period.

3 For purposes of this paragraph, "immediate family member"
4 includes any of the following individuals: father, mother, mother-
5 in-law, father-in-law, grandmother, grandfather, grandchild, spouse,
6 child, child placed by the Division of Youth and Family Services in
7 the Department of Children and Families, sister or brother of the
8 unemployed individual and any relatives of the unemployed
9 individual residing in the unemployed individual's household.

10 (7) No individual, who is otherwise eligible, shall be deemed
11 ineligible or unavailable for work with respect to any week because,
12 during that week, the individual fails or refuses to accept work
13 while the individual is participating on a full-time basis in self-
14 employment assistance activities authorized by the division,
15 whether or not the individual is receiving a self-employment
16 allowance during that week.

17 (8) Any individual who is determined to be likely to exhaust
18 regular benefits and need reemployment services based on
19 information obtained by the worker profiling system shall not be
20 eligible to receive benefits if the individual fails to participate in
21 available reemployment services to which the individual is referred
22 by the division or in similar services, unless the division determines
23 that:

24 (A) The individual has completed the reemployment services; or
25 (B) There is justifiable cause for the failure to participate, which
26 shall include participation in employment and training, self-
27 employment assistance activities or other activities authorized by
28 the division to assist reemployment or enhance the marketable skills
29 and earning power of the individual and which shall include any
30 other circumstance indicated pursuant to this section in which an
31 individual is not required to be available for and actively seeking
32 work to receive benefits.

33 (9) An unemployed individual, who is otherwise eligible, shall
34 not be deemed unavailable for work or ineligible solely by reason of
35 the individual's work as a board worker for a county board of
36 elections on an election day.

37 (10) An individual who is employed by a shared work employer
38 and is otherwise eligible for benefits shall not be deemed ineligible
39 for short-time benefits because the individual is unavailable for
40 work with employers other than the shared work employer, so long
41 as:

42 (A) The individual is able to work and is available to work the
43 individual's normal full-time hours for the shared work employer;
44 or

45 (B) The individual is attending a training program which is in
46 compliance with the provisions of paragraph (4) of subsection (c) of
47 this section and the agreements and certifications required pursuant
48 to the provisions of section 2 of P.L.2011, c.154 (C.43:21-20.4).

1 (11) An unemployed individual, who is otherwise eligible, shall
2 not be deemed unavailable for work or ineligible solely because the
3 individual is a student in full-time attendance at, or on vacation
4 from, an educational institution, as defined in subsection (y) of R.S.
5 43:21-19; provided that the unemployed individual's full-time
6 attendance at the educational institution does not, in fact, result in
7 the unemployed individual being unable to work or being
8 unavailable for work, and provided that notwithstanding the
9 unemployed individual's full-time attendance at the educational
10 institution, the unemployed individual is able to demonstrate that
11 the individual is actively seeking work.

12 (12) An unemployed individual, who is otherwise eligible, shall
13 not be deemed unavailable for work or ineligible solely because the
14 individual is attending a training program approved by the division
15 to enhance the individual's employment opportunities, in
16 accordance with the provisions of paragraph (4) of subsection (c) of
17 R.S. 43:21-4.

18 (d) With respect to any benefit year commencing before January
19 1, 2002, the individual has been totally or partially unemployed for
20 a waiting period of one week in the benefit year which includes that
21 week. When benefits become payable with respect to the third
22 consecutive week next following the waiting period, the individual
23 shall be eligible to receive benefits as appropriate with respect to
24 the waiting period. No week shall be counted as a week of
25 unemployment for the purposes of this subsection:

26 (1) If benefits have been paid, or are payable with respect
27 thereto; provided that the requirements of this paragraph shall be
28 waived with respect to any benefits paid or payable for a waiting
29 period as provided in this subsection;

30 (2) If it has constituted a waiting period week under the
31 "Temporary Disability Benefits Law," P.L.1948, c.110 (C.43:21-25
32 et al.);

33 (3) Unless the individual fulfills the requirements of subsections
34 (a) and (c) of this section;

35 (4) If with respect thereto, claimant was disqualified for benefits
36 in accordance with the provisions of subsection (d) of R.S.43:21-5.

37 The waiting period provided by this subsection shall not apply to
38 benefit years commencing on or after January 1, 2002. An
39 individual whose total benefit amount was reduced by the
40 application of the waiting period to a claim which occurred on or
41 after January 1, 2002 and before the effective date of P.L.2002,
42 c.13, shall be permitted to file a claim for the additional benefits
43 attributable to the waiting period in the form and manner prescribed
44 by the division, but not later than the 180th day following the
45 effective date of P.L.2002, c.13 unless the division determines that
46 there is good cause for a later filing.

47 (e) (1) (Deleted by amendment, P.L.2001, c.17).

48 (2) (Deleted by amendment, P.L.2008, c.17).

1 (3) (Deleted by amendment, P.L.2008, c.17).

2 (4) With respect to benefit years commencing on or after
3 January 7, 2001, except as otherwise provided in paragraph (5) of
4 this subsection, the individual has, during his base year as defined
5 in subsection (c) of R.S.43:21-19:

6 (A) Established at least 20 base weeks as defined in paragraphs
7 (2) and (3) of subsection (t) of R.S.43:21-19; or

8 (B) If the individual has not met the requirements of
9 subparagraph (A) of this paragraph (4), earned remuneration not
10 less than an amount 1,000 times the minimum wage in effect
11 pursuant to section 5 of P.L.1966, c.113 (C.34:11-56a4) on October
12 1 of the calendar year preceding the calendar year in which the
13 benefit year commences, which amount shall be adjusted to the next
14 higher multiple of \$100 if not already a multiple thereof.

15 (5) With respect to benefit years commencing on or after
16 January 7, 2001, notwithstanding the provisions of paragraph (4) of
17 this subsection, an unemployed individual claiming benefits on the
18 basis of service performed in the production and harvesting of
19 agricultural crops shall, subject to the limitations of subsection (i)
20 of R.S.43:21-19, be eligible to receive benefits if during his base
21 year, as defined in subsection (c) of R.S.43:21-19, the individual:

22 (A) Has established at least 20 base weeks as defined in
23 paragraphs (2) and (3) of subsection (t) of R.S.43:21-19; or

24 (B) Has earned remuneration not less than an amount 1,000
25 times the minimum wage in effect pursuant to section 5 of
26 P.L.1966, c.113 (C.34:11-56a4) on October 1 of the calendar year
27 preceding the calendar year in which the benefit year commences,
28 which amount shall be adjusted to the next higher multiple of \$100
29 if not already a multiple thereof; or

30 (C) Has performed at least 770 hours of service in the
31 production and harvesting of agricultural crops.

32 (6) The individual applying for benefits in any successive
33 benefit year has earned at least six times his previous weekly
34 benefit amount and has had four weeks of employment since the
35 beginning of the immediately preceding benefit year. This
36 provision shall be in addition to the earnings requirements specified
37 in paragraph (4) or (5) of this subsection, as applicable.

38 (f) (1) The individual has suffered any accident or sickness not
39 compensable under the workers' compensation law, R.S.34:15-1 et
40 seq. and resulting in the individual's total disability to perform any
41 work for remuneration, and would be eligible to receive benefits
42 under this chapter (R.S.43:21-1 et seq.) (without regard to the
43 maximum amount of benefits payable during any benefit year)
44 except for the inability to work and has furnished notice and proof
45 of claim to the division, in accordance with its rules and
46 regulations, and payment is not precluded by the provisions of
47 R.S.43:21-3(d); provided, however, that benefits paid under this
48 subsection (f) shall be computed on the basis of only those base

1 year wages earned by the claimant as a "covered individual," as
2 defined in subsection (b) of section 3 of P.L.1948, c.110 (C.43:21-
3 27); provided further that no benefits shall be payable under this
4 subsection to any individual:

5 (A) For any period during which such individual is not under the
6 care of a legally licensed physician, dentist, optometrist, podiatrist,
7 practicing psychologist, advanced practice nurse, or chiropractor,
8 who, when requested by the division, shall certify within the scope
9 of the practitioner's practice, the disability of the individual, the
10 probable duration thereof, and, where applicable, the medical facts
11 within the practitioner's knowledge;

12 (B) (Deleted by amendment, P.L.1980, c.90.)

13 (C) For any period of disability due to willfully or intentionally
14 self-inflicted injury, or to injuries sustained in the perpetration by
15 the individual of a crime of the first, second or third degree;

16 (D) For any week with respect to which or a part of which the
17 individual has received or is seeking benefits under any
18 unemployment compensation or disability benefits law of any other
19 state or of the United States; provided that if the appropriate agency
20 of such other state or the United States finally determines that the
21 individual is not entitled to such benefits, this disqualification shall
22 not apply;

23 (E) For any week with respect to which or part of which the
24 individual has received or is seeking disability benefits under the
25 "Temporary Disability Benefits Law," P.L.1948, c.110 (C.43:21-25
26 et al.);

27 (F) For any period of disability commencing while such
28 individual is a "covered individual," as defined in subsection (b) of
29 section 3 of the "Temporary Disability Benefits Law," P.L.1948,
30 c.110 (C.43:21-27).

31 (2) The individual is taking family temporary disability leave to
32 provide care for a family member with a serious health condition or
33 to be with a child during the first 12 months after the child's birth or
34 placement of the child for adoption or as a foster child with the
35 individual, and the individual would be eligible to receive benefits
36 under R.S.43:21-1 et seq. (without regard to the maximum amount
37 of benefits payable during any benefit year) except for the
38 individual's unavailability for work while taking the family
39 temporary disability leave, and the individual has furnished notice
40 and proof of claim to the division, in accordance with its rules and
41 regulations, and payment is not precluded by the provisions of
42 R.S.43:21-3(d) provided, however, that benefits paid under this
43 subsection (f) shall be computed on the basis of only those base
44 year wages earned by the claimant as a "covered individual," as
45 defined in subsection (b) of section 3 of P.L.1948, c.110 (C.43:21-
46 27); provided further that no benefits shall be payable under this
47 subsection to any individual:

1 (A) For any week with respect to which or a part of which the
2 individual has received or is seeking benefits under any
3 unemployment compensation or disability benefits law of any other
4 state or of the United States; provided that if the appropriate agency
5 of such other state or the United States finally determines that the
6 individual is not entitled to such benefits, this disqualification shall
7 not apply;

8 (B) For any week with respect to which or part of which the
9 individual has received or is seeking disability benefits for a
10 disability of the individual under the "Temporary Disability
11 Benefits Law," P.L.1948, c.110 (C.43:21-25 et al.);

12 (C) For any period of family temporary disability leave
13 commencing while the individual is a "covered individual," as
14 defined in subsection (b) of section 3 of the "Temporary Disability
15 Benefits Law," P.L.1948, c.110 (C.43:21-27); or

16 (D) For any period of family temporary disability leave for a
17 serious health condition of a family member of the claimant during
18 which the family member is not receiving inpatient care in a
19 hospital, hospice, or residential medical care facility and is not
20 subject to continuing medical treatment or continuing supervision
21 by a health care provider, who, when requested by the division,
22 shall certify within the scope of the provider's practice, the serious
23 health condition of the family member, the probable duration
24 thereof, and, where applicable, the medical facts within the
25 provider's knowledge.

26 (3) Benefit payments under this subsection (f) shall be charged
27 to and paid from the State disability benefits fund established by the
28 "Temporary Disability Benefits Law," P.L.1948, c.110 (C.43:21-25
29 et al.), and shall not be charged to any employer account in
30 computing any employer's experience rate for contributions payable
31 under this chapter.

32 (g) Benefits based on service in employment defined in
33 subparagraphs (B) and (C) of R.S.43:21-19 (i)(1) shall be payable
34 in the same amount and on the terms and subject to the same
35 conditions as benefits payable on the basis of other service subject
36 to the "unemployment compensation law"; except that,
37 notwithstanding any other provisions of the "unemployment
38 compensation law":

39 (1) With respect to service performed after December 31, 1977,
40 in an instructional, research, or principal administrative capacity for
41 an educational institution, benefits shall not be paid based on such
42 services for any week of unemployment commencing during the
43 period between two successive academic years, or during a similar
44 period between two regular terms, whether or not successive, or
45 during a period of paid sabbatical leave provided for in the
46 individual's contract, to any individual if such individual performs
47 such services in the first of such academic years (or terms) and if
48 there is a contract or a reasonable assurance that such individual

1 will perform services in any such capacity for any educational
2 institution in the second of such academic years or terms;

3 (2) With respect to weeks of unemployment beginning after
4 September 3, 1982, on the basis of service performed in any other
5 capacity for an educational institution, benefits shall not be paid on
6 the basis of such services to any individual for any week which
7 commences during a period between two successive academic years
8 or terms if such individual performs such services in the first of
9 such academic years or terms and there is a reasonable assurance
10 that such individual will perform such services in the second of
11 such academic years or terms, except that if benefits are denied to
12 any individual under this paragraph (2) and the individual was not
13 offered an opportunity to perform these services for the educational
14 institution for the second of any academic years or terms, the
15 individual shall be entitled to a retroactive payment of benefits for
16 each week for which the individual filed a timely claim for benefits
17 and for which benefits were denied solely by reason of this clause;

18 (3) With respect to those services described in paragraphs (1)
19 and (2) above, benefits shall not be paid on the basis of such
20 services to any individual for any week which commences during
21 an established and customary vacation period or holiday recess if
22 such individual performs such services in the period immediately
23 before such vacation period or holiday recess, and there is a
24 reasonable assurance that such individual will perform such
25 services in the period immediately following such period or holiday
26 recess;

27 (4) With respect to any services described in paragraphs (1) and
28 (2) above, benefits shall not be paid as specified in paragraphs (1),
29 (2), and (3) above to any individual who performed those services
30 in an educational institution while in the employ of an educational
31 service agency, and for this purpose the term "educational service
32 agency" means a governmental agency or governmental entity
33 which is established and operated exclusively for the purpose of
34 providing those services to one or more educational institutions;

35 (5) As used in this subsection (g) in order for there to be a
36 "reasonable assurance" all of the following requirements shall be
37 met:

38 (A) The educational institution has made an offer of employment
39 in the following academic year or term that is either written, oral, or
40 implied;

41 (B) The offer of employment in the following academic year or
42 term was made by an individual with actual authority to offer
43 employment;

44 (C) The employment offered in the following academic year or
45 term shall be in the same capacity;

46 (D) The economic conditions of the employment offered may not
47 be considerably less in the following academic year or term than in
48 the then current academic year or term. For the purpose of this

1 paragraph, "considerably less" means that the claimant will earn
2 less than 90 percent of the amount the claimant earned in the then
3 current academic year or term;

4 (E) The offer of employment in the following academic year or
5 term is not contingent upon a factor or factors that are within the
6 educational institution's control, including but not limited to, course
7 programming, decisions on how to allocate available funding, final
8 course offerings, program changes, and facility availability; and

9 (F) Based on a totality of the circumstances, it is highly
10 probable that there is a job available for the claimant in the
11 following academic year or term. If a job offer contains a
12 contingency, primary weight should be given to the contingent
13 nature of the offer of employment. Contingencies that are not
14 necessarily within the educational institution's control, such as
15 funding, enrollment and seniority, may be taken into consideration
16 but the existence of any one contingency should not determine
17 whether it is highly probable that there is a job available for the
18 claimant in the following academic year or term.

19 (6) Determinations by the department whether claimants have a
20 "reasonable assurance" shall be done on a case-by-case basis.

21 (7) Each educational institution shall provide the following to
22 the department, in a form, including electronic form, prescribed by
23 the commissioner, no less than 10 business days prior to the end of
24 the academic year or term:

25 (A) A list of all employees who the educational institution has
26 concluded do not have a reasonable assurance of employment in the
27 following academic year or term, along with information prescribed
28 by the commissioner regarding each such employee, which
29 information shall include, but not be limited to, name and social
30 security number; and

31 (B) For each employee that the educational institution maintains
32 does have a reasonable assurance of employment in the following
33 academic year or term, a statement explaining the manner in which
34 the employee was given a reasonable assurance of employment, that
35 is, whether it was in writing, oral, or implied, and what information
36 about the offer, including contingencies, was communicated to the
37 individual.

38 (8) The statement required under subparagraph (B) of paragraph
39 (7) of this subsection (g) may be used by the department in its
40 analysis under paragraphs (5) and (6) of this subsection (g), but it
41 does not conclusively demonstrate that the claimant has a
42 reasonable assurance of employment in the following academic year
43 or term.

44 (9) Failure of an educational institution to provide the statement
45 required under subparagraph (B) of paragraph (7) of this subsection
46 (g) not less than 10 business days prior to the end of the academic
47 year or term shall result in a rebuttable presumption that the
48 claimant does not have a reasonable assurance of employment in the

1 following academic year or term. This rebuttable presumption shall
2 give rise to an inference that the claimant does not have a
3 reasonable assurance of employment in the following academic year
4 or term, but shall not conclusively demonstrate that the claimant
5 does not have a reasonable assurance of employment in the
6 following academic year or term.

7 (10) If any part of P.L.2020, c.122 is found to be in conflict with
8 federal requirements that are a prescribed condition to the allocation
9 of federal funds to the State or the eligibility of employers in this
10 State for federal unemployment tax credits, the conflicting part of
11 that act is inoperative solely to the extent of the conflict, and the
12 finding or determination does not affect the operation of the
13 remainder of this act. Rules adopted under this act shall meet
14 federal requirements that are a necessary condition to the receipt of
15 federal funds by the State or the granting of federal unemployment
16 tax credits to employers in this State.

17 (h) Benefits shall not be paid to any individual on the basis of
18 any services, substantially all of which consist of participating in
19 sports or athletic events or training or preparing to so participate,
20 for any week which commences during the period between two
21 successive sports seasons (or similar periods) if such individual
22 performed such services in the first of such seasons (or similar
23 periods) and there is a reasonable assurance that such individual
24 will perform such services in the later of such seasons (or similar
25 periods).

26 (i) (1) Benefits shall not be paid on the basis of services
27 performed by an alien unless such alien is an individual who was
28 lawfully admitted for permanent residence at the time the services
29 were performed and was lawfully present for the purpose of
30 performing the services or otherwise was permanently residing in
31 the United States under color of law at the time the services were
32 performed (including an alien who is lawfully present in the United
33 States as a result of the application of the provisions of section
34 212(d)(5) (8 U.S.C. s.1182 (d)(5)) of the Immigration and
35 Nationality Act (8 U.S.C. s.1101 et seq.)); provided that any
36 modifications of the provisions of section 3304(a)(14) of the
37 Federal Unemployment Tax Act (26 U.S.C. s. 3304 (a) (14)) as
38 provided by Pub.L.94-566, which specify other conditions or other
39 effective dates than stated herein for the denial of benefits based on
40 services performed by aliens and which modifications are required
41 to be implemented under State law as a condition for full tax credit
42 against the tax imposed by the Federal Unemployment Tax Act,
43 shall be deemed applicable under the provisions of this section.

44 (2) Any data or information required of individuals applying for
45 benefits to determine whether benefits are not payable to them
46 because of their alien status shall be uniformly required from all
47 applicants for benefits.

1 (3) In the case of an individual whose application for benefits
2 would otherwise be approved, no determination that benefits to such
3 individual are not payable because of alien status shall be made
4 except upon a preponderance of the evidence.

5 (j) Notwithstanding any other provision of this chapter, the
6 director may, to the extent that it may be deemed efficient and
7 economical, provide for consolidated administration by one or more
8 representatives or deputies of claims made pursuant to subsection
9 (f) of this section with those made pursuant to Article III (State
10 plan) of the "Temporary Disability Benefits Law," P.L.1948, c.110
11 (C.43:21-25 et al.).
12 (cf: P.L.2020, c.122)

13

14 3. R.S.43:21-5 is amended to read as follows:

15 43:21-5. An individual shall be disqualified for benefits:

16 (a) For the week in which the individual has left work
17 voluntarily without good cause attributable to such work, and for
18 each week thereafter until the individual becomes reemployed and
19 works eight weeks in employment, which may include employment
20 for the federal government, and has earned in employment at least
21 ten times the individual's weekly benefit rate, as determined in each
22 case. This subsection shall apply to any individual seeking
23 unemployment benefits on the basis of employment in the
24 production and harvesting of agricultural crops, including any
25 individual who was employed in the production and harvesting of
26 agricultural crops on a contract basis and who has refused an offer
27 of continuing work with that employer following the completion of
28 the minimum period of work required to fulfill the contract. This
29 subsection shall not apply to an individual who voluntarily leaves
30 work with one employer to accept from another employer
31 employment which commences not more than seven days after the
32 individual leaves employment with the first employer, if the
33 employment with the second employer has weekly hours or pay not
34 less than the hours or pay of the employment of the first employer,
35 except that if the individual gives notice to the first employer that
36 the individual will leave employment on a specified date and the
37 first employer terminates the individual before that date, the seven-
38 day period will commence from the specified date.

39 (b) For the week in which the individual has been suspended or
40 discharged for misconduct connected with the work, and for the five
41 weeks which immediately follow that week, as determined in each
42 case.

43 "Misconduct" means conduct which is improper, intentional,
44 connected with the individual's work, within the individual's
45 control, not a good faith error of judgment or discretion, and is
46 either a deliberate refusal, without good cause, to comply with the
47 employer's lawful and reasonable rules made known to the
48 employee or a deliberate disregard of standards of behavior the

1 employer has a reasonable right to expect, including reasonable
2 safety standards and reasonable standards for a workplace free of
3 drug and substance use.

4 In the event the discharge should be rescinded by the employer
5 voluntarily or as a result of mediation or arbitration, this subsection
6 (b) shall not apply, provided, however, an individual who is
7 restored to employment with back pay shall return any benefits
8 received under this chapter for any week of unemployment for
9 which the individual is subsequently compensated by the employer.

10 If the discharge was for gross misconduct connected with the
11 work because of the commission of an act punishable as a crime of
12 the first, second, third or fourth degree under the "New Jersey Code
13 of Criminal Justice," N.J.S.2C:1-1 et seq., the individual shall be
14 disqualified in accordance with the disqualification prescribed in
15 subsection (a) of this section and no benefit rights shall accrue to
16 any individual based upon wages from that employer for services
17 rendered prior to the day upon which the individual was discharged.

18 The director shall ensure that any appeal of a determination
19 holding the individual disqualified for gross misconduct in
20 connection with the work shall be expeditiously processed by the
21 appeal tribunal.

22 To sustain disqualification from benefits because of misconduct
23 under this subsection (b), the burden of proof is upon the employer,
24 who shall, prior to a determination by the department of
25 misconduct, provide written documentation demonstrating that the
26 employee's actions constitute misconduct or gross misconduct.

27 Nothing within this subsection (b) shall be construed to interfere
28 with the exercise of rights protected under the "National Labor
29 Relations Act," (29 U.S.C. s.151 et seq.) or the "New Jersey
30 Employer-Employee Relations Act," P.L.1941, c.100 (C.34:13A-1
31 et seq.).

32 (c) If it is found that the individual has failed, without good
33 cause, either to apply for available, suitable work when so directed
34 by the employment office or the director or to accept suitable work
35 when it is offered, or to return to the individual's customary self-
36 employment (if any) when so directed by the director. The
37 disqualification shall continue for the week in which the failure
38 occurred and for the three weeks which immediately follow that
39 week, as determined:

40 (1) In determining whether or not any work is suitable for an
41 individual, consideration shall be given to the degree of risk
42 involved to health, safety, and morals, the individual's physical
43 fitness and prior training, experience and prior earnings, the
44 individual's length of unemployment and prospects for securing
45 local work in the individual's customary occupation, and the
46 distance of the available work from the individual's residence. In
47 the case of work in the production and harvesting of agricultural
48 crops, the work shall be deemed to be suitable without regard to the

1 distance of the available work from the individual's residence if all
2 costs of transportation are provided to the individual and the terms
3 and conditions of hire are as favorable or more favorable to the
4 individual as the terms and conditions of the individual's base year
5 employment.

6 (2) Notwithstanding any other provisions of this chapter, no
7 work shall be deemed suitable and benefits shall not be denied
8 under this chapter to any otherwise eligible individual for refusing
9 to accept new work under any of the following conditions: the
10 position offered is vacant due directly to a strike, lockout, or other
11 labor dispute; the remuneration, hours, or other conditions of the
12 work offered are substantially less favorable to the individual than
13 those prevailing for similar work in the locality; or, the individual,
14 as a condition of being employed, would be required to join a
15 company union or to resign from or refrain from joining any bona
16 fide labor organization.

17 (d) If it is found that this unemployment is due to a stoppage of
18 work which exists because of a labor dispute at the factory,
19 establishment or other premises at which the individual is or was
20 last employed, except as otherwise provided by this subsection (d).

21 (1) No disqualification under this subsection (d) shall apply if it
22 is shown that:

23 (i) The individual is not participating in or financing or directly
24 interested in the labor dispute which caused the stoppage of work;
25 and

26 (ii) The individual does not belong to a grade or class of
27 workers of which, immediately before the commencement of the
28 stoppage, there were members employed at the premises at which
29 the stoppage occurs, any of whom are participating in or financing
30 or directly interested in the dispute; provided that if in any case in
31 which subparagraphs (i) or (ii) of this paragraph (1) applies,
32 separate branches of work which are commonly conducted as
33 separate businesses in separate premises are conducted in separate
34 departments of the same premises, each department shall, for the
35 purpose of this subsection, be deemed to be a separate factory,
36 establishment, or other premises.

37 (2) For any claim for a period of unemployment commencing on
38 or after December 1, 2004 due to a stoppage of work which exists
39 because of a labor dispute at the factory, establishment or other
40 premises at which the individual is or was last employed, no
41 disqualification under this subsection (d) shall apply if it is shown
42 that the individual has been prevented from working by the
43 employer, even though the individual's recognized or certified
44 majority representative has directed the employees in the
45 individual's collective bargaining unit to work under the preexisting
46 terms and conditions of employment, and, if the period of
47 unemployment commenced before January 1, 2022, the employees
48 had not engaged in a strike immediately before being prevented

1 from working, or if the a period of unemployment commenced on
2 or after January 1, 2022, whether or not the employees had engaged
3 in a strike immediately before being prevented from working.

4 (3) For any claim for a period of unemployment commencing on
5 or after July 1, 2018 due to a stoppage of work which exists because
6 of a labor dispute at the factory, establishment or other premises at
7 which the individual is or was last employed, no disqualification
8 under this subsection (d) shall apply if an issue in the labor dispute
9 is a failure or refusal of the employer to comply with an agreement
10 or contract between the employer and the claimant, including a
11 collective bargaining agreement with a union representing the
12 claimant, or a failure or refusal to comply with a State or federal
13 law pertaining to hours, wages, or other conditions of work.

14 (4) For any claim for a period of unemployment commencing on
15 or after July 1, 2018 and before January 1, 2022, if the
16 unemployment is caused by a labor dispute, including a strike or
17 other concerted activities of employees at the claimant's workplace,
18 whether or not authorized or sanctioned by a union representing the
19 claimant, but not including a dispute subject to the provisions of
20 paragraph (2) or (3) of this subsection (d), the claimant shall not be
21 provided benefits for a period of the first 30 days following the
22 commencement of the unemployment caused by the labor dispute,
23 except that the period without benefits shall not apply if the
24 employer hires a permanent replacement worker for the claimant's
25 position. A replacement worker shall be presumed to be permanent
26 unless the employer certifies in writing that the claimant will be
27 permitted to return to his or her prior position upon conclusion of
28 the dispute. If the employer does not permit the return, the claimant
29 shall be entitled to recover any benefits lost as a result of the 30-day
30 waiting period before receiving benefits, and the department may
31 impose a penalty upon the employer of up to \$750 per employee per
32 week of benefits lost. The penalty collected shall be paid into the
33 unemployment compensation auxiliary fund established pursuant to
34 subsection (g) of R.S.43:21-14. For any claim for a period of
35 unemployment commencing on or after January 1, 2022 due to a
36 stoppage of work which exists because of a labor dispute at the
37 factory, establishment or other premises at which the individual is
38 or was last employed, including a strike or other concerted activities
39 of employees at the claimant's workplace, whether or not authorized
40 or sanctioned by a union representing the claimant, but not
41 including a dispute subject to the provisions of paragraph (2) or (3)
42 of this subsection (d), the claimant shall not be provided benefits
43 for a period of the first 14 days following the commencement of the
44 unemployment caused by the labor dispute, except that the claimant
45 shall be provided benefits during any part of that the 14-day period
46 in which the employer engages the services of a replacement worker
47 for the claimant's position, whether that replacement worker is
48 engaged on a permanent or temporary basis, or is an existing worker

1 reassigned permanently or temporarily from other duties to perform
2 the duties of the claimant's position. For any claim for a period of
3 unemployment commencing on or after January 1, 2022 which
4 exists because of a labor dispute at the factory, establishment or
5 other premises at which the individual is or was last employed, if
6 the labor dispute has not resulted in a stoppage of work, no
7 disqualification under this subsection (d) shall apply, and the 14-
8 day waiting period in this paragraph (4) shall not apply.

9 (e) For any week with respect to which the individual is
10 receiving or has received remuneration in lieu of notice.

11 (f) For any week with respect to which or a part of which the
12 individual has received or is seeking unemployment benefits under
13 an unemployment compensation law of any other state or of the
14 United States; provided that if the appropriate agency of the other
15 state or of the United States finally determines that the individual is
16 not entitled to unemployment benefits, this disqualification shall not
17 apply.

18 (g) (1) For a period of one year from the date of the discovery
19 by the division of the illegal receipt or attempted receipt of benefits
20 contrary to the provisions of this chapter, as the result of any false
21 or fraudulent representation; provided that any disqualification may
22 be appealed in the same manner as any other disqualification
23 imposed hereunder; and provided further that a conviction in the
24 courts of this State arising out of the illegal receipt or attempted
25 receipt of these benefits in any proceeding instituted against the
26 individual under the provisions of this chapter or any other law of
27 this State shall be conclusive upon the appeals tribunal and the
28 board of review.

29 (2) A disqualification under this subsection shall not preclude the
30 prosecution of any civil, criminal or administrative action or
31 proceeding to enforce other provisions of this chapter for the
32 assessment and collection of penalties or the refund of any amounts
33 collected as benefits under the provisions of R.S.43:21-16, or to
34 enforce any other law, where an individual obtains or attempts to
35 obtain by theft or robbery or false statements or representations any
36 money from any fund created or established under this chapter or
37 any negotiable or nonnegotiable instrument for the payment of
38 money from these funds, or to recover money erroneously or
39 illegally obtained by an individual from any fund created or
40 established under this chapter.

41 (h) (1) Notwithstanding any other provisions of this chapter
42 (R.S.43:21-1 et seq.), no otherwise eligible individual shall be
43 denied benefits for any week because the individual is in training
44 approved under section 236(a)(1) of the "Trade Act of 1974,"
45 Pub.L.93-618 (19 U.S.C. s.2296 (a)(1)) nor shall the individual be
46 denied benefits by reason of leaving work to enter this training,
47 provided the work left is not suitable employment, or because of the
48 application to any week in training of provisions in this chapter

1 (R.S.43:21-1 et seq.), or any applicable federal unemployment
2 compensation law, relating to availability for work, active search
3 for work, or refusal to accept work.

4 (2) For purposes of this subsection (h), the term "suitable"
5 employment means, with respect to an individual, work of a
6 substantially equal or higher skill level than the individual's past
7 adversely affected employment, as defined for purposes of the
8 "Trade Act of 1974," Pub.L.93-618 (19 U.S.C. s.2101 et seq.) and
9 wages for this work at not less than 80 percent of the individual's
10 average weekly wage, as determined for the purposes of the "Trade
11 Act of 1974."

12 (i) **【**For benefit years commencing after June 30, 1984, for any
13 week in which the individual is a student in full attendance at, or on
14 vacation from, an educational institution, as defined in subsection
15 (y) of R.S.43:21-19; except that this subsection shall not apply to
16 any individual attending a training program approved by the
17 division to enhance the individual's employment opportunities, as
18 defined under subsection (c) of R.S.43:21-4; nor shall this
19 subsection apply to any individual who, during the individual's base
20 year, earned sufficient wages, as defined under subsection (e) of
21 R.S.43:21-4, while attending an educational institution during
22 periods other than established and customary vacation periods or
23 holiday recesses at the educational institution, to establish a claim
24 for benefits. For purposes of this subsection, an individual shall be
25 treated as a full-time student for any period:

26 (1) During which the individual is enrolled as a full-time student
27 at an educational institution, or

28 (2) Which is between academic years or terms, if the individual
29 was enrolled as a full-time student at an educational institution for
30 the immediately preceding academic year or term. **】** (Deleted by
31 amendment, P.L. _____, C. _____) (pending before the Legislature as
32 this bill)

33 (j) Notwithstanding any other provisions of this chapter
34 (R.S.43:21-1 et seq.), no otherwise eligible individual shall be
35 denied benefits because the individual left work or was discharged
36 due to circumstances resulting from the individual being a victim of
37 domestic violence as defined in section 3 of P.L.1991, c.261
38 (C.2C:25-19). No employer's account shall be charged for the
39 payment of benefits to an individual who left work due to
40 circumstances resulting from the individual being a victim of
41 domestic violence.

42 For the purposes of this subsection (j), the individual shall be
43 treated as being a victim of domestic violence if the individual
44 provides one or more of the following:

45 (1) A restraining order or other documentation of equitable
46 relief issued by a court of competent jurisdiction;

47 (2) A police record documenting the domestic violence;

1 (3) Documentation that the perpetrator of the domestic violence
2 has been convicted of one or more of the offenses enumerated in
3 section 3 of P.L.1991, c.261 (C.2C:25-19);

4 (4) Medical documentation of the domestic violence;

5 (5) Certification from a certified Domestic Violence Specialist
6 or the director of a designated domestic violence agency that the
7 individual is a victim of domestic violence; or

8 (6) Other documentation or certification of the domestic
9 violence provided by a social worker, member of the clergy, shelter
10 worker or other professional who has assisted the individual in
11 dealing with the domestic violence.

12 For the purposes of this subsection (j):

13 "Certified Domestic Violence Specialist" means a person who
14 has fulfilled the requirements of certification as a Domestic
15 Violence Specialist established by the New Jersey Association of
16 Domestic Violence Professionals; and "designated domestic
17 violence agency" means a county-wide organization with a primary
18 purpose to provide services to victims of domestic violence, and
19 which provides services that conform to the core domestic violence
20 services profile as defined by the Division of Child Permanency and
21 Protection in the Department of Children and Families and is under
22 contract with the division for the express purpose of providing such
23 services.

24 (k) Notwithstanding any other provisions of this chapter
25 (R.S.43:21-1 et seq.), no otherwise eligible individual shall be
26 denied benefits for any week in which the individual left work
27 voluntarily and without good cause attributable to the work, if the
28 individual left work to accompany his or her spouse who is an
29 active member of the United States Armed Forces, as defined in
30 N.J.S.38A:1-1(g), to a new place of residence outside the State, due
31 to the armed forces member's transfer to a new assignment in a
32 different geographical location outside the State, and the individual
33 moves to the new place of residence not more than nine months
34 after the spouse is transferred, and upon arrival at the new place of
35 residence the individual was in all respects available for suitable
36 work. No employer's account shall be charged for the payment of
37 benefits to an individual who left work under the circumstances
38 contained in this subsection (k), except that this shall not be
39 construed as relieving the State of New Jersey and any other
40 governmental entity or instrumentality or nonprofit organization
41 electing or required to make payments in lieu of contributions from
42 its responsibility to make all benefit payments otherwise required
43 by law and from being charged for those benefits as otherwise
44 required by law.

45 (cf: P.L.2023, c.177, s.126)

46
47 4. R.S.43:21-6 is amended to read as follows:

1 43:21-6. (a) Filing. (1) Claims for benefits shall be made in
2 accordance with such regulations as the Director of the Division of
3 Unemployment and Temporary Disability Insurance of the
4 Department of Labor and Workforce Development of the State of
5 New Jersey may approve. Each employer shall post and maintain
6 on his premises printed notices of his subject status, of such design,
7 in such numbers and at such places as the director of the division
8 may determine to be necessary to give notice thereof to persons in
9 the employer's service. Each employer shall give to each individual
10 at the time he becomes unemployed, for any reason, whether the
11 unemployment is permanent or temporary, a printed copy of benefit
12 instructions. The benefit instructions given to the individual shall
13 include, but not be limited to, the following information: (A) the
14 date upon which the individual becomes unemployed, and, in the
15 case that the unemployment is temporary, to the extent possible, the
16 date upon which the individual is expected to be recalled to work;
17 and (B) that the individual may lose some or all of the benefits to
18 which he is entitled if he fails to file a claim in a timely manner.
19 Both the aforesaid notices and instructions, including information
20 detailing the time sensitivity of filing a claim, and directions
21 provided in advance to all employers regarding what information
22 the division requires employers to provide to the division by
23 electronic means immediately upon a separation from employment
24 sufficient to enable the division to make a benefit determination,
25 including any information relevant to whether the individual may be
26 disqualified pursuant to subsections (a),(b),(d), or (e) of R.S.43:21-
27 5, shall be supplied by the division to employers without cost to
28 them. The directions provided to all employers in advance shall
29 include that each employer provide the division with an email
30 address for communications to and from the division. When an
31 employer provides benefit instructions to the individual which
32 disclose the date on which unemployment will commence, the
33 employer shall immediately and simultaneously provide by
34 electronic means that disclosure to the division together with the
35 information required by the division pursuant to the directions
36 provided in advance by the division. An employer who fails to
37 make the immediate and simultaneous disclosure to the department
38 as required by this paragraph shall be liable for the penalties
39 imposed by subsection (b) of R.S.43:21-16 on employers for willful
40 failure to furnish reports. The division shall notify the employer by
41 electronic means not more than seven calendar days after the
42 department receives the disclosure of any failure of the employer to
43 provide all of the information needed by the division to make a
44 benefit determination. Nothing in this section shall be construed so
45 as to require an employer to re-hire an individual formerly in the
46 employer's service. Nothing in this section shall be construed as
47 requiring the division to issue a benefit determination solely based
48 on the information supplied by the employer. Notwithstanding the

1 provisions of this section which require employers to provide
2 information to the division by electronic means, and the division to
3 provide notifications to an employer by electronic means, the
4 commissioner shall have the discretion to establish by rule an
5 alternate method or methods for employers to provide the required
6 information to the division and for the division to provide the
7 required notifications to an employer in circumstances where it is
8 established, to the satisfaction of the commissioner, that the
9 employer is unable to provide the information to the division or is
10 unable to receive notifications from the division by electronic
11 means.

12 (2) Any claimant may choose to certify, cancel or close his
13 claim for unemployment insurance benefits at any time, 24 hours a
14 day and seven days a week, via the Internet on a website developed
15 by the division; however, any claim that is certified, cancelled or
16 closed after 7:00 PM will not be processed by the division until the
17 next scheduled posting date.

18 (3) The division may request that claimants obtain digital
19 identity credentials, but only if the division provides opportunities
20 for claimants to verify their identities even if they do not have the
21 knowledge or access to the equipment needed to obtain the digital
22 identity credentials. Any request by the division for a claimant to
23 obtain digital identity credentials shall include a statement that the
24 claimant may use alternative procedures to verify identification, and
25 fully describe the alternative procedures, which shall include
26 personal assistance in person or by phone which shall be made
27 available by representatives of the division as needed to prevent any
28 delay in processing claims. If the division requests that a claimant
29 obtain digital identity credentials, and the claimant chooses to
30 request a digital identity credential rather than utilize an alternative
31 procedure, but is denied the digital identity credential, the division
32 shall issue the claimant a written appealable determination.

33 (4) Any system that the division establishes for claimants or
34 recipients of benefits to verify identity, to apply for, or to make
35 appeals regarding, benefits either by phone or on-line, shall provide
36 a clearly and prominently expressed option for the claimant or
37 recipient, if not immediately provided personal assistance, to select
38 from available appointment times an appointment time to speak
39 with a representative to obtain assistance in verifying identity, filing
40 a claim or appeal, or obtaining information regarding the status of a
41 claim or appeal.

42 (b) (1) Procedure for making initial determinations with respect
43 to benefit years commencing on or after January 1, 1953.

44 A representative or representatives designated by the director of
45 the division and hereafter referred to as a "deputy" shall promptly
46 examine any disclosure of information to the division by an
47 employer required by paragraph (1) of subsection (a) of this section
48 upon a separation from work and any claim for benefits, and shall,

1 by electronic means, notify the most recent employing unit and,
2 successively as necessary, each employer in inverse chronological
3 order during the base year. The notification shall be made not later
4 than seven calendar days after the employer provides to the
5 department the disclosure required by paragraph (1) of subsection
6 (a) of this section, or seven calendar days after the filing of the
7 claim, whichever occurs first, and require said employing unit and
8 employer to furnish, by electronic means, not more than seven
9 calendar days after the notification is made, any information to the
10 deputy which the employer failed to provide as required by
11 paragraph (1) of subsection (a) of this section as may be necessary
12 to determine the claimant's eligibility and his benefit rights with
13 respect to the employer in question. The claimant shall, at the time
14 the claim is filed, be provided any information the division has
15 received from the employer upon the separation from work and an
16 opportunity to respond to that information. If a claim is filed and
17 the employer has provided the information required upon separation
18 from work, the employer shall immediately be notified by electronic
19 means of the opportunity to provide, by electronic means and in not
20 more than seven calendar days, additional information in response
21 to the claim for benefits. If a claim is filed and the employer has
22 failed to provide the information required upon the separation from
23 work, the division shall immediately, by electronic means, request
24 the required information and the employer shall provide the
25 information, by electronic means and in not more than seven
26 calendar days. The division shall provide the claimant any
27 additional information it receives and an opportunity to respond.

28 If any employer or employing unit fails to respond to the
29 notification or request within seven calendar days after a
30 communication by electronic means of the notification or request,
31 the deputy shall rely entirely on information from other sources,
32 including an affidavit to the best of the knowledge and belief of the
33 claimant with respect to his wages and time worked. Except in the
34 event of a knowing, fraudulent nondisclosure or misrepresentation
35 by the claimant or his agent, if it is determined that any information
36 in such affidavit is erroneous, no penalty shall be imposed on the
37 claimant.

38 The deputy shall make an initial determination contingent upon
39 the receipt of all necessary information and notify the claimant no
40 later than three weeks from the date on which the division received
41 the claim for benefits. The initial determination shall show the
42 weekly benefit amount payable, the maximum duration of benefits
43 with respect to the employer to whom the determination relates, and
44 the ratio of benefits chargeable to the employer's account for benefit
45 years commencing on or after July 1, 1986, and also shall show
46 whether the claimant is ineligible or disqualified for benefits under
47 the initial determination. The employer whose account may be

1 charged for benefits payable pursuant to said determination shall be
2 promptly notified thereof.

3 Whenever an initial determination is based upon information
4 other than that supplied by an employer because such employer
5 failed to provide information as required at the time of separation
6 from employment, and failed to respond to the deputy's request for
7 additional information, benefit payments based on the determination
8 shall commence immediately, and such initial determination and
9 any subsequent determination thereunder shall be incontestable by
10 the noncomplying employer, as to any charges to his employer's
11 account because of benefits paid prior to the close of the calendar
12 week following the receipt of his reply. Such initial determination
13 shall be altered if necessary upon receipt of information from the
14 employer, and any benefits paid or payable with respect to weeks
15 occurring subsequent to the close of the calendar week following
16 the receipt of the employer's reply and the determination of the
17 division to alter the initial determination after providing the
18 claimant the information and an opportunity to respond shall be
19 paid in accordance with such altered initial determination.

20 The deputy shall issue a separate initial benefit determination
21 with respect to each of the claimant's base year employers, starting
22 with the most recent employer and continuing as necessary in the
23 inverse chronological order of the claimant's last date of
24 employment with each such employer. If an appeal is taken from
25 an initial determination, as hereinafter provided, by any employer
26 other than the first chargeable base year employer or for benefit
27 years commencing on or after July 1, 1986, that employer from
28 whom the individual was most recently separated, then such appeal
29 shall be limited in scope to include only one or more of the
30 following matters:

31 (A) The correctness of the benefit payments authorized to be
32 made under the determination;

33 (B) Fraud in connection with the claim pursuant to which the
34 initial determination is issued;

35 (C) The refusal of suitable work offered by the chargeable
36 employer filing the appeal;

37 (D) Gross misconduct as provided in subsection (b) of
38 R.S.43:21-5.

39 In his discretion, the director may appoint special deputies to
40 make initial or subsequent determinations under subsection (f) of
41 R.S.43:21-4 and subsection (d) of R.S.43:21-5.

42 The amount of benefits payable under an initial determination
43 may be reduced or canceled if necessary to avoid payment of
44 benefits for a number of weeks in excess of the maximum specified
45 in subsection (d) of R.S.43:21-3.

46 Unless the employer, within seven calendar days after a
47 confirmed receipt of notification of an initial determination,
48 including by electronic means, or the claimant, within 21 calendar

1 days after the notification was mailed to the claimant's last-known
2 address and addresses, or after the notification was delivered to the
3 claimant by electronic means, provided the departmental
4 functionality exists to deliver the notifications by electronic means
5 and provided, further, that the claimant has communicated to the
6 division the choice to receive the notifications by electronic means,
7 files an appeal of the decision, the decision shall be final and
8 benefits shall immediately be paid or denied in accordance
9 therewith, except for such determinations as may be altered in
10 benefit amounts or duration as provided in this paragraph. An
11 appeal concerning an initial determination shall not be filed after
12 whichever is applicable of the seven-day or 21-day period. Benefits
13 payable for periods pending an appeal of the initial determination to
14 the appeal tribunal shall be paid **【**as such benefits accrue and be
15 paid**】** according to the initial determination, and benefits payable
16 for periods pending appeal of the determination of the appeal
17 tribunal to the board of review shall be paid according to the appeal
18 tribunal determination, but shall be, to the extent that the amount
19 paid exceeds the amount determined in the appeal, regarded as an
20 overpayment subject to the provisions of R.S.43:21-16 regarding
21 overpayments, including the requirement of that section that a
22 claimant who makes knowing, fraudulent nondisclosure or
23 misrepresentation is liable to repay the full amount of the
24 overpayment; provided that if the appeal is an appeal of a
25 determination that the claimant is disqualified under the provisions
26 of R.S.43:21-5, benefits pending determination of the appeal shall
27 be withheld only for the period of disqualification as provided for in
28 that section, and while the appeal is pending, the benefits otherwise
29 provided by this act shall be paid for the period subsequent to such
30 period of disqualification; provided further that if it is determined in
31 the appeal that the claimant was not disqualified, the claimant shall
32 be paid the benefits due for the period of the disqualification,
33 except that no such benefits shall be paid to the claimant for any
34 week during which the claimant has failed to provide to the division
35 a weekly certification evidencing the claimant's eligibility for
36 benefits; and provided, also, that if there are two determinations of
37 entitlement, benefits for the period covered by such determinations
38 shall be paid regardless of any appeal which may thereafter be
39 taken, but no employer's account shall be charged with benefits so
40 paid, if the decision is finally reversed. If an employer appeals the
41 charging of benefits to the employer's account after the seven-day
42 period to appeal the initial benefit determination, and, as a result of
43 the appeal on the charging to the employer's account, the division,
44 after the claimant is notified and given the opportunity to respond,
45 reduces the amount charged to the employer's account, any resulting
46 reduction in the amount of benefits shall take effect only after the
47 resolution of the appeal of the charging, and any amount of benefits
48 paid before the resolution of the appeal of the charging which

1 exceeds the amount determined in that appeal shall be regarded as
2 an overpayment caused by employer error [and shall be charged to
3 the employer's account, and the claimant shall not be liable to repay
4 any portion of that overpayment where the overpayment is of
5 regular Unemployment Compensation. In the case of the recovery
6 of an overpayment of benefit under any of the following programs
7 authorized by the federal "Coronavirus Aid, Relief, and Economic
8 Security (CARES) Act," Pub.L.116-136: Federal Pandemic
9 Unemployment Compensation (FPUC), Pandemic Emergency
10 Unemployment Compensation (PEUC), Mixed Earners
11 Unemployment Compensation (MEUC), Pandemic Unemployment
12 Assistance (PUA), or the first week of regular Unemployment
13 Compensation that is reimbursed in accordance with Section 2105
14 of the CARES Act, a recovery shall not be waived unless the
15 division determines that the claimant is without fault and the
16 repayment would be contrary to equity and good conscience], the
17 repayment of which shall be governed by subparagraph (C) of
18 paragraph (4) of subsection (d) of R.S. 43:21-16.

19 (2) (Deleted by amendment, P.L.2022, c.120)

20 (3) Procedure for making subsequent determinations with
21 respect to benefit years commencing on or after January 1, 1953.
22 The deputy shall make determinations with respect to claims for
23 benefits thereafter in the course of the benefit year, in accordance
24 with any initial determination allowing benefits, and under which
25 benefits have not been exhausted, and each notification of a benefit
26 payment shall be a notification of an affirmative subsequent
27 determination. Any change in the allowance, amount, or other
28 characteristic of benefits by the deputy in any such determination,
29 or the denial of benefits by the deputy in any such determination,
30 shall be appealable in the same manner and under the same
31 limitations as is provided in the case of initial determinations,
32 except that, after an initial determination, the resolution of any
33 appeal of the initial determination, and the payment of one or more
34 weeks of benefits pursuant to the initial determination, if a
35 subsequent determination will result in any termination or reduction
36 of those benefits from the amount or duration of benefits specified
37 in the initial determination, the claimant shall be provided
38 notification with a full written explanation of why the reduction or
39 termination of benefits will occur, and provided, during the seven
40 calendar days following the notification, an opportunity to file an
41 appeal [before the reduction or termination goes into effect]. If the
42 claimant files an appeal during the seven-day period, benefits shall
43 continue to be paid at the rate, and for the duration, stipulated in the
44 initial determination until the appeal is resolved. If the claimant
45 does not file an appeal, or the claimant files an appeal and it is
46 found in the resolution of the appeal that the amount in benefits
47 paid during the processing of the appeal exceeded the amount
48 determined in the appeal to be correct, or the claimant is found in

1 the appeal to be ineligible for benefits, any resulting excess
2 payment of benefits shall be regarded as an overpayment subject to
3 the provisions of R.S.43:21-16 regarding overpayments, including
4 the requirement of that section that a claimant who makes knowing,
5 fraudulent nondisclosure or misrepresentation is liable to repay the
6 full amount of the overpayment.

7 (c) Appeals. Unless such appeal is withdrawn, an appeal
8 tribunal, after affording the parties reasonable opportunity for fair
9 hearing, shall affirm or modify the findings of fact and the
10 determination. The parties shall be duly notified of such tribunal's
11 decision, together with its reasons therefor, which shall be deemed
12 to be the final decision of the board of review, unless further appeal
13 is initiated pursuant to subsection (e) of this section within 20 days
14 after the date of notification or mailing of such decision for any
15 decision made after December 1, 2010.

16 (d) Appeal tribunals. To hear and decide disputed benefit
17 claims, including appeals from determinations with respect to
18 demands for refunds of benefits under subsection (d) of R.S.43:21-
19 16, the director with the approval of the Commissioner of Labor and
20 Workforce Development shall establish impartial appeal tribunals
21 consisting of a salaried body of examiners under the supervision of
22 a Chief Appeals Examiner, all of whom shall be appointed pursuant
23 to the provisions of Title 11A of the New Jersey Statutes, Civil
24 Service and other applicable statutes.

25 (e) Board of review. The board of review may on its own
26 motion affirm, modify, or set aside any decision of an appeal
27 tribunal on the basis of the evidence previously submitted in such
28 case, or direct the taking of additional evidence, or may permit any
29 of the parties to such decision to initiate further appeals before it.
30 The board of review shall permit such further appeal by any of the
31 parties interested in a decision of an appeal tribunal which is not
32 unanimous and from any determination which has been overruled or
33 modified by any appeal tribunal. The board of review may remove
34 to itself or transfer to another appeal tribunal the proceedings on
35 any claim pending before an appeal tribunal. Any proceedings so
36 removed to the board of review shall be heard by a quorum thereof
37 in accordance with the requirements of subsection (c) of this
38 section. The board of review shall promptly notify the interested
39 parties of its findings and decision.

40 (f) Procedure. The manner in which disputed benefit claims,
41 and appeals from determinations with respect to (1) claims for
42 benefits and (2) demands for refunds of benefits under subsection
43 (d) of R.S.43:21-16 shall be presented, the reports thereon required
44 from the claimant and from employers, and the conduct of hearings
45 and appeals shall be in accordance with rules prescribed by the
46 board of review for determining the rights of the parties, whether or
47 not such rules conform to common law or statutory rules of
48 evidence and other technical rules of procedure. A full and

1 complete record shall be kept of all proceedings in connection with
2 a disputed claim. All testimony at any hearing upon a disputed
3 claim shall be recorded, but need not be transcribed unless the
4 disputed claim is further appealed.

5 (g) Witness fees. Witnesses subpoenaed pursuant to this section
6 shall be allowed fees at a rate fixed by the director. Such fees and
7 all expenses of proceedings involving disputed claims shall be
8 deemed a part of the expense of administering this chapter
9 (R.S.43:21-1 et seq.).

10 (h) Court review. Any decision of the board of review shall
11 become final as to any party upon the mailing of a copy thereof to
12 such party and to the party's attorney, or upon the mailing of a copy
13 thereof to such party at his last-known address and to the party's
14 attorney. The Division of Unemployment and Temporary Disability
15 Insurance and any party to a proceeding before the board of review
16 may secure judicial review of the final decision of the board of
17 review. Any party not joining in the appeal shall be made a
18 defendant; the board of review shall be deemed to be a party to any
19 judicial action involving the review of, or appeal from, any of its
20 decisions, and may be represented in any such judicial action by
21 any qualified attorney, who may be a regular salaried employee of
22 the board of review or has been designated by it for that purpose,
23 or, at the board of review's request, by the Attorney General.

24 (i) Failure to give notice. The failure of any public officer or
25 employee at any time heretofore or hereafter to give notice of
26 determination or decision required in subsections (b), (c) and (e) of
27 this section, as originally passed or amended, shall not relieve any
28 employer's account of any charge by reason of any benefits paid,
29 unless and until that employer can show to the satisfaction of the
30 director of the division that the said benefits, in whole or in part,
31 would not have been charged or chargeable to his account had such
32 notice been given. Any determination hereunder by the director
33 shall be subject to court review.

34 (j) With respect to benefit payments made on or after October
35 22, 2013, an employer's account shall not be relieved of charges
36 related to a benefit payment that was made erroneously from the
37 division if it is determined that:

38 (1) The erroneous benefit payment was made because the
39 employer, or an agent of the employer, failed to respond in a timely
40 or adequate manner to a request from the division for information
41 related to the claim for benefits, including failing to provide the
42 information required by subsection (a) of this section upon a
43 separation from employment; and

44 (2) The employer, or an agent of the employer, has established a
45 pattern of failing to respond in a timely or adequate manner to
46 requests from the division for information related to claims for
47 benefits, including failing to provide the information required by
48 subsection (a) of this section upon a separation from employment.

1 Determinations of the division prohibiting the relief of charges
2 pursuant to this subsection shall be subject to appeal in the same
3 manner as other determinations of the division related to the
4 charging of employer accounts.

5 For purposes of subsection (j) of this section:

6 "Erroneous benefit payment" means a benefit payment that,
7 except for the failure by the employer, or an agent of the employer,
8 to respond in a timely or adequate manner to a request from the
9 division for information with respect to the claim for benefits,
10 would not have been made; and

11 "Pattern of failing" means repeated documented failure on the
12 part of the employer, or an agent of the employer, to respond to
13 requests from the division to the employer or employer's agent for
14 information related to a claim for benefits, including failing to
15 provide the information required by subsection (a) of this section
16 upon a separation from employment, except that an employer, or an
17 agent of an employer, shall not be determined to have engaged in a
18 "pattern of failing" if the number of failures to provide the required
19 information or respond to requests from the division for information
20 related to claims for benefits during the previous 365 calendar days
21 is less than three, or if the number of failures is less than two
22 percent of the number of requests from the division, whichever is
23 greater.

24 (k) The Department of Labor and Workforce Development shall
25 establish and maintain a procedure by which personnel access rights
26 to the department's primary system for unemployment claims
27 receipt and processing are comprehensively reviewed every
28 calendar quarter. The procedure shall include an evaluation of
29 access needs to the primary unemployment claims receipt and
30 processing system for all department personnel and the adjustment,
31 addition, or deletion of access rights for department personnel based
32 on the quarterly review.

33 (l) The Department of Labor and Workforce Development shall
34 develop within the department's primary system for unemployment
35 claims receipt and processing a mechanism for claimants to
36 electronically access their own benefit payment status and history.

37 (cf: P.L.2022, c.120, s.1)

38
39 5. R.S.43:21-7 is amended to read as follows:

40 43:21-7. Employers other than governmental entities, whose
41 benefit financing provisions are set forth in section 4 of P.L.1971,
42 c.346 (C.43:21-7.3), and those nonprofit organizations liable for
43 payment in lieu of contributions on the basis set forth in section 3 of
44 P.L.1971, c.346 (C.43:21-7.2), shall pay to the controller for the
45 unemployment compensation fund, contributions as set forth in
46 subsections (a), (b) and (c) hereof, and the provisions of subsections
47 (d) and (e) shall be applicable to all employers, consistent with the
48 provisions of the "unemployment compensation law" and the

1 "Temporary Disability Benefits Law," P.L.1948, c.110 (C.43:21-25
2 et al.).

3 (a) Payment.

4 (1) Contributions shall accrue and become payable by each
5 employer for each calendar year in which he is subject to this
6 chapter (R.S.43:21-1 et seq.), with respect to having individuals in
7 his employ during that calendar year, at the rates and on the basis
8 hereinafter set forth. Such contributions shall become due and be
9 paid by each employer to the controller for the fund, in accordance
10 with such regulations as may be prescribed, and shall not be
11 deducted, in whole or in part, from the remuneration of individuals
12 in his employ.

13 (2) In the payment of any contributions, a fractional part of a
14 cent shall be disregarded unless it amounts to \$0.005 or more, in
15 which case it shall be increased to \$0.01.

16 (b) Rate of contributions. Each employer shall pay the following
17 contributions:

18 (1) For the calendar year 1947, and each calendar year
19 thereafter, 2 7/10% of wages paid by him during each such calendar
20 year, except as otherwise prescribed by subsection (c) of this
21 section.

22 (2) The "wages" of any individual, with respect to any one
23 employer, as the term is used in this subsection (b) and in
24 subsections (c), (d) and (e) of this section 7, shall include the first
25 \$4,800.00 paid during calendar year 1975, for services performed
26 either within or without this State; provided that no contribution
27 shall be required by this State with respect to services performed in
28 another state if such other state imposes contribution liability with
29 respect thereto. If an employer (hereinafter referred to as a
30 successor employer) during any calendar year acquires substantially
31 all the property used in a trade or business of another employer
32 (hereinafter referred to as a predecessor), or used in a separate unit
33 of a trade or business of a predecessor, and immediately after the
34 acquisition employs in his trade or business an individual who
35 immediately prior to the acquisition was employed in the trade or
36 business of such predecessors, then, for the purpose of determining
37 whether the successor employer has paid wages with respect to
38 employment equal to the first \$4,800.00 paid during calendar year
39 1975, any wages paid to such individual by such predecessor during
40 such calendar year and prior to such acquisition shall be considered
41 as having been paid by such successor employer.

42 (3) For calendar years beginning on and after January 1, 1976,
43 the "wages" of any individual, as defined in the preceding
44 paragraph (2) of this subsection (b), shall be established and
45 promulgated by the Commissioner of Labor and Workforce
46 Development on or before September 1 of the preceding year and,
47 except as provided in paragraph (4) of this subsection (b), shall be,
48 28 times the Statewide average weekly remuneration paid to

1 workers by employers, as determined under R.S.43:21-3(c), raised
2 to the next higher multiple of \$100.00 if not already a multiple
3 thereof, provided that if the amount of wages so determined for a
4 calendar year is less than the amount similarly determined for the
5 preceding year, the greater amount will be used; provided, further,
6 that if the amount of such wages so determined does not equal or
7 exceed the amount of wages as defined in subsection (b) of section
8 3306 of the Internal Revenue Code of 1986 (26 U.S.C. s.3306(b)),
9 the wages as determined in this paragraph in any calendar year shall
10 be raised to equal the amount established under the "Federal
11 Unemployment Tax Act," chapter 23 of the Internal Revenue Code
12 of 1986 (26 U.S.C. s.3301 et seq.), for that calendar year.

13 (4) For calendar years beginning on and after January 1, 2020,
14 the "wages" of any individual, as defined in the preceding
15 paragraph (2) of this subsection (b) for purposes of contributions of
16 workers to the State disability benefits fund, including the "Family
17 Temporary Disability Leave Account" pursuant to subsection (d) of
18 this section, shall be established and promulgated by the
19 Commissioner of Labor and Workforce Development on or before
20 September 1 of the preceding year and shall be 107 times the
21 Statewide average weekly remuneration paid to workers by
22 employers, as determined under R.S.43:21-3(c), raised to the next
23 higher multiple of \$100.00 if not already a multiple thereof,
24 provided that if the amount of wages so determined for a calendar
25 year is less than the amount similarly determined for the preceding
26 year, the greater amount will be used.

27 (c) Future rates based on benefit experience.

28 (1) A separate account for each employer shall be maintained
29 and this shall be credited with all the contributions which he has
30 paid on his own behalf on or before January 31 of any calendar year
31 with respect to employment occurring in the preceding calendar
32 year; provided, however, that if January 31 of any calendar year
33 falls on a Saturday or Sunday, an employer's account shall be
34 credited as of January 31 of such calendar year with all the
35 contributions which he has paid on or before the next succeeding
36 day which is not a Saturday or Sunday. But nothing in this chapter
37 (R.S.43:21-1 et seq.) shall be construed to grant any employer or
38 individuals in his service prior claims or rights to the amounts paid
39 by him into the fund either on his own behalf or on behalf of such
40 individuals. Benefits paid with respect to benefit years commencing
41 on and after January 1, 1953, to any individual on or before
42 December 31 of any calendar year with respect to unemployment in
43 such calendar year and in preceding calendar years shall be charged
44 against the account or accounts of the employer or employers in
45 whose employment such individual established base weeks
46 constituting the basis of such benefits, except that, with respect to
47 benefit years commencing after January 4, 1998, an employer's
48 account shall not be charged for benefits paid to a claimant if: (1)

1 the claimant's employment by that employer was ended in any way
2 which, pursuant to subsection (a), (b), (c), (f), (g) or (h) of
3 R.S.43:21-5, would have disqualified the claimant for benefits if the
4 claimant had applied for benefits at the time when that employment
5 ended, or (2) the claimant's employment by that employer
6 continued and the claimant continued to both perform work for and
7 receive remuneration from that employer, during the claimant's
8 period of unemployment. Benefits paid under a given benefit
9 determination shall be charged against the account of the employer
10 to whom such determination relates. When each benefit payment is
11 made, notification shall be promptly provided to each employer
12 included in the unemployment insurance monetary calculation of
13 benefits. Such notification shall identify the employer against
14 whose account the amount of such payment is being charged, shall
15 show at least the name and social security account number of the
16 claimant and shall specify the period of unemployment to which
17 said benefit payment applies.

18 An annual summary statement of unemployment benefits
19 charged to the employer's account shall be provided.

20 (2) Regulations may be prescribed for the establishment,
21 maintenance, and dissolution of joint accounts by two or more
22 employers, and shall, in accordance with such regulations and upon
23 application by two or more employers to establish such an account,
24 or to merge their several individual accounts in a joint account,
25 maintain such joint account as if it constituted a single employer's
26 account.

27 (3) No employer's rate shall be lower than 5.4% unless
28 assignment of such lower rate is consistent with the conditions
29 applicable to additional credit allowance for such year under section
30 3303(a)(1) of the Internal Revenue Code of 1986 (26 U.S.C.
31 s.3303(a)(1)), any other provision of this section to the contrary
32 notwithstanding.

33 (4) Employer Reserve Ratio. (A) Each employer's rate shall be
34 $2\frac{8}{10}\%$, except as otherwise provided in the following provisions.
35 No employer's rate for the 12 months commencing July 1 of any
36 calendar year shall be other than $2\frac{8}{10}\%$, unless as of the
37 preceding January 31 such employer shall have paid contributions
38 with respect to wages paid in each of the three calendar years
39 immediately preceding such year, in which case such employer's
40 rate for the 12 months commencing July 1 of any calendar year
41 shall be determined on the basis of his record up to the beginning of
42 such calendar year. If, at the beginning of such calendar year, the
43 total of all his contributions, paid on his own behalf, for all past
44 years exceeds the total benefits charged to his account for all such
45 years, his contribution rate shall be:

46 (1) $2\frac{5}{10}\%$, if such excess equals or exceeds 4%, but less than
47 5%, of his average annual payroll (as defined in paragraph (2),
48 subsection (a) of R.S.43:21-19);

1 (2) 2 2/10%, if such excess equals or exceeds 5%, but is less
2 than 6%, of his average annual payroll;

3 (3) 1 9/10%, if such excess equals or exceeds 6%, but is less
4 than 7%, of his average annual payroll;

5 (4) 1 6/10%, if such excess equals or exceeds 7%, but is less
6 than 8%, of his average annual payroll;

7 (5) 1 3/10%, if such excess equals or exceeds 8%, but is less
8 than 9%, of his average annual payroll;

9 (6) 1%, if such excess equals or exceeds 9%, but is less than
10 10%, of his average annual payroll;

11 (7) 7/10 of 1%, if such excess equals or exceeds 10%, but is less
12 than 11%, of his average annual payroll;

13 (8) 4/10 of 1%, if such excess equals or exceeds 11% of his
14 average annual payroll.

15 (B) If the total of an employer's contributions, paid on his own
16 behalf, for all past periods for the purposes of this paragraph (4), is
17 less than the total benefits charged against his account during the
18 same period, his rate shall be:

19 (1) 4%, if such excess is less than 10% of his average annual
20 payroll;

21 (2) 4 3/10%, if such excess equals or exceeds 10%, but is less
22 than 20%, of his average annual payroll;

23 (3) 4 6/10%, if such excess equals or exceeds 20% of his
24 average annual payroll.

25 (C) Specially assigned rates.

26 (i) If no contributions were paid on wages for employment in
27 any calendar year used in determining the average annual payroll of
28 an employer eligible for an assigned rate under this paragraph (4),
29 the employer's rate shall be specially assigned as follows:

30 if the reserve balance in its account is positive, its assigned rate
31 shall be the highest rate in effect for positive balance accounts for
32 that period, or 5.4%, whichever is higher, and

33 if the reserve balance in its account is negative, its assigned rate
34 shall be the highest rate in effect for deficit accounts for that period.

35 (ii) If, following the purchase of a corporation with little or no
36 activity, known as a corporate shell, the resulting employing unit
37 operates a new or different business activity, the employing unit
38 shall be assigned a new employer rate.

39 (iii) Entities operating under common ownership, management or
40 control, when the operation of the entities is not identifiable,
41 distinguishable and severable, shall be considered a single employer
42 for the purposes of this chapter (R.S.43:21-1 et seq.).

43 (D) The contribution rates prescribed by subparagraphs (A) and
44 (B) of this paragraph (4) shall be increased or decreased in
45 accordance with the provisions of paragraph (5) of this subsection
46 (c) for experience rating periods through June 30, 1986.

47 (5) (A) Unemployment Trust Fund Reserve Ratio. If on March
48 31 of any calendar year the balance in the unemployment trust fund

1 equals or exceeds 4% but is less than 7% of the total taxable wages
2 reported to the controller as of that date in respect to employment
3 during the preceding calendar year, the contribution rate, effective
4 July 1 following, of each employer eligible for a contribution rate
5 calculation based upon benefit experience, shall be increased by
6 $\frac{3}{10}$ of 1% over the contribution rate otherwise established under
7 the provisions of paragraph (3) or (4) of this subsection. If on
8 March 31 of any calendar year the balance of the unemployment
9 trust fund exceeds $2\frac{1}{2}\%$ but is less than 4% of the total taxable
10 wages reported to the controller as of that date in respect to
11 employment during the preceding calendar year, the contribution
12 rate, effective July 1 following, of each employer eligible for a
13 contribution rate calculation based upon benefit experience, shall be
14 increased by $\frac{6}{10}$ of 1% over the contribution rate otherwise
15 established under the provisions of paragraph (3) or (4) of this
16 subsection.

17 If on March 31 of any calendar year the balance of the
18 unemployment trust fund is less than $2\frac{1}{2}\%$ of the total taxable
19 wages reported to the controller as of that date in respect to
20 employment during the preceding calendar year, the contribution
21 rate, effective July 1 following, of each employer: (1) eligible for a
22 contribution rate calculation based upon benefit experience, shall be
23 increased by (i) $\frac{6}{10}$ of 1% over the contribution rate otherwise
24 established under the provisions of paragraph (3), (4)(A) or (4)(B)
25 of this subsection, and (ii) an additional amount equal to 20% of the
26 total rate established herein, provided, however, that the final
27 contribution rate for each employer shall be computed to the nearest
28 multiple of $\frac{1}{10}\%$ if not already a multiple thereof; (2) not eligible
29 for a contribution rate calculation based upon benefit experience,
30 shall be increased by $\frac{6}{10}$ of 1% over the contribution rate
31 otherwise established under the provisions of paragraph (4) of this
32 subsection. For the period commencing July 1, 1984 and ending
33 June 30, 1986, the contribution rate for each employer liable to pay
34 contributions under R.S.43:21-7 shall be increased by a factor of
35 10% computed to the nearest multiple of $\frac{1}{10}\%$ if not already a
36 multiple thereof.

37 (B) If on March 31 of any calendar year the balance in the
38 unemployment trust fund equals or exceeds 10% but is less than $12\frac{1}{2}\%$
39 of the total taxable wages reported to the controller as of that
40 date in respect to employment during the preceding calendar year,
41 the contribution rate, effective July 1 following, of each employer
42 eligible for a contribution rate calculation based upon benefit
43 experience, shall be reduced by $\frac{3}{10}$ of 1% under the contribution
44 rate otherwise established under the provisions of paragraphs (3)
45 and (4) of this subsection; provided that in no event shall the
46 contribution rate of any employer be reduced to less than $\frac{4}{10}$ of
47 1%. If on March 31 of any calendar year the balance in the
48 unemployment trust fund equals or exceeds $12\frac{1}{2}\%$ of the total

1 taxable wages reported to the controller as of that date in respect to
 2 employment during the preceding calendar year, the contribution
 3 rate, effective July 1 following, of each employer eligible for a
 4 contribution rate calculation based upon benefit experience, shall be
 5 reduced by 6/10 of 1% if his account for all past periods reflects an
 6 excess of contributions paid over total benefits charged of 3% or
 7 more of his average annual payroll, otherwise by 3/10 of 1% under
 8 the contribution rate otherwise established under the provisions of
 9 paragraphs (3) and (4) of this subsection; provided that in no event
 10 shall the contribution rate of any employer be reduced to less than
 11 4/10 of 1%.

12 (C) The "balance" in the unemployment trust fund, as the term is
 13 used in subparagraphs (A) and (B) above, shall not include moneys
 14 credited to the State's account under section 903 of the Social
 15 Security Act, as amended (42 U.S.C. s.1103), during any period in
 16 which such moneys are appropriated for the payment of expenses
 17 incurred in the administration of the "unemployment compensation
 18 law."

19 (D) Prior to July 1 of each calendar year the controller shall
 20 determine the Unemployment Trust Fund Reserve Ratio, which
 21 shall be calculated by dividing the balance of the unemployment
 22 trust fund as of the prior March 31 by total taxable wages reported
 23 to the controller by all employers as of March 31 with respect to
 24 their employment during the last calendar year.

25 (E) (i) (Deleted by amendment, P.L.1997, c.263).

26 (ii) (Deleted by amendment, P.L.2001, c.152).

27 (iii) (Deleted by amendment, P.L.2003, c.107).

28 (iv) (Deleted by amendment, P.L.2004, c.45).

29 (v) (Deleted by amendment, P.L.2008, c.17).

30 (vi) (Deleted by amendment, P.L.2013, c.75).

31 (vii) With respect to experience rating years beginning on or
 32 after July 1, 2011, the new employer rate or the unemployment
 33 experience rate of an employer under this section shall be the rate
 34 which appears in the column headed by the Unemployment Trust
 35 Fund Reserve Ratio as of the applicable calculation date and on the
 36 line with the Employer Reserve Ratio, as defined in paragraph (4)
 37 of this subsection (R.S.43:21-7 (c)(4)), as set forth in the following
 38 table:
 39

40 EXPERIENCE RATING TAX TABLE

Employer Reserve Ratio ²	Fund Reserve Ratio ¹				
	3.50%	3.00%	2.5%	2.0%	1.99%
	and Over A	to 3.49% B	to 2.99% C	to 2.49% D	and Under E
Positive Reserve Ratio:					
17% and over	0.3	0.4	0.5	0.6	1.2
16.00% to 16.99%	0.4	0.5	0.6	0.6	1.2

1	15.00% to 15.99%	0.4	0.6	0.7	0.7	1.2
2	14.00% to 14.99%	0.5	0.6	0.7	0.8	1.2
3	13.00% to 13.99%	0.6	0.7	0.8	0.9	1.2
4	12.00% to 12.99%	0.6	0.8	0.9	1.0	1.2
5	11.00% to 11.99%	0.7	0.8	1.0	1.1	1.2
6	10.00% to 10.99%	0.9	1.1	1.3	1.5	1.6
7	9.00% to 9.99%	1.0	1.3	1.6	1.7	1.9
8	8.00% to 8.99%	1.3	1.6	1.9	2.1	2.3
9	7.00% to 7.99%	1.4	1.8	2.2	2.4	2.6
10	6.00% to 6.99%	1.7	2.1	2.5	2.8	3.0
11	5.00% to 5.99%	1.9	2.4	2.8	3.1	3.4
12	4.00% to 4.99%	2.0	2.6	3.1	3.4	3.7
13	3.00% to 3.99%	2.1	2.7	3.2	3.6	3.9
14	2.00% to 2.99%	2.2	2.8	3.3	3.7	4.0
15	1.00% to 1.99%	2.3	2.9	3.4	3.8	4.1
16	0.00% to 0.99%	2.4	3.0	3.6	4.0	4.3
17	Deficit Reserve Ratio:					
18	-0.00% to -2.99%	3.4	4.3	5.1	5.6	6.1
19	-3.00% to -5.99%	3.4	4.3	5.1	5.7	6.2
20	-6.00% to -8.99%	3.5	4.4	5.2	5.8	6.3
21	-9.00% to -11.99%	3.5	4.5	5.3	5.9	6.4
22	-12.00% to -14.99%	3.6	4.6	5.4	6.0	6.5
23	-15.00% to -19.99%	3.6	4.6	5.5	6.1	6.6
24	-20.00% to -24.99%	3.7	4.7	5.6	6.2	6.7
25	-25.00% to -29.99%	3.7	4.8	5.6	6.3	6.8
26	-30.00% to -34.99%	3.8	4.8	5.7	6.3	6.9
27	-35.00% and under	5.4	5.4	5.8	6.4	7.0
28	New Employer Rate	2.8	2.8	2.8	3.1	3.4

29 1Fund balance as of March 31 as a percentage of taxable wages
30 in the prior calendar year.

31 2Employer Reserve Ratio (Contributions minus benefits as a
32 percentage of employer's taxable wages).

33 (F) (i) (Deleted by amendment, P.L.1997, c.263).

34 (ii) (Deleted by amendment, P.L.2008, c.17).

35 (iii) (Deleted by amendment, P.L.2013, c.75).

36 (iv) With respect to experience rating years beginning on or
37 after July 1, 2011 and before July 1, 2013, if the fund reserve ratio,
38 based on the fund balance as of the prior March 31, is less than
39 1.0%, the contribution rate for each employer liable to pay
40 contributions, as

41 computed under subparagraph (E) of this paragraph (5), shall be
42 increased by a factor of 10% computed to the nearest multiple of
43 1/10% if not already a multiple thereof.

44 (v) With respect to experience rating years beginning on or after
45 July 1, 2014, if the fund reserve ratio, based on the fund balance as
46 of the prior March 31, is less than 1.0%, the contribution rate for
47 each employer liable to pay contributions, as computed under
48 subparagraph (E) of this paragraph (5), shall be increased by a

1 factor of 10% computed to the nearest multiple of 1/10% if not
2 already a multiple thereof.

3 (G) On or after January 1, 1993, notwithstanding any other
4 provisions of this paragraph (5), the contribution rate for each
5 employer liable to pay contributions, as computed under
6 subparagraph (E) of this paragraph (5), shall be decreased by 0.1%,
7 except that, during any experience rating year starting before
8 January 1, 1998 in which the fund reserve ratio is equal to or greater
9 than 7.00% or during any experience rating year starting on or after
10 January 1, 1998, in which the fund reserve ratio is equal to or
11 greater than 3.5%, there shall be no decrease pursuant to this
12 subparagraph (G) in the contribution of any employer who has a
13 deficit reserve ratio of negative 35.00% or under.

14 (H) On and after January 1, 1998 until December 31, 2000 and
15 on or after January 1, 2002 until June 30, 2006, the contribution rate
16 for each employer liable to pay contributions, as computed under
17 subparagraph (E) of this paragraph (5), shall be decreased by a
18 factor, as set out below, computed to the nearest multiple of 1/10%,
19 except that, if an employer has a deficit reserve ratio of negative
20 35.0% or under, the employer's rate of contribution shall not be
21 reduced pursuant to this subparagraph (H) to less than 5.4%:

22 From January 1, 1998 until December 31, 1998, a factor of 12%;
23 From January 1, 1999 until December 31, 1999, a factor of 10%;
24 From January 1, 2000 until December 31, 2000, a factor of 7%;
25 From January 1, 2002 until March 31, 2002, a factor of 36%;
26 From April 1, 2002 until June 30, 2002, a factor of 85%;
27 From July 1, 2002 until June 30, 2003, a factor of 15%;
28 From July 1, 2003 until June 30, 2004, a factor of 15%;
29 From July 1, 2004 until June 30, 2005, a factor of 7%;
30 From July 1, 2005 until December 31, 2005, a factor of 16%; and
31 From January 1, 2006 until June 30, 2006, a factor of 34%.

32 The amount of the reduction in the employer contributions
33 stipulated by this subparagraph (H) shall be in addition to the
34 amount of the reduction in the employer contributions stipulated by
35 subparagraph (G) of this paragraph (5), except that the rate of
36 contribution of an employer who has a deficit reserve ratio of
37 negative 35.0% or under shall not be reduced pursuant to this
38 subparagraph (H) to less than 5.4% and the rate of contribution of
39 any other employer shall not be reduced to less than 0.0%.

40 (I) (Deleted by amendment, P.L.2008, c.17).

41 (J) On or after July 1, 2001, notwithstanding any other
42 provisions of this paragraph (5), the contribution rate for each
43 employer liable to pay contributions, as computed under
44 subparagraph (E) of this paragraph (5), shall be decreased by
45 0.0175%, except that, during any experience rating year starting on
46 or after July 1, 2001, in which the fund reserve ratio is equal to or
47 greater than 3.5%, there shall be no decrease pursuant to this
48 subparagraph (J) in the contribution of any employer who has a

1 deficit reserve ratio of negative 35.00% or under. The amount of the
2 reduction in the employer contributions stipulated by this
3 subparagraph (J) shall be in addition to the amount of the reduction
4 in the employer contributions stipulated by subparagraphs (G) and
5 (H) of this paragraph (5), except that the rate of contribution of an
6 employer who has a deficit reserve ratio of negative 35.0% or under
7 shall not be reduced pursuant to this subparagraph (J) to less than
8 5.4% and the rate of contribution of any other employer shall not be
9 reduced to less than 0.0%.

10 (K) With respect to experience rating years beginning on or after
11 July 1, 2009, if the fund reserve ratio, based on the fund balance as
12 of the prior March 31, is:

13 (i) Equal to or greater than 5.00% but less than 7.5%, the
14 contribution rate for each employer liable to pay contributions, as
15 computed under subparagraph (E) of this paragraph (5), shall be
16 reduced by a factor of 25% computed to the nearest multiple of
17 1/10% if not already a multiple thereof except that there shall be no
18 decrease pursuant to this subparagraph (K) in the contribution of
19 any employer who has a deficit reserve ratio of 35.00% or under;

20 (ii) Equal to or greater than 7.5%, the contribution rate for each
21 employer liable to pay contributions, as computed under
22 subparagraph (E) of this paragraph (5), shall be reduced by a factor
23 of 50% computed to the nearest multiple of 1/10% if not already a
24 multiple thereof except that there shall be no decrease pursuant to
25 this subparagraph (K) in the contribution of any employer who has
26 a deficit reserve ratio of 35.00% or under.

27 (L) Notwithstanding any other provision of this paragraph (5)
28 and notwithstanding the actual fund reserve ratio, the contribution
29 rate for employers liable to pay contributions, as computed under
30 subparagraph (E) of this paragraph (5), shall be, for fiscal year
31 2011, the rates set by column "C" of the table in that subparagraph.

32 (M) Notwithstanding any other provision of this paragraph (5)
33 and notwithstanding the actual fund reserve ratio, the contribution
34 rate for employers liable to pay contributions, as computed under
35 subparagraph (E) of this paragraph (5), shall be, for fiscal year
36 2012, the rates set by column "D" of the table in that subparagraph.

37 (N) Notwithstanding any other provision of this paragraph (5)
38 and notwithstanding the actual fund reserve ratio, the contribution
39 rate for employers liable to pay contributions, as computed under
40 subparagraph (E) of this paragraph (5), shall be, for fiscal year
41 2013, the rates set by column "E" of the table in that subparagraph.

42 (O) Notwithstanding any other provision of this paragraph (5)
43 and notwithstanding the actual fund reserve ratio, the contribution
44 rate for employers liable to pay contributions, as computed under
45 subparagraph (E) of this paragraph (5), shall be, for fiscal year
46 2022, the rates set by column "C" of the table in that subparagraph.

47 (P) Notwithstanding any other provision of this paragraph (5)
48 and notwithstanding the actual fund reserve ratio, the contribution

1 rate for employers liable to pay contributions, as computed under
2 subparagraph (E) of this paragraph (5), shall be, for fiscal year
3 2023, the rates set by column "D" of the table in that subparagraph,
4 unless the application of the provisions of this paragraph (5) using
5 the actual fund reserve ratio would result in the contribution rate for
6 employers being set by a column which has lower tax rates than the
7 rates in column "D", in which case the employers shall be liable to
8 pay contributions at the rates set by the column with the lower tax
9 rates.

10 (Q) Notwithstanding any other provision of this paragraph (5)
11 and notwithstanding the actual fund reserve ratio, the contribution
12 rate for employers liable to pay contributions, as computed under
13 subparagraph (E) of this paragraph (5), shall be, for fiscal year
14 2024, the rates set by column "E" of the table in that subparagraph,
15 unless the application of the provisions of this paragraph (5) using
16 the actual fund reserve ratio would result in the contribution rate for
17 employers being set by a column which has lower tax rates than the
18 rates in column "E", in which case the employers shall be liable to
19 pay contributions at the rates set by the column with the lower tax
20 rates.

21 (6) Additional contributions.

22 Notwithstanding any other provision of law, any employer who
23 has been assigned a contribution rate pursuant to subsection (c) of
24 this section for the year commencing July 1, 1948, and for any year
25 commencing July 1 thereafter, may voluntarily make payment of
26 additional contributions, and upon such payment shall receive a
27 recomputation of the experience rate applicable to such employer,
28 including in the calculation the additional contribution so made,
29 except that, following a transfer as described under R.S.43:21-
30 7(c)(7)(D), neither the predecessor nor successor in interest shall be
31 eligible to make a voluntary payment of additional contributions
32 during the year the transfer occurs and the next full calendar year.
33 Any such additional contribution shall be made during the 30-day
34 period following the notification to the employer of his contribution
35 rate as prescribed in this section, unless, for good cause, the time
36 for payment has been extended by the controller for not to exceed
37 an additional 60 days; provided that in no event may such payments
38 which are made later than 120 days after the beginning of the year
39 for which such rates are effective be considered in determining the
40 experience rate for the year in which the payment is made. Any
41 employer receiving any extended period of time within which to
42 make such additional payment and failing to make such payment
43 timely shall be, in addition to the required amount of additional
44 payment, liable for a penalty of 5% thereof or \$5.00, whichever is
45 greater, not to exceed \$50.00. Any adjustment under this subsection
46 shall be made only in the form of credits against accrued or future
47 contributions.

48 (7) Transfers.

1 (A) Upon the transfer of the organization, trade or business, or
2 substantially all the assets of an employer to a successor in interest,
3 whether by merger, consolidation, sale, transfer, descent or
4 otherwise, the controller shall transfer the employment experience
5 of the predecessor employer to the successor in interest, including
6 credit for past years, contributions paid, annual payrolls, benefit
7 charges, et cetera, applicable to such predecessor employer,
8 pursuant to regulation, if it is determined that the employment
9 experience of the predecessor employer with respect to the
10 organization, trade, assets or business which has been transferred
11 may be considered indicative of the future employment experience
12 of the successor in interest. The successor in interest may, within
13 four months of the date of such transfer of the organization, trade,
14 assets or business, or thereafter upon good cause shown, request a
15 reconsideration of the transfer of employment experience of the
16 predecessor employer. The request for reconsideration shall
17 demonstrate, to the satisfaction of the controller, that the
18 employment experience of the predecessor is not indicative of the
19 future employment experience of the successor.

20 (B) An employer who transfers part of his or its organization,
21 trade, assets or business to a successor in interest, whether by
22 merger, consolidation, sale, transfer, descent or otherwise, may
23 jointly make application with such successor in interest for transfer
24 of that portion of the employment experience of the predecessor
25 employer relating to the portion of the organization, trade, assets or
26 business transferred to the successor in interest, including credit for
27 past years, contributions paid, annual payrolls, benefit charges, et
28 cetera, applicable to such predecessor employer. The transfer of
29 employment experience may be allowed pursuant to regulation only
30 if it is found that the employment experience of the predecessor
31 employer with respect to the portion of the organization, trade,
32 assets or business which has been transferred may be considered
33 indicative of the future employment experience of the successor in
34 interest. Credit shall be given to the successor in interest only for
35 the years during which contributions were paid by the predecessor
36 employer with respect to that part of the organization, trade, assets
37 or business transferred.

38 (C) A transfer of the employment experience in whole or in part
39 having become final, the predecessor employer thereafter shall not
40 be entitled to consideration for an adjusted rate based upon his or its
41 experience or the part thereof, as the case may be, which has thus
42 been transferred. A successor in interest to whom employment
43 experience or a part thereof is transferred pursuant to this
44 subsection shall, as of the date of the transfer of the organization,
45 trade, assets or business, or part thereof, immediately become an
46 employer if not theretofore an employer subject to this chapter
47 (R.S.43:21-1 et seq.).

1 (D) If an employer transfers in whole or in part his or its
2 organization, trade, assets or business to a successor in interest,
3 whether by merger, consolidation, sale, transfer, descent or
4 otherwise and both the employer and successor in interest are at the
5 time of the transfer under common ownership, management or
6 control, then the employment experience attributable to the
7 transferred business shall also be transferred to and combined with
8 the employment experience of the successor in interest. The
9 transfer of the employment experience is mandatory and not subject
10 to appeal or protest.

11 (E) The transfer of part of an employer's employment experience
12 to a successor in interest shall become effective as of the first day of
13 the calendar quarter following the acquisition by the successor in
14 interest. As of the effective date, the successor in interest shall
15 have its employer rate recalculated by merging its existing
16 employment experience, if any, with the employment experience
17 acquired. If the successor in interest is not an employer as of the
18 date of acquisition, it shall be assigned the new employer rate until
19 the effective date of the transfer of employment experience.

20 (F) Upon the transfer in whole or in part of the organization,
21 trade, assets or business to a successor in interest, the employment
22 experience shall not be transferred if the successor in interest is not
23 an employer at the time of the acquisition and the controller finds
24 that the successor in interest acquired the business solely or
25 primarily for the purpose of obtaining a lower rate of contributions.

26 (d) Contributions of workers to the unemployment
27 compensation fund and the State disability benefits fund.

28 (1) (A) For periods after January 1, 1975, each worker shall
29 contribute to the fund 1% of his wages with respect to his
30 employment with an employer, which occurs on and after January
31 1, 1975, after such employer has satisfied the condition set forth in
32 subsection (h) of R.S.43:21-19 with respect to becoming an
33 employer; provided, however, that such contributions shall be at the
34 rate of 1/2 of 1% of wages paid with respect to employment while
35 the worker is in the employ of the State of New Jersey, or any
36 governmental entity or instrumentality which is an employer as
37 defined under R.S.43:21-19(h)(5), or is covered by an approved
38 private plan under the "Temporary Disability Benefits Law" or
39 while the worker is exempt from the provisions of the "Temporary
40 Disability Benefits Law" under section 7 of that law, P.L.1948,
41 c.110 (C.43:21-31).

42 (B) Effective January 1, 1978 there shall be no contributions by
43 workers in the employ of any governmental or nongovernmental
44 employer electing or required to make payments in lieu of
45 contributions unless the employer is covered by the State plan under
46 the "Temporary Disability Benefits Law" (C.43:21-25 et al.), and in
47 that case contributions shall be at the rate of 1/2 of 1%, except that
48 commencing July 1, 1986, workers in the employ of any

1 nongovernmental employer electing or required to make payments
2 in lieu of contributions shall be required to make contributions to
3 the fund at the same rate prescribed for workers of other
4 nongovernmental employers.

5 (C) (i) Notwithstanding the above provisions of this paragraph
6 (1), during the period starting July 1, 1986 and ending December
7 31, 1992, each worker shall contribute to the fund 1.125% of wages
8 paid with respect to his employment with a governmental employer
9 electing or required to pay contributions or nongovernmental
10 employer, including a nonprofit organization which is an employer
11 as defined under R.S.43:21-19(h)(6), regardless of whether that
12 nonprofit organization elects or is required to finance its benefit
13 costs with contributions to the fund or by payments in lieu of
14 contributions, after that employer has satisfied the conditions set
15 forth in subsection R.S.43:21-19(h) with respect to becoming an
16 employer. Contributions, however, shall be at the rate of 0.625%
17 while the worker is covered by an approved private plan under the
18 "Temporary Disability Benefits Law" or while the worker is exempt
19 under section 7 of that law, P.L.1948, c.110 (C.43:21-31) or any
20 other provision of that law; provided that such contributions shall
21 be at the rate of 0.625% of wages paid with respect to employment
22 with the State of New Jersey or any other governmental entity or
23 instrumentality electing or required to make payments in lieu of
24 contributions and which is covered by the State plan under the
25 "Temporary Disability Benefits Law," except that, while the worker
26 is exempt from the provisions of the "Temporary Disability Benefits
27 Law" under section 7 of that law, P.L.1948, c.110 (C.43:21-31) or
28 any other provision of that law, or is covered for disability benefits
29 by an approved private plan of the employer, the contributions to
30 the fund shall be 0.125%.

31 (ii) (Deleted by amendment, P.L.1995, c.422.)

32 (D) Notwithstanding any other provisions of this paragraph (1),
33 during the period starting January 1, 1993 and ending June 30,
34 1994, each worker shall contribute to the unemployment
35 compensation fund 0.5% of wages paid with respect to the worker's
36 employment with a governmental employer electing or required to
37 pay contributions or nongovernmental employer, including a
38 nonprofit organization which is an employer as defined under
39 paragraph (6) of subsection (h) of R.S.43:21-19, regardless of
40 whether that nonprofit organization elects or is required to finance
41 its benefit costs with contributions to the fund or by payments in
42 lieu of contributions, after that employer has satisfied the conditions
43 set forth in subsection (h) of R.S.43:21-19 with respect to becoming
44 an employer. No contributions, however, shall be made by the
45 worker while the worker is covered by an approved private plan
46 under the "Temporary Disability Benefits Law," P.L.1948, c.110
47 (C.43:21-25 et al.) or while the worker is exempt under section 7 of
48 P.L.1948, c.110 (C.43:21-31) or any other provision of that law;

1 provided that the contributions shall be at the rate of 0.50% of
2 wages paid with respect to employment with the State of New
3 Jersey or any other governmental entity or instrumentality electing
4 or required to make payments in lieu of contributions and which is
5 covered by the State plan under the "Temporary Disability Benefits
6 Law," except that, while the worker is exempt from the provisions
7 of the "Temporary Disability Benefits Law" under section 7 of that
8 law, P.L.1948, c.110 (C.43:21-31) or any other provision of that
9 law, or is covered for disability benefits by an approved private plan
10 of the employer, no contributions shall be made to the fund.

11 Each worker shall, starting on January 1, 1996 and ending March
12 31, 1996, contribute to the unemployment compensation fund
13 0.60% of wages paid with respect to the worker's employment with
14 a governmental employer electing or required to pay contributions
15 or nongovernmental employer, including a nonprofit organization
16 which is an employer as defined under paragraph (6) of subsection
17 (h) of R.S.43:21-19, regardless of whether that nonprofit
18 organization elects or is required to finance its benefit costs with
19 contributions to the fund or by payments in lieu of contributions,
20 after that employer has satisfied the conditions set forth in
21 subsection (h) of R.S.43:21-19 with respect to becoming an
22 employer, provided that the contributions shall be at the rate of
23 0.10% of wages paid with respect to employment with the State of
24 New Jersey or any other governmental entity or instrumentality
25 electing or required to make payments in lieu of contributions.

26 Each worker shall, starting on January 1, 1998 and ending
27 December 31, 1998, contribute to the unemployment compensation
28 fund 0.10% of wages paid with respect to the worker's employment
29 with a governmental employer electing or required to pay
30 contributions or nongovernmental employer, including a nonprofit
31 organization which is an employer as defined under paragraph (6)
32 of subsection (h) of R.S.43:21-19, regardless of whether that
33 nonprofit organization elects or is required to finance its benefit
34 costs with contributions to the fund or by payments in lieu of
35 contributions, after that employer has satisfied the conditions set
36 forth in subsection (h) of R.S.43:21-19 with respect to becoming an
37 employer, provided that the contributions shall be at the rate of
38 0.10% of wages paid with respect to employment with the State of
39 New Jersey or any other governmental entity or instrumentality
40 electing or required to make payments in lieu of contributions.

41 Each worker shall, starting on January 1, 1999 until December
42 31, 1999, contribute to the unemployment compensation fund
43 0.15% of wages paid with respect to the worker's employment with
44 a governmental employer electing or required to pay contributions
45 or nongovernmental employer, including a nonprofit organization
46 which is an employer as defined under paragraph (6) of subsection
47 (h) of R.S.43:21-19, regardless of whether that nonprofit
48 organization elects or is required to finance its benefit costs with

1 contributions to the fund or by payments in lieu of contributions,
2 after that employer has satisfied the conditions set forth in
3 subsection (h) of R.S.43:21-19 with respect to becoming an
4 employer, provided that the contributions shall be at the rate of
5 0.10% of wages paid with respect to employment with the State of
6 New Jersey or any other governmental entity or instrumentality
7 electing or required to make payments in lieu of contributions.

8 Each worker shall, starting on January 1, 2000 until December
9 31, 2001, contribute to the unemployment compensation fund
10 0.20% of wages paid with respect to the worker's employment with
11 a governmental employer electing or required to pay contributions
12 or nongovernmental employer, including a nonprofit organization
13 which is an employer as defined under paragraph (6) of subsection
14 (h) of R.S.43:21-19, regardless of whether that nonprofit
15 organization elects or is required to finance its benefit costs with
16 contributions to the fund or by payments in lieu of contributions,
17 after that employer has satisfied the conditions set forth in
18 subsection (h) of R.S.43:21-19 with respect to becoming an
19 employer, provided that the contributions shall be at the rate of
20 0.10% of wages paid with respect to employment with the State of
21 New Jersey or any other governmental entity or instrumentality
22 electing or required to make payments in lieu of contributions.

23 Each worker shall, starting on January 1, 2002 until June 30,
24 2004, contribute to the unemployment compensation fund 0.1825%
25 of wages paid with respect to the worker's employment with a
26 governmental employer electing or required to pay contributions or
27 a nongovernmental employer, including a nonprofit organization
28 which is an employer as defined under paragraph (6) of subsection
29 (h) of R.S.43:21-19, regardless of whether that nonprofit
30 organization elects or is required to finance its benefit costs with
31 contributions to the fund or by payments in lieu of contributions,
32 after that employer has satisfied the conditions set forth in
33 subsection (h) of R.S.43:21-19 with respect to becoming an
34 employer, provided that the contributions shall be at the rate of
35 0.0825% of wages paid with respect to employment with the State
36 of New Jersey or any other governmental entity or instrumentality
37 electing or required to make payments in lieu of contributions.

38 Each worker shall, starting on and after July 1, 2004, contribute
39 to the unemployment compensation fund 0.3825% of wages paid
40 with respect to the worker's employment with a governmental
41 employer electing or required to pay contributions or
42 nongovernmental employer, including a nonprofit organization
43 which is an employer as defined under paragraph (6) of subsection
44 (h) of R.S.43:21-19, regardless of whether that nonprofit
45 organization elects or is required to finance its benefit costs with
46 contributions to the fund or by payments in lieu of contributions,
47 after that employer has satisfied the conditions set forth in
48 subsection (h) of R.S.43:21-19 with respect to becoming an

1 employer, provided that the contributions shall be at the rate of
2 0.0825% of wages paid with respect to employment with the State
3 of New Jersey or any other governmental entity or instrumentality
4 electing or required to make payments in lieu of contributions.

5 (E) Each employer shall, notwithstanding any provision of law
6 in this State to the contrary, withhold in trust the amount of his
7 workers' contributions from their wages at the time such wages are
8 paid, shall show such deduction on his payroll records, shall furnish
9 such evidence thereof to his workers as the division or controller
10 may prescribe, and shall transmit all such contributions, in addition
11 to his own contributions, to the office of the controller in such
12 manner and at such times as may be prescribed. If any employer
13 fails to deduct the contributions of any of his workers at the time
14 their wages are paid, or fails to make a deduction therefor at the
15 time wages are paid for the next succeeding payroll period, he alone
16 shall thereafter be liable for such contributions, and for the purpose
17 of R.S.43:21-14, such contributions shall be treated as employer's
18 contributions required from him.

19 (F) As used in this chapter (R.S.43:21-1 et seq.), except when
20 the context clearly requires otherwise, the term "contributions" shall
21 include the contributions of workers pursuant to this section.

22 (G) (i) Each worker, with respect to the worker's employment
23 with a government employer electing or required to pay
24 contributions to the State disability benefits fund or
25 nongovernmental employer, including a nonprofit organization
26 which is an employer as defined under paragraph (6) of subsection
27 (h) of R.S.43:21-19, unless the employer is covered by an approved
28 private disability plan or is exempt from the provisions of the
29 "Temporary Disability Benefits Law," P.L.1948, c.110 (C.43:21-25
30 et al.) under section 7 of that law (C.43:21-31) or any other
31 provision of that law, shall, for calendar year 2012 and each
32 subsequent calendar year, make contributions to the State disability
33 benefits fund at the annual rate of contribution necessary to obtain a
34 total amount of contributions, which, when added to employer
35 contributions made to the State disability benefits fund pursuant to
36 subsection (e) of this section, is, for calendar years prior to calendar
37 year 2018, equal to 120% of the benefits paid for periods of
38 disability, excluding periods of family temporary disability, during
39 the immediately preceding calendar year plus an amount equal to
40 100% of the cost of administration of the payment of those benefits
41 during the immediately preceding calendar year, less the amount of
42 net assets remaining in the State disability benefits fund, excluding
43 net assets remaining in the "Family Temporary Disability Leave
44 Account" of that fund, as of December 31 of the immediately
45 preceding year, and is, for calendar year 2018 and year 2019, equal
46 to 120% of the benefits paid for periods of disability, excluding
47 periods of family temporary disability, during the last preceding full
48 fiscal year plus an amount equal to 100% of the cost of

1 administration of the payment of those benefits during the last
2 preceding full fiscal year, less the amount of net assets anticipated
3 to be remaining in the "Family Temporary Disability Leave
4 Account" of that fund, as of December 31 of the immediately
5 preceding calendar year, and is, for each of calendar years 2020 and
6 2021, equal to 120% of the benefits which the department
7 anticipates will be paid for periods of disability, excluding periods
8 of family temporary disability, during the respective calendar year
9 plus an amount equal to 100% of the cost of administration of the
10 payment of those benefits which the department anticipates during
11 the respective calendar year, less the amount of net assets
12 anticipated to be remaining in the State disability benefits fund,
13 excluding net assets remaining in the "Family Temporary Disability
14 Leave Account" of that fund, as of December 31 of the immediately
15 preceding calendar year, and is, for calendar year 2022 and any
16 subsequent calendar year, equal to 120% of the benefits paid for
17 periods of disability, excluding periods of family temporary
18 disability, during the last preceding full fiscal year plus an amount
19 equal to 100% of the cost of administration of the payment of those
20 benefits during the last preceding full fiscal year, less the amount of
21 net assets anticipated to be remaining in the State disability benefits
22 fund, excluding net assets remaining in the "Family Temporary
23 Disability Leave Account" of that fund, as of December 31 of the
24 immediately preceding calendar year. All increases in the cost of
25 benefits for periods of disability caused by the increases in the
26 weekly benefit rate commencing July 1, 2020, pursuant to section
27 16 of P.L.1948, c.110 (C.43:21-40), shall be funded by
28 contributions made by workers pursuant to this paragraph (i) and
29 none of those increases shall be funded by employer contributions.
30 The estimated rates for the next calendar year shall be made
31 available on the department's website no later than 60 days after the
32 end of the last preceding full fiscal year. The rates of employer
33 contributions determined pursuant to subsection (e) of this section
34 for any year shall be determined prior to the determination of the
35 rate of employee contributions pursuant to this subparagraph (i) and
36 any consideration of employee contributions in determining
37 employer rates for any year shall be based on amounts of employee
38 contributions made prior to the year to which the rate of employee
39 contributions applies and shall not be based on any projection or
40 estimate of the amount of employee contributions for the year to
41 which that rate applies.

42 (ii) Each worker shall contribute to the State disability benefits
43 fund, in addition to any amount contributed pursuant to
44 subparagraph (i) of this paragraph (1)(G), an amount equal to,
45 during calendar year 2009, 0.09%, and during calendar year 2010
46 0.12%, of wages paid with respect to the worker's employment with
47 any covered employer, including a governmental employer which is
48 an employer as defined under R.S.43:21-19(h)(5), unless the

1 employer is covered by an approved private disability plan for
2 benefits during periods of family temporary disability leave. The
3 contributions made pursuant to this subparagraph (ii) to the State
4 disability benefits fund shall be deposited into an account of that
5 fund reserved for the payment of benefits during periods of family
6 temporary disability leave as defined in section 3 of the "Temporary
7 Disability Benefits Law," P.L.1948, c.110 (C.43:21-27) and for the
8 administration of those payments and shall not be used for any other
9 purpose. This account shall be known as the "Family Temporary
10 Disability Leave Account." For calendar year 2011 and each
11 subsequent calendar year until 2018, the annual rate of contribution
12 to be paid by workers pursuant to this subparagraph (ii) shall be, for
13 calendar years prior to calendar year 2018, the rate necessary to
14 obtain a total amount of contributions equal to 125% of the benefits
15 paid for periods of family temporary disability leave during the
16 immediately preceding calendar year plus an amount equal to 100%
17 of the cost of administration of the payment of those benefits during
18 the immediately preceding calendar year, less the amount of net
19 assets remaining in the account as of December 31 of the
20 immediately preceding year, and shall be, for calendar year 2018
21 and calendar year 2019, the rate necessary to obtain a total amount
22 of contributions equal to 125% of the benefits paid for periods of
23 family temporary disability leave during the last preceding full
24 fiscal year plus an amount equal to 100% of the cost of
25 administration of the payment of those benefits during the last
26 preceding full fiscal year, less the amount of net assets anticipated
27 to be remaining in the account as of December 31 of the
28 immediately preceding calendar year. For each of calendar years
29 2020 and 2021, the annual rate of contribution to be paid by
30 workers pursuant to this subparagraph (ii) shall be the rate
31 necessary to obtain a total amount of contributions equal to 125% of
32 the benefits which the department anticipates will be paid for
33 periods of family temporary disability leave during the respective
34 calendar year plus an amount equal to 100% of the cost of
35 administration of the payment of those benefits which the
36 department anticipates during the respective calendar year, less the
37 amount of net assets remaining in the account as of December 31 of
38 the immediately preceding calendar year. For 2022 and any
39 subsequent calendar year, the annual rate of contribution to be paid
40 by workers pursuant to this subparagraph (ii) shall be the rate
41 necessary to obtain a total amount of contributions equal to 125% of
42 the benefits which were paid for periods of family temporary
43 disability leave during the last preceding full fiscal year plus an
44 amount equal to 100% of the cost of administration of the payment
45 of those benefits during the last preceding full fiscal year, less the
46 amount of net assets remaining in the account as of December 31 of
47 the immediately preceding calendar year. All increases in the cost
48 of benefits for periods of family temporary disability leave caused

1 by the increases in the weekly benefit rate commencing July 1, 2020
2 pursuant to section 16 of P.L.1948, c.110 (C.43:21-40) and
3 increases in the maximum duration of benefits commencing July 1,
4 2020 pursuant to sections 14 and 15 of P.L.1948, c.110 (C.43:21-38
5 and 43:21-39) shall be funded by contributions made by workers
6 pursuant to this paragraph (ii) and none of those increases shall be
7 funded by employer contributions. The estimated rates for the next
8 calendar year shall be made available on the department's website
9 no later than 60 days after the end of the last preceding full fiscal
10 year. Necessary administrative costs shall include the cost of an
11 outreach program to inform employees of the availability of the
12 benefits and the cost of issuing the reports required or permitted
13 pursuant to section 13 of P.L.2008, c.17 (C.43:21-39.4). No
14 monies, other than the funds in the "Family Temporary Disability
15 Leave Account," shall be used for the payment of benefits during
16 periods of family temporary disability leave or for the
17 administration of those payments, with the sole exception that,
18 during calendar years 2008 and 2009, a total amount not exceeding
19 \$25 million may be transferred to that account from the revenues
20 received in the State disability benefits fund pursuant to
21 subparagraph (i) of this paragraph (1)(G) and be expended for those
22 payments and their administration, including the administration of
23 the collection of contributions made pursuant to this subparagraph
24 (ii) and any other necessary administrative costs. Any amount
25 transferred to the account pursuant to this subparagraph (ii) shall be
26 repaid during a period beginning not later than January 1, 2011 and
27 ending not later than December 31, 2015. No monies, other than
28 the funds in the "Family Temporary Disability Leave Account,"
29 shall be used under any circumstances after December 31, 2009, for
30 the payment of benefits during periods of family temporary
31 disability leave or for the administration of those payments,
32 including for the administration of the collection of contributions
33 made pursuant to this subparagraph (ii).

34 (2) (A) (Deleted by amendment, P.L.1984, c.24.)

35 (B) (Deleted by amendment, P.L.1984, c.24.)

36 (C) (Deleted by amendment, P.L.1994, c.112.)

37 (D) (Deleted by amendment, P.L.1994, c.112.)

38 (E) (i) (Deleted by amendment, P.L.1994, c.112.)

39 (ii) (Deleted by amendment, P.L.1996, c.28.)

40 (iii) (Deleted by amendment, P.L.1994, c.112.)

41 (3) (A) If an employee receives wages from more than one
42 employer during any calendar year, and either the sum of his
43 contributions deposited in and credited to the State disability
44 benefits fund plus the amount of his contributions, if any, required
45 towards the costs of benefits under one or more approved private
46 plans under the provisions of section 9 of the "Temporary Disability
47 Benefits Law" (C.43:21-33) and deducted from his wages, or the
48 sum of such latter contributions, if the employee is covered during

1 such calendar year only by two or more private plans, exceeds an
2 amount equal to 1/2 of 1% of the "wages" determined in accordance
3 with the provisions of R.S.43:21-7(b)(3) during the calendar years
4 beginning on or after January 1, 1976 or, during calendar year 2012
5 or any subsequent calendar year, the total amount of his
6 contributions for the year exceeds the amount set by the annual rate
7 of contribution determined by the Commissioner of Labor and
8 Workforce Development pursuant to subparagraph (i) of paragraph
9 (1)(G) of this subsection (d), the employee shall be entitled to a
10 refund of the excess if he makes a claim to the controller within two
11 years after the end of the calendar year in which the wages are
12 received with respect to which the refund is claimed and establishes
13 his right to such refund. Such refund shall be made by the controller
14 from the State disability benefits fund. No interest shall be allowed
15 or paid with respect to any such refund. The controller shall, in
16 accordance with prescribed regulations, determine the portion of the
17 aggregate amount of such refunds made during any calendar year
18 which is applicable to private plans for which deductions were
19 made under section 9 of the "Temporary Disability Benefits Law"
20 (C.43:21-33) such determination to be based upon the ratio of the
21 amount of such wages exempt from contributions to such fund, as
22 provided in subparagraph (B) of paragraph (1) of this subsection
23 with respect to coverage under private plans, to the total wages so
24 exempt plus the amount of such wages subject to contributions to
25 the disability benefits fund, as provided in subparagraph (G) of
26 paragraph (1) of this subsection. The controller shall, in accordance
27 with prescribed regulations, prorate the amount so determined
28 among the applicable private plans in the proportion that the wages
29 covered by each plan bear to the total private plan wages involved
30 in such refunds, and shall assess against and recover from the
31 employer, or the insurer if the insurer has indemnified the employer
32 with respect thereto, the amount so prorated. The provisions of
33 R.S.43:21-14 with respect to collection of employer contributions
34 shall apply to such assessments. The amount so recovered by the
35 controller shall be paid into the State disability benefits fund.

36 (B) If an employee receives wages from more than one employer
37 during any calendar year, and the sum of his contributions deposited
38 in the "Family Temporary Disability Leave Account" of the State
39 disability benefits fund plus the amount of his contributions, if any,
40 required towards the costs of family temporary disability leave
41 benefits under one or more approved private plans under the
42 provisions of the "Temporary Disability Benefits Law" (C.43:21-25
43 et al.) and deducted from his wages, exceeds an amount equal to,
44 during calendar year 2009, 0.09% of the "wages" determined in
45 accordance with the provisions of R.S.43:21-7(b)(3), or during
46 calendar year 2010, 0.12% of those wages, or, during calendar year
47 2011 or any subsequent calendar year, the percentage of those
48 wages set by the annual rate of contribution determined by the

1 Commissioner of Labor and Workforce Development pursuant to
2 subparagraph (ii) of paragraph (1)(G) of this subsection (d), the
3 employee shall be entitled to a refund of the excess if he makes a
4 claim to the controller within two years after the end of the calendar
5 year in which the wages are received with respect to which the
6 refund is claimed and establishes his right to the refund. The refund
7 shall be made by the controller from the "Family Temporary
8 Disability Leave Account" of the State disability benefits fund. No
9 interest shall be allowed or paid with respect to any such refund.
10 The controller shall, in accordance with prescribed regulations,
11 determine the portion of the aggregate amount of the refunds made
12 during any calendar year which is applicable to private plans for
13 which deductions were made under section 9 of the "Temporary
14 Disability Benefits Law" (C.43:21-33), with that determination
15 based upon the ratio of the amount of such wages exempt from
16 contributions to the fund, as provided in paragraph (1)(B) of this
17 subsection (d) with respect to coverage under private plans, to the
18 total wages so exempt plus the amount of such wages subject to
19 contributions to the "Family Temporary Disability Leave Account"
20 of the State disability benefits fund, as provided in subparagraph (ii)
21 of paragraph (1)(G) of this subsection (d). The controller shall, in
22 accordance with prescribed regulations, prorate the amount so
23 determined among the applicable private plans in the proportion
24 that the wages covered by each plan bear to the total private plan
25 wages involved in such refunds, and shall assess against and
26 recover from the employer, or the insurer if the insurer has
27 indemnified the employer with respect thereto, the prorated amount.
28 The provisions of R.S.43:21-14 with respect to collection of
29 employer contributions shall apply to such assessments. The
30 amount so recovered by the controller shall be paid into the "Family
31 Temporary Disability Leave Account" of the State disability
32 benefits fund.

33 (4) If an individual does not receive any wages from the
34 employing unit which for the purposes of this chapter (R.S.43:21-1
35 et seq.) is treated as his employer, or receives his wages from some
36 other employing unit, such employer shall nevertheless be liable for
37 such individual's contributions in the first instance; and after
38 payment thereof such employer may deduct the amount of such
39 contributions from any sums payable by him to such employing
40 unit, or may recover the amount of such contributions from such
41 employing unit, or, in the absence of such an employing unit, from
42 such individual, in a civil action; provided proceedings therefor are
43 instituted within three months after the date on which such
44 contributions are payable. General rules shall be prescribed
45 whereby such an employing unit may recover the amount of such
46 contributions from such individuals in the same manner as if it were
47 the employer.

1 (5) Every employer who has elected to become an employer
2 subject to this chapter (R.S.43:21-1 et seq.), or to cease to be an
3 employer subject to this chapter (R.S.43:21-1 et seq.), pursuant to
4 the provisions of R.S.43:21-8, shall post and maintain printed
5 notices of such election on his premises, of such design, in such
6 numbers, and at such places as the director may determine to be
7 necessary to give notice thereof to persons in his service.

8 (6) Contributions by workers, payable to the controller as herein
9 provided, shall be exempt from garnishment, attachment, execution,
10 or any other remedy for the collection of debts.

11 (e) Contributions by employers to the State disability benefits
12 fund.

13 (1) Except as hereinafter provided, each employer shall, in
14 addition to the contributions required by subsections (a), (b), and
15 (c) of this section, contribute 1/2 of 1% of the wages paid by such
16 employer to workers with respect to employment unless he is not a
17 covered employer as defined in subsection (a) of section 3 of the
18 "Temporary Disability Benefits Law" (C.43:21-27 (a)), except that
19 the rate for the State of New Jersey shall be 1/10 of 1% for the
20 calendar year 1980 and for the first six months of 1981. Prior to
21 July 1, 1981 and prior to July 1 each year thereafter, the controller
22 shall review the experience accumulated in the account of the State
23 of New Jersey and establish a rate for the next following fiscal year
24 which, in combination with worker contributions, will produce
25 sufficient revenue to keep the account in balance; except that the
26 rate so established shall not be less than 1/10 of 1%. Such
27 contributions shall become due and be paid by the employer to the
28 controller for the State disability benefits fund as established by
29 law, in accordance with such regulations as may be prescribed, and
30 shall not be deducted, in whole or in part, from the remuneration of
31 individuals in his employ. In the payment of any contributions, a
32 fractional part of a cent shall be disregarded unless it amounts to
33 \$0.005 or more, in which case it shall be increased to \$0.01.

34 (2) During the continuance of coverage of a worker by an
35 approved private plan of disability benefits under the "Temporary
36 Disability Benefits Law," the employer shall be exempt from the
37 contributions required by paragraph (1) above with respect to wages
38 paid to such worker.

39 (3) (A) The rates of contribution as specified in paragraph (1)
40 above shall be subject to modification as provided herein with
41 respect to employer contributions due on and after July 1, 1951.

42 (B) A separate disability benefits account shall be maintained for
43 each employer required to contribute to the State disability benefits
44 fund and such account shall be credited with contributions
45 deposited in and credited to such fund with respect to employment
46 occurring on and after January 1, 1949. Each employer's account
47 shall be credited with all contributions paid on or before January 31
48 of any calendar year on his own behalf and on behalf of individuals

1 in his service with respect to employment occurring in preceding
2 calendar years; provided, however, that if January 31 of any
3 calendar year falls on a Saturday or Sunday an employer's account
4 shall be credited as of January 31 of such calendar year with all the
5 contributions which he has paid on or before the next succeeding
6 day which is not a Saturday or Sunday. But nothing in this act shall
7 be construed to grant any employer or individuals in his service
8 prior claims or rights to the amounts paid by him to the fund either
9 on his own behalf or on behalf of such individuals. Benefits paid to
10 any covered individual in accordance with Article III of the
11 "Temporary Disability Benefits Law" on or before December 31 of
12 any calendar year with respect to disability in such calendar year
13 and in preceding calendar years shall be charged against the account
14 of the employer by whom such individual was employed at the
15 commencement of such disability or by whom he was last
16 employed, if out of employment.

17 (C) The controller may prescribe regulations for the
18 establishment, maintenance, and dissolution of joint accounts by
19 two or more employers, and shall, in accordance with such
20 regulations and upon application by two or more employers to
21 establish such an account, or to merge their several individual
22 accounts in a joint account, maintain such joint account as if it
23 constituted a single employer's account.

24 (D) Prior to July 1 of each calendar year, the controller shall
25 make a preliminary determination of the rate of contribution for the
26 12 months commencing on such July 1 for each employer subject to
27 the contribution requirements of this subsection (e).

28 (1) Such preliminary rate shall be $\frac{1}{2}$ of 1% unless on the
29 preceding January 31 of such year such employer shall have been a
30 covered employer who has paid contributions to the State disability
31 benefits fund with respect to employment in the three calendar
32 years immediately preceding such year.

33 (2) If the minimum requirements in subparagraph (D) (1) above
34 have been fulfilled and the credited contributions exceed the
35 benefits charged by more than \$500.00, such preliminary rate shall
36 be as follows:

37 (i) $\frac{2}{10}$ of 1% if such excess over \$500.00 exceeds 1% but is
38 less than $1\frac{1}{4}\%$ of his average annual payroll as defined in this
39 chapter (R.S.43:21-1 et seq.);

40 (ii) $\frac{15}{100}$ of 1% if such excess over \$500.00 equals or exceeds
41 $1\frac{1}{4}\%$ but is less than $1\frac{1}{2}\%$ of his average annual payroll;

42 (iii) $\frac{1}{10}$ of 1% if such excess over \$500.00 equals or exceeds $1\frac{1}{2}\%$
43 of his average annual payroll.

44 (3) If the minimum requirements in subparagraph (D) (1) above
45 have been fulfilled and the contributions credited exceed the
46 benefits charged but by not more than \$500.00 plus 1% of his
47 average annual payroll, or if the benefits charged exceed the

1 contributions credited but by not more than \$500.00, the
2 preliminary rate shall be 1/4 of 1%.

3 (4) If the minimum requirements in subparagraph (D) (1) above
4 have been fulfilled and the benefits charged exceed the
5 contributions credited by more than \$500.00, such preliminary rate
6 shall be as follows:

7 (i) 35/100 of 1% if such excess over \$500.00 is less than 1/4 of
8 1% of his average annual payroll;

9 (ii) 45/100 of 1% if such excess over \$500.00 equals or exceeds
10 1/4 of 1% but is less than 1/2 of 1% of his average annual payroll;

11 (iii) 55/100 of 1% if such excess over \$500.00 equals or exceeds
12 1/2 of 1% but is less than 3/4 of 1% of his average annual payroll;

13 (iv) 65/100 of 1% if such excess over \$500.00 equals or exceeds
14 3/4 of 1% but is less than 1% of his average annual payroll;

15 (v) 75/100 of 1% if such excess over \$500.00 equals or exceeds
16 1% of his average annual payroll.

17 (5) Determination of the preliminary rate as specified in
18 subparagraphs (D)(2), (3) and (4) above shall be subject, however,
19 to the condition that it shall in no event be decreased by more than
20 1/10 of 1% of wages or increased by more than 2/10 of 1% of
21 wages from the preliminary rate determined for the preceding year
22 in accordance with subparagraph (D) (1), (2), (3) or (4), whichever
23 shall have been applicable.

24 (E) (1) Prior to July 1 of each calendar year the controller shall
25 determine the amount of the State disability benefits fund as of
26 December 31 of the preceding calendar year, increased by the
27 contributions paid thereto during January of the current calendar
28 year with respect to employment occurring in the preceding
29 calendar year. If such amount exceeds the net amount withdrawn
30 from the unemployment trust fund pursuant to section 23 of the
31 "Temporary Disability Benefits Law," P.L.1948, c.110 (C.43:21-47)
32 plus the amount at the end of such preceding calendar year of the
33 unemployment disability account as defined in section 22 of said
34 law (C.43:21-46), such excess shall be expressed as a percentage of
35 the wages on which contributions were paid to the State disability
36 benefits fund on or before January 31 with respect to employment
37 in the preceding calendar year.

38 (2) The controller shall then make a final determination of the
39 rates of contribution for the 12 months commencing July 1 of such
40 year for employers whose preliminary rates are determined as
41 provided in subparagraph (D) hereof, as follows:

42 (i) If the percentage determined in accordance with
43 subparagraph (E)(1) of this paragraph equals or exceeds 1 1/4%, the
44 final employer rates shall be the preliminary rates determined as
45 provided in subparagraph (D) hereof, except that if the employer's
46 preliminary rate is determined as provided in subparagraph (D)(2)
47 or subparagraph (D)(3) hereof, the final employer rate shall be the
48 preliminary employer rate decreased by such percentage of excess

1 taken to the nearest 5/100 of 1%, but in no case shall such final rate
2 be less than 1/10 of 1%.

3 (ii) If the percentage determined in accordance with
4 subparagraph (E)(1) of this paragraph equals or exceeds 3/4 of 1%
5 and is less than 1 1/4 of 1%, the final employer rates shall be the
6 preliminary employer rates.

7 (iii) If the percentage determined in accordance with
8 subparagraph (E)(1) of this paragraph is less than 3/4 of 1%, but in
9 excess of 1/4 of 1%, the final employer rates shall be the
10 preliminary employer rates determined as provided in subparagraph
11 (D) hereof increased by the difference between 3/4 of 1% and such
12 percentage taken to the nearest 5/100 of 1%; provided, however,
13 that no such final rate shall be more than 1/4 of 1% in the case of an
14 employer whose preliminary rate is determined as provided in
15 subparagraph (D)(2) hereof, more than 1/2 of 1% in the case of an
16 employer whose preliminary rate is determined as provided in
17 subparagraph (D)(1) and subparagraph (D)(3) hereof, nor more than
18 3/4 of 1% in the case of an employer whose preliminary rate is
19 determined as provided in subparagraph (D)(4) hereof.

20 (iv) If the amount of the State disability benefits fund determined
21 as provided in subparagraph (E)(1) of this paragraph is equal to or
22 less than 1/4 of 1%, then the final rate shall be 2/5 of 1% in the case
23 of an employer whose preliminary rate is determined as provided in
24 subparagraph (D)(2) hereof, 7/10 of 1% in the case of an employer
25 whose preliminary rate is determined as provided in subparagraph
26 (D)(1) and subparagraph (D)(3) hereof, and 1.1% in the case of an
27 employer whose preliminary rate is determined as provided in
28 subparagraph (D)(4) hereof. Notwithstanding any other provision of
29 law or any determination made by the controller with respect to any
30 12-month period commencing on July 1, 1970, the final rates for all
31 employers for the period beginning January 1, 1971, shall be as set
32 forth herein.

33 (F) Notwithstanding any other provisions of this subsection (e),
34 the rate of contribution paid to the State disability benefits fund by
35 each covered employer as defined in paragraph (1) of subsection (a)
36 of section 3 of P.L.1948, c.110 (C.43:21-27), shall be determined as
37 if:

38 (i) No disability benefits have been paid with respect to periods
39 of family temporary disability leave;

40 (ii) No worker paid any contributions to the State disability
41 benefits fund pursuant to paragraph (1)(G)(ii) of subsection (d) of
42 this section;

43 (iii) No amounts were transferred from the State disability
44 benefits fund to the "Family Temporary Disability Leave Account"
45 pursuant to paragraph (1)(G)(ii) of subsection (d) of this section;
46 and

47 (iv) The total amount of benefits paid for periods of disability
48 were not subject to the increases in the weekly benefit rate for those

benefits commencing July 1, 2020 pursuant to section 16 of P.L.1948, c.110 (C.43:21-40).
(cf: P.L.2020, c.150, s.2)

6. R.S.43:21-16 is amended to read as follows:

43:21-16. (a) (1) Whoever makes a false statement or representation, knowing it to be false, or knowingly fails to disclose a material fact, to obtain or increase or attempts to obtain or increase any benefit or other payment under this chapter (R.S.43:21-1 et seq.), or under an employment security law of any other state or of the federal government, either for himself or for any other person, shall be liable to a fine of 25% of the amount fraudulently obtained, to be recovered in an action at law in the name of the Division of Unemployment and Temporary Disability Insurance of the Department of Labor and Workforce Development of the State of New Jersey or as provided in subsection (e) of R.S.43:21-14, said fine when recovered shall be immediately deposited in the following manner: 10 percent of the amount fraudulently obtained deposited into the unemployment compensation auxiliary fund for the use of said fund, and 15 percent of the amount fraudulently obtained deposited into the unemployment compensation fund; and each such false statement or representation or failure to disclose a material fact shall constitute a separate offense. Any penalties imposed by this subsection shall be in addition to those otherwise prescribed in this chapter (R.S.43:21-1 et seq.).

(2) For purposes of any unemployment compensation program of the United States, if the department determines that any benefit amount is obtained by an individual due to fraud committed by the individual, the department shall assess a fine on the individual and deposit the recovered fine in the same manner as provided in paragraph (1) of subsection (a) of this section. As used in this paragraph, "unemployment compensation program of the United States" means:

(A) Unemployment compensation for federal civilian employees pursuant to 5 U.S.C. 8501 et seq.;

(B) Unemployment compensation for ex-service members pursuant to 5 U.S.C. 8521 et seq.;

(C) Trade readjustment allowances pursuant to 19 U.S.C. 2291-2294;

(D) Disaster unemployment assistance pursuant to 42 U.S.C. 5177(a);

(E) Any federal temporary extension of unemployment compensation;

(F) Any federal program that increases the weekly amount of unemployment compensation payable to individuals; and

(G) Any other federal program providing for the payment of unemployment compensation.

1 (b) (1) An employing unit or any officer or agent of an
2 employing unit or any other person who makes a false statement or
3 representation, knowing it to be false, or who knowingly fails to
4 disclose a material fact, to prevent or reduce the payment of
5 benefits to any individual entitled thereto or to avoid becoming or
6 remaining subject hereto or to avoid or reduce any contribution or
7 other payment required from an employing unit under this chapter
8 (R.S.43:21-1 et seq.), or under an employment security law of any
9 other state or of the federal government, or who willfully fails or
10 refuses to furnish any reports or information required hereunder,
11 including failing to provide the information required by subsection
12 (a) of R.S.43:21-6 immediately upon a separation from
13 employment, or to produce or permit the inspection or copying of
14 records, as required hereunder, shall be liable to a fine of \$500, or
15 25% of any amount fraudulently withheld, whichever is greater, to
16 be recovered in an action at law in the name of the Division of
17 Unemployment and Temporary Disability Insurance of the
18 Department of Labor and Workforce Development of the State of
19 New Jersey or as provided in subsection (e) of R.S.43:21-14, said
20 fine when recovered to be paid to the unemployment compensation
21 auxiliary fund for the use of said fund; and each such false
22 statement or representation or failure to disclose a material fact, and
23 each day of such failure or refusal shall constitute a separate
24 offense. Any penalties imposed by this paragraph shall be in
25 addition to those otherwise prescribed in this chapter (R.S.43:21-1
26 et seq.).

27 (2) (Deleted by amendment, P.L.2022, c.120).

28 (3) Any employing unit, officer or agent of the employing unit,
29 or any other person, determined by the controller to have knowingly
30 violated, or attempted to violate, or advised another person to
31 violate the transfer of employment experience provisions found at
32 R.S.43:21-7 (c)(7), or who otherwise knowingly attempts to obtain
33 a lower rate of contributions by failing to disclose material
34 information, or by making a false statement, or by a
35 misrepresentation of fact, shall be subject to a fine of \$5,000 or
36 25% of the contributions under-reported or attempted to be under-
37 reported, whichever is greater, to be recovered as provided in
38 subsection (e) of R.S.43:21-14, and when recovered to be paid to
39 the unemployment compensation auxiliary fund for the use of said
40 fund. For the purposes of this subsection, "knowingly" means
41 having actual knowledge of, or acting with deliberate ignorance or
42 reckless disregard for the prohibition involved.

43 (c) Any person who shall willfully violate any provision of this
44 chapter (R.S.43:21-1 et seq.) or any rule or regulation thereunder,
45 the violation of which is made unlawful or the observance of which
46 is required under the terms of this chapter (R.S.43:21-1 et seq.), and
47 for which a penalty is neither prescribed herein nor provided by any
48 other applicable statute, shall be liable to a fine of \$50.00, to be

1 recovered in an action at law in the name of the Division of
2 Unemployment and Temporary Disability Insurance of the
3 Department of Labor and Workforce Development of the State of
4 New Jersey or as provided in subsection (e) of R.S.43:21-14, said
5 fine when recovered to be paid to the unemployment compensation
6 auxiliary fund for the use of said fund; and each day such violation
7 continues shall be deemed to be a separate offense.

8 (d) (1) When it is determined by a representative or
9 representatives designated by the Director of the Division of
10 Unemployment ~~and~~ Insurance or the Division of Temporary
11 Disability Insurance, as appropriate, of the Department of Labor
12 and Workforce Development of the State of New Jersey that any
13 person~~],~~ by reason of the knowing, fraudulent nondisclosure or
14 misrepresentation by him, or by anyone acting as his agent, of a
15 material fact,~~]~~ has received any sum as benefits under this chapter
16 (R.S.43:21-1 et seq.) while any conditions for the receipt of benefits
17 imposed by this chapter (R.S.43:21-1 et seq.) were not fulfilled in
18 his case, or while he was disqualified from receiving benefits, or
19 while otherwise not entitled to receive such sum as benefits, such
20 person, unless the ~~director (with the concurrence of the controller)~~
21 ~~directs otherwise by regulation,~~ Director of the Division of
22 Unemployment Insurance or the Division of Temporary Disability
23 Insurance, as appropriate, has waived the claimant's repayment
24 obligation, pursuant to paragraph (4) or paragraph (5) of this
25 subsection (d), shall be liable to repay those benefits in full. ~~]~~The
26 person shall not be liable to repay all or any portion of the
27 overpayment if the representative finds that the person received the
28 overpayment of benefits because of errors or failures to provide
29 information by the employer or errors by the division, and not
30 because of an error, or knowing, fraudulent nondisclosure or
31 misrepresentation, by the person. If the representative finds that
32 errors made by the person were a cause of the overpayment together
33 with errors of the division, or errors or failures to provide
34 information by the employer, but the person did not make a
35 knowing, fraudulent nondisclosure or misrepresentation, the
36 representative shall determine a portion of the overpayment for
37 which the person is liable taking into consideration possible
38 financial hardship to the person, whether recovery would be against
39 equity and good conscience, and how much the person's errors,
40 compared to errors of the division or employer, contributed to the
41 overpayment occurring, but the amount to which the person shall be
42 liable shall not exceed 50 percent of the overpayment.~~]~~ The
43 employer's account shall not be charged for the amount of an
44 overpayment of benefits if the overpayment was caused by an error
45 of the division and not by any error of the employer~~],~~ but shall be
46 charged if the overpayment was caused by an error or failure to
47 provide information of the employer~~]~~. The sum ~~for which the~~

1 person is found liable to repay] shall be deducted from any future
2 benefits payable to the individual under this chapter (R.S.43:21-1 et
3 seq.) or shall be paid by the individual to the division for the
4 unemployment compensation fund, and such sum shall be
5 collectible in the manner provided for by law, including, but not
6 limited to, the filing of a certificate of debt with the Clerk of the
7 Superior Court of New Jersey; provided, however, that, except in
8 the event of fraud, no person shall be liable for any such refunds or
9 deductions against future benefits unless so notified before four
10 years have elapsed from the time the benefits in question were paid.
11 Such person shall be promptly notified of the determination and the
12 reasons therefor. The person shall be provided a written
13 notification of any determination regarding the repayment of an
14 overpayment and the opportunity to file an appeal of the
15 determination within 20 calendar days after a confirmed receipt of a
16 notice of the determination or 30 calendar days after the notice was
17 mailed to the last known address of the person, and a recovery of an
18 overpayment shall not commence until the end of whichever is
19 applicable of the 20- or 30-day periods and the resolution of any
20 appeal made during those periods.

21 (2) Interstate and cross-offset of state and federal unemployment
22 benefits. To the extent permissible under the laws and Constitution
23 of the United States, the commissioner is authorized to enter into or
24 cooperate in arrangements or reciprocal agreements with
25 appropriate and duly authorized agencies of other states or the
26 United States Secretary of Labor, or both, whereby:

27 (A) Overpayments of unemployment benefits as determined
28 under subsection (d) of R.S.43:21-16 shall be recovered by offset
29 from unemployment benefits otherwise payable under the
30 unemployment compensation law of another state, and
31 overpayments of unemployment benefits as determined under the
32 unemployment compensation law of another state shall be
33 recovered by offset from unemployment benefits otherwise payable
34 under R.S.43:21-1 et seq.; and

35 (B) Overpayments of unemployment benefits as determined
36 under applicable federal law, with respect to benefits or allowances
37 for unemployment provided under a federal program administered
38 by this State under an agreement with the United States Secretary of
39 Labor, shall be recovered by offset from unemployment benefits
40 otherwise payable under R.S.43:21-1 et seq., or any federal program
41 administered by this State, or under the unemployment
42 compensation law of another state or any federal unemployment
43 benefit or allowance program administered by another state under
44 an agreement with the United States Secretary of Labor, if the other
45 state has in effect a reciprocal agreement with the United States
46 Secretary of Labor as authorized by subsection (g) of 42
47 U.S.C.s.503, and if the United States agrees, as provided in the
48 reciprocal agreement with this State entered into under subsection

1 (g) of 42 U.S.C.s.503, that overpayments of unemployment benefits
2 as determined under subsection (d) of R.S.43:21-16 and
3 overpayments as determined under the unemployment
4 compensation law of another state which has in effect a reciprocal
5 agreement with the United States Secretary of Labor as authorized
6 by subsection (g) of 42 U.S.C.s.503, shall be recovered by offset
7 from benefits or allowances otherwise payable under a federal
8 program administered by this State or another state under an
9 agreement with the United States Secretary of Labor.

10 (3) The provisions of this subsection shall not be construed as
11 requiring or permitting a waiver of the recovery of any
12 overpayments of unemployment benefits if the waiver is prohibited
13 by any federal law, regulation or administrative directive. A
14 recovery shall not be waived unless the division determines that the
15 claimant is without fault and the repayment would be contrary to
16 equity and good conscience in the case of the recovery of an
17 overpayment of benefit under any of the following programs
18 authorized by the federal "Coronavirus Aid, Relief, and Economic
19 Security (CARES) Act," Pub.L.116-136: Federal Pandemic
20 Unemployment Compensation (FPUC), Pandemic Emergency
21 Unemployment Compensation (PEUC), Mixed Earners
22 Unemployment Compensation (MEUC), Pandemic Unemployment
23 Assistance (PUA), or the first week of regular Unemployment
24 Compensation that is reimbursed in accordance with Section 2105
25 of the CARES Act".

26 (4) Upon request by the claimant, the Director of the Division of
27 Unemployment Insurance or the Division of Temporary Disability
28 Insurance, as appropriate, shall grant the claimant a full waiver of
29 recovery of an overpayment of benefits only after the director has
30 determined that the claimant has not misrepresented or withheld any
31 material fact to obtain benefits and only under the following
32 circumstances:

33 (A) Where the claimant is deceased;

34 (B) Where the claimant is disabled and no longer able to work;

35 (C) Where the claimant received the overpayment of benefits
36 due to an error by the division, or due to an error of the employer or
37 a failure by the employer to provide information; or

38 (D) Where the director determines that recovery of the
39 overpayment would be contrary to equity and good conscience.

40 (5) In the event that the Director of the Division of
41 Unemployment Insurance or the Division of Temporary Disability
42 Insurance, as appropriate, becomes aware, without a request from
43 the claimant pursuant to subparagraph (C) of paragraph (4) of this
44 subsection (d), that the claimant received an overpayment of
45 benefits due to an error by the division, or due to an error of the
46 employer or a failure by the employer to provide information, the
47 director shall grant a full waiver of recovery of an overpayment of
48 benefits, provided that the director has first determined that the

1 claimant did not misrepresent or withhold any material fact to
2 obtain benefits.

3 (e) (1) Any employing unit, or any officer or agent of an
4 employing unit, which officer or agent is directly or indirectly
5 responsible for collecting, truthfully accounting for, remitting when
6 payable any contribution, or filing or causing to be filed any report
7 or statement required by this chapter, or employer, or person failing
8 to remit, when payable, any employer contributions, or worker
9 contributions (if withheld or deducted), or the amount of such
10 worker contributions (if not withheld or deducted), or filing or
11 causing to be filed with the controller or the Division of
12 Unemployment and Temporary Disability Insurance of the
13 Department of Labor and Workforce Development of the State of
14 New Jersey, any false or fraudulent report or statement, and any
15 person who aids or abets an employing unit, employer, or any
16 person in the preparation or filing of any false or fraudulent report
17 or statement with intent to defraud the State of New Jersey or an
18 employment security agency of any other state or of the federal
19 government, or with intent to evade the payment of any
20 contributions, interest or penalties, or any part thereof, which shall
21 be due under the provisions of this chapter (R.S.43:21-1 et seq.),
22 shall be liable for each offense upon conviction before any Superior
23 Court or municipal court, to a fine not to exceed \$1,000.00 or by
24 imprisonment for a term not to exceed 90 days, or both, at the
25 discretion of the court. The fine upon conviction shall be payable
26 to the unemployment compensation auxiliary fund. Any penalties
27 imposed by this subsection shall be in addition to those otherwise
28 prescribed in this chapter (R.S.43:21-1 et seq.).

29 (2) Any employing unit, officer or agent of the employing unit,
30 or any other person, who knowingly violates, or attempts to violate,
31 or advise another person to violate the transfer of employment
32 experience provisions found at R.S.43:21-7 (c)(7) shall be, upon
33 conviction before any Superior Court or municipal court, guilty of a
34 crime of the fourth degree. For the purposes of this subsection,
35 "knowingly" means having actual knowledge of, or acting with
36 deliberate ignorance or reckless disregard for the prohibition
37 involved.

38 (f) Any employing unit or any officer or agent of an employing
39 unit or any other person who aids and abets any person to obtain
40 any sum of benefits under this chapter to which he is not entitled, or
41 a larger amount as benefits than that to which he is justly entitled,
42 shall be liable for each offense upon conviction before any Superior
43 Court or municipal court, to a fine not to exceed \$1,000.00 or by
44 imprisonment for a term not to exceed 90 days, or both, at the
45 discretion of the court. The fine upon conviction shall be payable
46 to the unemployment compensation auxiliary fund. Any penalties
47 imposed by this subsection shall be in addition to those otherwise
48 prescribed in this chapter (R.S.43:21-1 et seq.).

1 (g) There shall be created in the Division of Unemployment and
2 Temporary Disability Insurance of the Department of Labor and
3 Workforce Development of the State of New Jersey an investigative
4 staff for the purpose of investigating violations referred to in this
5 section and enforcing the provisions thereof.

6 (h) An employing unit or any officer or agent of an employing
7 unit who makes a false statement or representation, knowing it to be
8 false, or who knowingly fails to disclose a material fact, to reduce
9 benefit charges to the employing unit pursuant to paragraph (1) of
10 subsection (c) of R.S.43:21-7, shall be liable to a fine of \$1,000, to
11 be recovered in an action at law in the name of the Division of
12 Unemployment and Temporary Disability Insurance of the
13 Department of Labor and Workforce Development of the State of
14 New Jersey or as provided in subsection (e) of R.S.43:21-14. The
15 fine when recovered shall be paid to the unemployment
16 compensation auxiliary fund for the use of the fund. Each false
17 statement or representation or failure to disclose a material fact, and
18 each day of that failure or refusal shall constitute a separate offense.
19 Any penalties imposed by this subsection shall be in addition to
20 those otherwise prescribed in R.S.43:21-1 et seq.

21 (i) The Department of Labor and Workforce Development shall
22 arrange for the electronic receipt of death record notifications from
23 the New Jersey Electronic Death Registration System, pursuant to
24 section 16 of P.L.2003, c.221 (C.26:8-24.1), and establish a
25 verification system to confirm that benefits paid pursuant to the
26 "Temporary Disability Benefits Law," P.L.1948, c.110 (C.43:21-25
27 et al.), and the "unemployment compensation law," R.S.43:21-1 et
28 seq., are not being paid to deceased individuals.

29 (j) The Department of Labor and Workforce Development shall
30 arrange for the electronic receipt of identifying information from
31 the Department of Corrections, pursuant to section 6 of P.L.1976,
32 c.98 (C.30:1B-6), and from the Administrative Office of the Courts
33 and any county which does not provide county inmate incarceration
34 information to the Administrative Office of the Courts, and
35 establish a verification system to confirm that benefits paid
36 pursuant to the "unemployment compensation law," R.S.43:21-1 et
37 seq., are not being paid to individuals who are incarcerated.

38 3. This act shall take effect on the 270th day following
39 enactment, except that the division shall, prior to the 270th day after
40 enactment, take all administrative measures necessary to implement
41 this act, including making all needed changes in forms and
42 materials to be provided to employers, and notifying them of what
43 is required to be in compliance with this act, including the
44 requirements to provide the division with an email address for
45 communication to and from the division and to use electronic means
46 to communicate with the department.

47 (cf: P.L.2022, c.120, s.2)

1 7. R.S.43:21-19 is amended to read as follows:

2 43:21-19. Definitions. As used in this chapter (R.S.43:21-1 et
3 seq.), unless the context clearly requires otherwise:

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

7 (2) "Average annual payroll" means the average of the annual
8 payrolls of any employer for the last three or five preceding
9 calendar years, whichever average is higher, except that any year or
10 years throughout which an employer has had no "annual payroll"
11 because of military service shall be deleted from the reckoning; the
12 "average annual payroll" in such case is to be determined on the
13 basis of the prior three or five calendar years in each of which the
14 employer had an "annual payroll" in the operation of his business, if
15 the employer resumes his business within 12 months after
16 separation, discharge or release from such service, under conditions
17 other than dishonorable, and makes application to have his "average
18 annual payroll" determined on the basis of such deletion within 12
19 months after he resumes his business; provided, however, that
20 "average annual payroll" solely for the purposes of paragraph (3) of
21 subsection (e) of R.S.43:21-7 means the average of the annual
22 payrolls of any employer on which he paid contributions to the
23 State disability benefits fund for the last three or five preceding
24 calendar years, whichever average is higher; provided further that
25 only those wages be included on which employer contributions have
26 been paid on or before January 31 (or the next succeeding day if
27 such January 31 is a Saturday or Sunday) immediately preceding
28 the beginning of the 12-month period for which the employer's
29 contribution rate is computed.

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

33 (c) (1) "Base year" with respect to benefit years commencing on
34 or after July 1, 1986, shall mean the first four of the last five
35 completed calendar quarters immediately preceding an individual's
36 benefit year.

37 With respect to a benefit year commencing on or after July 1,
38 1995, if an individual does not have sufficient qualifying weeks or
39 wages in his base year to qualify for benefits, the individual shall
40 have the option of designating that his base year shall be the
41 "alternative base year," which means the last four completed
42 calendar quarters immediately preceding the individual's benefit
43 year; except that, with respect to a benefit year commencing on or
44 after October 1, 1995, if the individual also does not have sufficient
45 qualifying weeks or wages in the last four completed calendar
46 quarters immediately preceding his benefit year to qualify for
47 benefits, "alternative base year" means the last three completed
48 calendar quarters immediately preceding his benefit year and, of the

1 calendar quarter in which the benefit year commences, the portion
2 of the quarter which occurs before the commencing of the benefit
3 year.

4 The division shall inform the individual of his options under this
5 section as amended by P.L.1995, c.234. If information regarding
6 weeks and wages for the calendar quarter or quarters immediately
7 preceding the benefit year is not available to the division from the
8 regular quarterly reports of wage information and the division is not
9 able to obtain the information using other means pursuant to State
10 or federal law, the division may base the determination of eligibility
11 for benefits on the affidavit of an individual with respect to weeks
12 and wages for that calendar quarter. The individual shall furnish
13 payroll documentation, if available, in support of the affidavit. A
14 determination of benefits based on an alternative base year shall be
15 adjusted when the quarterly report of wage information from the
16 employer is received if that information causes a change in the
17 determination.

18 (2) With respect to a benefit year commencing on or after June 1,
19 1990 for an individual who immediately preceding the benefit year
20 was subject to a disability compensable under the provisions of the
21 "Temporary Disability Benefits Law," P.L.1948, c.110 (C.43:21-25
22 et seq.), "base year" shall mean the first four of the last five
23 completed calendar quarters immediately preceding the individual's
24 period of disability, if the employment held by the individual
25 immediately preceding the period of disability is no longer
26 available at the conclusion of that period and the individual files a
27 valid claim for unemployment benefits after the conclusion of that
28 period. For the purposes of this paragraph, "period of disability"
29 means the period defined as a period of disability by section 3 of
30 the "Temporary Disability Benefits Law," P.L.1948, c.110
31 (C.43:21-27). An individual who files a claim under the provisions
32 of this paragraph (2) shall not be regarded as having left work
33 voluntarily for the purposes of subsection (a) of R.S.43:21-5.

34 (3) With respect to a benefit year commencing on or after June 1,
35 1990 for an individual who immediately preceding the benefit year
36 was subject to a disability compensable under the provisions of the
37 workers' compensation law (chapter 15 of Title 34 of the Revised
38 Statutes), "base year" shall mean the first four of the last five
39 completed calendar quarters immediately preceding the individual's
40 period of disability, if the period of disability was not longer than
41 two years, if the employment held by the individual immediately
42 preceding the period of disability is no longer available at the
43 conclusion of that period and if the individual files a valid claim for
44 unemployment benefits after the conclusion of that period. For the
45 purposes of this paragraph, "period of disability" means the period
46 from the time at which the individual becomes unable to work
47 because of the compensable disability until the time that the
48 individual becomes able to resume work and continue work on a

1 permanent basis. An individual who files a claim under the
2 provisions of this paragraph (3) shall not be regarded as having left
3 work voluntarily for the purposes of subsection (a) of R.S.43:21-5.

4 (d) "Benefit year" with respect to any individual means the 364
5 consecutive calendar days beginning with the day on, or as of,
6 which he first files a valid claim for benefits, and thereafter
7 beginning with the day on, or as of, which the individual next files a
8 valid claim for benefits after the termination of his last preceding
9 benefit year. Any claim for benefits made in accordance with
10 subsection (a) of R.S.43:21-6 shall be deemed to be a "valid claim"
11 for the purpose of this subsection if (1) he is unemployed for the
12 week in which, or as of which, he files a claim for benefits; and (2)
13 he has fulfilled the conditions imposed by subsection (e) of
14 R.S.43:21-4.

15 (e) (1) "Division" means the Division of Unemployment and
16 Temporary Disability Insurance of the Department of Labor and
17 Workforce Development, and any transaction or exercise of
18 authority by the director of the division thereunder, or under this
19 chapter (R.S.43:21-1 et seq.), shall be deemed to be performed by
20 the division.

21 (2) "Controller" means the Office of the Assistant Commissioner
22 for Finance and Controller of the Department of Labor and
23 Workforce Development, established by the 1982 Reorganization
24 Plan of the Department of Labor.

25 (f) "Contributions" means the money payments to the State
26 Unemployment Compensation Fund, required by R.S.43:21-7.
27 "Payments in lieu of contributions" means the money payments to
28 the State Unemployment Compensation Fund by employers electing
29 or required to make payments in lieu of contributions, as provided
30 in section 3 or section 4 of P.L.1971, c.346 (C.43:21-7.2 or 43:21-
31 7.3).

32 (g) "Employing unit" means the State or any of its
33 instrumentalities or any political subdivision thereof or any of its
34 instrumentalities or any instrumentality of more than one of the
35 foregoing or any instrumentality of any of the foregoing and one or
36 more other states or political subdivisions or any individual or type
37 of organization, any partnership, association, trust, estate, joint-
38 stock company, insurance company or corporation, whether
39 domestic or foreign, or the receiver, trustee in bankruptcy, trustee or
40 successor thereof, or the legal representative of a deceased person,
41 which has or subsequent to January 1, 1936, had in its employ one
42 or more individuals performing services for it within this State. All
43 individuals performing services within this State for any employing
44 unit which maintains two or more separate establishments within
45 this State shall be deemed to be employed by a single employing
46 unit for all the purposes of this chapter (R.S.43:21-1 et seq.). Each
47 individual employed to perform or to assist in performing the work
48 of any agent or employee of an employing unit shall be deemed to

1 be employed by such employing unit for all the purposes of this
2 chapter (R.S.43:21-1 et seq.), whether such individual was hired or
3 paid directly by such employing unit or by such agent or employee;
4 provided the employing unit had actual or constructive knowledge
5 of the work.

6 (h) "Employer" means:

7 (1) Any employing unit which in either the current or the
8 preceding calendar year paid remuneration for employment in the
9 amount of \$1,000.00 or more;

10 (2) Any employing unit (whether or not an employing unit at the
11 time of acquisition) which acquired the organization, trade or
12 business, or substantially all the assets thereof, of another which, at
13 the time of such acquisition, was an employer subject to this chapter
14 (R.S.43:21-1 et seq.);

15 (3) Any employing unit which acquired the organization, trade or
16 business, or substantially all the assets thereof, of another
17 employing unit and which, if treated as a single unit with such other
18 employing unit, would be an employer under paragraph (1) of this
19 subsection;

20 (4) Any employing unit which together with one or more other
21 employing units is owned or controlled (by legally enforceable
22 means or otherwise), directly or indirectly by the same interests, or
23 which owns or controls one or more other employing units (by
24 legally enforceable means or otherwise), and which, if treated as a
25 single unit with such other employing unit or interest, would be an
26 employer under paragraph (1) of this subsection;

27 (5) Any employing unit for which service in employment as
28 defined in R.S.43:21-19 (i) (1) (B) (i) is performed after December
29 31, 1971; and as defined in R.S.43:21-19 (i) (1) (B) (ii) is
30 performed after December 31, 1977;

31 (6) Any employing unit for which service in employment as
32 defined in R.S.43:21-19 (i) (1) (c) is performed after December 31,
33 1971 and which in either the current or the preceding calendar year
34 paid remuneration for employment in the amount of \$1,000.00 or
35 more;

36 (7) Any employing unit not an employer by reason of any other
37 paragraph of this subsection (h) for which, within either the current
38 or preceding calendar year, service is or was performed with respect
39 to which such employing unit is liable for any federal tax against
40 which credit may be taken for contributions required to be paid into
41 a state unemployment fund; or which, as a condition for approval of
42 the "unemployment compensation law" for full tax credit against
43 the tax imposed by the Federal Unemployment Tax Act, is required
44 pursuant to such act to be an employer under this chapter
45 (R.S.43:21-1 et seq.);

46 (8) (Deleted by amendment, P.L.1977, c.307.)

47 (9) (Deleted by amendment, P.L.1977, c.307.)

48 (10) (Deleted by amendment, P.L.1977, c.307.)

1 (11) Any employing unit subject to the provisions of the Federal
2 Unemployment Tax Act within either the current or the preceding
3 calendar year, except for employment hereinafter excluded under
4 paragraph (7) of subsection (i) of this section;

5 (12) Any employing unit for which agricultural labor in
6 employment as defined in R.S.43:21-19 (i) (1) (I) is performed after
7 December 31, 1977;

8 (13) Any employing unit for which domestic service in
9 employment as defined in R.S.43:21-19 (i) (1) (J) is performed after
10 December 31, 1977;

11 (14) Any employing unit which having become an employer
12 under the "unemployment compensation law" (R.S.43:21-1 et seq.),
13 has not under R.S.43:21-8 ceased to be an employer; or for the
14 effective period of its election pursuant to R.S.43:21-8, any other
15 employing unit which has elected to become fully subject to this
16 chapter (R.S.43:21-1 et seq.).

17 (i) (1) "Employment" means:

18 (A) Any service performed prior to January 1, 1972, which was
19 employment as defined in the "unemployment compensation law"
20 (R.S.43:21-1 et seq.) prior to such date, and, subject to the other
21 provisions of this subsection, service performed on or after January
22 1, 1972, including service in interstate commerce, performed for
23 remuneration or under any contract of hire, written or oral, express
24 or implied.

25 (B) (i) Service performed after December 31, 1971 by an
26 individual in the employ of this State or any of its instrumentalities
27 or in the employ of this State and one or more other states or their
28 instrumentalities for a hospital or institution of higher education
29 located in this State, if such service is not excluded from
30 "employment" under paragraph (D) below.

31 (ii) Service performed after December 31, 1977, in the employ
32 of this State or any of its instrumentalities or any political
33 subdivision thereof or any of its instrumentalities or any
34 instrumentality of more than one of the foregoing or any
35 instrumentality of the foregoing and one or more other states or
36 political subdivisions, if such service is not excluded from
37 "employment" under paragraph (D) below.

38 (C) Service performed after December 31, 1971 by an individual
39 in the employ of a religious, charitable, educational, or other
40 organization, which is excluded from "employment" as defined in
41 the Federal Unemployment Tax Act, solely by reason of section
42 3306 (c)(8) of that act, if such service is not excluded from
43 "employment" under paragraph (D) below.

44 (D) For the purposes of paragraphs (B) and (C), the term
45 "employment" does not apply to services performed

46 (i) In the employ of (I) a church or convention or association of
47 churches, or (II) an organization, or school which is operated
48 primarily for religious purposes and which is operated, supervised,

- 1 controlled or principally supported by a church or convention or
2 association of churches;
- 3 (ii) By a duly ordained, commissioned, or licensed minister of a
4 church in the exercise of his ministry or by a member of a religious
5 order in the exercise of duties required by such order;
- 6 (iii) Prior to January 1, 1978, in the employ of a school which is
7 not an institution of higher education, and after December 31, 1977,
8 in the employ of a governmental entity referred to in R.S.43:21-19
- 9 (i) (1) (B), if such service is performed by an individual in the
10 exercise of duties
- 11 (aa) as an elected official;
- 12 (bb) as a member of a legislative body, or a member of the
13 judiciary, of a state or political subdivision;
- 14 (cc) as a member of the State National Guard or Air National
15 Guard;
- 16 (dd) as an employee serving on a temporary basis in case of fire,
17 storm, snow, earthquake, flood or similar emergency;
- 18 (ee) in a position which, under or pursuant to the laws of this
19 State, is designated as a major nontenured policy making or
20 advisory position, or a policy making or advisory position, the
21 performance of the duties of which ordinarily does not require more
22 than eight hours per week; or
- 23 (iv) By an individual receiving rehabilitation or remunerative
24 work in a facility conducted for the purpose of carrying out a
25 program of rehabilitation of individuals whose earning capacity is
26 impaired by age or physical or mental deficiency or injury or
27 providing remunerative work for individuals who because of their
28 impaired physical or mental capacity cannot be readily absorbed in
29 the competitive labor market;
- 30 (v) By an individual receiving work-relief or work-training as
31 part of an unemployment work-relief or work-training program
32 assisted in whole or in part by any federal agency or an agency of a
33 state or political subdivision thereof; or
- 34 (vi) Prior to January 1, 1978, for a hospital in a State prison or
35 other State correctional institution by an inmate of the prison or
36 correctional institution and after December 31, 1977, by an inmate
37 of a custodial or penal institution.
- 38 (E) The term "employment" shall include the services of an
39 individual who is a citizen of the United States, performed outside
40 the United States after December 31, 1971 (except in Canada and in
41 the case of the Virgin Islands, after December 31, 1971) and prior
42 to January 1 of the year following the year in which the U.S.
43 Secretary of Labor approves the unemployment compensation law
44 of the Virgin Islands, under section 3304 (a) of the Internal
45 Revenue Code of 1986 (26 U.S.C. s.3304 (a)) in the employ of an
46 American employer (other than the service which is deemed
47 employment under the provisions of R.S.43:21-19 (i) (2) or (5) or

1 the parallel provisions of another state's unemployment
2 compensation law), if

3 (i) The American employer's principal place of business in the
4 United States is located in this State; or

5 (ii) The American employer has no place of business in the
6 United States, but (I) the American employer is an individual who
7 is a resident of this State; or (II) the American employer is a
8 corporation which is organized under the laws of this State; or (III)
9 the American employer is a partnership or trust and the number of
10 partners or trustees who are residents of this State is greater than the
11 number who are residents of another state; or

12 (iii) None of the criteria of divisions (i) and (ii) of this
13 subparagraph (E) is met but the American employer has elected to
14 become an employer subject to the "unemployment compensation
15 law" (R.S.43:21-1 et seq.) in this State, or the American employer
16 having failed to elect to become an employer in any state, the
17 individual has filed a claim for benefits, based on such service,
18 under the law of this State;

19 (iv) An "American employer," for the purposes of this
20 subparagraph (E), means (I) an individual who is a resident of the
21 United States; or (II) a partnership, if two-thirds or more of the
22 partners are residents of the United States; or (III) a trust, if all the
23 trustees are residents of the United States; or (IV) a corporation
24 organized under the laws of the United States or of any state.

25 (F) Notwithstanding R.S.43:21-19 (i) (2), all service performed
26 after January 1, 1972 by an officer or member of the crew of an
27 American vessel or American aircraft on or in connection with such
28 vessel or aircraft, if the operating office from which the operations
29 of such vessel or aircraft operating within, or within and without,
30 the United States are ordinarily and regularly supervised, managed,
31 directed, and controlled, is within this State.

32 (G) Notwithstanding any other provision of this subsection,
33 service in this State with respect to which the taxes required to be
34 paid under any federal law imposing a tax against which credit may
35 be taken for contributions required to be paid into a state
36 unemployment fund or which as a condition for full tax credit
37 against the tax imposed by the Federal Unemployment Tax Act is
38 required to be covered under the "unemployment compensation
39 law" (R.S.43:21-1 et seq.).

40 (H) The term "United States" when used in a geographical
41 sense in subsection R.S.43:21-19 (i) includes the states, the District
42 of Columbia, the Commonwealth of Puerto Rico and, effective on
43 the day after the day on which the U.S. Secretary of Labor approves
44 for the first time under section 3304 (a) of the Internal Revenue
45 Code of 1986 (26 U.S.C. s.3304 (a)) an unemployment
46 compensation law submitted to the Secretary by the Virgin Islands
47 for such approval, the Virgin Islands.

1 (I) (i) Service performed after December 31, 1977 in
2 agricultural labor in a calendar year for an entity which is an
3 employer as defined in the "unemployment compensation law,"
4 (R.S.43:21-1 et seq.) as of January 1 of such year; or for an
5 employing unit which
6 (aa) during any calendar quarter in either the current or the
7 preceding calendar year paid remuneration in cash of \$20,000.00 or
8 more for individuals employed in agricultural labor, or
9 (bb) for some portion of a day in each of 20 different calendar
10 weeks, whether or not such weeks were consecutive, in either the
11 current or the preceding calendar year, employed in agricultural
12 labor 10 or more individuals, regardless of whether they were
13 employed at the same moment in time.
14 (ii) for the purposes of this subsection any individual who is a
15 member of a crew furnished by a crew leader to perform service in
16 agricultural labor for any other entity shall be treated as an
17 employee of such crew leader
18 (aa) if such crew leader holds a certification of registration
19 under the Migrant and Seasonal Agricultural Worker Protection
20 Act, Pub.L.97-470 (29 U.S.C. s.1801 et seq.), or P.L.1971, c.192
21 (C.34:8A-7 et seq.); or substantially all the members of such crew
22 operate or maintain tractors, mechanized harvesting or cropdusting
23 equipment, or any other mechanized equipment, which is provided
24 by such crew leader; and
25 (bb) if such individual is not an employee of such other person
26 for whom services were performed.
27 (iii) For the purposes of subparagraph (I) (i) in the case of any
28 individual who is furnished by a crew leader to perform service in
29 agricultural labor or any other entity and who is not treated as an
30 employee of such crew leader under (I) (ii)
31 (aa) such other entity and not the crew leader shall be treated as
32 the employer of such individual; and
33 (bb) such other entity shall be treated as having paid cash
34 remuneration to such individual in an amount equal to the amount
35 of cash remuneration paid to such individual by the crew leader
36 (either on his own behalf or on behalf of such other entity) for the
37 service in agricultural labor performed for such other entity.
38 (iv) For the purpose of subparagraph (I)(ii), the term "crew
39 leader" means an individual who
40 (aa) furnishes individuals to perform service in agricultural
41 labor for any other entity;
42 (bb) pays (either on his own behalf or on behalf of such other
43 entity) the individuals so furnished by him for the service in
44 agricultural labor performed by them; and
45 (cc) has not entered into a written agreement with such other
46 entity under which such individual is designated as an employee of
47 such other entity.

1 (J) Domestic service after December 31, 1977 performed in the
2 private home of an employing unit which paid cash remuneration of
3 \$1,000.00 or more to one or more individuals for such domestic
4 service in any calendar quarter in the current or preceding calendar
5 year.

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

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

9 (B) The service is not localized in any state but some of the
10 service is performed in this State, and (i) the base of operations, or,
11 if there is no base of operations, then the place from which such
12 service is directed or controlled, is in this State; or (ii) the base of
13 operations or place from which such service is directed or
14 controlled is not in any state in which some part of the service is
15 performed, but the individual's residence is in this State.

16 (3) Services performed within this State but not covered under
17 paragraph (2) of this subsection shall be deemed to be employment
18 subject to this chapter (R.S.43:21-1 et seq.) if contributions are not
19 required and paid with respect to such services under an
20 unemployment compensation law of any other state or of the federal
21 government.

22 (4) Services not covered under paragraph (2) of this subsection
23 and performed entirely without this State, with respect to no part of
24 which contributions are required and paid under an unemployment
25 compensation law of any other state or of the federal government,
26 shall be deemed to be employment subject to this chapter
27 (R.S.43:21-1 et seq.) if the individual performing such services is a
28 resident of this State and the employing unit for whom such
29 services are performed files with the division an election that the
30 entire service of such individual shall be deemed to be employment
31 subject to this chapter (R.S.43:21-1 et seq.).

32 (5) Service shall be deemed to be localized within a state if:

33 (A) The service is performed entirely within such state; or

34 (B) The service is performed both within and without such state,
35 but the service performed without such state is incidental to the
36 individual's service within the state; for example, is temporary or
37 transitory in nature or consists of isolated transactions.

38 (6) Services performed by an individual for remuneration shall
39 be deemed to be employment subject to this chapter (R.S.43:21-1 et
40 seq.) unless and until it is shown to the satisfaction of the division
41 that:

42 (A) Such individual has been and will continue to be free from
43 control or direction over the performance of such service, both
44 under his contract of service and in fact;

45 (B) Such service is either outside the usual course of the
46 business for which such service is performed, or that such service is
47 performed outside of all the places of business of the enterprise for
48 which such service is performed; and

1 (C) Such individual is customarily engaged in an independently
2 established trade, occupation, profession or business.

3 (7) Provided that such services are also exempt under the
4 Federal Unemployment Tax Act, as amended, or that contributions
5 with respect to such services are not required to be paid into a state
6 unemployment fund as a condition for a tax offset credit against the
7 tax imposed by the Federal Unemployment Tax Act, as amended,
8 the term "employment" shall not include:

9 (A) Agricultural labor performed prior to January 1, 1978; and
10 after December 31, 1977, only if performed in a calendar year for
11 an entity which is not an employer as defined in the "unemployment
12 compensation law," (R.S.43:21-1 et seq.) as of January 1 of such
13 calendar year; or unless performed for an employing unit which

14 (i) during a calendar quarter in either the current or the
15 preceding calendar year paid remuneration in cash of \$20,000.00 or
16 more to individuals employed in agricultural labor, or

17 (ii) for some portion of a day in each of 20 different calendar
18 weeks, whether or not such weeks were consecutive, in either the
19 current or the preceding calendar year, employed in agricultural
20 labor 10 or more individuals, regardless of whether they were
21 employed at the same moment in time;

22 (B) Domestic service in a private home performed prior to
23 January 1, 1978; and after December 31, 1977, unless performed in
24 the private home of an employing unit which paid cash
25 remuneration of \$1,000.00 or more to one or more individuals for
26 such domestic service in any calendar quarter in the current or
27 preceding calendar year;

28 (C) Service performed by an individual in the employ of his son,
29 daughter or spouse, and service performed by a child under the age
30 of 18 in the employ of his father or mother;

31 (D) Service performed prior to January 1, 1978, in the employ of
32 this State or of any political subdivision thereof or of any
33 instrumentality of this State or its political subdivisions, except as
34 provided in R.S.43:21-19 (i) (1) (B) above, and service in the
35 employ of the South Jersey Port Corporation or its successors;

36 (E) Service performed in the employ of any other state or its
37 political subdivisions or of an instrumentality of any other state or
38 states or their political subdivisions to the extent that such
39 instrumentality is with respect to such service exempt under the
40 Constitution of the United States from the tax imposed under the
41 Federal Unemployment Tax Act, as amended, except as provided in
42 R.S.43:21-19 (i) (1) (B) above;

43 (F) Service performed in the employ of the United States
44 Government or of any instrumentality of the United States exempt
45 under the Constitution of the United States from the contributions
46 imposed by the "unemployment compensation law," except that to
47 the extent that the Congress of the United States shall permit states
48 to require any instrumentalities of the United States to make

1 payments into an unemployment fund under a state unemployment
2 compensation law, all of the provisions of this act shall be
3 applicable to such instrumentalities, and to service performed for
4 such instrumentalities, in the same manner, to the same extent and
5 on the same terms as to all other employers, employing units,
6 individuals and services; provided that if this State shall not be
7 certified for any year by the Secretary of Labor of the United States
8 under section 3304 of the federal Internal Revenue Code of 1986
9 (26 U.S.C. s.3304), the payments required of such instrumentalities
10 with respect to such year shall be refunded by the division from the
11 fund in the same manner and within the same period as is provided
12 in R.S.43:21-14 (f) with respect to contributions erroneously paid to
13 or collected by the division;

14 (G) Services performed in the employ of fraternal beneficiary
15 societies, orders, or associations operating under the lodge system
16 or for the exclusive benefit of the members of a fraternity itself
17 operating under the lodge system and providing for the payment of
18 life, sick, accident, or other benefits to the members of such society,
19 order, or association, or their dependents;

20 (H) Services performed as a member of the board of directors, a
21 board of trustees, a board of managers, or a committee of any bank,
22 building and loan, or savings and loan association, incorporated or
23 organized under the laws of this State or of the United States, where
24 such services do not constitute the principal employment of the
25 individual;

26 (I) Service with respect to which unemployment insurance is
27 payable under an unemployment insurance program established by
28 an Act of Congress;

29 (J) Service performed by agents of mutual fund brokers or
30 dealers in the sale of mutual funds or other securities, by agents of
31 insurance companies, exclusive of industrial insurance agents or by
32 agents of investment companies, if the compensation to such agents
33 for such services is wholly on a commission basis;

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

36 (L) Services performed in the employ of any veterans'
37 organization chartered by Act of Congress or of any auxiliary
38 thereof, no part of the net earnings of which organization, or
39 auxiliary thereof, inures to the benefit of any private shareholder or
40 individual;

41 (M) Service performed for or in behalf of the owner or operator
42 of any theater, ballroom, amusement hall or other place of
43 entertainment, not in excess of 10 weeks in any calendar year for
44 the same owner or operator, by any leader or musician of a band or
45 orchestra, commonly called a "name band," entertainer, vaudeville
46 artist, actor, actress, singer or other entertainer;

47 (N) Services performed after January 1, 1973 by an individual
48 for a labor union organization, known and recognized as a union

1 local, as a member of a committee or committees reimbursed by the
2 union local for time lost from regular employment, or as a part-time
3 officer of a union local and the remuneration for such services is
4 less than \$1,000.00 in a calendar year;

5 (O) Services performed in the sale or distribution of
6 merchandise by home-to-home salespersons or in-the-home
7 demonstrators whose remuneration consists wholly of commissions
8 or commissions and bonuses;

9 (P) Service performed in the employ of a foreign government,
10 including service as a consular, nondiplomatic representative, or
11 other officer or employee;

12 (Q) Service performed in the employ of an instrumentality
13 wholly owned by a foreign government if (i) the service is of a
14 character similar to that performed in foreign countries by
15 employees of the United States Government or of an instrumentality
16 thereof, and (ii) the division finds that the United States Secretary
17 of State has certified to the United States Secretary of the Treasury
18 that the foreign government, with respect to whose instrumentality
19 exemption is claimed, grants an equivalent exemption with respect
20 to similar services performed in the foreign country by employees
21 of the United States Government and of instrumentalities thereof;

22 (R) Service in the employ of an international organization
23 entitled to enjoy the privileges, exemptions and immunities under
24 the International Organizations Immunities Act (22 U.S.C. s.288 et
25 seq.);

26 (S) Service covered by an election duly approved by an agency
27 charged with the administration of any other state or federal
28 unemployment compensation or employment security law, in
29 accordance with an arrangement pursuant to R.S.43:21-21 during
30 the effective period of such election;

31 (T) Service performed in the employ of a school, college, or
32 university if such service is performed (i) by a student enrolled at
33 such school, college, or university on a full-time basis in an
34 educational program or completing such educational program
35 leading to a degree at any of the severally recognized levels, or (ii)
36 by the spouse of such a student, if such spouse is advised at the time
37 such spouse commences to perform such service that (I) the
38 employment of such spouse to perform such service is provided
39 under a program to provide financial assistance to such student by
40 such school, college, or university, and (II) such employment will
41 not be covered by any program of unemployment insurance;

42 (U) Service performed by an individual who is enrolled at a
43 nonprofit or public educational institution which normally
44 maintains a regular faculty and curriculum and normally has a
45 regularly organized body of students in attendance at the place
46 where its educational activities are carried on, as a student in a full-
47 time program, taken for credit at such institution, which combines
48 academic instruction with work experience, if such service is an

1 integral part of such program, and such institution has so certified
2 to the employer, except that this subparagraph shall not apply to
3 service performed in a program established for or on behalf of an
4 employer or group of employers;

5 (V) Service performed in the employ of a hospital, if such
6 service is performed by a patient of the hospital; service performed
7 as a student nurse in the employ of a hospital or a nurses' training
8 school by an individual who is enrolled and regularly attending
9 classes in a nurses' training school approved under the laws of this
10 State;

11 (W) Services performed after the effective date of this
12 amendatory act by agents of mutual benefit associations if the
13 compensation to such agents for such services is wholly on a
14 commission basis;

15 (X) Services performed by operators of motor vehicles weighing
16 18,000 pounds or more, licensed for commercial use and used for
17 the highway movement of motor freight, who own their equipment
18 or who lease or finance the purchase of their equipment through an
19 entity which is not owned or controlled directly or indirectly by the
20 entity for which the services were performed and who were
21 compensated by receiving a percentage of the gross revenue
22 generated by the transportation move or by a schedule of payment
23 based on the distance and weight of the transportation move;

24 (Y) (Deleted by amendment, P.L.2009, c.211.)

25 (Z) Services performed, using facilities provided by a travel
26 agent, by a person, commonly known as an outside travel agent,
27 who acts as an independent contractor, is paid on a commission
28 basis, sets his own work schedule and receives no benefits, sick
29 leave, vacation or other leave from the travel agent owning the
30 facilities.

31 (AA) Services provided by a commercial fisherman whose
32 compensation is comprised solely of a percentage of fish caught or
33 a percentage of the proceeds from the sale of the catch.

34 (8) If one-half or more of the services in any pay period
35 performed by an individual for an employing unit constitutes
36 employment, all the services of such individual shall be deemed to
37 be employment; but if more than one-half of the service in any pay
38 period performed by an individual for an employing unit does not
39 constitute employment, then none of the service of such individual
40 shall be deemed to be employment. As used in this paragraph, the
41 term "pay period" means a period of not more than 31 consecutive
42 days for which a payment for service is ordinarily made by an
43 employing unit to individuals in its employ.

44 (9) Services performed by the owner of a limousine franchise
45 (franchisee) shall not be deemed to be employment subject to the
46 "unemployment compensation law," R.S.43:21-1 et seq., with
47 regard to the franchisor if:

48 (A) The limousine franchisee is incorporated;

1 (B) The franchisee is subject to regulation by the Interstate
2 Commerce Commission;

3 (C) The limousine franchise exists pursuant to a written
4 franchise arrangement between the franchisee and the franchisor as
5 defined by section 3 of P.L.1971, c.356 (C.56:10-3); and

6 (D) The franchisee registers with the Department of Labor and
7 Workforce Development and receives an employer registration
8 number.

9 (10) Services performed by a legal transcriber, or certified court
10 reporter certified pursuant to P.L.1940, c.175 (C.45:15B-1 et seq.),
11 shall not be deemed to be employment subject to the
12 "unemployment compensation law," R.S.43:21-1 et seq., if those
13 services are provided to a third party by the transcriber or reporter
14 who is referred to the third party pursuant to an agreement with
15 another legal transcriber or legal transcription service, or certified
16 court reporter or court reporting service, on a freelance basis,
17 compensation for which is based upon a fee per transcript page, flat
18 attendance fee, or other flat minimum fee, or combination thereof,
19 set forth in the agreement.

20 For purposes of this paragraph (10): "legal transcription service"
21 and "legal transcribing" mean making use, by audio, video or voice
22 recording, of a verbatim record of court proceedings, depositions,
23 other judicial proceedings, meetings of boards, agencies,
24 corporations, or other bodies or groups, and causing that record to
25 be printed in readable form or produced on a computer screen in
26 readable form; and "legal transcriber" means a person who engages
27 in "legal transcribing."

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

31 (k) (Deleted by amendment, P.L.1984, c.24.)

32 (l) "State" includes, in addition to the states of the United States
33 of America, the District of Columbia, the Virgin Islands and Puerto
34 Rico.

35 (m) "Unemployment."

36 (1) An individual shall be deemed "unemployed" for any week
37 during which:

38 (A) The individual is not engaged in full-time work and with
39 respect to which his remuneration is less than his weekly benefit
40 rate, including any week during which he is on vacation without
41 pay; provided such vacation is not the result of the individual's
42 voluntary action, except that for benefit years commencing on or
43 after July 1, 1984, an officer of a corporation, or a person who has
44 more than a 5% equitable or debt interest in the corporation, whose
45 claim for benefits is based on wages with that corporation shall not
46 be deemed to be unemployed in any week during the individual's
47 term of office or ownership in the corporation; or

1 (B) The individual is eligible for and receiving a self-
2 employment assistance allowance pursuant to the requirements of
3 P.L.1995, c.394 (C.43:21-67 et al.).

4 (2) The term "remuneration" with respect to any individual for
5 benefit years commencing on or after July 1, 1961, and as used in
6 this subsection, shall include only that part of the same which in
7 any week exceeds 20% of his weekly benefit rate (fractional parts
8 of a dollar omitted) or \$5.00, whichever is the larger, and shall not
9 include any moneys paid to an individual by a county board of
10 elections for work as a board worker on an election day or for work
11 pursuant to subsection d. of section 1 of P.L.2021, c.40 (C.19:15A-
12 1) during the early voting period.

13 (3) An individual's week of unemployment shall be deemed to
14 commence only after the individual has filed a claim at an
15 unemployment insurance claims office, except as the division may
16 by regulation otherwise prescribe.

17 (n) "Unemployment compensation administration fund" means
18 the unemployment compensation administration fund established by
19 this chapter (R.S.43:21-1 et seq.), from which administrative
20 expenses under this chapter (R.S.43:21-1 et seq.) shall be paid.

21 (o) "Wages" means remuneration paid by employers for
22 employment. If a worker receives gratuities regularly in the course
23 of his employment from other than his employer, his "wages" shall
24 also include the gratuities so received, if reported in writing to his
25 employer in accordance with regulations of the division, and if not
26 so reported, his "wages" shall be determined in accordance with the
27 minimum wage rates prescribed under any labor law or regulation
28 of this State or of the United States, or the amount of remuneration
29 actually received by the employee from his employer, whichever is
30 the higher.

31 (p) "Remuneration" means all compensation for personal
32 services, including commission and bonuses and the cash value of
33 all compensation in any medium other than cash.

34 (q) "Week" means for benefit years commencing on or after
35 October 1, 1984, the calendar week ending at midnight Saturday, or
36 as the division may by regulation prescribe.

37 (r) "Calendar quarter" means the period of three consecutive
38 calendar months ending March 31, June 30, September 30, or
39 December 31.

40 (s) "Investment company" means any company as defined in
41 subsection a. of section 1 of P.L.1938, c.322 (C.17:16A-1).

42 (t) (1) (Deleted by amendment, P.L.2001, c.17).

43 (2) "Base week," commencing on or after January 1, 1996 and
44 before January 1, 2001, means:

45 (A) Any calendar week during which the individual earned in
46 employment from an employer remuneration not less than an
47 amount which is 20% of the Statewide average weekly
48 remuneration defined in subsection (c) of R.S.43:21-3 which

1 amount shall be adjusted to the next higher multiple of \$1.00 if not
2 already a multiple thereof, except that if in any calendar week an
3 individual subject to this subparagraph (A) is in employment with
4 more than one employer, the individual may in that calendar week
5 establish a base week with respect to each of the employers from
6 whom the individual earns remuneration equal to not less than the
7 amount defined in this subparagraph (A) during that week; or

8 (B) If the individual does not establish in his base year 20 or
9 more base weeks as defined in subparagraph (A) of this paragraph
10 (2), any calendar week of an individual's base year during which the
11 individual earned in employment from an employer remuneration
12 not less than an amount 20 times the minimum wage in effect
13 pursuant to section 5 of P.L.1966, c.113 (C.34:11-56a4) on October
14 1 of the calendar year preceding the calendar year in which the
15 benefit year commences, which amount shall be adjusted to the next
16 higher multiple of \$1.00 if not already a multiple thereof, except
17 that if in any calendar week an individual subject to this
18 subparagraph (B) is in employment with more than one employer,
19 the individual may in that calendar week establish a base week with
20 respect to each of the employers from whom the individual earns
21 remuneration not less than the amount defined in this subparagraph
22 (B) during that week.

23 (3) "Base week," commencing on or after January 1, 2001,
24 means any calendar week during which the individual earned in
25 employment from an employer remuneration not less than an
26 amount 20 times the minimum wage in effect pursuant to section 5
27 of P.L.1966, c.113 (C.34:11-56a4) on October 1 of the calendar
28 year preceding the calendar year in which the benefit year
29 commences, which amount shall be adjusted to the next higher
30 multiple of \$1.00 if not already a multiple thereof, except that if in
31 any calendar week an individual subject to this paragraph (3) is in
32 employment with more than one employer, the individual may in
33 that calendar week establish a base week with respect to each of the
34 employers from whom the individual earns remuneration equal to
35 not less than the amount defined in this paragraph (3) during that
36 week.

37 (u) "Average weekly wage" means the amount derived by
38 dividing an individual's total base year wages [received during his
39 base year base weeks (as defined in subsection (t) of this section)
40 from that most recent base year employer with whom he has
41 established at least 20 base weeks, by the number of base weeks in
42 which such wages were earned] by the number of base weeks
43 worked by the individual during the base year; provided that for the
44 purpose of computing the average weekly wage, the maximum
45 number of base weeks used in the divisor shall be 52. In the event
46 that such claimant had no employer in his base year with whom he
47 had established at least 20 base weeks, then such individual's
48 average weekly wage shall be computed as if all of his base week

1 wages were received from one employer and as if all his base weeks
2 of employment had been performed in the employ of one employer.

3 For the purpose of computing the average weekly wage, the
4 monetary alternative in subparagraph (B) of **paragraph (2)**
5 paragraph (4) or subparagraph (B) of paragraph (5) of subsection
6 (e) of R.S.43:21-4 shall only apply in those instances where the
7 individual did not have at least 20 base weeks in the base year.
8 **For benefit years commencing on or after July 1, 1986, "average**
9 **weekly wage" means the amount derived by dividing an individual's**
10 **total base year wages by the number of base weeks worked by the**
11 **individual during the base year; provided that for the purpose of**
12 **computing the average weekly wage, the maximum number of base**
13 **weeks used in the divisor shall be 52.**

14 (v) "Initial determination" means, subject to the provisions of
15 R.S.43:21-6(b)(2) and (3), a determination of benefit rights as
16 measured by an eligible individual's base year employment with a
17 single employer covering all periods of employment with that
18 employer during the base year.

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

22 (x) "Most recent base year employer" means that employer with
23 whom the individual most recently, in point of time, performed
24 service in employment in the base year.

25 (y) (1) "Educational institution" means any public or other
26 nonprofit institution (including an institution of higher education):

27 (A) In which participants, trainees, or students are offered an
28 organized course of study or training designed to transfer to them
29 knowledge, skills, information, doctrines, attitudes or abilities from,
30 by or under the guidance of an instructor or teacher;

31 (B) Which is approved, licensed or issued a permit to operate as
32 a school by the State Department of Education or other government
33 agency that is authorized within the State to approve, license or
34 issue a permit for the operation of a school; and

35 (C) Which offers courses of study or training which may be
36 academic, technical, trade, or preparation for gainful employment in
37 a recognized occupation.

38 (2) "Institution of higher education" means an educational
39 institution which:

40 (A) Admits as regular students only individuals having a
41 certificate of graduation from a high school, or the recognized
42 equivalent of such a certificate;

43 (B) Is legally authorized in this State to provide a program of
44 education beyond high school;

45 (C) Provides an educational program for which it awards a
46 bachelor's or higher degree, or provides a program which is
47 acceptable for full credit toward such a degree, a program of post-
48 graduate or post-doctoral studies, or a program of training to

1 prepare students for gainful employment in a recognized
2 occupation; and

3 (D) Is a public or other nonprofit institution.

4 Notwithstanding any of the foregoing provisions of this
5 subsection, all colleges and universities in this State are institutions
6 of higher education for purposes of this section.

7 (z) "Hospital" means an institution which has been licensed,
8 certified or approved under the law of this State as a hospital.

9 (cf: P.L.2022, c.71, s.4)

10

11 8. Section 2 of P.L.1981, c.90 (C.43:21-24.19) is amended to
12 read as follows:

13 2. a. Notwithstanding the provisions of section 6 of P.L.1970, c.
14 324 (C. 43:21-24.12) an individual shall be ineligible for payment
15 of extended benefits for any week of unemployment in his
16 eligibility period if it is determined during such period:

17 (1) The individual failed to accept any offer of suitable work as
18 defined in paragraph c. or failed to apply for any suitable work to
19 which the individual was referred to by the employment service or
20 the director; or

21 (2) The individual failed to actively engage in seeking work as
22 prescribed under paragraph e.

23 b. Any individual who has been found ineligible for extended
24 benefits by reason of the provisions in paragraph a. of this section
25 shall also be denied benefits beginning with the first day of the
26 week following the week in which the failure occurred and until the
27 individual has been employed in each of 4 subsequent weeks
28 (whether or not consecutive) and has earned remuneration equal to
29 not less than 4 times the individual's weekly extended benefit rate.

30 c. For purposes of this section the term suitable work means,
31 with respect to any individual, any work which is within such
32 individual's capabilities; this work shall be held to be suitable
33 only:

34 (1) If the gross average weekly remuneration payable for the
35 work exceeds the sum of: the individual's weekly extended benefit
36 rate as determined under section 8 of P.L.1970, c. 324 (C. 43:21-
37 24.14), plus the amount, if any, of supplemental unemployment
38 benefits (as defined in Section 501(c)(17) of the Internal Revenue
39 Code of 1954) payable to the individual for the respective week;

40 (2) If the position pays wages not less than the higher of

41 (a) The minimum wage provided by Section 6(a)(1) of the Fair
42 Labor Standards Act of 1938 (29 U.S.C. s. 206), without regard to
43 any exemption; or

44 (b) The applicable state or local minimum wage;

45 (3) Provided, however, that no individual shall be denied
46 extended benefits for failure to accept an offer of or apply for any
47 job which meets the definition of suitable work as described above
48 if:

- 1 (a) The position was not offered to the individual in writing or
2 was not listed with the employment service;
- 3 (b) The failure could not result in a denial of benefits under the
4 definition of suitable work for regular benefits as provided under
5 subsection (c) of R.S. 43:21-5 to the extent that the criteria of
6 suitability in that section are not inconsistent with the provisions of
7 this paragraph c.;
- 8 (c) The individual furnishes satisfactory evidence to the division
9 that his prospects for obtaining work in his customary occupation
10 within a reasonably short period are good. If the evidence is
11 deemed satisfactory for this purpose, the determination of whether
12 any work is suitable with respect to the individual shall be made in
13 accordance with the definition of suitable work for regular benefit
14 claimants as provided under subsection (c) of R.S. 43:21-5 without
15 regard to the definition specified by this paragraph c.
- 16 d. Notwithstanding the provisions of section 6 of P.L.1970, c.
17 324 (C. 43:21-24.12) to the contrary, no work shall be deemed to be
18 suitable work for an individual which does not accord with the labor
19 standard provisions required by Section 3304(a)(5) of the Internal
20 Revenue Code of 1954 and subsection (c) of R.S. 43:21-5.
- 21 e. For the purposes of subparagraph (2) of paragraph a. of this
22 section, an individual shall be treated as actively engaged in
23 seeking work during any week if
- 24 (1) The individual has engaged in a systematic and sustained
25 effort to obtain work during the week, and
- 26 (2) The individual furnishes tangible evidence that he has
27 engaged in this effort during the week.
- 28 f. The employment service shall refer any claimant entitled to
29 extended benefits under this act to any suitable work which meets
30 the criteria prescribed in paragraph c.
- 31 g. An individual who has been disqualified for regular benefits
32 under the provisions of subsection (b) or (c) of R.S. 43:21-5 will not
33 meet the eligibility requirements for the payment of extended
34 benefits unless the individual has **had employment subsequent to**
35 **the effective date of disqualification for regular benefits and has**
36 **earned in employment remuneration equal to not less than four**
37 **times the individual's weekly benefit rate** completed the period of
38 disqualification under subsection (b) or (c) of R.S. 43:21-5, and
39 would otherwise be eligible for the payment of extended benefits.
- 40 h. (1) An individual claiming extended benefits who is an
41 exhaustee, as defined under paragraph j. of section 5 of P.L.1970, c.
42 324 (C. 43:21-24.11), and who is subsequently discharged or
43 suspended for misconduct connected with his work as provided in
44 subsection (b) of R.S. 43:21-5, shall be disqualified for extended
45 benefits for the week in which the separation occurs and for each
46 week thereafter until he has earned in employment remuneration
47 equal to at least four times his weekly extended benefit rate,
48 notwithstanding the disqualifying period for regular benefits for

1 misconduct imposed under the provisions of subsection (b) of R.S.
2 43:21-5.

3 (2) An individual claiming extended benefits who is an
4 exhaustee, as defined under paragraph j. of section 5 of P.L.1970, c.
5 324 (C. 43:21-24.11), but has satisfied the requirements of
6 subparagraph c.(3)(c) of this section concerning prospects for
7 employment, and who subsequently fails without good cause either
8 to apply for available, suitable work when so directed by the
9 employment office or the director or to accept suitable work as
10 defined in subsection (c) of R.S. 43:21-5 when offered to him, or to
11 return to his customary self-employment when directed by the
12 director, shall be disqualified for extended benefits. The
13 disqualification shall be only for the week in which the refusal
14 occurs and for each week thereafter, until he has earned in
15 employment remuneration equal to at least four times his weekly
16 extended benefit rate, notwithstanding the disqualifying period for
17 regular benefits for the refusal normally imposed under the
18 provisions of subsection (c) of R.S. 43:21-5 or the disqualification
19 imposed in paragraph b. of this section for individuals who have not
20 satisfied the requirements of subparagraph c.(3)(c) of this section.
21 (cf: P.L.1982, c.144, s.5)

22

23 9. This act shall take effect immediately, except that sections 4
24 and 6 of this act shall be effective retroactively to July 31, 2023.

25

26

27

STATEMENT

28

29 This bill amends the State law regarding unemployment
30 insurance (UI) to:

31 1. Add any disabled, unmarried adult child of a UI benefit
32 claimant, whose disability began before the age of 22, to the
33 dependents counted for the purpose of calculating weekly UI
34 benefit amounts.

35 2. Provide that an individual otherwise eligible for UI benefits
36 is not deemed ineligible for the benefits solely because the
37 individual is a student in full-time attendance, or on vacation from,
38 at an educational institution, so long as the individual remains
39 available for work, eliminating the current benefit eligibility
40 requirement for the individual to have earned sufficient wages while
41 enrolled in full-time in education.

42 3. Shift the current provisions of the UI law that permit the
43 payment of UI benefits to a claimant who is a participant in a
44 department-approved training program from being an exception to
45 the disqualification from benefits when enrolled in full-time
46 education to being a circumstance under which a claimant is
47 eligible, and specify that the claimant's participation in the program
48 is required to be in accordance with the provisions of paragraph (4)

1 of subsection (c) of R.S.43:21-4, which states that a claimant is not
2 disqualified for benefits for failing or refusing to accept work while
3 attending the program.

4 4. Permit a claimant to request that the department make its
5 notification of its initial determination of the benefit claim by
6 electronic means.

7 5. Provide that the current requirement that benefits paid
8 pending an appeal be paid according to the initial determination
9 applies only to the period before the appeal tribunal makes a
10 decision regarding the appeal and provide that the benefits then will
11 be paid according to the decision of the appeal tribunal, pending
12 any appeal of the appeal tribunal decision made to the board of
13 review.

14 6. Remove the requirement in the current law that in cases
15 where an appeal made by an employer of a charge to its UI tax
16 account results in a reduction of benefits to a claimant, any
17 overpayment of benefits paid before the resolution of the appeal is
18 charged to the employer's UI tax account.

19 7. Require the Department of Labor and Workforce
20 Development to develop a mechanism for claimants to have
21 electronic access to their own benefit payment status and history.

22 8. Remove the provision of current law that a claimant is not
23 required to repay any of an overpayment of UI benefits if the
24 overpayment is not caused by a knowing, fraudulent nondisclosure
25 or misrepresentation by the claimant or representative of the
26 claimant, and is not required to repay more than 50 percent of the
27 overpayment if it was made because of both claimant error and
28 department error or employer error or nondisclosure, but without
29 knowing, fraudulent nondisclosure or misrepresentation by the
30 claimant. Instead, the bill provides that if a claimant requests a
31 waiver of the repayment, the department is required to provide a
32 full waiver repayment if the claimant did not withhold or
33 misrepresent any material fact to obtain benefits and the
34 overpayment is due to an error of the department or an error of the
35 employer or failure of the employers to provide information, or also
36 if the claimant has died or become disabled, or recovery is
37 determined to be contrary to equity and good conscience. The bill
38 also requires the department to provide a waiver, even if the
39 claimant makes no request, for an overpayment caused by
40 department error, employer error, or employer failure to provide
41 information, if the department has determined that the claimant did
42 not misrepresent or withhold any material fact to obtain benefits.

43 9. Provide that the calculation of the claimant's average weekly
44 wage used to determine a claimant's weekly benefit amount is
45 based on wages with all base year employers, not just the wages of
46 the most recent employer before the layoff, but with the total
47 number of base weeks limited to 52. The bill also prevents a base-
48 year employer's UI tax account from being charged for UI benefits

1 paid to a claimant while the claimant continues to work for that
2 employer but is laid off by another base year employer.

3 10. Remove, in the case of joint State-federal extended UI
4 benefits, the requirement that a claimant who has been disqualified
5 because of misconduct or failure to apply for or accept suitable
6 work not receive benefits until the claimant is reemployed and earns
7 at least four times the claimant's weekly benefit rate, and replace
8 that by providing that the claimant need only complete the period of
9 regular UI disqualification to be eligible for the extended benefits.

10 The provisions of sections 4 and 6 of the bill apply retroactively
11 back to July 21, 2023. Because all of the provisions of the current
12 law which are removed by section 4 and 6 of the bill were added by
13 P.L.2022, c.120 which went into effect on that date, having those
14 sections apply retroactively to that date would make it as if those
15 provisions had never been allowed to take effect.

SENATE LABOR COMMITTEE

STATEMENT TO

SENATE, No. 2949

STATE OF NEW JERSEY

DATED: JUNE 3, 2024

The Senate Labor Committee reports favorably Senate Bill No. 2949.

This bill amends the State law regarding unemployment insurance (UI) to:

1. Add any disabled, unmarried adult child of a UI benefit claimant, whose disability began before the age of 22, to the dependents counted for the purpose of calculating weekly UI benefit amounts.

2. Provide that an individual otherwise eligible for UI benefits is not deemed ineligible for the benefits solely because the individual is a student in full-time attendance, or on vacation from, at an educational institution, so long as the individual remains available for work, eliminating the current benefit eligibility requirement for the individual to have earned sufficient wages while enrolled in full-time in education.

3. Shift the current provisions of the UI law that permit the payment of UI benefits to a claimant who is a participant in a department-approved training program from being an exception to the disqualification from benefits when enrolled in full-time education to being a circumstance under which a claimant is eligible, and specify that the claimant's participation in the program is required to be in accordance with the provisions of paragraph (4) of subsection (c) of R.S.43:21-4, which states that a claimant is not disqualified for benefits for failing or refusing to accept work while attending the program.

4. Permit a claimant to request that the department make its notification of its initial determination of the benefit claim by electronic means.

5. Provide that the current requirement that benefits paid pending an appeal be paid according to the initial determination applies only to the period before the appeal tribunal makes a decision regarding the appeal and provide that the benefits then will be paid according to the decision of the appeal tribunal, pending any appeal of the appeal tribunal decision made to the board of review.

6. Remove the requirement in the current law that in cases where an appeal made by an employer of a charge to its UI tax account results in a reduction of benefits to a claimant, any

overpayment of benefits paid before the resolution of the appeal is charged to the employer's UI tax account.

7. Require the Department of Labor and Workforce Development to develop a mechanism for claimants to have electronic access to their own benefit payment status and history.

8. Remove the provision of current law that a claimant is not required to repay any of an overpayment of UI benefits if the overpayment is not caused by a knowing, fraudulent nondisclosure or misrepresentation by the claimant or representative of the claimant, and is not required to repay more than 50 percent of the overpayment if it was made because of both claimant error and department error or employer error or nondisclosure, but without knowing, fraudulent nondisclosure or misrepresentation by the claimant. Instead, the bill provides that if a claimant requests a waiver of the repayment, the department is required to provide a full waiver repayment if the claimant did not withhold or misrepresent any material fact to obtain benefits and the overpayment is due to an error of the department or an error of the employer or failure of the employers to provide information, or also if the claimant has died or become disabled, or recovery is determined to be contrary to equity and good conscience. The bill also requires the department to provide a waiver, even if the claimant makes no request, for an overpayment caused by department error, employer error, or employer failure to provide information, if the department has determined that the claimant did not misrepresent or withhold any material fact to obtain benefits.

9. Provide that the calculation of the claimant's average weekly wage used to determine a claimant's weekly benefit amount is based on wages with all base year employers, not just the wages of the most recent employer before the layoff, but with the total number of base weeks limited to 52. The bill also prevents a base-year employer's UI tax account from being charged for UI benefits paid to a claimant while the claimant continues to work for that employer but is laid off by another base year employer.

10. Remove, in the case of joint State-federal extended UI benefits, the requirement that a claimant who has been disqualified because of misconduct or failure to apply for or accept suitable work not receive benefits until the claimant is reemployed and earns at least four times the claimant's weekly benefit rate, and replace that by providing that the claimant need only complete the period of regular UI disqualification to be eligible for the extended benefits.

The provisions of sections 4 and 6 of the bill apply retroactively back to July 21, 2023. Because all of the provisions of the current law which are removed by section 4 and 6 of the bill were added by P.L.2022, c.120 which went into effect on that date, having those sections apply retroactively to that date would make it as if those provisions had never been allowed to take effect.

SENATE BUDGET AND APPROPRIATIONS COMMITTEE

STATEMENT TO

SENATE, No. 2949

STATE OF NEW JERSEY

DATED: JUNE 26, 2024

The Senate Budget and Appropriations Committee reports favorably Senate Bill No. 2949.

This bill amends the State law regarding unemployment insurance (UI) to:

1. Add any disabled, unmarried adult child of a UI benefit claimant, whose disability began before the age of 22, to the dependents counted for the purpose of calculating weekly UI benefit amounts.

2. Provide that an individual otherwise eligible for UI benefits is not deemed ineligible for the benefits solely because the individual is a student in full-time attendance, or on vacation from, at an educational institution, so long as the individual remains available for work, eliminating the current benefit eligibility requirement for the individual to have earned sufficient wages while enrolled in full-time in education.

3. Shift the current provisions of the UI law that permit the payment of UI benefits to a claimant who is a participant in a department-approved training program from being an exception to the disqualification from benefits when enrolled in full-time education to being a circumstance under which a claimant is eligible, and specify that the claimant's participation in the program is required to be in accordance with the provisions of paragraph (4) of subsection (c) of R.S.43:21-4, which states that a claimant is not disqualified for benefits for failing or refusing to accept work while attending the program.

4. Permit a claimant to request that the department make its notification of its initial determination of the benefit claim by electronic means.

5. Provide that the current requirement that benefits paid pending an appeal be paid according to the initial determination applies only to the period before the appeal tribunal makes a decision regarding the appeal and provide that the benefits then will be paid according to the decision of the appeal tribunal, pending any appeal of the appeal tribunal decision made to the board of review.

6. Remove the requirement in the current law that in cases where an appeal made by an employer of a charge to its UI tax account results in a reduction of benefits to a claimant, any overpayment of benefits paid before the resolution of the appeal is charged to the employer's UI tax account.

7. Require the Department of Labor and Workforce Development to develop a mechanism for claimants to have electronic access to their own benefit payment status and history.

8. Remove the provision of current law that a claimant is not required to repay any of an overpayment of UI benefits if the overpayment is not caused by a knowing, fraudulent nondisclosure or misrepresentation by the claimant or representative of the claimant, and is not required to repay more than 50 percent of the overpayment if it was made because of both claimant error and department error or employer error or nondisclosure, but without knowing, fraudulent nondisclosure or misrepresentation by the claimant. Instead, the bill provides that if a claimant requests a waiver of the repayment, the department is required to provide a full waiver repayment if the claimant did not withhold or misrepresent any material fact to obtain benefits and the overpayment is due to an error of the department or an error of the employer or failure of the employers to provide information, or also if the claimant has died or become disabled, or recovery is determined to be contrary to equity and good conscience. The bill also requires the department to provide a waiver, even if the claimant makes no request, for an overpayment caused by department error, employer error, or employer failure to provide information, if the department has determined that the claimant did not misrepresent or withhold any material fact to obtain benefits.

9. Provide that the calculation of the claimant's average weekly wage used to determine a claimant's weekly benefit amount is based on wages with all base year employers, not just the wages of the most recent employer before the layoff, but with the total number of base weeks limited to 52. The bill also prevents a base-year employer's UI tax account from being charged for UI benefits paid to a claimant while the claimant continues to work for that employer but is laid off by another base year employer.

10. Remove, in the case of joint State-federal extended UI benefits, the requirement that a claimant who has been disqualified because of misconduct or failure to apply for or accept suitable work not receive benefits until the claimant is reemployed and earns at least four times the claimant's weekly benefit rate, and replace that by providing that the claimant need only complete the period of regular UI disqualification to be eligible for the extended benefits.

The provisions of sections 4 and 6 of the bill apply retroactively back to July 21, 2023. Because all of the provisions of the current law which are removed by section 4 and 6 of the bill were added by P.L.2022, c.120 which went into effect on that date, having those sections apply retroactively to that date would make it as if those provisions had never been allowed to take effect.

FISCAL IMPACT:

Fiscal information for this is currently unavailable.

Governor Murphy Takes Action on Legislation

12/12/2024

TRENTON – Today, Governor Murphy signed the following bills into law:

S-871/A-2286 (A.M. Bucco, Sarlo/Lopez, Dunn) - Establishes eligibility for enrollment in PERS and subsequent retirement benefits for certain county fire instructors under certain conditions

S-1430/A-586 (McKnight, Singleton/Stanley, Atkins, Reynolds-Jackson) - Provides for expanded use of affordable housing voucher program funding

S-1433/A-4433 (Singleton/Conaway) - Designates bridge over Crosswicks Creek on Interstate Highway Route 295 North as “Benjamin Moore and the 693rd Sapper Company Memorial Highway”

S-3611/A-4970 (Scutari, Vitale/Carter, Speight, Reynolds-Jackson) - Provides grant to study and map mental health care resources for children; makes appropriation

SJR-29/AJR-50 (Diegnan, Sarlo/Karabinchak, Stanley) - Designates August of each year as “Professional Engineers Month” in NJ and first Wednesday in August of each year as “Professional Engineering Day”

SJR-71/AJR-25 (Beach, Mukherji/DeAngelo, Danielsen, Venezia) - Designates first week of May of each year as Wounded Warrior Appreciation Week

SJR-103/AJR-60 (Diegnan, Corrado/Conaway, DeAngelo, Speight) - Declares NJ “Purple Heart State”

A-4043/S-3310 (Verrelli, Sampson, Sumter/Lagana, Turner) - Redirects portion of worker’s unemployment compensation trust fund contribution to unemployment compensation administration fund

A-4047/S-2949 (Sampson, Verrelli, Miller/Moriarty, Mukherji) - Revises unemployment compensation law

A-4148/S-3057 (Lampitt, Conaway, Speight/McKnight, Turner) - Requires DOH to develop informational materials on type 1 diabetes and DOE to distribute to parents and guardians of enrolled students

Governor Murphy conditionally vetoed the following bills:

S-2788/A-4569 (Cruz-Perez, Turner/Freiman, Katz, Simmons) – **CONDITIONAL** -Appropriates \$128.241 million from constitutionally dedicated CBT revenues to State Agriculture Development Committee for farmland preservation purposes

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