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FLOOR AMENDMENT STATEMENT: Yes 01/08/2024

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REPORTS: No

HEARINGS: No

NEWSPAPER ARTICLES: Yes

Susan K. Livio, 'N.J. domestic workers to get new job right, protections The law signed Friday will take effect in July.', *Star-Ledger, The*, 14 Jan 2024

Brent Johnson, 'lame duck voting session fails to live up to busy billing', *Star-Ledger, The*, 11 Jan 2024

CL/MM

Title 34.
Chapter 11.
Article 5. (New)
Domestic
Workers'
Wage Protections
and Workplace
Rights
§§1,2,13-23
C.34:11-69
to 34:11-81
§24
Note to all
sections

P.L. 2023, CHAPTER 262, *approved January 12, 2024*
Senate, No. 723 (*Second Reprint*)

1 AN ACT concerning the employment rights of domestic workers and
2 amending and supplementing 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. (New section) The Legislature finds and declares that:

8 a. Domestic workers provide valuable services in industries
9 such as in-home child care, house cleaning, home care, cooking,
10 gardening, and other household occupations.

11 b. The labor domestic workers provide is an important
12 contribution to the State's economy and prosperity, including but
13 not limited to, by providing support services that enable other
14 individuals to participate in the workforce.

15 c. Many domestic workers are women, immigrants, and
16 persons of color who work in or about private homes, isolated from
17 other workers.

18 d. Since 2007, the National Domestic Workers Alliance
19 (NDWA) has advocated for respect for domestic workers by
20 including them in national, State, and local labor protection laws.
21 NDWA. In September 2020, NDWA affiliates, Adhikaar, Casa
22 Freehold, New Labor and Wind of the Spirit, in collaboration with
23 the Center for Women at Work at Rutgers University, released a
24 report which found low pay, lack of benefits, and rampant wage
25 theft occurs throughout the domestic worker industry, and that there
26 is a lack of enforcement regarding existing rights of domestic
27 workers.

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.

Matter enclosed in superscript numerals has been adopted as follows:

¹Senate SLA committee amendments adopted December 1, 2022.

²Senate SBA committee amendments adopted December 14, 2023.

1 e. At least 10 other states and two cities have enacted
2 legislation to provide rights, benefits, and protections for domestic
3 workers.

4 f. The Legislature therefore finds that it is in the best interest
5 of the State of New Jersey and its residents to provide rights,
6 benefits, and protections to the countless domestic workers
7 providing valuable services throughout the State.

8

9 2. (New section) As used in P.L. , c. (C.) (pending
10 before the Legislature as this bill):

11 "Casual work" means work that is:

- 12 (1) irregular, uncertain, or incidental in nature and duration; and
13 (2) different in nature from the type of paid work in which the
14 worker is customarily engaged.

15 "Domestic services" means services of a household nature and
16 performed by an individual in or about a private home on a
17 permanent or temporary basis, and includes services performed by a
18 domestic worker.

19 "Domestic worker" or "worker" means hourly and salaried
20 employees, ²[independent contractors,]² full-time and part-time
21 individuals and temporary individuals and is narrowly construed to
22 mean any worker who:

- 23 (1) works for one or more employers; and
24 (2) is an individual who works in residence for the purposes of
25 providing any of the following services: caring for a child; serving
26 as a companion or caretaker for a sick, convalescing, or elderly
27 person, or a person with a disability; housekeeping or house
28 cleaning; cooking; providing food or butler service; parking cars;
29 cleaning laundry; gardening; personal organizing, or for any other
30 domestic service purpose; provided that the term domestic worker
31 does not include:

32 (a) A family member, with "family member" meaning a spouse,
33 child, parent, sibling, aunt, uncle, niece, nephew, first cousin,
34 grandparent, grandchild, father-in-law, mother-in-law, son-in-law,
35 daughter-in-law, stepparent, stepchild, stepbrother, stepsister, half
36 brother, or half sister, whether the individual is related by blood,
37 marriage, or adoption;

38 (b) An individual primarily engaged in house sitting, pet sitting,
39 or dog walking;

40 (c) An individual working at a business operated primarily out
41 of the residence, such as a home day-care business;

42 (d) An individual whose primary work involves household
43 repair or maintenance, such as a roofer, plumber, mason, painter or
44 other
45 similar contractor;

46 (e) ¹[A home health care worker while they are paid through
47 public funds, such as a home health care worker while paid through

1 Medicaid or Medicare] An employee of the State or the United
2 States¹; ²or²

3 (f) An individual established as a kinship legal guardian, as
4 defined by section 2¹[.]¹ of P.L.2001, c.250 (C.3B:12A-2), of a
5 child who lives in the residence, or an individual who participates in
6 the Kinship Navigator Program, as authorized by the Department of
7 Children and Families, as a caregiver of a child who lives in the
8 residence and receives services provided by a kinship navigator
9 service provider²[; or

10 (g) An individual less than 18 years of age]².

11 "Department" means the Department of Labor and Workforce
12 Development.

13 "Employment agency" means any person or entity that procures,
14 or attempts to procure, ²[directly or indirectly through placement in
15 a physical or virtual labor pool:

16 (1) employees, independent contractors, or domestic workers for
17 employers or companies seeking the services of employees,
18 independent contractors, or domestic workers; and

19 (2) after the procurement is complete, continues involvement in
20 the terms of exchange of domestic services with the employees,
21 independent contractors, or domestic workers through activities,
22 including, but not limited to:

23 (a) processing or distributing or withholding workers' payment
24 that the workers are owed from hiring entities or clients;

25 (b) levying fees, fines, or discipline for unsatisfactory worker
26 behavior that happened during an employment, independent
27 contractor engagement, or other job, including the termination of
28 workers;

29 (c) rating workers on an ongoing basis and publicly sharing
30 those ratings to employers or clients;

31 (d) adjusting wages or payment based on ratings from
32 employers or clients; or

33 (e) other forms of continued involvement after procurement that
34 evidence ongoing control] any workers for referral to a third party².

35 "Hiring entity" means any employer, as defined in section 1 of
36 P.L.1965, c.173 (C.34:11-4.1), who employs a domestic worker,
37 and also means any person, firm, business, partnership, association,
38 corporation, limited liability company, or other entity, including
39 referral, employment, and internet based or on-demand platforms,
40 that provides compensation directly or indirectly to a domestic
41 worker for the performance of domestic services and any person or
42 persons acting directly or indirectly in the interest of the employer
43 in relation to the domestic worker.

44 "Live-in domestic worker" includes any individuals, who, as part
45 of their employment, reside in the personal residence of the ¹[hiring
46 entity] employer.¹

1 "Referral agency" means any person or entity that procures, or
 2 attempts to procure, directly or indirectly through placement in a
 3 physical or virtual labor pool:

4 (1) employees²【, independent contractors, or domestic workers
 5 for employers or companies seeking the services of employees,
 6 independent contractors, or domestic workers】²; and

7 (2) after the procurement does not continue involvement in the
 8 terms of exchange of domestic services with the employees²【,
 9 independent contractors, or domestic workers】² in any way, with
 10 the exception of the following:

11 (a) continuing to display or host or advertise, either through
 12 physical means or virtual means, the workers' contact information,
 13 job qualifications, resume, image, or digital profile which
 14 employers or clients can use to independently contact employees²【,
 15 independent contractors, or domestic workers】² about
 16 employment²【, independent contractor engagement, or domestic
 17 workers about employment, independent contractor engagements,
 18 or other jobs】²; or

19 (b) removing, either through physical means or virtual means,
 20 the workers' contact information, job qualifications, resume, image,
 21 or digital profile which employers or clients can use to
 22 independently contact employees, upon the mandate of any federal,
 23 State, or local ¹laws.¹

24 ²【"Wage"】 "Remuneration for work"² means compensation due
 25 to the work of a domestic worker, payable in legal tender of the
 26 United States or checks on banks convertible into cash on demand
 27 at full face value, subject to any deductions, charges, or allowances
 28 as may be permitted by rules of the department.

29 "Written" or "writing" means a printed or printable
 30 communication in physical or electronic form, including a
 31 communication that is transmitted through email, text message, or a
 32 computer system, or is otherwise sent and maintained
 33 electronically.

34
 35 3. Section 5 of P.L.1945, c.169 (C.10:5-5) is amended to read
 36 as follows:

37 5. As used in P.L.1945, c.169 (C.10:5-1 et seq.), unless a
 38 different meaning clearly appears from the context:

39 a. "Person" includes one or more individuals, partnerships,
 40 associations, organizations, labor organizations, corporations, legal
 41 representatives, trustees, trustees in bankruptcy, receivers, and
 42 fiduciaries.

43 b. "Employment agency" 【includes any person undertaking to
 44 procure employees or opportunities for others to work】 ¹【shall have
 45 the same meaning as in section 2 of P.L. , c. (C.) (pending
 46 before the Legislature as this bill)】 includes any person undertaking
 47 to procure employees or opportunities for others to work¹.

- 1 c. "Labor organization" includes any organization which exists
2 and is constituted for the purpose, in whole or in part, of collective
3 bargaining, or of dealing with employers concerning grievances,
4 terms or conditions of employment, or of other mutual aid or
5 protection in connection with employment.
- 6 d. "Unlawful employment practice" and "unlawful
7 discrimination" include only those unlawful practices and acts
8 specified in section 11 of P.L.1945, c.169 (C.10:5-12).
- 9 e. "Employer" includes all persons as defined in subsection a.
10 of this section and "hiring entities" as defined by section 2 of
11 P.L. , c. (C.) (pending before the Legislature as this bill),
12 unless otherwise specifically exempt under another section of
13 P.L.1945, c.169 (C.10:5-1 et seq.), and includes the State, any
14 political or civil subdivision thereof, and all public officers,
15 agencies, boards, or bodies.
- 16 f. **["Employee" does not include any individual employed in**
17 **the domestic service of any person.]** (Deleted by amendment,
18 P.L. , c. (pending before the Legislature as this bill)
- 19 g. "Liability for service in the Armed Forces of the United
20 States" means subject to being ordered as an individual or member
21 of an organized unit into active service in the Armed Forces of the
22 United States by reason of membership in the National Guard, naval
23 militia or a reserve component of the Armed Forces of the United
24 States, or subject to being inducted into such armed forces through
25 a system of national selective service.
- 26 h. "Division" means the "Division on Civil Rights" created by
27 P.L.1945, c.169 (C.10:5-1 et seq.).
- 28 i. "Attorney General" means the Attorney General of the State
29 of New Jersey or the Attorney General's representative or designee.
- 30 j. "Commission" means the Commission on Civil Rights
31 created by P.L.1945, c.169 (C.10:5-1 et seq.).
- 32 k. "Director" means the Director of the Division on Civil
33 Rights.
- 34 l. "A place of public accommodation" shall include, but not be
35 limited to: any tavern, roadhouse, hotel, motel, trailer camp,
36 summer camp, day camp, or resort camp, whether for entertainment
37 of transient guests or accommodation of those seeking health,
38 recreation, or rest; any producer, manufacturer, wholesaler,
39 distributor, retail shop, store, establishment, or concession dealing
40 with goods or services of any kind; any restaurant, eating house, or
41 place where food is sold for consumption on the premises; any
42 place maintained for the sale of ice cream, ice and fruit preparations
43 or their derivatives, soda water or confections, or where any
44 beverages of any kind are retailed for consumption on the premises;
45 any garage, any public conveyance operated on land or water or in
46 the air or any stations and terminals thereof; any bathhouse,
47 boardwalk, or seashore accommodation; any auditorium, meeting
48 place, or hall; any theatre, motion-picture house, music hall, roof

1 garden, skating rink, swimming pool, amusement and recreation
2 park, fair, bowling alley, gymnasium, shooting gallery, billiard and
3 pool parlor, or other place of amusement; any comfort station; any
4 dispensary, clinic, or hospital; any public library; and any
5 kindergarten, primary and secondary school, trade or business
6 school, high school, academy, college and university, or any
7 educational institution under the supervision of the State Board of
8 Education or the Commissioner of Education of the State of New
9 Jersey. Nothing herein contained shall be construed to include or to
10 apply to any institution, bona fide club, or place of accommodation,
11 which is in its nature distinctly private; nor shall anything herein
12 contained apply to any educational facility operated or maintained
13 by a bona fide religious or sectarian institution, and the right of a
14 natural parent or one in loco parentis to direct the education and
15 upbringing of a child under his control is hereby affirmed; nor shall
16 anything herein contained be construed to bar any private secondary
17 or post-secondary school from using in good faith criteria other than
18 race, creed, color, national origin, ancestry, gender identity, or
19 expression or affectional or sexual orientation in the admission of
20 students.

21 m. "A publicly assisted housing accommodation" shall include
22 all housing built with public funds or public assistance pursuant to
23 P.L.1949, c.300, P.L.1941, c.213, P.L.1944, c.169, P.L.1949, c.303,
24 P.L.1938, c.19, P.L.1938, c.20, P.L.1946, c.52, and P.L.1949,
25 c.184, and all housing financed in whole or in part by a loan,
26 whether or not secured by a mortgage, the repayment of which is
27 guaranteed or insured by the federal government or any agency
28 thereof.

29 n. The term "real property" includes real estate, lands,
30 tenements and hereditaments, corporeal and incorporeal, and
31 leaseholds, provided, however, that, except as to publicly assisted
32 housing accommodations, the provisions of this act shall not apply
33 to the rental: (1) of a single apartment or flat in a two-family
34 dwelling, the other occupancy unit of which is occupied by the
35 owner as a residence; or (2) of a room or rooms to another person or
36 persons by the owner or occupant of a one-family dwelling
37 occupied by the owner or occupant as a residence at the time of
38 such rental. Nothing herein contained shall be construed to bar any
39 religious or denominational institution or organization, or any
40 organization operated for charitable or educational purposes, which
41 is operated, supervised, or controlled by or in connection with a
42 religious organization, in the sale, lease, or rental of real property,
43 from limiting admission to or giving preference to persons of the
44 same religion or denomination or from making such selection as is
45 calculated by such organization to promote the religious principles
46 for which it is established or maintained. Nor does any provision
47 under this act regarding discrimination on the basis of familial
48 status apply with respect to housing for older persons.

1 o. "Real estate broker" includes a person, firm, or corporation
2 who, for a fee, commission, or other valuable consideration, or by
3 reason of promise or reasonable expectation thereof, lists for sale,
4 sells, exchanges, buys or rents, or offers or attempts to negotiate a
5 sale, exchange, purchase, or rental of real estate or an interest
6 therein, or collects or offers or attempts to collect rent for the use of
7 real estate, or solicits for prospective purchasers or assists or directs
8 in the procuring of prospects or the negotiation or closing of any
9 transaction which does or is contemplated to result in the sale,
10 exchange, leasing, renting, or auctioning of any real estate, or
11 negotiates, or offers or attempts or agrees to negotiate a loan
12 secured or to be secured by mortgage or other encumbrance upon or
13 transfer of any real estate for others; or any person who, for
14 pecuniary gain or expectation of pecuniary gain conducts a public
15 or private competitive sale of lands or any interest in lands. In the
16 sale of lots, the term "real estate broker" shall also include any
17 person, partnership, association, or corporation employed by or on
18 behalf of the owner or owners of lots or other parcels of real estate,
19 at a stated salary, or upon a commission, or upon a salary and
20 commission or otherwise, to sell such real estate, or any parts
21 thereof, in lots or other parcels, and who shall sell or exchange, or
22 offer or attempt or agree to negotiate the sale or exchange, of any
23 such lot or parcel of real estate.

24 p. "Real estate salesperson" includes any person who, for
25 compensation, valuable consideration or commission, or other thing
26 of value, or by reason of a promise or reasonable expectation
27 thereof, is employed by and operates under the supervision of a
28 licensed real estate broker to sell or offer to sell, buy or offer to buy
29 or negotiate the purchase, sale, or exchange of real estate, or offers
30 or attempts to negotiate a loan secured or to be secured by a
31 mortgage or other encumbrance upon or transfer of real estate, or to
32 lease or rent, or offer to lease or rent any real estate for others, or to
33 collect rents for the use of real estate, or to solicit for prospective
34 purchasers or lessees of real estate, or who is employed by a
35 licensed real estate broker to sell or offer to sell lots or other parcels
36 of real estate, at a stated salary, or upon a commission, or upon a
37 salary and commission, or otherwise to sell real estate, or any parts
38 thereof, in lots or other parcels.

39 q. "Disability" means physical or sensory disability, infirmity,
40 malformation, or disfigurement which is caused by bodily injury,
41 birth defect, or illness including epilepsy and other seizure
42 disorders, and which shall include, but not be limited to, any degree
43 of paralysis, amputation, lack of physical coordination, blindness or
44 visual impairment, deafness or hearing impairment, muteness or
45 speech impairment, or physical reliance on a service or guide dog,
46 wheelchair, or other remedial appliance or device, or any mental,
47 psychological, or developmental disability, including autism
48 spectrum disorders, resulting from anatomical, psychological,

1 physiological, or neurological conditions which prevents the typical
2 exercise of any bodily or mental functions or is demonstrable,
3 medically or psychologically, by accepted clinical or laboratory
4 diagnostic techniques. Disability shall also mean AIDS or HIV
5 infection.

6 r. "Blind person" or "person who is blind" means any
7 individual whose central visual acuity does not exceed 20/200 in the
8 better eye with correcting lens or whose visual acuity is better than
9 20/200 if accompanied by a limit to the field of vision in the better
10 eye to such a degree that its widest diameter subtends an angle of
11 no greater than 20 degrees.

12 s. "Guide dog" means a dog used to assist persons who are
13 deaf, or which is fitted with a special harness so as to be suitable as
14 an aid to the mobility of a person who is blind, and is used by a
15 person who is blind and has satisfactorily completed a specific
16 course of training in the use of such a dog, and has been trained by
17 an organization generally recognized by agencies involved in the
18 rehabilitation of persons with disabilities, including, but not limited
19 to, those persons who are blind or deaf, as reputable and competent
20 to provide dogs with training of this type.

21 t. "Guide or service dog trainer" means any person who is
22 employed by an organization generally recognized by agencies
23 involved in the rehabilitation of persons with disabilities, including,
24 but not limited to, those persons who are blind, have visual
25 impairments, or are deaf or have hearing impairments, as reputable
26 and competent to provide dogs with training, as defined in this
27 section, and who is actually involved in the training process.

28 u. "Housing accommodation" means any publicly assisted
29 housing accommodation or any real property, or portion thereof,
30 which is used or occupied, or is intended, arranged, or designed to
31 be used or occupied, as the home, residence, or sleeping place of
32 one or more persons, but shall not include any single family
33 residence the occupants of which rent, lease, or furnish for
34 compensation not more than one room therein.

35 v. "Public facility" means any place of public accommodation
36 and any street, highway, sidewalk, walkway, public building, and
37 any other place or structure to which the general public is regularly,
38 normally, or customarily permitted or invited.

39 w. "Deaf person" or "person who is deaf" means any person
40 whose hearing is so severely impaired that the person is unable to
41 hear and understand conversational speech through the unaided ear
42 alone, and who must depend primarily on an assistive listening
43 device or visual communication such as writing, lip reading, sign
44 language, and gestures.

45 x. "Atypical hereditary cellular or blood trait" means sickle cell
46 trait, hemoglobin C trait, thalassemia trait, Tay-Sachs trait, or cystic
47 fibrosis trait.

1 y. "Sickle cell trait" means the condition wherein the major
2 natural hemoglobin components present in the blood of the
3 individual are hemoglobin A (normal) and hemoglobin S
4 (sickle hemoglobin) as defined by standard chemical and physical
5 analytic techniques, including electrophoresis; and the proportion of
6 hemoglobin A is greater than the proportion of hemoglobin S or one
7 natural parent of the individual is shown to have only normal
8 hemoglobin components (hemoglobin A, hemoglobin A2,
9 hemoglobin F) in the normal proportions by standard chemical and
10 physical analytic tests.

11 z. "Hemoglobin C trait" means the condition wherein the major
12 natural hemoglobin components present in the blood of the
13 individual are hemoglobin A (normal) and hemoglobin C as defined
14 by standard chemical and physical analytic techniques, including
15 electrophoresis; and the proportion of hemoglobin A is greater than
16 the proportion of hemoglobin C or one natural parent of the
17 individual is shown to have only normal hemoglobin components
18 (hemoglobin A, hemoglobin A2, hemoglobin F) in normal
19 proportions by standard chemical and physical analytic tests.

20 aa. "Thalassemia trait" means the presence of the thalassemia
21 gene which in combination with another similar gene results in the
22 chronic hereditary disease Cooley's anemia.

23 bb. "Tay-Sachs trait" means the presence of the Tay-Sachs gene
24 which in combination with another similar gene results in the
25 chronic hereditary disease Tay-Sachs.

26 cc. "Cystic fibrosis trait" means the presence of the cystic
27 fibrosis gene which in combination with another similar gene
28 results in the chronic hereditary disease cystic fibrosis.

29 dd. "Service dog" means any dog individually trained to the
30 requirements of a person with a disability including, but not limited
31 to minimal protection work, rescue work, pulling a wheelchair or
32 retrieving dropped items. This term shall include a "seizure dog"
33 trained to alert or otherwise assist persons with epilepsy or other
34 seizure disorders.

35 ee. "Qualified Medicaid applicant" means an individual who is a
36 qualified applicant pursuant to P.L.1968, c.413 (C.30:4D-1 et seq.).

37 ff. "AIDS" means acquired immune deficiency syndrome as
38 defined by the Centers for Disease Control and Prevention of the
39 United States Public Health Service.

40 gg. "HIV infection" means infection with the human
41 immunodeficiency virus or any other related virus identified as a
42 probable causative agent of AIDS.

43 hh. "Affectional or sexual orientation" means male or female
44 heterosexuality, homosexuality, or bisexuality by inclination,
45 practice, identity, or expression, having a history thereof or being
46 perceived, presumed, or identified by others as having such an
47 orientation.

- 1 ii. "Heterosexuality" means affectional, emotional, or physical
2 attraction or behavior which is primarily directed towards persons
3 of the other gender.
- 4 jj. "Homosexuality" means affectional, emotional, or physical
5 attraction or behavior which is primarily directed towards persons
6 of the same gender.
- 7 kk. "Bisexuality" means affectional, emotional, or physical
8 attraction or behavior which is directed towards persons of ²[either
9 gender] multiple genders².
- 10 ll. "Familial status" means being the natural parent of a child,
11 the adoptive parent of a child, the resource family parent of a child,
12 having a "parent and child relationship" with a child as defined by
13 State law, or having sole or joint legal or physical custody, care,
14 guardianship, or visitation with a child, or any person who is
15 pregnant or is in the process of securing legal custody of any
16 individual who has not attained the age of 18 years.
- 17 mm. "Housing for older persons" means housing:
- 18 (1) provided under any State program that the Attorney General
19 determines is specifically designed and operated to assist persons
20 who are elderly (as defined in the State program); or provided under
21 any federal program that the United States Department of Housing
22 and Urban Development determines is specifically designed and
23 operated to assist persons who are elderly (as defined in the federal
24 program); or
- 25 (2) intended for, and solely occupied by, persons 62 years of age
26 or older; or
- 27 (3) intended and operated for occupancy by at least one person
28 55 years of age or older per unit. In determining whether housing
29 qualifies as housing for older persons under this paragraph, the
30 Attorney General shall adopt regulations which require at least the
31 following factors:
- 32 (a) the existence of significant facilities and services
33 specifically designed to meet the physical or social needs of older
34 persons, or if the provision of such facilities and services is not
35 practicable, that such housing is necessary to provide important
36 housing opportunities for older persons; and
- 37 (b) that at least 80 percent of the units are occupied by at least
38 one person 55 years of age or older per unit; and
- 39 (c) the publication of, and adherence to, policies and procedures
40 which demonstrate an intent by the owner or manager to provide
41 housing for persons 55 years of age or older.
- 42 Housing shall not fail to meet the requirements for housing for
43 older persons by reason of: persons residing in such housing as of
44 September 13, 1988 not meeting the age requirements of this
45 subsection, provided that new occupants of such housing meet the
46 age requirements of this subsection; or unoccupied units, provided
47 that such units are reserved for occupancy by persons who meet the
48 age requirements of this subsection.

1 nn. "Genetic characteristic" means any inherited gene or
2 chromosome, or alteration thereof, that is scientifically or medically
3 believed to predispose an individual to a disease, disorder, or
4 syndrome, or to be associated with a statistically significant
5 increased risk of development of a disease, disorder, or syndrome.

6 oo. "Genetic information" means the information about genes,
7 gene products, or inherited characteristics that may derive from an
8 individual or family member.

9 pp. "Genetic test" means a test for determining the presence or
10 absence of an inherited genetic characteristic in an individual,
11 including tests of nucleic acids such as DNA, RNA, and
12 mitochondrial DNA, chromosomes, or proteins in order to identify a
13 predisposing genetic characteristic.

14 qq. "Domestic partnership" means a domestic partnership
15 established pursuant to section 4 of P.L.2003, c.246 (C.26:8A-4).

16 rr. "Gender identity or expression" means having or being
17 perceived as having a gender related identity or expression whether
18 or not stereotypically associated with a person's assigned sex at
19 birth.

20 ss. "Civil Union" means a legally recognized union of two
21 eligible individuals established pursuant to R.S.37:1-1 et seq. and
22 P.L.2006, c.103 (C.37:1-28 et al.).

23 tt. ²["Premium wages"] "Premium pay"² means additional
24 remuneration for night, weekend, or holiday work, or for standby or
25 irregular duty.

26 uu. "Premium benefit" means an employment benefit, such as
27 seniority, group life insurance, health insurance, disability
28 insurance, sick leave, annual leave, or an educational or pension
29 benefit that is greater than the employment benefit due the
30 employee for an equivalent period of work performed during the
31 regular work schedule of the employee.

32 vv. "Race" is inclusive of traits historically associated with race,
33 including, but not limited to, hair texture, hair types, and protective
34 hairstyles.

35 ww. "Protective hairstyles" includes, but is not limited to, such
36 hairstyles as braids, locks, and twists.

37 xx. "Family member" means a child, parent, parent-in-law,
38 sibling, grandparent, grandchild, spouse, partner in a civil union
39 couple, domestic partner, or any other individual related by blood to
40 the person, and any other individual that the person shows to have a
41 close association with the person which is the equivalent of a family
42 relationship.

43 (cf: P.L.2019, c.436, s.2)

44
45 4. Section 2 of P.L.1965, c.164 (C.34:6A-2) is amended to read
46 as follows:

47 2. The following terms wherever used or referred to in this act
48 shall have the following meaning:

- 1 (a) "Act" means this act and rules and regulations promulgated
2 hereunder.
- 3 (b) "Board" means the Industrial Safety Board established under
4 this act.
- 5 (c) "Bureau" means the Bureau of Engineering and Safety in the
6 Division of Labor, Department of Labor and Industry established
7 under this act.
- 8 (d) "Commissioner" means the Commissioner of the Department
9 of Labor and Industry or his authorized representatives.
- 10 (e) "Committee" means the New Jersey State Industrial Safety
11 Committee established under this act.
- 12 (f) "Department" means the Department of Labor and Industry.
- 13 (g) "Employee" means any person engaged in service to an
14 employer for wages, salary or other compensation.
- 15 (h) "Employer" means any person or corporation, partnership,
16 individual proprietorship, joint venture, firm, company or other
17 similar legal entity who engages the services of an employee and
18 who pays his wages, salary, or other compensation; and any person
19 exercising supervision of employees on an employer's behalf
20 ¹]; and includes all "hiring entities" as defined by section 2 of
21 P.L. , c. (C.) (pending before the Legislature as this bill)]¹.
- 22 (i) "Owner" means the person possessing legal or equitable
23 title. For the purposes of this act "Person possessing equitable title"
24 shall mean that person or corporation, partnership, individual
25 proprietorship, joint venture, firm, company or other legal entity
26 that has actual control over the premises used in whole or in part as
27 a place of employment.
- 28 (j) "Place of employment" means any building or other
29 premises occupied by an employer in or about which an employee
30 customarily is suffered or permitted to work.
- 31 (k) "Domestic worker" means all persons defined as a domestic
32 worker by section 2 of P.L. , c. (C.) (pending before the
33 Legislature as ²this² bill).
- 34 (cf: P.L.1965, c.154, s.2)
- 35
- 36 ¹5. Section 6 of P.L.1965, c.154 (C.34:6A-6) is amended to
37 read as follows:
- 38 6. a. The commissioner shall enforce the provisions of this act,
39 make complaints against persons violating its provisions and
40 prosecute violations of the same.
- 41 b. The commissioner shall have the power and authority,
42 without notice or delay during regular working hours or other
43 reasonable hours within reasonable limits and in a reasonable
44 manner, to enter and inspect any place of employment and all
45 pertinent conditions, structures, machinery, apparatus, devices,
46 equipment and materials and to question privately the owner and
47 any employer or employee.

1 c. In the case where the place of employment is a residential
2 dwelling and the employee is a domestic worker, the commissioner
3 or the commissioner's authorized representative shall initiate
4 telephone contact with the hiring entity as soon as possible, but not
5 later than 14 calendar days after receipt of a complaint charging a
6 violation.

7 When telephone contact is successfully made, the commissioner
8 or the authorized representative shall:

9 (1) Notify the hiring entity of the existence of any alleged
10 unsafe or unhealthful condition;

11 (2) Describe the alleged hazard and any specific regulatory
12 standard alleged to have been violated;

13 (3) Inform the hiring entity that the entity is required to
14 investigate and abate any hazard discovered during the investigation
15 regarding violations of section 3 of P.L.1965, c.154 (C.34:6A-3);

16 (4) Inform the hiring entity by letter sent by facsimile or email,
17 or by certified mail if the employer cannot receive facsimile or
18 email, of each alleged hazard and each specific allegation of a
19 violation of a standard;

20 (5) Inform the hiring entity that if the department determines
21 that the hiring entity's response is unsatisfactory for any reason, the
22 department shall seek permission from the hiring entity to enter the
23 residential dwelling to investigate the matter, and if permission is
24 denied, may secure an inspection warrant to conduct an onsite
25 inspection of the residential dwelling; and

26 (6) Provide the complainant with copies of the law and
27 regulations alleged to have been violated, the department's letter to
28 the employer, and all subsequent correspondence concerning the
29 investigation of any alleged hazards;

30 d. A hiring entity subject to investigation shall:

31 (1) Provide the department, within 14 days of the hiring entity's
32 receipt of the department's letter, a response describing the results
33 of the employer's investigation of the alleged hazard and a
34 description of all actions taken, in the process of being taken, or
35 planned to be taken, by the hiring entity to abate the alleged hazard;

36 (2) Provide a copy of the commissioner or the commissioner's
37 authorized representative's letter to the domestic worker, and all
38 subsequent correspondence from and to the hiring entity to the
39 affected domestic worker, or prominently post the letter and
40 correspondence in the method prescribed by letter sent pursuant to
41 subsection c. of this section regarding each alleged hazard and each
42 specific standard to have been violated;

43 e. For complaints alleging serious illness or injury or death
44 while performing domestic services as defined by section 2 of
45 P.L. , c. (C.) (pending before the Legislature as this bill),
46 the commissioner or the authorized representative may enter the
47 premises with permission or with an inspection warrant issued

1 pursuant to subsection b. of this section without first initiating the
2 telephone contact described in subsection c. of this section.

3 f. Notwithstanding any other provision of this chapter to the
4 contrary, investigations of complaints in domestic services as
5 defined by section 2 of P.L. , c. (C.) (pending before the
6 Legislature as this bill), shall be conducted in a manner to avoid any
7 unwarranted invasion of personal privacy and shall not contain any
8 personal, financial, or medical information of the individuals
9 residing in the residential dwelling that is not pertinent to the
10 investigation of the complaint.

11 g. No person shall obstruct, hinder or delay or interfere with by
12 force or otherwise the performance by the commissioner of any
13 duty under the provisions of this act.

14 (cf: P.L.1973, c.259, s.1)]¹

15

16 ¹[6.] 5.¹ Section 9 of P.L.1965, c.154 (C.34:6A-9) is amended
17 to read as follows:

18 9. The commissioner shall make and promulgate rules and
19 regulations reasonably necessary to implement the purposes of this
20 act. Such rules and regulations shall have the force and effect of
21 law and shall be enforced in the manner provided in this act.

22 The commissioner shall ¹[make and promulgate rules to ensure
23 the requirements of section 3 of P.L.1965, c.154 (C.34:6A-3) apply
24 to the hiring entities of domestic workers. These rules shall include
25 the establishment of a mechanism to receive complaints within the
26 department that prompts inspections by the commissioner in
27 accordance with section 6 of P.L.1965, c.154 (C.34:6A-6)] provide
28 for the adoption of all applicable occupational standards,
29 amendments, or changes adopted or recognized by the Secretary of
30 Labor under the authority of the “Occupational Safety and Health
31 Act of 1970,” which shall be applicable to domestic workers
32 employed by individuals in the residences of the individuals¹.

33 Buildings or other structures in use on the effective date of this
34 act as a place of employment other than a place where the
35 manufacturing of goods of any kind is carried on shall not be made
36 to comply with the requirements of rules and regulations
37 promulgated hereunder substantially affecting such building or
38 other structures unless such compliance is essential to correct an
39 unsafe or unhealthful condition which constitutes a serious and
40 substantial threat to the health or safety of employees.

41 The commissioner shall before promulgation furnish a copy of
42 proposed rules and regulations to the members of the committee for
43 its review and recommendations. Within 90 days of the receipt of
44 said proposed rules and regulations the committee shall provide the
45 commissioner and the board with its written recommendations.
46 Following receipt of the committee's recommendations or upon the
47 expiration of 90 days, the commissioner shall furnish to every

1 member of the board a copy of the proposed rules and regulations
2 with or without change in his discretion and at the same time a
3 notice of intent to promulgate proposed rules and regulations shall
4 be published by the commissioner. This notice of intent shall state
5 briefly the purpose of the proposed rules and regulations, shall state
6 that a copy of the proposed rules and regulations may be obtained
7 by any person upon written request to the department, and shall fix
8 the date, time and place for a public hearing on the proposed rules
9 and regulations, which date shall be not less than 21 days after the
10 publication of the notice. All person appearing at such hearing shall
11 be given the opportunity to be heard. Rules and regulations, as so
12 proposed or as changed by the commissioner after such hearing,
13 may be promulgated by the commissioner 90 days following
14 delivery to the board to be effective on such date as the rules and
15 regulations shall provide unless disapproved by a majority of the
16 board and if so disapproved such rules or regulations shall not
17 become effective. Within 30 days after the public hearing and on
18 30 days' notice the commissioner shall call a meeting of the board
19 for the purpose of discussing the proposed rules and regulations. If
20 any changes were made in the proposed rules or regulations
21 following the public hearing, a copy of such change shall
22 accompany such notice. At any meeting called for such purpose
23 disapproval shall be by vote of the majority of the members of the
24 board.

25 (cf: P.L.1965, c.154, s.9)

26

27 ¹~~7.~~6.¹ Section 19 of P.L.1965, c.154 (C.34:6A-19) is
28 amended to read as follows:

29 19. Any person violating any of the provisions of this act shall
30 be liable to a penalty of not less than ~~[\$25.00]~~ \$975 nor more than
31 ~~[\$500.00]~~ \$13,653 to be collected in a civil action by a summary
32 proceeding under the ~~[Penalty]~~ “Penalty Enforcement Law [(N.J.S.
33 2A:58-1)] of 1999,” P.L.1999, c.274 (C.2A:58-10 et seq.).
34 Notwithstanding the penalties prescribed in this section, the penalty
35 amounts shall be subject to adjustment by the commissioner to
36 remain consistent with the ²~~[federal Occupational]~~ “Occupational²
37 Safety and Health Act of ²~~[1970]~~ 1970,”² (29 U.S.C. s.651 et seq.).
38 Fifty percent of the sum collected as a penalty pursuant to this
39 subsection shall be provided to the employee harmed by violation.
40 Any violation of the act by an officer, agent or employee shall also
41 be a violation of the act by his employer if such employer had
42 knowledge of and actual control over the cause of such violation.
43 Where the violation is of a continuing nature each day during
44 which it continues, after the date given by which the violation must
45 be eliminated in the order by the commissioner, shall constitute an
46 additional, separate and distinct offense, except during the time an
47 appeal from said order may be taken or is pending.

1 The commissioner is hereby authorized and empowered to
 2 compromise and settle any claim for a penalty under this section in
 3 such amount in the discretion of the commissioner as may appear
 4 appropriate and equitable under all of the circumstances.

5 Nothing in this subsection shall affect the rights of employees or
 6 any remedies available to employees provided by section 5 of
 7 P.L.1986, c.105 (C.34:19-5) or any other provision of law.
 8 (cf: P.L.1965, c.154, s.19)
 9

10 ¹~~8.~~ ¹~~7.~~ Section 22 of P.L.1965, c.154 (C.34:6A-22) is
 11 amended to read as follows:

12 22. This act is not intended to apply and shall not apply to the
 13 following:

14 (a) Places of employment under the exclusive jurisdiction of the
 15 Federal Government with respect to the health and safety of
 16 employees;

17 (b) Places of employment subject to the provisions of the Mine
 18 Safety Act, P.L.1954, c. 197;

19 (c) Employment and places of employment subject to the
 20 provisions of the Construction Safety Act, P.L.1962, c. 45;

21 (d) ~~Domestic employment;~~ (Deleted by amendment, P.L. _____,
 22 c. (pending before the Legislature as this bill)

23 (e) Transportation equipment coming under the jurisdiction of
 24 the Interstate Commerce Commission, Federal Aviation
 25 Administration, or of the New Jersey Division of Motor Vehicles;

26 (f) ~~Institutions requiring a license issued by the Department of~~
 27 ~~Institutions and Agencies pursuant to Revised Statutes 30:11-1;~~
 28 ~~(Deleted by amendment, P.L. _____, c. _____ (pending before the~~
 29 ~~Legislature as this bill)~~

30 (g) Schools, colleges and universities;

31 (h) Places of employment with fewer than ²~~4~~ ²~~four~~
 32 employees, except places of employment ¹~~of~~ ¹~~by individuals for~~
 33 domestic services ¹~~in the residences of the individuals~~
 34 employment in which the manufacturing of goods of any kind is
 35 carried on; and except as hereinafter provided in paragraph (o) of
 36 this section;

37 (i) Agricultural employment;

38 (j) Banks and other financial institutions;

39 (k) Places of employment in which the employees are primarily
 40 engaged in office operations and buildings under the actual control
 41 of one employer and in which the employees are primarily engaged
 42 in office operations or laboratories primarily engaged in research,
 43 development, or testing conducted on premises, in separate
 44 buildings, or in building sections devoted exclusively to these
 45 operations;

46 (l) Public utilities which own, operate, manage or control any
 47 autobus, canal, express, railroad, street railway, traction railway,

1 subway, pipeline, gas, electric light, heat, power, water, oil, sewer,
2 telephone or telegraph system, plant or equipment for public use,
3 under privileges granted by the State or by any political subdivision
4 thereof, with respect to work operations performed in connection
5 with the plant or facilities of such public utility located in the public
6 streets and highways, roads and alleys, private rights-of-way, or
7 upon their customers' premises;

8 (m) Liquefied petroleum gas bulk plants and facilities subject to
9 the jurisdiction and supervision of the Superintendent of State
10 Police, pursuant to chapter 139 of the laws of 1950
11 (N.J.S.A. 21:1B-1 to 21:1B-8);

12 (n) Natural gas pipeline utilities subject to the provisions of the
13 Natural Gas Safety Act (P.L.1952, c. 166) (N.J.S.A. 48:10-2 to
14 48:10-9); and

15 (o) Establishments with fewer than 10 employees and which are
16 devoted exclusively to the sale of goods, or furnishing of services,
17 at retail.

18 (cf: P.L.1965, c.154, s.22)

19

20 ¹¶9. Section 2 of P.L.1966, c.113 (C.34:11-56a1) is amended to
21 read as follows:

22 2. As used in this act:

23 (a) "Commissioner" means the Commissioner of Labor and
24 Workforce Development.

25 (b) "Director" means the director in charge of the bureau
26 referred to in section 3 of this act.

27 (c) "Wage board" means a board created as provided in section
28 10 of this act.

29 (d) "Wages" means any moneys due an employee from an
30 employer for services rendered or made available by the employee
31 to the employer as a result of their employment relationship
32 including commissions, bonus and piecework compensation and
33 including the fair value of any food or lodgings supplied by an
34 employer to an employee, and, until December 31, 2018, "wages"
35 includes any gratuities received by an employee for services
36 rendered for an employer or a customer of an employer. The
37 commissioner may, by regulation, establish the average value of
38 gratuities received by an employee in any occupation and the fair
39 value of food and lodging provided to employees in any occupation,
40 which average values shall be acceptable for the purposes of
41 determining compliance with this act in the absence of evidence of
42 the actual value of such items.

43 (e) "Regular hourly wage" means the amount that an employee
44 is regularly paid for each hour of work as determined by dividing
45 the total hours of work during the week into the employee's total
46 earnings for the week, exclusive of overtime premium pay.

47 (f) "Employ" includes to suffer or to permit to work.

1 (g) "Employer" includes any individual, partnership,
2 association, corporation, and the State and any county,
3 municipality, or school district in the State, or any agency,
4 authority, department, bureau, or instrumentality thereof, or any
5 person or group of persons acting directly or indirectly in the
6 interest of an employer in relation to an employee, and includes
7 "hiring entities" as defined in section 2 of P.L. , c. (C.)
8 (pending before the Legislature as this bill).

9 (h) "Employee" includes any individual employed by an
10 employer.

11 (i) "Occupation" means any occupation, service, trade,
12 business, industry or branch or group of industries or employment
13 or class of employment in which employees are gainfully employed.

14 (j) "Minimum fair wage order" means a wage order
15 promulgated pursuant to this act.

16 (k) "Fair wage" means a wage fairly and reasonably
17 commensurate with the value of the service or class of service
18 rendered and sufficient to meet the minimum cost of living
19 necessary for health.

20 (l) "Oppressive and unreasonable wage" means a wage which is
21 both less than the fair and reasonable value of the service rendered
22 and less than sufficient to meet the minimum cost of living
23 necessary for health.

24 (m) "Limousine" means a motor vehicle used in the business of
25 carrying passengers for hire to provide prearranged passenger
26 transportation at a premium fare on a dedicated, nonscheduled,
27 charter basis that is not conducted on a regular route and with a
28 seating capacity in no event of more than 14 passengers, not
29 including the driver, provided, that such a motor vehicle shall not
30 have a seating capacity in excess of four passengers, not including
31 the driver, beyond the maximum passenger seating capacity of the
32 vehicle, not including the driver, at the time of manufacture.
33 "Limousine" shall not include taxicabs, hotel or airport shuttles and
34 buses, buses employed solely in transporting school children or
35 teachers to and from school, vehicles owned and operated directly
36 or indirectly by businesses engaged in the practice of mortuary
37 science when those vehicles are used exclusively for providing
38 transportation related to the provision of funeral services or vehicles
39 owned and operated without charge or remuneration by a business
40 entity for its own purposes.

41 (n) "Seasonal employment" means employment during a year by
42 an employer that is a seasonal employer, or employment by a non-
43 profit or government entity of an individual who is not employed by
44 that employer outside of the period of that year commencing on
45 May 1 and ending September 30, or employment by a governmental
46 entity in a recreational program or service during the period
47 commencing on May 1 and ending September 30, except that
48 "seasonal employment" does not include employment of employees

1 engaged to labor on a farm on either a piece-rate or regular hourly
2 rate basis.

3 (o) "Seasonal employer" means an employer who exclusively
4 provides its services in a continuous period of not more than ten
5 weeks during the months of June, July, August, and September, or
6 an employer for which, during the immediately previous calendar
7 year, not less than two thirds of the employer's gross receipts were
8 received in a continuous period of not more than sixteen weeks or
9 for which not less than 75 percent of the wages paid by the
10 employer during the immediately preceding year were paid for work
11 performed during a single calendar quarter.

12 (p) "Small employer" means any employer who employed less
13 than six employees for every working day during each of a majority
14 of the calendar workweeks in the current calendar year and less than
15 six employees for every working day during not less than 48
16 calendar workweeks in the preceding calendar year, except that, if
17 the employer was newly established during the preceding calendar
18 year, the employer shall be regarded as a "small employer" if the
19 employer employed less than six employees for every working day
20 during all of the weeks of that year, and during a majority of the
21 calendar workweeks in the current calendar year, and, if the
22 employer is newly established during the current calendar year, the
23 employer shall be regarded as a "small employer" if the employer
24 employed less than six employees for every working day during a
25 majority of the calendar workweeks in the current calendar year.

26 (q) "Long-term care facility direct care staff member" means
27 any health care professional licensed or certified pursuant to Title
28 26 or Title 45 of the Revised Statutes who is employed by a long-
29 term care facility and who provides personal care, assistance, or
30 treatment services directly to residents of the facility in the course
31 of the professional's regular duties.

32 (cf: P.L.2020, c.89, s.1)¹

33

34 ¹**[10.] 8.**¹ Section 5 of P.L.1966, c.113 (C.34:11-56a4) is
35 amended to read as follows:

36 5. a. Except as provided in subsections c., d., e. g., and i. of
37 this section, each employer shall pay to each of his employees
38 wages at a rate of not less than \$8.85 per hour as of January 1, 2019
39 and, on January 1 of 2020 and January 1 of each subsequent year,
40 the minimum wage shall be increased by any increase in the
41 consumer price index for all urban wage earners and clerical
42 workers (CPI-W) as calculated by the federal government for the 12
43 months prior to the September 30 preceding that January 1, except
44 that any of the following rates shall apply if it exceeds the rate
45 determined in accordance with the applicable increase in the CPI-W
46 for the indicated year: on July 1, 2019, the minimum wage shall be
47 \$10.00 per hour; on January 1, 2020, the minimum wage shall be
48 \$11.00 per hour; and on January 1 of each year from 2021 to 2024,

1 inclusive, the minimum wage shall be increased from the rate of the
2 preceding year by \$1.00 per hour. If the federal minimum hourly
3 wage rate set by section 6 of the federal "Fair Labor Standards Act
4 of 1938" (29 U.S.C. s.206), or a successor federal law, is raised to a
5 level higher than the State minimum wage rate set by this
6 subsection, then the State minimum wage rate shall be increased to
7 the level of the federal minimum wage rate and subsequent
8 increases based on increases in the CPI-W pursuant to this section
9 shall be applied to the higher minimum wage rate. If an applicable
10 wage order has been issued by the commissioner under section 17
11 (C.34:11-56a16) of this act, the employer shall also pay not less
12 than the wages prescribed in said order. The wage rates fixed in
13 this section shall not be applicable to [part-time employees
14 primarily engaged in the care and tending of children in the home of
15 the employer, to] persons under the age of 18 not possessing a
16 special vocational school graduate permit issued pursuant to section
17 15 of P.L.1940, c.153 (C.34:2-21.15), or to persons employed as
18 salesmen of motor vehicles, or to persons employed as outside
19 salesmen as such terms shall be defined and delimited in regulations
20 adopted by the commissioner, or to persons employed in a volunteer
21 capacity and receiving only incidental benefits at a county or other
22 agricultural fair by a nonprofit or religious corporation or a
23 nonprofit or religious association which conducts or participates in
24 that fair.

25 b. (1) An employer shall also pay each employee not less than
26 1 1/2 times such employee's regular hourly rate for each hour of
27 working time in excess of 40 hours in any week, except that this
28 overtime rate shall not apply: to any individual employed in a bona
29 fide executive, administrative, or professional capacity; or to
30 employees engaged to labor on a farm or employed in a hotel; or to
31 an employee of a common carrier of passengers by motor bus; or to
32 a limousine driver who is an employee of an employer engaged in
33 the business of operating limousines; or to employees engaged in
34 labor relative to the raising or care of livestock.

35 (2) Employees engaged on a piece-rate or regular hourly rate
36 basis to labor on a farm shall be paid for each day worked not less
37 than the applicable minimum hourly wage rate multiplied by the
38 total number of hours worked.

39 (3) Full-time students may be employed by the college or
40 university at which they are enrolled at not less than 85% of the
41 effective applicable minimum wage rate.

42 c. Employees of a small employer, and employees who are
43 engaged in seasonal employment, except for employees who
44 customarily and regularly receive gratuities or tips who shall be
45 subject to the provisions of subsections a. and d. of this section,
46 shall be paid \$8.85 per hour as of January 1, 2019 and, on January 1
47 of 2020 and January 1 of each subsequent year, that minimum wage
48 rate shall be increased by any increase in the consumer price index

1 for all urban wage earners and clerical workers (CPI-W) as
2 calculated by the federal government for the 12 months prior to the
3 September 30 preceding that January 1, except that any of the
4 following rates shall apply if it exceeds the rate determined in
5 accordance with the applicable increase in the CPI-W for the
6 indicated year: on January 1, 2020, the minimum wage shall be
7 \$10.30 per hour; and on January 1 of each year from 2021 to 2025,
8 inclusive, the minimum wage shall be increased from the rate of the
9 preceding year by eighty cents per hour, and, in 2026, the minimum
10 wage shall be increased from the rate of the preceding year by
11 seventy cents per hour, and, in each year from 2027 to 2028
12 inclusive, the minimum wage for employees subject to this
13 subsection c. shall be increased by the same amount as the increase
14 for employees subject to subsection a. of this section based on
15 CPI-W increases, plus one half of the difference between \$15.00 per
16 hour and the minimum wage in effect in 2026 for employees
17 pursuant to subsection a. of this section, so that, by 2028, the
18 minimum wage for employees subject to this subsection shall be the
19 same as the minimum wage in effect for employees subject to
20 subsection a. of this section. If the federal minimum hourly wage
21 rate set by section 6 of the federal "Fair Labor Standards Act of
22 1938" (29 U.S.C. s.206), or a successor federal law, is raised to a
23 level higher than the State minimum wage rate set by this
24 subsection, then the State minimum wage rate shall be increased to
25 the level of the federal minimum wage rate and subsequent
26 increases based on increases in the CPI-W pursuant to this
27 subsection shall be applied to the higher minimum wage rate.

28 d. Employees engaged on a piece-rate or regular hourly rate
29 basis to labor on a farm shall be paid \$8.85 per hour as of January
30 1, 2019 and, on January 1 of 2020 and January 1 of each subsequent
31 year, that minimum wage rate shall be increased by any increase in
32 the consumer price index for all urban wage earners and clerical
33 workers (CPI-W) as calculated by the federal government for the 12
34 months prior to the September 30 preceding that January 1, except
35 that any of the following rates shall apply if it exceeds the rate
36 determined in accordance with the applicable increase in the CPI-W
37 for the indicated year:

38 (1) on January 1, 2020, the minimum wage shall be \$10.30 per
39 hour; on January 1, 2022, the minimum wage shall be \$10.90 per
40 hour; and on January 1 of each year from 2023 to 2024, inclusive,
41 the minimum wage shall be increased from the rate of the preceding
42 year by eighty cents per hour; and

43 (2) subject to the provisions of paragraph (3) of this subsection
44 d., minimum wage rates shall be increased as follows: on January 1
45 of 2025, the minimum wage shall be increased to \$13.40, and on
46 January 1 of each year from 2026 to 2027, inclusive, the minimum
47 wage shall be increased from the rate of the preceding year by
48 eighty cents per hour, and, in each year from 2028 to 2030

1 inclusive, the minimum wage for employees subject to this
2 subsection d. shall be increased during that year by the same
3 amount as the increase in that year for employees subject to
4 subsection a. of this section based on CPI-W increases, plus one
5 third of the difference between \$15.00 per hour and the minimum
6 wage in effect in 2027 for employees pursuant to subsection a. of
7 this section, so that, by 2030, the minimum wage for employees
8 subject to this subsection shall be the same as the minimum wage in
9 effect for employees subject to subsection a. of this section.

10 (3) Not later than March 31, 2024, the commissioner and the
11 Secretary of Agriculture shall review the report issued by the
12 commissioner pursuant to subsection b. of section 4 of P.L.2019,
13 c.32 (C.34:11-56a4.10) and shall consider any information provided
14 by the secretary regarding the impact on farm employers and the
15 viability of the State's agricultural industry of the increases of the
16 minimum wage made pursuant to paragraph (1) of this subsection,
17 and the potential impact of the increases which would be set by
18 paragraph (2) of this subsection, including comparisons with the
19 wage rates in the agricultural industries in other states, and shall
20 recommend: approval of the increases set forth in paragraph (2) of
21 this subsection; disapproval of the increases set forth in paragraph
22 (2) of this subsection; or an alternative manner of changing the
23 minimum wage after 2024 for employees engaged on a piece-rate or
24 regular hourly rate basis to labor on a farm. In contemplation of the
25 possibility that the commissioner and the secretary are unable to
26 agree on the recommendation required by this paragraph, by
27 December 31, 2021, the Governor shall appoint a public member
28 subject to advice and consent by the Senate, who will serve as a tie-
29 breaking member if needed. The increases set forth in paragraph
30 (2) of this subsection shall take effect unless there is a
31 recommendation pursuant to this paragraph to disapprove the
32 increases or for an alternative manner of changing the minimum
33 wage after 2024 for employees engaged on a piece-rate or regular
34 hourly rate basis to labor on a farm and the Legislature, not later
35 than June 30, 2024, enacts a concurrent resolution approving the
36 implementation of that recommendation. Beginning in 2024, the
37 commissioner, secretary, and public member shall meet biennially
38 to make either a one or two year recommendation to the Legislature
39 for implementation by way of concurrent resolution.

40 (4) If the federal minimum hourly wage rate set by section 6 of
41 the federal "Fair Labor Standards Act of 1938" (29 U.S.C. s.206), or
42 a successor federal law, is raised to a level higher than the State
43 minimum wage rate set by this subsection, then the State minimum
44 wage rate shall be increased to the level of the federal minimum
45 wage rate and subsequent increases based on increases in the
46 CPI-W pursuant to this subsection shall be applied to the higher
47 minimum wage rate.

1 e. With respect to an employee who customarily and regularly
2 receives gratuities or tips, every employer is entitled to a credit for
3 the gratuities or tips received by the employee against the hourly
4 wage rate that would otherwise be paid to the employee pursuant to
5 subsection a. of this section of the following amounts: after
6 December 31, 2018 and before July 1, 2019, \$6.72 per hour; after
7 June 30, 2019 and before January 1, 2020, \$7.37 per hour; during
8 calendar years 2020, 2021 and 2022, \$7.87 per hour; during
9 calendar year 2023, \$8.87 per hour; and during calendar year 2024
10 and subsequent calendar years, \$9.87 per hour.

11 f. Notwithstanding the provisions of this section to the
12 contrary, every trucking industry employer shall pay to all drivers,
13 helpers, loaders and mechanics for whom the Secretary of
14 Transportation may prescribe maximum hours of work for the safe
15 operation of vehicles, pursuant to section 31502(b) of the federal
16 Motor Carrier Act, 49 U.S.C.s.31502(b), an overtime rate not less
17 than 1 1/2 times the minimum wage required pursuant to this
18 section and N.J.A.C. 12:56-3.1. Employees engaged in the trucking
19 industry shall be paid no less than the minimum wage rate as
20 provided in this section and N.J.A.C. 12:56-3.1. As used in this
21 section, "trucking industry employer" means any business or
22 establishment primarily operating for the purpose of conveying
23 property from one place to another by road or highway, including
24 the storage and warehousing of goods and property. Such an
25 employer shall also be subject to the jurisdiction of the Secretary of
26 Transportation pursuant to the federal Motor Carrier Act, 49
27 U.S.C.s.31501 et seq., whose employees are exempt under section
28 213(b)(1) of the federal "Fair Labor Standards Act of 1938," 29
29 U.S.C. s.213(b)(1), which provides an exemption to employees
30 regulated by section 207 of the federal "Fair Labor Standards Act of
31 1938," 29 U.S.C. s.207, and the Interstate Commerce Act, 49
32 U.S.C. s.501 et al.

33 g. Commencing on January 1, 2020, a training wage of not less
34 than 90 percent of the minimum wage rate otherwise set pursuant to
35 subsection a. of this section may be paid to an employee who is
36 enrolled in an established employer on-the-job or other training
37 program which meets standards set by regulations adopted by the
38 commissioner. The period during which an employer may pay the
39 training wage to the employee shall be the first 120 hours of work
40 after hiring the employee in employment in an occupation in which
41 the employee has no previous similar or related experience. An
42 employer shall not utilize any employee paid the training wage in a
43 manner which causes, induces, encourages or assists any
44 displacement or partial displacement of any currently employed
45 worker, including any previous recipient of the training wage, by
46 reducing hours of a currently employed worker, replacing a current
47 or laid off employee with a trainee, or by relocating operations
48 resulting in a loss of employment at a previous workplace, or in a

1 manner which replaces, supplants, competes with or duplicates any
2 approved apprenticeship program. An employer who pays an
3 employee a training wage shall make a good faith effort to continue
4 to employ the employee after the period of the training wage
5 expires and shall not hire the employee at the training wage unless
6 there is a reasonable expectation that there will be regular
7 employment, paying at or above the effective minimum wage, for
8 the trainee upon the successful completion of the period of the
9 training wage. If the commissioner determines that an employer
10 has made repeated, knowing violations of the provisions of this
11 subsection regarding the payment of a training wage, the
12 commissioner shall suspend the employer's right to pay a training
13 wage for a period set pursuant to regulations adopted by the
14 commissioner, but not less than three years.

15 h. The provisions of this section shall not be construed as
16 prohibiting any political subdivision of the State from adopting an
17 ordinance, resolution, regulation or rule, or entering into any
18 agreement, establishing any standard for vendors, contractors and
19 subcontractors of the subdivision regarding wage rates or overtime
20 compensation which is higher than the standards provided for in
21 this section, and no provision of any other State or federal law
22 establishing a minimum standard regarding wages or other terms
23 and conditions of employment shall be construed as preventing a
24 political subdivision of the State from adopting an ordinance,
25 resolution, regulation or rule, or entering into any agreement,
26 establishing a standard for vendors, contractors and subcontractors
27 of the subdivision which is higher than the State or federal law or
28 which otherwise provides greater protections or rights to employees
29 of the vendors, contractors and subcontractors of the subdivision,
30 unless the State or federal law expressly prohibits the subdivision
31 from adopting the ordinance, resolution, regulation or rule, or
32 entering into the agreement.

33 i. Effective on the first day of the second month next following
34 the effective date of P.L.2020, c.89 (C.30:4D-7cc et al.), the
35 minimum wage for long-term care facility direct care staff members
36 shall be in an amount that is \$3 higher than the prevailing minimum
37 wage established pursuant to subsection a. of this section.

38 (cf: P.L.2020, c.89, s.2)

39

40 ¹**[11.] 9.** Section 1 of P.L.1952, c.9 (C.34:11-56.1) is amended
41 to read as follows:

42 1. As used in this act:

43 a. "Employee" includes any person, either male or female,
44 employed by an employer, but shall not include persons performing
45 volunteer service for nonprofit organizations or corporations nor
46 persons employed on a farm¹, or in domestic service in a private
47 home,¹ or in a hotel.

1 b. "Employer" includes any person acting directly or indirectly
2 in the interest, or as agent, of an employer in relation to an
3 employee and further includes one or more individuals,
4 partnerships, corporations, associations, legal representatives,
5 trustees, trustees in bankruptcy, or receivers, ¹["and "hiring entities"
6 as defined by section 2 of P.L. , c (C.) (pending before the
7 Legislature as this bill).]¹ such term shall not include nonprofit
8 hospital associations or corporations.

9 c. "Employ" includes to suffer or permit to work.

10 d. "Occupation" includes any industry, trade, business or
11 branch thereof, or any employment or class of employment.

12 e. "Commissioner" means the Commissioner of Labor and
13 **【Industry】** Workforce Development of the State of New Jersey.
14 (cf: P.L.1952, c.9, s.1)

15

16 ¹【12. R.S.34:15-36 is amended to read as follows:

17 34:15-36. "Willful negligence" within the intent of this chapter
18 shall consist of (1) deliberate act or deliberate failure to act, or (2)
19 such conduct as evidences reckless indifference to safety, or (3)
20 intoxication, operating as the proximate cause of injury, or (4)
21 unlawful use of a controlled dangerous substance as defined in the
22 "New Jersey Controlled Dangerous Substances Act," P.L.1970,
23 c.226 (C.24:21-1 et seq.).

24 "Employer" **【is declared to be synonymous with master, and】**
25 includes natural persons, partnerships, **【and】** corporations, and
26 "hiring entities" as defined by section 2 of P.L. , c. (C.)
27 (pending before the Legislature as this bill); "employee" 【is
28 synonymous with servant, and】 includes all natural persons,
29 including officers of corporations, who perform service for an
30 employer for financial consideration, exclusive of (1) employees
31 eligible under the federal "Longshore and Harbor Workers'
32 Compensation Act," 44 Stat. 1424 (33 U.S.C.s.901 et seq.), for
33 benefits payable with respect to accidental death or injury, or
34 occupational disease or infection; and (2) casual employments,
35 which shall be defined**【,** if in connection with the employer's
36 business, as employment the occasion for which arises by chance or
37 is purely accidental; or if not in connection with any business of the
38 employer, as employment not regular, periodic or recurring;**】 as**
39 work that is:

40 (a) irregular, uncertain, or incidental in nature or duration; and

41 (b) different in nature from the type of paid work in which the
42 worker is customarily engaged, provided, however, that forest fire
43 wardens and forest firefighters employed by the State of New Jersey
44 shall, in no event, be deemed casual employees.

45 An individual providing services for remuneration shall be
46 regarded as an employee of an employer for the purposes of the

1 workers' compensation law, R.S.34:15-1 et seq. unless and until it is
2 shown to the satisfaction of the division that:

3 (a) the individual has been and will continue to be free from
4 control or direction over the performance of such service, both
5 under his contract of service and in fact; and

6 (b) the service is either outside the usual course of the business
7 for which the service is performed, or that such service is performed
8 outside of all the places of business of the enterprise for which such
9 service is performed; and

10 (c) the individual is customarily engaged in an independently
11 established trade, occupation, profession, or business.

12 A self-employed person, partners of a limited liability
13 partnership, members of a limited liability company or partners of a
14 partnership who actively perform services on behalf of the self-
15 employed person's business, the limited liability partnership, limited
16 liability company or the partnership shall be deemed an "employee"
17 of the business, limited liability partnership, limited liability
18 company or partnership for purposes of receipt of benefits and
19 payment of premiums pursuant to this chapter, if the business,
20 limited liability partnership, limited liability company or
21 partnership elects, when the workers' compensation policy of the
22 business, limited liability partnership, limited liability company or
23 partnership is purchased or renewed, to obtain coverage for the
24 person, the limited liability partners, the limited liability company
25 members or the partners. If the business, limited liability
26 partnership, limited liability company or partnership elects to obtain
27 coverage for the self-employed person, limited liability partners,
28 limited liability company members or the partners, the election may
29 only be made at purchase or at renewal and may not be withdrawn
30 during the policy term. If the business, limited liability partnership,
31 limited liability company or partnership performs services covered
32 under a homeowner's policy or other policies providing
33 comprehensive personal liability insurance for domestic **[servants]**
34 employees, household employees or the dependents thereof, the
35 workers' compensation policy of the business, limited liability
36 partnership, limited liability company or partnership shall have
37 primary responsibility for the payment of benefits. Notwithstanding
38 the provisions of R.S.34:15-71 and 34:15-72, the business, limited
39 liability partnership, limited liability company or partnership shall
40 not be required to purchase a policy unless the business, limited
41 liability partnership, limited liability company or partnership is an
42 "employer" of a least one employee as defined in this section who is
43 not a self-employed person, limited liability partner, limited
44 liability company member or partner actively performing services
45 on behalf of the business, limited liability partnership, limited
46 liability company or partnership.

47 Notwithstanding any other provision of law to the contrary, no
48 insurer or insurance producer **[as defined in section 2 of P.L.1987,**

1 c.293 (C.17:22A-2) shall be liable in an action for damages on
2 account of the failure of a business, limited liability partnership,
3 limited liability company or partnership to elect to obtain workers'
4 compensation coverage for a self-employed person, limited liability
5 partner, limited liability company member or partner, unless the
6 insurer or insurance producer causes damage by a willful, wanton or
7 grossly negligent act of commission or omission. Every application
8 for workers' compensation made on or after the effective date of
9 this amendatory act shall include notice, as approved by the
10 Commissioner of Banking and Insurance, concerning the
11 availability of workers' compensation coverage for self-employed
12 persons, limited liability partners, limited liability company
13 members or partners. That application shall also contain a notice of
14 election of coverage and shall clearly state that coverage for self-
15 employed persons, limited liability partners, limited liability
16 company members and partners shall not be provided under the
17 policy unless the application containing the notice of election is
18 executed and filed with the insurer or insurance producer. The
19 application containing the notice of election shall also contain a
20 statement that the insurer or insurance producer shall not be liable
21 in an action for damages on account of the failure of a business,
22 limited liability partnership, limited liability company or
23 partnership to elect to obtain workers' compensation coverage for a
24 self-employed person, limited liability partner, limited liability
25 company member or partner, unless the insurer or insurance
26 producer causes damage by a willful, wanton or grossly negligent
27 act of commission or omission. The failure of a self-employed
28 person, limited liability partnership, limited liability company or
29 partnership to elect to obtain workers' compensation coverage for
30 the self-employed person, the limited liability partners, the limited
31 liability company members or the partners shall not affect benefits
32 available under any other accident or health policy.

33 Employment shall be deemed to commence when an employee
34 arrives at the employer's place of employment to report for work
35 and shall terminate when the employee leaves the employer's place
36 of employment, excluding areas not under the control of the
37 employer; provided, however, when the employee is required by the
38 employer to be away from the employer's place of employment, the
39 employee shall be deemed to be in the course of employment when
40 the employee is engaged in the direct performance of duties
41 assigned or directed by the employer; but the employment of
42 employee paid travel time by an employer for time spent traveling
43 to and from a job site or of any employee who utilizes an employer
44 authorized vehicle shall commence and terminate with the time
45 spent traveling to and from a job site or the authorized operation of
46 a vehicle on business authorized by the employer. Travel by a
47 policeman, fireman, or a member of a first aid or rescue squad, in

1 responding to and returning from an emergency, shall be deemed to
2 be in the course of employment.

3 Employment shall also be deemed to commence when an
4 employee is traveling in a ridesharing arrangement between his or
5 her place of residence or terminal near such place and his or her
6 place of employment, if one of the following conditions is satisfied:
7 the vehicle used in the ridesharing arrangement is owned, leased or
8 contracted for by the employer, or the employee is required by the
9 employer to travel in a ridesharing arrangement as a condition of
10 employment.

11 "Disability permanent in quality and partial in character" means
12 a permanent impairment caused by a compensable accident or
13 compensable occupational disease, based upon demonstrable
14 objective medical evidence, which restricts the function of the body
15 or of its members or organs; included in the criteria which shall be
16 considered shall be whether there has been a lessening to a material
17 degree of an employee's working ability. Subject to the above
18 provisions, nothing in this definition shall be construed to preclude
19 benefits to a worker who returns to work following a compensable
20 accident even if there be no reduction in earnings. Injuries such as
21 minor lacerations, minor contusions, minor sprains, and scars which
22 do not constitute significant permanent disfigurement, and
23 occupational disease of a minor nature such as mild dermatitis and
24 mild bronchitis shall not constitute permanent disability within the
25 meaning of this definition.

26 "Disability permanent in quality and total in character" means a
27 physical or neuropsychiatric total permanent impairment caused by
28 a compensable accident or compensable occupational disease,
29 where no fundamental or marked improvement in such condition
30 can be reasonably expected.

31 Factors other than physical and neuropsychiatric impairments
32 may be considered in the determination of permanent total
33 disability, where such physical and neuropsychiatric impairments
34 constitute at least 75% or higher of total disability.

35 "Ridesharing" means the transportation of persons in a motor
36 vehicle, with a maximum carrying capacity of not more than 15
37 passengers, including the driver, where such transportation is
38 incidental to the purpose of the driver. This term shall include such
39 ridesharing arrangements known as carpools and vanpools.

40 "Medical services, medical treatment, physicians' services and
41 physicians' treatment" shall include, but not be limited to, the
42 services which a chiropractor is authorized by law to perform and
43 which are authorized by an employer pursuant to the provisions of
44 R.S.34:15-1 et seq.

45 (cf: P.L.1999, c.383. s.1)¹

46

47 ¹10. R.S.34:15-36 is amended to read as follows:

1 34:15-36. "Willful negligence" within the intent of this chapter
2 shall consist of (1) deliberate act or deliberate failure to act, or (2)
3 such conduct as evidences reckless indifference to safety, or (3)
4 intoxication, operating as the proximate cause of injury, or (4)
5 unlawful use of a controlled dangerous substance as defined in the
6 "New Jersey Controlled Dangerous Substances Act," P.L.1970,
7 c.226 (C.24:21-1 et seq.).

8 "Employer" [is declared to be synonymous with master, and]
9 includes natural persons, partnerships, and corporations;
10 "employee" [is synonymous with servant, and] includes all natural
11 persons, including officers of corporations, who perform service for
12 an employer for financial consideration, exclusive of (1) employees
13 eligible under the federal "Longshore and Harbor Workers'
14 Compensation Act," 44 Stat. 1424 (33 U.S.C.s.901 et seq.), for
15 benefits payable with respect to accidental death or injury, or
16 occupational disease or infection; and (2) casual employments,
17 which shall be defined[, if in connection with the employer's
18 business, as employment the occasion for which arises by chance or
19 is purely accidental; or if not in connection with any business of the
20 employer, as employment not regular, periodic or recurring;] ²[as
21 work that is:

22 (a) irregular, uncertain, or incidental in nature or duration; and

23 (b) different in nature from the type of paid work in which the
24 worker is customarily engaged,] , if in connection with the
25 employer's business, as employment the occasion for which arises
26 by chance or is purely accidental; or if not in connection with any
27 business of the employer, as employment not regular, periodic or
28 recurring;² provided, however, that forest fire wardens and forest
29 firefighters employed by the State of New Jersey shall, in no event,
30 be deemed casual employees.

31 A self-employed person, partners of a limited liability
32 partnership, members of a limited liability company or partners of a
33 partnership who actively perform services on behalf of the self-
34 employed person's business, the limited liability partnership, limited
35 liability company or the partnership shall be deemed an "employee"
36 of the business, limited liability partnership, limited liability
37 company or partnership for purposes of receipt of benefits and
38 payment of premiums pursuant to this chapter, if the business,
39 limited liability partnership, limited liability company or
40 partnership elects, when the workers' compensation policy of the
41 business, limited liability partnership, limited liability company or
42 partnership is purchased or renewed, to obtain coverage for the
43 person, the limited liability partners, the limited liability company
44 members or the partners. If the business, limited liability
45 partnership, limited liability company or partnership elects to obtain
46 coverage for the self-employed person, limited liability partners,
47 limited liability company members or the partners, the election may

1 only be made at purchase or at renewal and may not be withdrawn
2 during the policy term. If the business, limited liability partnership,
3 limited liability company or partnership performs services covered
4 under a homeowner's policy or other policies providing
5 comprehensive personal liability insurance for domestic **[servants]**
6 workers, household employees or the dependents thereof, the
7 workers' compensation policy of the business, limited liability
8 partnership, limited liability company or partnership shall have
9 primary responsibility for the payment of benefits. Notwithstanding
10 the provisions of R.S.34:15-71 and 34:15-72, the business, limited
11 liability partnership, limited liability company or partnership shall
12 not be required to purchase a policy unless the business, limited
13 liability partnership, limited liability company or partnership is an
14 "employer" of a least one employee as defined in this section who is
15 not a self-employed person, limited liability partner, limited
16 liability company member or partner actively performing services
17 on behalf of the business, limited liability partnership, limited
18 liability company or partnership.

19 Notwithstanding any other provision of law to the contrary, no
20 insurer or insurance producer as defined in section 3 of P.L.2001,
21 c.210 (C.17:22A-28) shall be liable in an action for damages on
22 account of the failure of a business, limited liability partnership,
23 limited liability company or partnership to elect to obtain workers'
24 compensation coverage for a self-employed person, limited liability
25 partner, limited liability company member or partner, unless the
26 insurer or insurance producer causes damage by a willful, wanton or
27 grossly negligent act of commission or omission. Every application
28 for workers' compensation made on or after the effective date of
29 this amendatory act shall include notice, as approved by the
30 Commissioner of Banking and Insurance, concerning the
31 availability of workers' compensation coverage for self-employed
32 persons, limited liability partners, limited liability company
33 members or partners. That application shall also contain a notice of
34 election of coverage and shall clearly state that coverage for self-
35 employed persons, limited liability partners, limited liability
36 company members and partners shall not be provided under the
37 policy unless the application containing the notice of election is
38 executed and filed with the insurer or insurance producer. The
39 application containing the notice of election shall also contain a
40 statement that the insurer or insurance producer shall not be liable
41 in an action for damages on account of the failure of a business,
42 limited liability partnership, limited liability company or
43 partnership to elect to obtain workers' compensation coverage for a
44 self-employed person, limited liability partner, limited liability
45 company member or partner, unless the insurer or insurance
46 producer causes damage by a willful, wanton or grossly negligent
47 act of commission or omission. The failure of a self-employed
48 person, limited liability partnership, limited liability company or

1 partnership to elect to obtain workers' compensation coverage for
2 the self-employed person, the limited liability partners, the limited
3 liability company members or the partners shall not affect benefits
4 available under any other accident or health policy.

5 Employment shall be deemed to commence when an employee
6 arrives at the employer's place of employment to report for work
7 and shall terminate when the employee leaves the employer's place
8 of employment, excluding areas not under the control of the
9 employer; provided, however, when the employee is required by the
10 employer to be away from the employer's place of employment, the
11 employee shall be deemed to be in the course of employment when
12 the employee is engaged in the direct performance of duties
13 assigned or directed by the employer; but the employment of
14 employee paid travel time by an employer for time spent traveling
15 to and from a job site or of any employee who utilizes an employer
16 authorized vehicle shall commence and terminate with the time
17 spent traveling to and from a job site or the authorized operation of
18 a vehicle on business authorized by the employer. Travel by a
19 policeman, fireman, or a member of a first aid or rescue squad, in
20 responding to and returning from an emergency, shall be deemed to
21 be in the course of employment.

22 Employment shall also be deemed to commence when an
23 employee is traveling in a ridesharing arrangement between his or
24 her place of residence or terminal near such place and his or her
25 place of employment, if one of the following conditions is satisfied:
26 the vehicle used in the ridesharing arrangement is owned, leased or
27 contracted for by the employer, or the employee is required by the
28 employer to travel in a ridesharing arrangement as a condition of
29 employment.

30 Employment shall also be deemed to commence, if an employer
31 provides or designates a parking area for use by an employee, when
32 an employee arrives at the parking area prior to reporting for work
33 and shall terminate when an employee leaves the parking area at the
34 end of a work period; provided that, if the site of the parking area is
35 separate from the place of employment, an employee shall be
36 deemed to be in the course of employment while the employee
37 travels directly from the parking area to the place of employment
38 prior to reporting for work and while the employee travels directly
39 from the place of employment to the parking area at the end of a
40 work period.

41 "Disability permanent in quality and partial in character" means
42 a permanent impairment caused by a compensable accident or
43 compensable occupational disease, based upon demonstrable
44 objective medical evidence, which restricts the function of the body
45 or of its members or organs; included in the criteria which shall be
46 considered shall be whether there has been a lessening to a material
47 degree of an employee's working ability. Subject to the above
48 provisions, nothing in this definition shall be construed to preclude

1 benefits to a worker who returns to work following a compensable
 2 accident even if there be no reduction in earnings. Injuries such as
 3 minor lacerations, minor contusions, minor sprains, and scars which
 4 do not constitute significant permanent disfigurement, and
 5 occupational disease of a minor nature such as mild dermatitis and
 6 mild bronchitis shall not constitute permanent disability within the
 7 meaning of this definition.

8 "Disability permanent in quality and total in character" means a
 9 physical or neuropsychiatric total permanent impairment caused by
 10 a compensable accident or compensable occupational disease,
 11 where no fundamental or marked improvement in such condition
 12 can be reasonably expected.

13 Factors other than physical and neuropsychiatric impairments
 14 may be considered in the determination of permanent total
 15 disability, where such physical and neuropsychiatric impairments
 16 constitute at least 75% or higher of total disability.

17 "Ridesharing" means the transportation of persons in a motor
 18 vehicle, with a maximum carrying capacity of not more than 15
 19 passengers, including the driver, where such transportation is
 20 incidental to the purpose of the driver. This term shall include such
 21 ridesharing arrangements known as carpools and vanpools.

22 "Medical services, medical treatment, physicians' services and
 23 physicians' treatment" shall include, but not be limited to, the
 24 services which a chiropractor is authorized by law to perform and
 25 which are authorized by an employer pursuant to the provisions of
 26 R.S.34:15-1 et seq.¹

27 (cf: P.L.2021, c.334, s.1)

28

29 ¹**[13.] 11.**¹ R.S.34:15-92 is amended to read as follows:

30 34:15-92. **[Each employer] Employers** ¹**[and hiring entities]**¹
 31 of domestic **[servants or household employees] workers** and every
 32 stock company or mutual association affording insurance for the
 33 liability of such employers by reason of that employment shall be
 34 exempted from the provisions of **[R.S. 34:15-79, and]**
 35 **R.S. 34:15-80****].** The provisions of **]** and R.S. 34:15-81 **[shall not**
 36 **be applicable where the insurance coverage is afforded pursuant to**
 37 **P.L. , c. (now pending before the Legislature as Assembly Bill**
 38 **No. 949 of 1978)]**, but ¹employers of domestic workers¹ are
 39 required to provide written notice of insurance coverage and
 40 cancellation of a policy.

41 (cf: P.L.1979, c.380, s.3)

42

43 ¹**[14.** R.S.43:21-19 is amended to read as follows:

44 43:21-19. Definitions. As used in this chapter (R.S.43:21-1 et
 45 seq.), unless the context clearly requires otherwise:

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

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

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

30 (c) (1) "Base year" with respect to benefit years commencing
31 on or after July 1, 1986, shall mean the first four of the last five
32 completed calendar quarters immediately preceding an individual's
33 benefit year.

34 With respect to a benefit year commencing on or after July 1,
35 1995, if an individual does not have sufficient qualifying weeks or
36 wages in his base year to qualify for benefits, the individual shall
37 have the option of designating that his base year shall be the
38 "alternative base year," which means the last four completed
39 calendar quarters immediately preceding the individual's benefit
40 year; except that, with respect to a benefit year commencing on or
41 after October 1, 1995, if the individual also does not have sufficient
42 qualifying weeks or wages in the last four completed calendar
43 quarters immediately preceding his benefit year to qualify for
44 benefits, "alternative base year" means the last three completed
45 calendar quarters immediately preceding his benefit year and, of the
46 calendar quarter in which the benefit year commences, the portion
47 of the quarter which occurs before the commencing of the benefit
48 year.

1 The division shall inform the individual of his options under this
2 section as amended by P.L.1995, c.234. If information regarding
3 weeks and wages for the calendar quarter or quarters immediately
4 preceding the benefit year is not available to the division from the
5 regular quarterly reports of wage information and the division is not
6 able to obtain the information using other means pursuant to State
7 or federal law, the division may base the determination of eligibility
8 for benefits on the affidavit of an individual with respect to weeks
9 and wages for that calendar quarter. The individual shall furnish
10 payroll documentation, if available, in support of the affidavit. A
11 determination of benefits based on an alternative base year shall be
12 adjusted when the quarterly report of wage information from the
13 employer is received if that information causes a change in the
14 determination.

15 (2) With respect to a benefit year commencing on or after June
16 1, 1990 for an individual who immediately preceding the benefit
17 year was subject to a disability compensable under the provisions of
18 the "Temporary Disability Benefits Law," P.L.1948, c.110
19 (C.43:21-25 et seq.), "base year" shall mean the first four of the last
20 five completed calendar quarters immediately preceding the
21 individual's period of disability, if the employment held by the
22 individual immediately preceding the period of disability is no
23 longer available at the conclusion of that period and the individual
24 files a valid claim for unemployment benefits after the conclusion
25 of that period. For the purposes of this paragraph, "period of
26 disability" means the period defined as a period of disability by
27 section 3 of the "Temporary Disability Benefits Law," P.L.1948,
28 c.110 (C.43:21-27). An individual who files a claim under the
29 provisions of this paragraph (2) shall not be regarded as having left
30 work voluntarily for the purposes of subsection (a) of R.S.43:21-5.

31 (3) With respect to a benefit year commencing on or after June
32 1, 1990 for an individual who immediately preceding the benefit
33 year was subject to a disability compensable under the provisions of
34 the workers' compensation law (chapter 15 of Title 34 of the
35 Revised Statutes), "base year" shall mean the first four of the last
36 five completed calendar quarters immediately preceding the
37 individual's period of disability, if the period of disability was not
38 longer than two years, 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 if 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 from the time at which the individual becomes
44 unable to work because of the compensable disability until the time
45 that the individual becomes able to resume work and continue work
46 on a permanent basis. An individual who files a claim under the
47 provisions of this paragraph (3) shall not be regarded as having left
48 work voluntarily for the purposes of subsection (a) of R.S.43:21-5.

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

12 (e) (1) "Division" means the Division of Unemployment and
13 Temporary Disability Insurance of the Department of Labor and
14 Workforce Development, and any transaction or exercise of
15 authority by the director of the division thereunder, or under this
16 chapter (R.S.43:21-1 et seq.), shall be deemed to be performed by
17 the division.

18 (2) "Controller" means the Office of the Assistant
19 Commissioner for Finance and Controller of the Department of
20 Labor and Workforce Development, established by the 1982
21 Reorganization Plan of the Department of Labor.

22 (f) "Contributions" means the money payments to the State
23 Unemployment Compensation Fund, required by R.S.43:21-7.
24 "Payments in lieu of contributions" means the money payments to
25 the State Unemployment Compensation Fund by employers electing
26 or required to make payments in lieu of contributions, as provided
27 in section 3 or section 4 of P.L.1971, c.346 (C.43:21-7.2 or
28 43:21-7.3).

29 (g) "Employing unit" means the State or any of its
30 instrumentalities or any political subdivision thereof or any of its
31 instrumentalities or any instrumentality of more than one of the
32 foregoing or any instrumentality of any of the foregoing and one or
33 more other states or political subdivisions or any individual or type
34 of organization, any partnership, association, trust, estate, joint-
35 stock company, insurance company or corporation, whether
36 domestic or foreign, or the receiver, trustee in bankruptcy, trustee or
37 successor thereof, or the legal representative of a deceased person,
38 which has or subsequent to January 1, 1936, had in its employ one
39 or more individuals performing services for it within this State. All
40 individuals performing services within this State for any employing
41 unit which maintains two or more separate establishments within
42 this State shall be deemed to be employed by a single employing
43 unit for all the purposes of this chapter (R.S.43:21-1 et seq.). Each
44 individual employed to perform or to assist in performing the work
45 of any agent or employee of an employing unit shall be deemed to
46 be employed by such employing unit for all the purposes of this
47 chapter (R.S.43:21-1 et seq.), whether such individual was hired or
48 paid directly by such employing unit or by such agent or employee;

- 1 provided the employing unit had actual or constructive knowledge
2 of the work.
- 3 (h) "Employer" means:
- 4 (1) Any employing unit which in either the current or the
5 preceding calendar year paid remuneration for employment in the
6 amount of \$1,000.00 or more;
- 7 (2) Any employing unit (whether or not an employing unit at the
8 time of acquisition) which acquired the organization, trade or
9 business, or substantially all the assets thereof, of another which, at
10 the time of such acquisition, was an employer subject to this chapter
11 (R.S.43:21-1 et seq.);
- 12 (3) Any employing unit which acquired the organization, trade
13 or business, or substantially all the assets thereof, of another
14 employing unit and which, if treated as a single unit with such other
15 employing unit, would be an employer under paragraph (1) of this
16 subsection;
- 17 (4) Any employing unit which together with one or more other
18 employing units is owned or controlled (by legally enforceable
19 means or otherwise), directly or indirectly by the same interests, or
20 which owns or controls one or more other employing units (by
21 legally enforceable means or otherwise), and which, if treated as a
22 single unit with such other employing unit or interest, would be an
23 employer under paragraph (1) of this subsection;
- 24 (5) Any employing unit for which service in employment as
25 defined in R.S.43:21-19 (i) (1) (B) (i) is performed after December
26 31, 1971; and as defined in R.S.43:21-19 (i) (1) (B) (ii) is
27 performed after December 31, 1977;
- 28 (6) Any employing unit for which service in employment as
29 defined in R.S.43:21-19 (i) (1) (c) is performed after December 31,
30 1971 and which in either the current or the preceding calendar year
31 paid remuneration for employment in the amount of \$1,000.00 or
32 more;
- 33 (7) Any employing unit not an employer by reason of any other
34 paragraph of this subsection (h) for which, within either the current
35 or preceding calendar year, service is or was performed with respect
36 to which such employing unit is liable for any federal tax against
37 which credit may be taken for contributions required to be paid into
38 a state unemployment fund; or which, as a condition for approval of
39 the "unemployment compensation law" for full tax credit against
40 the tax imposed by the Federal Unemployment Tax Act, is required
41 pursuant to such act to be an employer under this chapter
42 (R.S.43:21-1 et seq.);
- 43 (8) (Deleted by amendment; P.L.1977, c.307.)
- 44 (9) (Deleted by amendment; P.L.1977, c.307.)
- 45 (10) (Deleted by amendment; P.L.1977, c.307.)
- 46 (11) Any employing unit subject to the provisions of the Federal
47 Unemployment Tax Act within either the current or the preceding

- 1 calendar year, except for employment hereinafter excluded under
2 paragraph (7) of subsection (i) of this section;
- 3 (12) Any employing unit for which agricultural labor in
4 employment as defined in R.S.43:21-19 (i) (1) (I) is performed after
5 December 31, 1977;
- 6 (13) (a) Any employing unit for which domestic service in
7 employment as defined in R.S.43:21-19 (i) (1) (J) is performed after
8 December 31, 1977 and before January 1, 2022; and
- 9 (b) Any employing unit or hiring entity for domestic services as
10 defined in section 2 of P.L. , c. (C.)(pending before the
11 Legislature as this bill);
- 12 (14) Any employing unit which having become an employer
13 under the "unemployment compensation law" (R.S.43:21-1 et seq.),
14 has not under R.S.43:21-8 ceased to be an employer; or for the
15 effective period of its election pursuant to R.S.43:21-8, any other
16 employing unit which has elected to become fully subject to this
17 chapter (R.S.43:21-1 et seq.).
- 18 (i) (1) "Employment" means:
- 19 (A) Any service performed prior to January 1, 1972, which was
20 employment as defined in the "unemployment compensation law"
21 (R.S.43:21-1 et seq.) prior to such date, and, subject to the other
22 provisions of this subsection, service performed on or after January
23 1, 1972, including service in interstate commerce, performed for
24 remuneration or under any contract of hire, written or oral, express
25 or implied.
- 26 (B) (i) Service performed after December 31, 1971 by an
27 individual in the employ of this State or any of its instrumentalities
28 or in the employ of this State and one or more other states or their
29 instrumentalities for a hospital or institution of higher education
30 located in this State, if such service is not excluded from
31 "employment" under paragraph (D) below.
- 32 (ii) Service performed after December 31, 1977, in the employ
33 of this State or any of its instrumentalities or any political
34 subdivision thereof or any of its instrumentalities or any
35 instrumentality of more than one of the foregoing or any
36 instrumentality of the foregoing and one or more other states or
37 political subdivisions, if such service is not excluded from
38 "employment" under paragraph (D) below.
- 39 (C) Service performed after December 31, 1971 by an individual
40 in the employ of a religious, charitable, educational, or other
41 organization, which is excluded from "employment" as defined in
42 the Federal Unemployment Tax Act, solely by reason of section
43 3306 (c)(8) of that act, if such service is not excluded from
44 "employment" under paragraph (D) below.
- 45 (D) For the purposes of paragraphs (B) and (C), the term
46 "employment" does not apply to services performed
- 47 (i) In the employ of (I) a church or convention or association of
48 churches, or (II) an organization, or school which is operated

- 1 primarily for religious purposes and which is operated, supervised,
2 controlled or principally supported by a church or convention or
3 association of churches;
- 4 (ii) By a duly ordained, commissioned, or licensed minister of a
5 church in the exercise of his ministry or by a member of a religious
6 order in the exercise of duties required by such order;
- 7 (iii) Prior to January 1, 1978, in the employ of a school which is
8 not an institution of higher education, and after December 31, 1977,
9 in the employ of a governmental entity referred to in R.S.43:21-19
- 10 (i) (1) (B), if such service is performed by an individual in the
11 exercise of duties
- 12 (aa) as an elected official;
- 13 (bb) as a member of a legislative body, or a member of the
14 judiciary, of a state or political subdivision;
- 15 (cc) as a member of the State National Guard or Air National
16 Guard;
- 17 (dd) as an employee serving on a temporary basis in case of fire,
18 storm, snow, earthquake, flood or similar emergency;
- 19 (ee) in a position which, under or pursuant to the laws of this
20 State, is designated as a major nontenured policy making or
21 advisory position, or a policy making or advisory position, the
22 performance of the duties of which ordinarily does not require more
23 than eight hours per week; or
- 24 (iv) By an individual receiving rehabilitation or remunerative
25 work in a facility conducted for the purpose of carrying out a
26 program of rehabilitation of individuals whose earning capacity is
27 impaired by age or physical or mental deficiency or injury or
28 providing remunerative work for individuals who because of their
29 impaired physical or mental capacity cannot be readily absorbed in
30 the competitive labor market;
- 31 (v) By an individual receiving work-relief or work-training as
32 part of an unemployment work-relief or work-training program
33 assisted in whole or in part by any federal agency or an agency of a
34 state or political subdivision thereof; or
- 35 (vi) Prior to January 1, 1978, for a hospital in a State prison or
36 other State correctional institution by an inmate of the prison or
37 correctional institution and after December 31, 1977, by an inmate
38 of a custodial or penal institution.
- 39 (E) The term "employment" shall include the services of an
40 individual who is a citizen of the United States, performed outside
41 the United States after December 31, 1971 (except in Canada and in
42 the case of the Virgin Islands, after December 31, 1971) and prior
43 to January 1 of the year following the year in which the U.S.
44 Secretary of Labor approves the unemployment compensation law
45 of the Virgin Islands, under section 3304 (a) of the Internal
46 Revenue Code of 1986 (26 U.S.C. s.3304 (a)) in the employ of an
47 American employer (other than the service which is deemed
48 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
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 under
19 the Migrant and Seasonal Agricultural Worker Protection Act,
20 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 labor
41 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) (i) Domestic service after December 31, 1977 and before
2 January 1, 2022 performed in the private home of an employing unit
3 which paid cash remuneration of \$1,000.00 or more to one or more
4 individuals for such domestic service in any calendar quarter in the
5 current or preceding calendar year.

6 (ii) Domestic services as defined by section 2 of P.L. _____,
7 c. (C. _____) (pending before the Legislature as this bill) after
8 December 31, 2021 in either the current or preceding calendar year
9 paid remuneration for employment in the amount of \$1,000 or
10 more.

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

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

14 (B) The service is not localized in any state but some of the
15 service is performed in this State, and (i) the base of operations, or,
16 if there is no base of operations, then the place from which such
17 service is directed or controlled, is in this State; or (ii) the base of
18 operations or place from which such service is directed or
19 controlled is not in any state in which some part of the service is
20 performed, but the individual's residence is in this State.

21 (3) Services performed within this State but not covered under
22 paragraph (2) of this subsection shall be deemed to be employment
23 subject to this chapter (R.S.43:21-1 et seq.) if contributions are not
24 required and paid with respect to such services under an
25 unemployment compensation law of any other state or of the federal
26 government.

27 (4) Services not covered under paragraph (2) of this subsection
28 and performed entirely without this State, with respect to no part of
29 which contributions are required and paid under an unemployment
30 compensation law of any other state or of the federal government,
31 shall be deemed to be employment subject to this chapter
32 (R.S.43:21-1 et seq.) if the individual performing such services is a
33 resident of this State and the employing unit for whom such
34 services are performed files with the division an election that the
35 entire service of such individual shall be deemed to be employment
36 subject to this chapter (R.S.43:21-1 et seq.).

37 (5) Service shall be deemed to be localized within a state if:

38 (A) The service is performed entirely within such state; or

39 (B) The service is performed both within and without such state,
40 but the service performed without such state is incidental to the
41 individual's service within the state; for example, is temporary or
42 transitory in nature or consists of isolated transactions.

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

- 1 (A) Such individual has been and will continue to be free from
2 control or direction over the performance of such service, both
3 under his contract of service and in fact; and
- 4 (B) Such service is either outside the usual course of the
5 business for which such service is performed, or that such service is
6 performed outside of all the places of business of the enterprise for
7 which such service is performed; and
- 8 (C) Such individual is customarily engaged in an independently
9 established trade, occupation, profession or business.
- 10 (7) Provided that such services are also exempt under the
11 Federal Unemployment Tax Act, as amended, or that contributions
12 with respect to such services are not required to be paid into a state
13 unemployment fund as a condition for a tax offset credit against the
14 tax imposed by the Federal Unemployment Tax Act, as amended,
15 the term "employment" shall not include:
- 16 (A) Agricultural labor performed prior to January 1, 1978; and
17 after December 31, 1977, only if performed in a calendar year for
18 an entity which is not an employer as defined in the "unemployment
19 compensation law," (R.S.43:21-1 et seq.) as of January 1 of such
20 calendar year; or unless performed for an employing unit which
- 21 (i) during a calendar quarter in either the current or the
22 preceding calendar year paid remuneration in cash of \$20,000.00 or
23 more to individuals employed in agricultural labor, or
- 24 (ii) for some portion of a day in each of 20 different calendar
25 weeks, whether or not such weeks were consecutive, in either the
26 current or the preceding calendar year, employed in agricultural
27 labor 10 or more individuals, regardless of whether they were
28 employed at the same moment in time;
- 29 (B) Domestic service in a private home performed prior to
30 January 1, 1978; and after December 31, 1977, unless performed in
31 the private home of an employing unit which paid cash
32 remuneration of \$1,000.00 or more to one or more individuals for
33 such domestic service in any calendar quarter in the current or
34 preceding calendar year;
- 35 (C) Service performed by an individual in the employ of his son,
36 daughter or spouse, and service performed by a child under the age
37 of 18 in the employ of his father or mother;
- 38 (D) Service performed prior to January 1, 1978, in the employ of
39 this State or of any political subdivision thereof or of any
40 instrumentality of this State or its political subdivisions, except as
41 provided in R.S.43:21-19 (i) (1) (B) above, and service in the
42 employ of the South Jersey Port Corporation or its successors;
- 43 (E) Service performed in the employ of any other state or its
44 political subdivisions or of an instrumentality of any other state or
45 states or their political subdivisions to the extent that such
46 instrumentality is with respect to such service exempt under the
47 Constitution of the United States from the tax imposed under the

1 Federal Unemployment Tax Act, as amended, except as provided in
2 R.S.43:21-19 (i) (1) (B) above;

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

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

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

34 (I) Service with respect to which unemployment insurance is
35 payable under an unemployment insurance program established by
36 an Act of Congress;

37 (J) Service performed by agents of mutual fund brokers or
38 dealers in the sale of mutual funds or other securities, by agents of
39 insurance companies, exclusive of industrial insurance agents or by
40 agents of investment companies, if the compensation to such agents
41 for such services is wholly on a commission basis;

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

44 (L) Services performed in the employ of any veterans'
45 organization chartered by Act of Congress or of any auxiliary
46 thereof, no part of the net earnings of which organization, or
47 auxiliary thereof, inures to the benefit of any private shareholder or
48 individual;

- 1 (M) Service performed for or in behalf of the owner or operator
2 of any theater, ballroom, amusement hall or other place of
3 entertainment, not in excess of 10 weeks in any calendar year for
4 the same owner or operator, by any leader or musician of a band or
5 orchestra, commonly called a "name band," entertainer, vaudeville
6 artist, actor, actress, singer or other entertainer;
- 7 (N) Services performed after January 1, 1973 by an individual
8 for a labor union organization, known and recognized as a union
9 local, as a member of a committee or committees reimbursed by the
10 union local for time lost from regular employment, or as a part-time
11 officer of a union local and the remuneration for such services is
12 less than \$1,000.00 in a calendar year;
- 13 (O) Services performed in the sale or distribution of merchandise
14 by home-to-home salespersons or in-the-home demonstrators whose
15 remuneration consists wholly of commissions or commissions and
16 bonuses;
- 17 (P) Service performed in the employ of a foreign government,
18 including service as a consular, nondiplomatic representative, or
19 other officer or employee;
- 20 (Q) Service performed in the employ of an instrumentality
21 wholly owned by a foreign government if (i) the service is of a
22 character similar to that performed in foreign countries by
23 employees of the United States Government or of an instrumentality
24 thereof, and (ii) the division finds that the United States Secretary
25 of State has certified to the United States Secretary of the Treasury
26 that the foreign government, with respect to whose instrumentality
27 exemption is claimed, grants an equivalent exemption with respect
28 to similar services performed in the foreign country by employees
29 of the United States Government and of instrumentalities thereof;
- 30 (R) Service in the employ of an international organization
31 entitled to enjoy the privileges, exemptions and immunities under
32 the International Organizations Immunities Act (22 U.S.C. s.288 et
33 seq.);
- 34 (S) Service covered by an election duly approved by an agency
35 charged with the administration of any other state or federal
36 unemployment compensation or employment security law, in
37 accordance with an arrangement pursuant to R.S.43:21-21 during
38 the effective period of such election;
- 39 (T) Service performed in the employ of a school, college, or
40 university if such service is performed (i) by a student enrolled at
41 such school, college, or university on a full-time basis in an
42 educational program or completing such educational program
43 leading to a degree at any of the severally recognized levels, or (ii)
44 by the spouse of such a student, if such spouse is advised at the time
45 such spouse commences to perform such service that (I) the
46 employment of such spouse to perform such service is provided
47 under a program to provide financial assistance to such student by

- 1 such school, college, or university, and (II) such employment will
2 not be covered by any program of unemployment insurance;
- 3 (U) Service performed by an individual who is enrolled at a
4 nonprofit or public educational institution which normally
5 maintains a regular faculty and curriculum and normally has a
6 regularly organized body of students in attendance at the place
7 where its educational activities are carried on, as a student in a full-
8 time program, taken for credit at such institution, which combines
9 academic instruction with work experience, if such service is an
10 integral part of such program, and such institution has so certified
11 to the employer, except that this subparagraph shall not apply to
12 service performed in a program established for or on behalf of an
13 employer or group of employers;
- 14 (V) Service performed in the employ of a hospital, if such
15 service is performed by a patient of the hospital; service performed
16 as a student nurse in the employ of a hospital or a nurses' training
17 school by an individual who is enrolled and regularly attending
18 classes in a nurses' training school approved under the laws of this
19 State;
- 20 (W) Services performed after the effective date of this
21 amendatory act by agents of mutual benefit associations if the
22 compensation to such agents for such services is wholly on a
23 commission basis;
- 24 (X) Services performed by operators of motor vehicles weighing
25 18,000 pounds or more, licensed for commercial use and used for
26 the highway movement of motor freight, who own their equipment
27 or who lease or finance the purchase of their equipment through an
28 entity which is not owned or controlled directly or indirectly by the
29 entity for which the services were performed and who were
30 compensated by receiving a percentage of the gross revenue
31 generated by the transportation move or by a schedule of payment
32 based on the distance and weight of the transportation move;
- 33 (Y) (Deleted by amendment, P.L.2009, c.211.)
- 34 (Z) Services performed, using facilities provided by a travel
35 agent, by a person, commonly known as an outside travel agent,
36 who acts as an independent contractor, is paid on a commission
37 basis, sets his own work schedule and receives no benefits, sick
38 leave, vacation or other leave from the travel agent owning the
39 facilities.
- 40 (8) If one-half or more of the services in any pay period
41 performed by an individual for an employing unit constitutes
42 employment, all the services of such individual shall be deemed to
43 be employment; but if more than one-half of the service in any pay
44 period performed by an individual for an employing unit does not
45 constitute employment, then none of the service of such individual
46 shall be deemed to be employment. As used in this paragraph, the
47 term "pay period" means a period of not more than 31 consecutive

1 days for which a payment for service is ordinarily made by an
2 employing unit to individuals in its employ.

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

7 (A) The limousine franchisee is incorporated;

8 (B) The franchisee is subject to regulation by the Interstate
9 Commerce Commission;

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

13 (D) The franchisee registers with the Department of Labor and
14 Workforce Development and receives an employer registration
15 number.

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

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

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

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

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

42 (m) "Unemployment."

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

45 (A) The individual is not engaged in full-time work and with
46 respect to which his remuneration is less than his weekly benefit
47 rate, including any week during which he is on vacation without
48 pay; provided such vacation is not the result of the individual's

1 voluntary action, except that for benefit years commencing on or
2 after July 1, 1984, an officer of a corporation, or a person who has
3 more than a 5% equitable or debt interest in the corporation, whose
4 claim for benefits is based on wages with that corporation shall not
5 be deemed to be unemployed in any week during the individual's
6 term of office or ownership in the corporation; or

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

10 (2) The term "remuneration" with respect to any individual for
11 benefit years commencing on or after July 1, 1961, and as used in
12 this subsection, shall include only that part of the same which in
13 any week exceeds 20% of his weekly benefit rate (fractional parts
14 of a dollar omitted) or \$5.00, whichever is the larger, and shall not
15 include any moneys paid to an individual by a county board of
16 elections for work as a board worker on an election day.

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

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

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

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

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

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

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

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

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

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

12 (B) If the individual does not establish in his base year 20 or
13 more base weeks as defined in subparagraph (A) of this paragraph
14 (2), any calendar week of an individual's base year during which the
15 individual earned in employment from an employer remuneration
16 not less than an amount 20 times the minimum wage in effect
17 pursuant to section 5 of P.L.1966, c.113 (C.34:11-56a4) on October
18 1 of the calendar year preceding the calendar year in which the
19 benefit year commences, which amount shall be adjusted to the next
20 higher multiple of \$1.00 if not already a multiple thereof, except
21 that if in any calendar week an individual subject to this
22 subparagraph (B) is in employment with more than one employer,
23 the individual may in that calendar week establish a base week with
24 respect to each of the employers from whom the individual earns
25 remuneration not less than the amount defined in this subparagraph
26 (B) during that week.

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

41 (u) "Average weekly wage" means the amount derived by
42 dividing an individual's total wages received during his base year
43 base weeks (as defined in subsection (t) of this section) from that
44 most recent base year employer with whom he has established at
45 least 20 base weeks, by the number of base weeks in which such
46 wages were earned. In the event that such claimant had no employer
47 in his base year with whom he had established at least 20 base
48 weeks, then such individual's average weekly wage shall be

1 computed as if all of his base week wages were received from one
2 employer and as if all his base weeks of employment had been
3 performed in the employ of one employer.

4 For the purpose of computing the average weekly wage, the
5 monetary alternative in subparagraph (B) of paragraph (2) of
6 subsection (e) of R.S.43:21-4 shall only apply in those instances
7 where the individual did not have at least 20 base weeks in the base
8 year. For benefit years commencing on or after July 1, 1986,
9 "average weekly wage" means the amount derived by dividing an
10 individual's total base year wages by the number of base weeks
11 worked by the individual during the base year; provided that for the
12 purpose of computing the average weekly wage, the maximum
13 number of base 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.2017, c.230, s.1)¹

10

11 ¹12. R.S.43:21-19 is amended to read as follows:

12 43:21-19. Definitions. As used in this chapter (R.S.43:21-1 et
13 seq.), unless the context clearly requires otherwise:

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

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

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

43 (c) (1) "Base year" with respect to benefit years commencing on
44 or after July 1, 1986, shall mean the first four of the last five
45 completed calendar quarters immediately preceding an individual's
46 benefit year.

47 With respect to a benefit year commencing on or after July 1,
48 1995, if an individual does not have sufficient qualifying weeks or

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

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

28 (2) With respect to a benefit year commencing on or after June 1,
29 1990 for an individual who immediately preceding the benefit year
30 was subject to a disability compensable under the provisions of the
31 "Temporary Disability Benefits Law," P.L.1948, c.110 (C.43:21-25
32 et seq.), "base year" shall mean the first four of the last five
33 completed calendar quarters immediately preceding the individual's
34 period of disability, if the employment held by the individual
35 immediately preceding the period of disability is no longer
36 available at the conclusion of that period and the individual files a
37 valid claim for unemployment benefits after the conclusion of that
38 period. For the purposes of this paragraph, "period of disability"
39 means the period defined as a period of disability by section 3 of
40 the "Temporary Disability Benefits Law," P.L.1948, c.110
41 (C.43:21-27). An individual who files a claim under the provisions
42 of this paragraph (2) shall not be regarded as having left work
43 voluntarily for the purposes of subsection (a) of R.S.43:21-5.

44 (3) With respect to a benefit year commencing on or after June 1,
45 1990 for an individual who immediately preceding the benefit year
46 was subject to a disability compensable under the provisions of the
47 workers' compensation law (chapter 15 of Title 34 of the Revised
48 Statutes), "base year" shall mean the first four of the last five

1 completed calendar quarters immediately preceding the individual's
2 period of disability, if the period of disability was not longer than
3 two years, if the employment held by the individual immediately
4 preceding the period of disability is no longer available at the
5 conclusion of that period and if the individual files a valid claim for
6 unemployment benefits after the conclusion of that period. For the
7 purposes of this paragraph, "period of disability" means the period
8 from the time at which the individual becomes unable to work
9 because of the compensable disability until the time that the
10 individual becomes able to resume work and continue work on a
11 permanent basis. An individual who files a claim under the
12 provisions of this paragraph (3) shall not be regarded as having left
13 work voluntarily for the purposes of subsection (a) of R.S.43:21-5.

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

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

31 (2) "Controller" means the Office of the Assistant Commissioner
32 for Finance and Controller of the Department of Labor and
33 Workforce Development, established by the 1982 Reorganization
34 Plan of the Department of Labor.

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

42 (g) "Employing unit" means the State or any of its
43 instrumentalities or any political subdivision thereof or any of its
44 instrumentalities or any instrumentality of more than one of the
45 foregoing or any instrumentality of any of the foregoing and one or
46 more other states or political subdivisions or any individual or type
47 of organization, any partnership, association, trust, estate, joint-
48 stock company, insurance company or corporation, whether

1 domestic or foreign, or the receiver, trustee in bankruptcy, trustee or
2 successor thereof, or the legal representative of a deceased person,
3 which has or subsequent to January 1, 1936, had in its employ one
4 or more individuals performing services for it within this State. All
5 individuals performing services within this State for any employing
6 unit which maintains two or more separate establishments within
7 this State shall be deemed to be employed by a single employing
8 unit for all the purposes of this chapter (R.S.43:21-1 et seq.). Each
9 individual employed to perform or to assist in performing the work
10 of any agent or employee of an employing unit shall be deemed to
11 be employed by such employing unit for all the purposes of this
12 chapter (R.S.43:21-1 et seq.), whether such individual was hired or
13 paid directly by such employing unit or by such agent or employee;
14 provided the employing unit had actual or constructive knowledge
15 of the work.

16 (h) "Employer" means:

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

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

25 (3) Any employing unit which acquired the organization, trade or
26 business, or substantially all the assets thereof, of another
27 employing unit and which, if treated as a single unit with such other
28 employing unit, would be an employer under paragraph (1) of this
29 subsection;

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

37 (5) Any employing unit for which service in employment as
38 defined in R.S.43:21-19 (i) (1) (B) (i) is performed after December
39 31, 1971; and as defined in R.S.43:21-19 (i) (1) (B) (ii) is
40 performed after December 31, 1977;

41 (6) Any employing unit for which service in employment as
42 defined in R.S.43:21-19 (i) (1) (c) is performed after December 31,
43 1971 and which in either the current or the preceding calendar year
44 paid remuneration for employment in the amount of \$1,000.00 or
45 more;

46 (7) Any employing unit not an employer by reason of any other
47 paragraph of this subsection (h) for which, within either the current
48 or preceding calendar year, service is or was performed with respect

1 to which such employing unit is liable for any federal tax against
2 which credit may be taken for contributions required to be paid into
3 a state unemployment fund; or which, as a condition for approval of
4 the "unemployment compensation law" for full tax credit against
5 the tax imposed by the Federal Unemployment Tax Act, is required
6 pursuant to such act to be an employer under this chapter
7 (R.S.43:21-1 et seq.);

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

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

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

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

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

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

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

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

28 (A) Any service performed prior to January 1, 1972, which was
29 employment as defined in the "unemployment compensation law"
30 (R.S.43:21-1 et seq.) prior to such date, and, subject to the other
31 provisions of this subsection, service performed on or after January
32 1, 1972, including service in interstate commerce, performed for
33 remuneration or under any contract of hire, written or oral, express
34 or implied.

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

41 (ii) Service performed after December 31, 1977, in the employ of
42 this State or any of its instrumentalities or any political subdivision
43 thereof or any of its instrumentalities or any instrumentality of more
44 than one of the foregoing or any instrumentality of the foregoing
45 and one or more other states or political subdivisions, if such
46 service is not excluded from "employment" under paragraph (D)
47 below.

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

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

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

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

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

22 (aa) as an elected official;

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

25 (cc) as a member of the State National Guard or Air National
26 Guard;

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

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

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

41 (v) By an individual receiving work-relief or work-training as
42 part of an unemployment work-relief or work-training program
43 assisted in whole or in part by any federal agency or an agency of a
44 state or political subdivision thereof; or

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

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

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

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

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

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

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

42 (G) Notwithstanding any other provision of this subsection,
43 service in this State with respect to which the taxes required to be
44 paid under any federal law imposing a tax against which credit may
45 be taken for contributions required to be paid into a state
46 unemployment fund or which as a condition for full tax credit
47 against the tax imposed by the Federal Unemployment Tax Act is

1 required to be covered under the "unemployment compensation
2 law" (R.S.43:21-1 et seq.).

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

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

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

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

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

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

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

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

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

42 (bb) such other entity shall be treated as having paid cash
43 remuneration to such individual in an amount equal to the amount
44 of cash remuneration paid to such individual by the crew leader
45 (either on his own behalf or on behalf of such other entity) for the
46 service in agricultural labor performed for such other entity.

47 (iv) For the purpose of subparagraph (I)(ii), the term "crew
48 leader" means an individual who

- 1 (aa) furnishes individuals to perform service in agricultural labor
2 for any other entity;
- 3 (bb) pays (either on his own behalf or on behalf of such other
4 entity) the individuals so furnished by him for the service in
5 agricultural labor performed by them; and
- 6 (cc) has not entered into a written agreement with such other
7 entity under which such individual is designated as an employee of
8 such other entity.
- 9 (J) (i) Domestic service after December 31, 1977 and before the
10 effective date of P.L. _____, c. _____ (C. _____) (pending before the
11 Legislature as this bill) performed in the private home of an
12 employing unit which paid cash remuneration of \$1,000.00 or more
13 to one or more individuals for such domestic service in any calendar
14 quarter in the current or preceding calendar year.
- 15 (ii) Domestic services after the effective date of P.L. _____,
16 c. _____ (C. _____) (pending before the Legislature as this bill),
17 performed in the private home of an employing unit which in either
18 the current or preceding calendar year paid remuneration for
19 employment in the amount of \$1,000 or more.
- 20 (2) The term "employment" shall include an individual's entire
21 service performed within or both within and without this State if:
- 22 (A) The service is localized in this State; or
- 23 (B) The service is not localized in any state but some of the
24 service is performed in this State, and (i) the base of operations, or,
25 if there is no base of operations, then the place from which such
26 service is directed or controlled, is in this State; or (ii) the base of
27 operations or place from which such service is directed or
28 controlled is not in any state in which some part of the service is
29 performed, but the individual's residence is in this State.
- 30 (3) Services performed within this State but not covered under
31 paragraph (2) of this subsection shall be deemed to be employment
32 subject to this chapter (R.S.43:21-1 et seq.) if contributions are not
33 required and paid with respect to such services under an
34 unemployment compensation law of any other state or of the federal
35 government.
- 36 (4) Services not covered under paragraph (2) of this subsection
37 and performed entirely without this State, with respect to no part of
38 which contributions are required and paid under an unemployment
39 compensation law of any other state or of the federal government,
40 shall be deemed to be employment subject to this chapter
41 (R.S.43:21-1 et seq.) if the individual performing such services is a
42 resident of this State and the employing unit for whom such
43 services are performed files with the division an election that the
44 entire service of such individual shall be deemed to be employment
45 subject to this chapter (R.S.43:21-1 et seq.).
- 46 (5) Service shall be deemed to be localized within a state if:
- 47 (A) The service is performed entirely within such state; or

1 (B) The service is performed both within and without such state,
2 but the service performed without such state is incidental to the
3 individual's service within the state; for example, is temporary or
4 transitory in nature or consists of isolated transactions.

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

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

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

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

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

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

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

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

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

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

46 (D) Service performed prior to January 1, 1978, in the employ of
47 this State or of any political subdivision thereof or of any
48 instrumentality of this State or its political subdivisions, except as

1 provided in R.S.43:21-19 (i) (1) (B) above, and service in the
2 employ of the South Jersey Port Corporation or its successors;

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

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

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

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

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

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

- 1 (K) Services performed by real estate salesmen or brokers who
2 are compensated wholly on a commission basis;
- 3 (L) Services performed in the employ of any veterans'
4 organization chartered by Act of Congress or of any auxiliary
5 thereof, no part of the net earnings of which organization, or
6 auxiliary thereof, inures to the benefit of any private shareholder or
7 individual;
- 8 (M) Service performed for or in behalf of the owner or operator
9 of any theater, ballroom, amusement hall or other place of
10 entertainment, not in excess of 10 weeks in any calendar year for
11 the same owner or operator, by any leader or musician of a band or
12 orchestra, commonly called a "name band," entertainer, vaudeville
13 artist, actor, actress, singer or other entertainer;
- 14 (N) Services performed after January 1, 1973 by an individual
15 for a labor union organization, known and recognized as a union
16 local, as a member of a committee or committees reimbursed by the
17 union local for time lost from regular employment, or as a part-time
18 officer of a union local and the remuneration for such services is
19 less than \$1,000.00 in a calendar year;
- 20 (O) Services performed in the sale or distribution of merchandise
21 by home-to-home salespersons or in-the-home demonstrators whose
22 remuneration consists wholly of commissions or commissions and
23 bonuses;
- 24 (P) Service performed in the employ of a foreign government,
25 including service as a consular, nondiplomatic representative, or
26 other officer or employee;
- 27 (Q) Service performed in the employ of an instrumentality
28 wholly owned by a foreign government if (i) the service is of a
29 character similar to that performed in foreign countries by
30 employees of the United States Government or of an instrumentality
31 thereof, and (ii) the division finds that the United States Secretary
32 of State has certified to the United States Secretary of the Treasury
33 that the foreign government, with respect to whose instrumentality
34 exemption is claimed, grants an equivalent exemption with respect
35 to similar services performed in the foreign country by employees
36 of the United States Government and of instrumentalities thereof;
- 37 (R) Service in the employ of an international organization
38 entitled to enjoy the privileges, exemptions and immunities under
39 the International Organizations Immunities Act (22 U.S.C. s.288 et
40 seq.);
- 41 (S) Service covered by an election duly approved by an agency
42 charged with the administration of any other state or federal
43 unemployment compensation or employment security law, in
44 accordance with an arrangement pursuant to R.S.43:21-21 during
45 the effective period of such election;
- 46 (T) Service performed in the employ of a school, college, or
47 university if such service is performed (i) by a student enrolled at
48 such school, college, or university on a full-time basis in an

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

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

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

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

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

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

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

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

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

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

15 (A) The limousine franchisee is incorporated;

16 (B) The franchisee is subject to regulation by the Interstate
17 Commerce Commission;

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

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

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

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

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

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

- 1 (l) "State" includes, in addition to the states of the United States
2 of America, the District of Columbia, the Virgin Islands and Puerto
3 Rico.
- 4 (m) "Unemployment."
- 5 (1) An individual shall be deemed "unemployed" for any week
6 during which:
- 7 (A) The individual is not engaged in full-time work and with
8 respect to which his remuneration is less than his weekly benefit
9 rate, including any week during which he is on vacation without
10 pay; provided such vacation is not the result of the individual's
11 voluntary action, except that for benefit years commencing on or
12 after July 1, 1984, an officer of a corporation, or a person who has
13 more than a 5% equitable or debt interest in the corporation, whose
14 claim for benefits is based on wages with that corporation shall not
15 be deemed to be unemployed in any week during the individual's
16 term of office or ownership in the corporation; or
- 17 (B) The individual is eligible for and receiving a self-
18 employment assistance allowance pursuant to the requirements of
19 P.L.1995, c.394 (C.43:21-67 et al.).
- 20 (2) The term "remuneration" with respect to any individual for
21 benefit years commencing on or after July 1, 1961, and as used in
22 this subsection, shall include only that part of the same which in
23 any week exceeds 20% of his weekly benefit rate (fractional parts
24 of a dollar omitted) or \$5.00, whichever is the larger, and shall not
25 include any moneys paid to an individual by a county board of
26 elections for work as a board worker on an election day or for work
27 pursuant to subsection d. of section 1 of P.L.2021, c.40
28 (C.19:15A-1) during the early voting period.
- 29 (3) An individual's week of unemployment shall be deemed to
30 commence only after the individual has filed a claim at an
31 unemployment insurance claims office, except as the division may
32 by regulation otherwise prescribe.
- 33 (n) "Unemployment compensation administration fund" means
34 the unemployment compensation administration fund established by
35 this chapter (R.S.43:21-1 et seq.), from which administrative
36 expenses under this chapter (R.S.43:21-1 et seq.) shall be paid.
- 37 (o) "Wages" means remuneration paid by employers for
38 employment. If a worker receives gratuities regularly in the course
39 of his employment from other than his employer, his "wages" shall
40 also include the gratuities so received, if reported in writing to his
41 employer in accordance with regulations of the division, and if not
42 so reported, his "wages" shall be determined in accordance with the
43 minimum wage rates prescribed under any labor law or regulation
44 of this State or of the United States, or the amount of remuneration
45 actually received by the employee from his employer, whichever is
46 the higher.

- 1 (p) "Remuneration" means all compensation for personal
2 services, including commission and bonuses and the cash value of
3 all compensation in any medium other than cash.
- 4 (q) "Week" means for benefit years commencing on or after
5 October 1, 1984, the calendar week ending at midnight Saturday, or
6 as the division may by regulation prescribe.
- 7 (r) "Calendar quarter" means the period of three consecutive
8 calendar months ending March 31, June 30, September 30, or
9 December 31.
- 10 (s) "Investment company" means any company as defined in
11 subsection a. of section 1 of P.L.1938, c.322 (C.17:16A-1).
- 12 (t) (1) (Deleted by amendment, P.L.2001, c.17).
- 13 (2) "Base week," commencing on or after January 1, 1996 and
14 before January 1, 2001, means:
- 15 (A) Any calendar week during which the individual earned in
16 employment from an employer remuneration not less than an
17 amount which is 20% of the Statewide average weekly
18 remuneration defined in subsection (c) of R.S.43:21-3 which
19 amount shall be adjusted to the next higher multiple of \$1.00 if not
20 already a multiple thereof, except that if in any calendar week an
21 individual subject to this subparagraph (A) is in employment with
22 more than one employer, the individual may in that calendar week
23 establish a base week with respect to each of the employers from
24 whom the individual earns remuneration equal to not less than the
25 amount defined in this subparagraph (A) during that week; or
- 26 (B) If the individual does not establish in his base year 20 or
27 more base weeks as defined in subparagraph (A) of this paragraph
28 (2), any calendar week of an individual's base year during which the
29 individual earned in employment from an employer remuneration
30 not less than an amount 20 times the minimum wage in effect
31 pursuant to section 5 of P.L.1966, c.113 (C.34:11-56a4) on October
32 1 of the calendar year preceding the calendar year in which the
33 benefit year commences, which amount shall be adjusted to the next
34 higher multiple of \$1.00 if not already a multiple thereof, except
35 that if in any calendar week an individual subject to this
36 subparagraph (B) is in employment with more than one employer,
37 the individual may in that calendar week establish a base week with
38 respect to each of the employers from whom the individual earns
39 remuneration not less than the amount defined in this subparagraph
40 (B) during that week.
- 41 (3) "Base week," commencing on or after January 1, 2001,
42 means any calendar week during which the individual earned in
43 employment from an employer remuneration not less than an
44 amount 20 times the minimum wage in effect pursuant to section 5
45 of P.L.1966, c.113 (C.34:11-56a4) on October 1 of the calendar
46 year preceding the calendar year in which the benefit year
47 commences, which amount shall be adjusted to the next higher
48 multiple of \$1.00 if not already a multiple thereof, except that if in

1 any calendar week an individual subject to this paragraph (3) is in
2 employment with more than one employer, the individual may in
3 that calendar week establish a base week with respect to each of the
4 employers from whom the individual earns remuneration equal to
5 not less than the amount defined in this paragraph (3) during that
6 week.

7 (u) "Average weekly wage" means the amount derived by
8 dividing an individual's total wages received during his base year
9 base weeks (as defined in subsection (t) of this section) from that
10 most recent base year employer with whom he has established at
11 least 20 base weeks, by the number of base weeks in which such
12 wages were earned. In the event that such claimant had no
13 employer in his base year with whom he had established at least 20
14 base weeks, then such individual's average weekly wage shall be
15 computed as if all of his base week wages were received from one
16 employer and as if all his base weeks of employment had been
17 performed in the employ of one employer.

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

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

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

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

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

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

45 (B) Which is approved, licensed or issued a permit to operate as
46 a school by the State Department of Education or other government
47 agency that is authorized within the State to approve, license or
48 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.¹

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

24
25 ¹~~15.1~~ 13.1 (New section) ¹~~Except as otherwise provided, the~~
26 following minimum terms, and such other minimum terms as may
27 be established by the department by regulation, shall apply to a
28 work relationship between a domestic worker and a hiring entity:¹

29 a. ¹~~Written agreements.~~¹ No ¹~~employer~~ hiring entity¹ shall
30 employ ¹~~or engage~~¹ a domestic worker, except for casual work or
31 work of less than five hours per month, unless the engagement is
32 governed by a written contract governing the following: a specific
33 list of job duties; hourly wage and overtime wage; weekly schedule
34 including number of hours per week; the manner and frequency of
35 payment; breaks for rest and meals; paid or unpaid leave including
36 sick time; paid holidays; any other benefits provided; modes of
37 transportation required and whether provided; value of housing if
38 provided; sleeping period and personal time for live-in workers; the
39 term of the contract; and any other terms and conditions as agreed
40 upon by the domestic worker and employer or as mandated pursuant
41 to this act. The written agreement shall be signed and dated by all
42 parties after ample opportunity to review.

43 b. The written agreement required under this section shall not
44 be construed to waive the protections of domestic workers under
45 federal, State, and local laws and shall not contain any:

1 (1) Mandatory pre-dispute arbitration agreement for claims
2 made by a covered domestic worker against a domestic work hiring
3 entity regarding the local rights of the worker; and

4 (2) Non-disclosure agreement, ¹["restrictive covenant,] non-
5 competition¹ or non-disparagement agreement, limiting the ability
6 of the covered domestic worker to seek compensation for
7 performing domestic services after the worker ceases to receive
8 compensation from the domestic work hiring entity for the
9 performance of domestic services.

10 c. The agreement shall be in English and such other language
11 as may be preferred by the worker. The hiring entity shall make
12 reasonable efforts to determine if the worker would prefer the
13 agreement to be in another language.

14 d. The department shall make available model contracts
15 complying with this act shall in multiple languages on its Internet
16 website.

17 e. A referral and employment agency shall provide domestic
18 workers and hiring entities with information concerning the contract
19 requirements of this act at the time a hiring entity is connected with
20 a worker and shall make any model contracts adopted by the
21 department available to the hiring entity.

22
23 ¹["16.]" 14.¹ (New section) a. ¹["The hiring entity]" An employer
24 of a domestic worker¹ shall allow the domestic worker an
25 uninterrupted paid rest-period of not less than ten minutes for each
26 four consecutive hours worked, unless the nature of the work
27 prevents the domestic worker from being relieved of all duties for
28 such period of time, such as some types of child care and caretaker
29 work for a sick, elderly or disabled person. ²In those types of work
30 where the domestic worker is not relieved of all work duties, an
31 "on-duty" rest period shall be provided.² The ¹["hiring entity]"
32 employer¹ shall pay the domestic worker for the time spent on a rest
33 break at the domestic worker's regular rate of pay.

34 b. The ¹["hiring entity]" employer¹ shall allow an uninterrupted
35 30-minute meal break after more than five consecutive hours
36 worked. Unless the domestic worker is relieved of all work duties
37 during such 30-minute period ²and is permitted to leave the work
38 site during that break², the meal period shall be considered an "on-
39 duty" meal period and shall be paid at the domestic worker's regular
40 rate of pay.

41 ²["(1)"] c.² An "on-duty" meal ²or rest² period shall be permitted
42 only when the nature of the work prevents a domestic worker from
43 being relieved of all duties and when, by written agreement between
44 the parties, an "on-duty" meal ²or rest² period is agreed to. The
45 agreement may be revoked by the domestic worker, in writing, at
46 any time. ²The domestic worker may, to the extent possible given
47 the domestic worker's duties for the employer, engage in personal

1 activities, such as resting, eating a meal, drinking a beverage,
2 making a personal telephone call, or making other personal choices
3 during “on-duty” meal or rest periods.²

4 ²**[c.] d.**² The ¹**[hiring entity]** employer¹ shall not impede or
5 discourage a domestic worker from taking any meal or rest breaks.

6 ²**[d.]** Failure to allow a meal or rest period in accordance with this
7 paragraph (1) shall entitle ¹**e.** In the case of a violation of this
8 section, the domestic work employer involved shall be liable to² the
9 domestic worker ²for an amount equal to² to one ²**[additional]**²
10 hour of pay at the domestic worker's regular rate of compensation²,
11 but not more than two hours of such pay.² for each workday that the
12 meal or rest period was not provided. ²**[Payment of this extra pay**
13 **shall not excuse non-compliance with this subsection]** The
14 department shall determine through the agency’s complaint and
15 adjudication process whether or not violations occurred by the
16 employer and whether or not the domestic worker is entitled to the
17 remedy².

18
19 ¹**[17.] 15.**¹ (New section) A "live-in" domestic worker shall not
20 be required to work more than six consecutive days for the same
21 ¹**[hiring entity]** employer¹ without a 24-hour period of rest, which
22 may be unpaid.

23
24 ¹**[18.] 16.**¹ (New section) a. ¹**[The hiring entity]** An employer
25 of a domestic worker¹ shall provide a minimum two-week
26 notification period before termination of employment, and for live-
27 in domestic workers a minimum four-week notification period
28 before termination of employment. ¹**[No notification period is**
29 **required in connection with the termination of casual work**
30 **performed for a hiring entity.]**¹

31 b. The ¹**[hiring entity]** employer¹ may terminate the
32 employment without complying with the full notification period
33 based on a good-faith belief ²and without reckless disregard or
34 willful ignorance of the truth² that the domestic worker has engaged
35 in significant misconduct.

36 c. Failure to provide notification as required under this section
37 shall entitle the domestic worker to severance pay in the amount of
38 the worker's regular hourly rate multiplied by the regular number of
39 hours worked over the period of time during which the required
40 notification was not provided.

41 ²d. As used in this section, the term “significant misconduct”
42 means that the domestic worker abused, neglected, or caused any
43 other harmful conduct against the employer, members of the
44 employer’s family, or individuals residing in the employer’s
45 household.

1 e. The notification requirement in this section shall not apply
2 if:

3 (1) a domestic worker completes placement in a particular
4 position and is not immediately placed or scheduled for another
5 position by an employer if the employer is a temporary help service
6 firm, employment agency, or other staffing or placement agency,
7 health care service firm, home health agency, or hospice provider,
8 but the domestic worker remains on the employer's payroll for
9 future placement opportunities; or

10 (2) a domestic worker is employed by an employer that is an
11 individual and not a temporary help service firm, employment
12 agency, or other staffing or placement agency, health care service
13 firm, home health agency, or hospice provider, whether or not the
14 employer is the person receiving care from the domestic worker,
15 and the domestic worker completes or fulfills all duties of the
16 position, and there is no longer a practicable need for the position,
17 including but not limited to, if the domestic worker's employer is an
18 individual who has employed the domestic worker to care a person
19 who is terminally ill person, and the terminally ill person passes
20 away.²

21

22 ¹**[19.] 17.**¹ (New section) No hiring entity shall:

23 a. Keep or hold the original copies of any personal documents
24 of a domestic worker;

25 b. Monitor or record, through any means, the activities of a
26 domestic worker:

27 (1) using any bathroom or similar facility;

28 (2) in the living quarters of a domestic worker; or

29 (3) while the worker is engaged in any activities associated with
30 dressing or changing clothes; or

31 c. Monitor, record or interfere with the private communications
32 of a domestic worker.

33

34 ¹**[20.] 18.**¹ (New section) a. A hiring entity shall provide to a
35 domestic worker notification of the rights of domestic workers
36 under P.L. , c. (C. et seq.) (pending before the Legislature
37 as this bill), and information on how to file a complaint for
38 violation of these rights, as shall be determined by the department
39 by regulation.

40 b. A hiring entity shall create and maintain records
41 documenting hours worked, pay rate, meals and rest breaks, leave
42 time earned and used, if applicable, and the existence of a written
43 agreement, all pursuant to requirements established by regulation by
44 the department. If a hiring entity does not maintain the required
45 records or does not allow the department reasonable access to the
46 records, an adverse inference may be drawn with respect to facts
47 alleged regarding the issues about which records were not kept.

1 c. The department shall maintain the confidentiality of all
2 records it obtains in connection with enforcement activities to the
3 full extent permitted by law.

4
5 ¹[21.] 19.¹ (New section) a. It shall be unlawful for a hiring
6 entity or any other person to interfere with, restrain, or deny the
7 exercise of, or the attempt to exercise, any right set forth in P.L. ,
8 c. (C. et seq.) (pending before the Legislature as this bill).

9 b. The minimum requirements of sections ¹[15 through 20] 13
10 through 18¹ of P.L. , c. (C.) (pending before the
11 Legislature as this bill) shall be deemed incorporated into any
12 contract, whether actual or implied, between the employer and the
13 domestic worker.

14 c. A material breach by a hiring entity of a contract with a
15 domestic worker shall constitute a violation of P.L. ,
16 c. (C. et seq.) (pending before the Legislature as this bill),
17 without regard to whether the breach is of a provision required by
18 this act.

19 d. No hiring entity or any other person shall take or threaten
20 retaliatory action against any person because a domestic worker has
21 exercised rights or pursued a claim of violation under P.L. ,
22 c. (C. et seq.) (pending before the Legislature as this bill).
23 These rights include the right to demand compliance with
24 protections established by written agreement; the right to file a
25 complaint or inform any person about an employer's alleged
26 violation of this act; the right to cooperate with the department in
27 any investigation pursuant to this act; and the right to inform any
28 person of the rights established under this act.

29 e. No hiring entity or any other person shall communicate to a
30 person exercising rights protected under P.L. c. (C.)
31 (pending before the Legislature as this bill) the willingness or intent
32 to contact, report to, or to make an implied or express assertion to
33 report to a government agency regarding the suspected citizenship
34 or immigration status of a domestic worker or family member of a
35 domestic worker because the worker has or has expressed an intent
36 to exercise rights protected under this act or because of a belief the
37 worker may do so.

38 f. The protections of this section shall apply to any person who
39 mistakenly but in good faith alleges a violation of P.L. ,
40 c. (C. et seq.) (pending before the Legislature as this bill).

41 g. It shall be considered a rebuttable presumption of retaliation
42 if the hiring entity or any other person takes an adverse action
43 against a domestic worker within 90 calendar days of the worker's
44 exercise of rights protected in P.L. c. (C. et seq.) (pending
45 before the Legislature as this bill). However, in the case of
46 temporary or seasonal employment that ended before the close of
47 the 90 calendar day period, the presumption also applies if the
48 hiring entity fails to rehire a former domestic worker at the next

1 opportunity for work in the same position. The hiring entity may
 2 rebut the presumption with clear and convincing evidence that the
 3 adverse action would have been taken in the absence of such
 4 protected activity. ²If a domestic worker declines to be rehired for
 5 the same position or resigns from the position, the presumption in
 6 this subsection g. shall not apply.²

7 h. Proof of retaliation under P.L. , c. (C. et seq.)
 8 (pending before the Legislature as this bill) shall be sufficient upon
 9 a showing that the hiring entity or any other person has taken an
 10 adverse action against a person and the persons exercise or rights
 11 protected in P.L. , c. (C. et seq.) (pending before the
 12 Legislature as this bill) was a motivating factor in the absence of
 13 that protected activity.

14 i. A complaint or other communication by any person triggers
 15 the protection of P.L. , c. (C. et seq.) (pending before the
 16 Legislature as this bill) regardless of whether the complaint or
 17 communication is in writing or makes explicit reference to P.L. ,
 18 c. (C.) (pending before the Legislature as this bill).

19
 20 ¹**[22.] 20.**¹ (New section) The department ²**[is authorized to**
 21 coordinate implementation, administration, and enforcement for
 22 P.L. , c. (C.) (pending before the Legislature as this bill),
 23 and]² shall promulgate appropriate guidelines and regulations to
 24 effectuate the purposes of ²**[for]²** P.L. , c. (C.) (pending
 25 before the Legislature as this bill) ²**[through the Domestic Workers**
 26 Standards and Implementation Board, established in section ¹**[25]**
 27 ¹**23**¹ of P.L. , c. (C.) (pending before the Legislature as this
 28 bill)]².

29
 30 ¹**[23.] 21.**¹ (New section) a. Individuals and ¹**[hiring entities]**
 31 **employers**¹ with an overlapping employment relationship with a
 32 domestic worker are subject to joint and several liability, and
 33 concurrent ²**[finds] fines**² and penalties, in connection with P.L. ,
 34 c. (C.) (pending before the Legislature as this bill).

35 b. A domestic worker or other person representing a domestic
 36 worker may report to the department any suspected violation of
 37 P.L. , c. (C.) (pending before the Legislature as this bill).

38 c. The department shall ²**[collaborate with the Domestic**
 39 Workers Standards and Implementation Board, as established by
 40 section ¹**[25] 23**¹ of P.L. , c. (C.) (pending before the
 41 Legislature as this bill) to]² take any steps as it deems appropriate
 42 to resolve complaints and enforce P.L. , c. (C.) (pending
 43 before the Legislature as this bill), including, but not limited to,
 44 establishing a system to receive complaints regarding
 45 noncompliance with P.L. , c. (C.) (pending before the
 46 Legislature as this bill), investigating alleged violations in a timely

1 manner and resolving complaints through a separate “referral”
2 process for claims of ¹employees in¹ domestic ¹services¹
3 workers¹.

4 d. The department shall have the power to subpoena records
5 and testimony from any party to a complaint. The records shall be
6 provided to the department within 30 days after receipt of the
7 subpoena.

8 e. Any person alleging a violation of P.L. , c. (C.)
9 (pending before the Legislature as this bill) shall file a complaint
10 with the department within two years of the date that the person
11 knew or should have known of the alleged violation.

12 f. Upon establishment of a system of administrative
13 adjudication, the department shall have the power to impose the
14 penalties and fines for a violation of P.L. , c. (C.) (pending
15 before the Legislature as this bill), and to provide or obtain
16 appropriate relief. Remedies may include reinstatement and full
17 restitution to the domestic worker for lost wages and benefits,
18 including presumed damages to be awarded to a domestic worker
19 for the hiring entity’s ¹or employer’s¹ violation of P.L. ,
20 c. (C.) (pending before the Legislature as this bill). The
21 department shall determine by regulation an amount of presumed
22 damages.

23 g. A hiring entity ¹or an employer¹ who knowingly retaliates
24 against an employee for any activity protected under P.L. ,
25 c. (C.) (pending before the Legislature as this bill), or any
26 other knowing violation of P.L. , c. (C.) (pending before
27 the Legislature as this bill), shall be a crime of the fourth degree.
28 Otherwise, it shall be a disorderly persons offense and the hiring
29 entity ¹or employer¹ shall, upon conviction for a violation, be
30 punished by a fine of not less than \$100 not more than \$2,000 for an
31 initial violation and not less than \$200 nor more than \$4,000 for
32 each subsequent violation. Each day during which any violation of
33 P.L. , c. (C.) (pending before the Legislature as this bill)
34 continues shall constitute a separate and distinct offense, and the
35 employment of any domestic worker in violation of P.L. ,
36 c. (C.) (pending before the Legislature as this bill), shall,
37 with respect to each domestic worker employed, constitute a
38 separate and violation.

39 h. Any domestic worker or person who is aggrieved by a
40 violation of P.L. , c. (C.) (pending before the Legislature
41 as this bill), or the department may bring civil action in a court of
42 competent jurisdiction against a hiring entity ¹or an employer¹
43 violating P.L. , c. (C.) (pending before the Legislature as
44 this bill). Nothing in P.L. , c. (C.) (pending before the
45 Legislature as this bill) or its implementing regulations shall be
46 construed to require a complaint to be filed with the department
47 before bringing an action in court. Upon prevailing in an action

1 brought pursuant to this section, an aggrieved person shall be
2 entitled to any legal or equitable relief as may be appropriate to
3 remedy the violation, that is not duplicative of any relief provided
4 to the person in administrative proceedings, including, without
5 limitation, reinstatement in employment, back pay, and injunctive
6 relief. The aggrieved person shall be entitled to an award of
7 reasonable attorney's fees and costs.

8
9 ¹[24.] 22.¹ (New section) a. The department shall, upon
10 appropriation of funds to the department for purposes of this
11 section, establish and maintain a Domestic Work Enforcement
12 Program in collaboration with qualified organizations. P.L. ,
13 c. (C.) (pending before the Legislature as this bill) requires
14 the department to issue a competitive request to community-based
15 organizations (CBOs) to provide education and outreach services in
16 this program and would prescribe requirements for these
17 organizations. The CBOs would be responsible for developing and
18 consulting with the department regarding the core education and
19 outreach materials, as specified. The program shall increase the
20 capacity and expertise of the department to improve education and
21 enforcement of labor standards in the domestic work industry. The
22 program shall include, but not be limited to, the following:

23 (1) Education and training for domestic work employees and
24 ¹[hiring entities] employers¹ addressing minimum wage, overtime,
25 sick leave, recordkeeping, wage adjudication, and retaliation, along
26 with new rights extended by P.L. , c. (C.) (pending before
27 the Legislature as this bill);

28 (2) Training for domestic worker leaders to provide peer-to-peer
29 support and wraparound service referrals to domestic work
30 employees who have elected to file wage claims or take other
31 actions seeking remedy from hiring entities ¹or employers¹;

32 (3) Development of core training curriculum to be used in the
33 education and training of domestic work employees and ¹[hiring
34 entities] employers¹;

35 (4) Provision of technical and legal assistance to domestic work
36 employees through a Statewide telephone help line and the
37 promotion of the help line to domestic worker populations; and

38 (5) Development of an online resource hub to provide
39 information for ¹[hiring entities] employers¹ on State labor laws
40 and guidelines on fair employment.

41 b. Qualified organizations that collaborate under subsection a.
42 of this section shall issue reports and meet quarterly with the
43 department to review the implementation and success of the
44 program.

45 c. (1) A nonprofit organization that has a minimum of five
46 years of experience working with domestic work employees or
47 ¹[hiring entities] employers¹; or

1 (2) An organization that works with nonprofit organizations that
2 has a minimum of five years of experience working with domestic
3 work employees or ¹**【hiring entities】** employers¹.

4
5 ²**【~~1~~【25.】 23.**¹ (New section) a. The department shall establish,
6 within 90 days of the date of enactment of P.L. , c. (C.)
7 (pending before the Legislature as this bill), a “Domestic Workers
8 Standards and Implementation Board” (Board), which shall be
9 established to provide a forum for ¹**【hiring entities】** employers¹,
10 domestic workers, worker organizations, and the public to consider
11 analyze, and make recommendations to the State on the legal
12 protections, benefits, and working conditions for domestic worker
13 industry standards. The board shall be established to permanently
14 promote the health, safety, and well-being of domestic workers; and
15 a living wage for domestic workers along with development of the
16 mechanisms to support implementation of P.L. ,
17 c. (C.) (pending before the Legislature as this bill), including
18 the development of regulations promulgated under P.L. ,
19 c. (C.) (pending before the Legislature as this bill). The
20 board shall also make recommendations to the department regarding
21 enforcement and implementation strategies, including the
22 development of the Domestic Work Enforcement Program.

23 b. (1) The board shall consist of 13 members composed of
24 members with expertise in labor standards, wage theft, law, and
25 policy; and domestic worker industry. The board shall meet at least
26 quarterly, and all meetings shall be open to the public. The board
27 shall create by-laws in order to conduct and structure future
28 meetings including, but not limited to, scheduling quarterly
29 meetings, determining recommended timetables for submission of
30 recommendations to the Legislature, the Department of Labor and
31 Workforce Development, the Governor’s Office, determining term
32 lengths and appointments of individuals to the board. All State
33 departments, agencies, boards, commissions shall support and
34 cooperate with the board and provide the board with any data it may
35 need which may include logistical support in regard to translation,
36 interpretation, and outreach to ensure equal access and equity of
37 domestic worker representatives and ¹**【hiring entities】** employers¹
38 on the board. The board will be comprised of various stakeholders
39 from the private, non-profit sectors, domestic workers, ¹**【hiring**
40 **entities】** employers¹, and will have representation from members of
41 the Department of Labor and Workforce Development, and
42 Governor’s office; and

43 (2) (a) The Governor shall appoint seven members as follows:

44 (i) one representative from the Department of Labor and
45 Workforce Development;

46 (ii) one representative from the National Domestic Workers
47 Alliance;

- 1 (iii) one representative from a labor or union organization;
- 2 (iv) two representatives from a State-based community
3 organization or worker center, which is focused on the rights of
4 low-wage and immigrant workers;
- 5 (v) one domestic worker; and
- 6 (vi) one **'[hiring entity] employer'**; and
- 7 (b) The Legislature shall appoint six members as follows: three
8 members to be appointed by the President of the Senate and three
9 members to be appointed by the Speaker of the General Assembly,
10 as follows:
- 11 (i) four domestic workers, two each selected respectively by the
12 President of the Senate and the Speaker of the General Assembly;
13 and
- 14 (ii) two **'[hiring entities] employers'**, one each selected
15 respectively by the President of the Senate and the Speaker of the
16 General Assembly.
- 17 c. The board's responsibilities include, but are not limited to,
18 providing a forum for **'[hiring entities] employers'**, domestic
19 workers, worker organizations, and other affected parties to share
20 information, insights, and experiences on the working conditions of
21 domestic workers, and recommendations on how the working
22 conditions can be changed to meet the needs of domestic workers
23 and **'[hiring entities] employers'**. These recommendations shall
24 include:
- 25 (1) possible legislation or policy changes;
- 26 (2) wage standards for the industry;
- 27 (3) development and advancement of enforcement and
28 implementation efforts in collaboration with the department; and
- 29 (4) the promulgation of regulations to enforce P.L. ,
30 c. (C.) (pending before the Legislature as this bill).
- 31 d. The board, in consultation with the department and other
32 State agencies, within six months after all members have been
33 established, shall submit to the Governor, and Legislature, pursuant
34 to section 2 of P.L.1991, c.164 (C.52:14-19.1), with oversight by
35 the department, a work plan identifying the topics the board will
36 address in the first two years. The board in consultation with the
37 department and other relevant State agencies, shall submit an
38 updated work plan every two years. The board's first
39 recommendation shall be submitted to the Governor and Legislature
40 by the end of the first quarter of the year following the year in
41 which the work plan has been submitted.
- 42 Within 120 days from the date of receipt of any work plan
43 submitted by the board, the Legislature, through its committees that
44 consider labor subject matter, shall consider and respond to the
45 board's work plan. The response shall include proposed legislation
46 and policies, requests for additional information needed from the
47 board, requests for alternative plans from the board, reasons **'[fro]**

1 for¹ rejection of any plan submitted by the board, or an explanation
 2 of why additional time is needed to submit a response to the board's
 3 plan. Additionally, the Legislature, sua sponte, may notify the
 4 board of any policies or legislation it may introduce for enactment,
 5 request further information from the board, request that the board
 6 develop alternatives, or take any other action that it deems
 7 appropriate.

8 e. The board shall make recommendations to the Legislature on
 9 the following subjects:

10 (1) Wage standards, such as industry standards, overtime, and
 11 pay differentials;

12 (2) Training for ¹**[hiring entities]** employers¹ and domestic
 13 workers on federal, State, and local labor laws, benefits, and
 14 protections, discrimination, and sexual harassment, workplace
 15 health; and safety standards;

16 (3) Jobs skills and professional development opportunities;

17 (4) Access to portable benefits, such as paid time off, retirement
 18 pensions, health benefits, and paid family and disability leave;

19 (5) Workers' compensation and temporary disability benefits;

20 (6) Development and advancement of written agreement,
 21 including notice of rights and recordkeeping templates;

22 (7) Outreach and enforcement strategies to ensure compliance
 23 with P.L. , c. (C.) (pending before the Legislature as this
 24 bill), and to provide effective information to both ¹**[hiring entities]**
 25 employers¹ and domestic workers; and

26 (8) Any other emerging issues the board wishes to include in its
 27 work plan.

28 f. Members of the board shall serve without compensation but
 29 shall be reimbursed for the reasonable travel and other out-of-
 30 pocket expenses incurred in the performance of their duties.】²

31

32 ¹**[26.]** ²**[24.1]** 23.² (New section) a. Nothing in P.L. ,
 33 c. (C.) (pending before the Legislature as this bill) shall be
 34 construed to diminish any rights or protections granted to domestic
 35 workers by any other law.

36 b. If any provision of P.L. , c. (C.) (pending before the
 37 Legislature as this bill) or its application to any person or
 38 circumstance is held invalid, the invalidity does not affect other
 39 provisions or applications of P.L. , c. (C.) (pending before
 40 the Legislature as this bill) which can be given effect without the
 41 invalid provision or application, and to this end the provisions of
 42 P.L. , c. (C.) (pending before the Legislature as this bill)
 43 are severable.

1 ¹~~[27.]~~ ²~~[25.1]~~ 24.² This act shall take effect on the first day of
2 the sixth month next following enactment, except that the
3 commissioner may take any anticipatory action as may be necessary
4 to effectuate the purposes of this act.

5

6

7

8

9 Creates “New Jersey Domestic Workers’ Bill of Rights Act.”

SENATE, No. 723

STATE OF NEW JERSEY 220th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2022 SESSION

Sponsored by:

Senator RICHARD J. CODEY

District 27 (Essex and Morris)

Co-Sponsored by:

Senators Gill, Cryan, Ruiz, Pou, Cruz-Perez and Turner

SYNOPSIS

Creates “New Jersey Domestic Workers’ Bill of Rights Act.”

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



(Sponsorship Updated As Of: 6/16/2022)

S723 CODEY

2

1 AN ACT concerning the employment rights of domestic workers and
2 amending and supplementing 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. (New section) The Legislature finds and declares that:

8 a. Domestic workers provide valuable services in industries
9 such as in-home child care, house cleaning, home care, cooking,
10 gardening, and other household occupations.

11 b. The labor domestic workers provide is an important
12 contribution to the State's economy and prosperity, including but
13 not limited to, by providing support services that enable other
14 individuals to participate in the workforce.

15 c. Many domestic workers are women, immigrants, and
16 persons of color who work in or about private homes, isolated from
17 other workers.

18 d. Since 2007, the National Domestic Workers Alliance
19 (NDWA) has advocated for respect for domestic workers by
20 including them in national, State, and local labor protection laws.
21 NDWA. In September 2020, NDWA affiliates, Adhikaar, Casa
22 Freehold, New Labor and Wind of the Spirit, in collaboration with
23 the Center for Women at Work at Rutgers University, released a
24 report which found low pay, lack of benefits, and rampant wage
25 theft occurs throughout the domestic worker industry, and that there
26 is a lack of enforcement regarding existing rights of domestic
27 workers.

28 e. At least 10 other states and two cities have enacted
29 legislation to provide rights, benefits, and protections for domestic
30 workers.

31 f. The Legislature therefore finds that it is in the best interest
32 of the State of New Jersey and its residents to provide rights,
33 benefits, and protections to the countless domestic workers
34 providing valuable services throughout the State.

35

36 2. (New section) As used in P.L. , c. (C.) (pending
37 before the Legislature as this bill):

38 "Casual work" means work that is:

39 (1) irregular, uncertain, or incidental in nature and duration; and
40 (2) different in nature from the type of paid work in which the
41 worker is customarily engaged.

42 "Domestic services" means services of a household nature and
43 performed by an individual in or about a private home on a
44 permanent or temporary basis, and includes services performed by a
45 domestic worker.

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.

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1 "Domestic worker" or "worker" means hourly and salaried
2 employees, independent contractors, full-time and part-time
3 individuals and temporary individuals and is narrowly construed to
4 mean any worker who:

- 5 (1) works for one or more employers; and
6 (2) is an individual who works in residence for the purposes of
7 providing any of the following services: caring for a child; serving
8 as a companion or caretaker for a sick, convalescing, or elderly
9 person, or a person with a disability; housekeeping or house
10 cleaning; cooking; providing food or butler service; parking cars;
11 cleaning laundry; gardening; personal organizing, or for any other
12 domestic service purpose; provided that the term domestic worker
13 does not include:

14 (a) A family member, with "family member" meaning a spouse,
15 child, parent, sibling, aunt, uncle, niece, nephew, first cousin,
16 grandparent, grandchild, father-in-law, mother-in-law, son-in-law,
17 daughter-in-law, stepparent, stepchild, stepbrother, stepsister, half
18 brother, or half sister, whether the individual is related by blood,
19 marriage, or adoption;

20 (b) An individual primarily engaged in house sitting, pet sitting,
21 or dog walking;

22 (c) An individual working at a business operated primarily out
23 of the residence, such as a home day-care business;

24 (d) An individual whose primary work involves household
25 repair or maintenance, such as a roofer, plumber, mason, painter or
26 other
27 similar contractor;

28 (e) A home health care worker while they are paid through
29 public funds, such as a home health care worker while paid through
30 Medicaid or Medicare;

31 (f) An individual established as a kinship legal guardian, as
32 defined by section 2. of P.L.2001, c. 250 (C.3B:12A-2), of a child
33 who lives in the residence, or an individual who participates in the
34 Kinship Navigator Program, as authorized by the Department of
35 Children and Families, as a caregiver of a child who lives in the
36 residence and receives services provided by a kinship navigator
37 service provider; or

38 (g) An individual less than 18 years of age.

39 "Department" means the Department of Labor and Workforce
40 Development.

41 "Employment agency" means any person or entity that procures,
42 or attempts to procure, directly or indirectly through placement in a
43 physical or virtual labor pool:

44 (1) employees, independent contractors, or domestic workers for
45 employers or companies seeking the services of employees,
46 independent contractors, or domestic workers; and

47 (2) after the procurement is complete, continues involvement in
48 the terms of exchange of domestic services with the employees,

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1 independent contractors, or domestic workers through activities,
2 including, but not limited to:

3 (a) processing or distributing or withholding workers' payment
4 that the workers are owed from hiring entities or clients;

5 (b) levying fees, fines, or discipline for unsatisfactory worker
6 behavior that happened during an employment, independent
7 contractor engagement, or other job, including the termination of
8 workers;

9 (c) rating workers on an ongoing basis and publicly sharing
10 those ratings to employers or clients;

11 (d) adjusting wages or payment based on ratings from
12 employers or clients; or

13 (e) other forms of continued involvement after procurement that
14 evidence ongoing control.

15 "Hiring entity" means any employer, as defined in section 1 of
16 P.L.1965, c.173 (C.34:11-4.1), who employs a domestic worker,
17 and also means any person, firm, business, partnership, association,
18 corporation, limited liability company, or other entity, including
19 referral, employment, and internet based or on-demand platforms,
20 that provides compensation directly or indirectly to a domestic
21 worker for the performance of domestic services and any person or
22 persons acting directly or indirectly in the interest of the employer
23 in relation to the domestic worker.

24 "Live-in domestic worker" includes any individuals, who, as part
25 of their employment, reside in the personal residence of the hiring
26 entity

27 "Referral agency" means any person or entity that procures, or
28 attempts to procure, directly or indirectly through placement in a
29 physical or virtual labor pool:

30 (1) employees, independent contractors, or domestic workers for
31 employers or companies seeking the services of employees,
32 independent contractors, or domestic workers; and

33 (2) after the procurement does not continue involvement in the
34 terms of exchange of domestic services with the employees,
35 independent contractors, or domestic workers in any way, with the
36 exception of the following:

37 (a) continuing to display or host or advertise, either through
38 physical means or virtual means, the workers' contact information,
39 job qualifications, resume, image, or digital profile which
40 employers or clients can use to independently contact employees,
41 independent contractors, or domestic workers about employment,
42 independent contractor engagement, or domestic workers about
43 employment, independent contractor engagements, or other jobs; or

44 (b) removing, either through physical means or virtual means,
45 the workers' contact information, job qualifications, resume, image,
46 or digital profile which employers or clients can use to
47 independently contact employees, upon the mandate of any federal,
48 State, or local

1 "Wage" means compensation due to the work of a domestic
2 worker, payable in legal tender of the United States or checks on
3 banks convertible into cash on demand at full face value, subject to
4 any deductions, charges, or allowances as may be permitted by rules
5 of the department.

6 "Written" or "writing" means a printed or printable
7 communication in physical or electronic form, including a
8 communication that is transmitted through email, text message, or a
9 computer system, or is otherwise sent and maintained
10 electronically.

11
12 3. Section 5 of P.L.1945, c.169 (C.10:5-5) is amended to read
13 as follows:

14 5. As used in P.L.1945, c.169 (C.10:5-1 et seq.), unless a
15 different meaning clearly appears from the context:

16 a. "Person" includes one or more individuals, partnerships,
17 associations, organizations, labor organizations, corporations, legal
18 representatives, trustees, trustees in bankruptcy, receivers, and
19 fiduciaries.

20 b. "Employment agency" **【**includes any person undertaking to
21 procure employees or opportunities for others to work**】** shall have
22 the same meaning as in section 2 of P.L. , c. (C.) (pending
23 before the Legislature as this bill).

24 c. "Labor organization" includes any organization which exists
25 and is constituted for the purpose, in whole or in part, of collective
26 bargaining, or of dealing with employers concerning grievances,
27 terms or conditions of employment, or of other mutual aid or
28 protection in connection with employment.

29 d. "Unlawful employment practice" and "unlawful
30 discrimination" include only those unlawful practices and acts
31 specified in section 11 of P.L.1945, c.169 (C.10:5-12).

32 e. "Employer" includes all persons as defined in subsection a.
33 of this section and "hiring entities" as defined by section 2 of
34 P.L. , c. (C.) (pending before the Legislature as this bill),
35 unless otherwise specifically exempt under another section of
36 P.L.1945, c.169 (C.10:5-1 et seq.), and includes the State, any
37 political or civil subdivision thereof, and all public officers,
38 agencies, boards, or bodies.

39 f. **【**"Employee" does not include any individual employed in
40 the domestic service of any person.**】** (Deleted by amendment,
41 P.L. , c. (pending before the Legislature as this bill)

42 g. "Liability for service in the Armed Forces of the United
43 States" means subject to being ordered as an individual or member
44 of an organized unit into active service in the Armed Forces of the
45 United States by reason of membership in the National Guard, naval
46 militia or a reserve component of the Armed Forces of the United
47 States, or subject to being inducted into such armed forces through
48 a system of national selective service.

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- 1 h. "Division" means the "Division on Civil Rights" created by
2 P.L.1945, c.169 (C.10:5-1 et seq.).
- 3 i. "Attorney General" means the Attorney General of the State
4 of New Jersey or the Attorney General's representative or designee.
- 5 j. "Commission" means the Commission on Civil Rights
6 created by P.L.1945, c.169 (C.10:5-1 et seq.).
- 7 k. "Director" means the Director of the Division on Civil
8 Rights.
- 9 l. "A place of public accommodation" shall include, but not be
10 limited to: any tavern, roadhouse, hotel, motel, trailer camp,
11 summer camp, day camp, or resort camp, whether for entertainment
12 of transient guests or accommodation of those seeking health,
13 recreation, or rest; any producer, manufacturer, wholesaler,
14 distributor, retail shop, store, establishment, or concession dealing
15 with goods or services of any kind; any restaurant, eating house, or
16 place where food is sold for consumption on the premises; any
17 place maintained for the sale of ice cream, ice and fruit preparations
18 or their derivatives, soda water or confections, or where any
19 beverages of any kind are retailed for consumption on the premises;
20 any garage, any public conveyance operated on land or water or in
21 the air or any stations and terminals thereof; any bathhouse,
22 boardwalk, or seashore accommodation; any auditorium, meeting
23 place, or hall; any theatre, motion-picture house, music hall, roof
24 garden, skating rink, swimming pool, amusement and recreation
25 park, fair, bowling alley, gymnasium, shooting gallery, billiard and
26 pool parlor, or other place of amusement; any comfort station; any
27 dispensary, clinic, or hospital; any public library; and any
28 kindergarten, primary and secondary school, trade or business
29 school, high school, academy, college and university, or any
30 educational institution under the supervision of the State Board of
31 Education or the Commissioner of Education of the State of New
32 Jersey. Nothing herein contained shall be construed to include or to
33 apply to any institution, bona fide club, or place of accommodation,
34 which is in its nature distinctly private; nor shall anything herein
35 contained apply to any educational facility operated or maintained
36 by a bona fide religious or sectarian institution, and the right of a
37 natural parent or one in loco parentis to direct the education and
38 upbringing of a child under his control is hereby affirmed; nor shall
39 anything herein contained be construed to bar any private secondary
40 or post-secondary school from using in good faith criteria other than
41 race, creed, color, national origin, ancestry, gender identity, or
42 expression or affectional or sexual orientation in the admission of
43 students.
- 44 m. "A publicly assisted housing accommodation" shall include
45 all housing built with public funds or public assistance pursuant to
46 P.L.1949, c.300, P.L.1941, c.213, P.L.1944, c.169, P.L.1949, c.303,
47 P.L.1938, c.19, P.L.1938, c.20, P.L.1946, c.52, and P.L.1949,
48 c.184, and all housing financed in whole or in part by a loan,

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1 whether or not secured by a mortgage, the repayment of which is
2 guaranteed or insured by the federal government or any agency
3 thereof.

4 n. The term "real property" includes real estate, lands,
5 tenements and hereditaments, corporeal and incorporeal, and
6 leaseholds, provided, however, that, except as to publicly assisted
7 housing accommodations, the provisions of this act shall not apply
8 to the rental: (1) of a single apartment or flat in a two-family
9 dwelling, the other occupancy unit of which is occupied by the
10 owner as a residence; or (2) of a room or rooms to another person or
11 persons by the owner or occupant of a one-family dwelling
12 occupied by the owner or occupant as a residence at the time of
13 such rental. Nothing herein contained shall be construed to bar any
14 religious or denominational institution or organization, or any
15 organization operated for charitable or educational purposes, which
16 is operated, supervised, or controlled by or in connection with a
17 religious organization, in the sale, lease, or rental of real property,
18 from limiting admission to or giving preference to persons of the
19 same religion or denomination or from making such selection as is
20 calculated by such organization to promote the religious principles
21 for which it is established or maintained. Nor does any provision
22 under this act regarding discrimination on the basis of familial
23 status apply with respect to housing for older persons.

24 o. "Real estate broker" includes a person, firm, or corporation
25 who, for a fee, commission, or other valuable consideration, or by
26 reason of promise or reasonable expectation thereof, lists for sale,
27 sells, exchanges, buys or rents, or offers or attempts to negotiate a
28 sale, exchange, purchase, or rental of real estate or an interest
29 therein, or collects or offers or attempts to collect rent for the use of
30 real estate, or solicits for prospective purchasers or assists or directs
31 in the procuring of prospects or the negotiation or closing of any
32 transaction which does or is contemplated to result in the sale,
33 exchange, leasing, renting, or auctioning of any real estate, or
34 negotiates, or offers or attempts or agrees to negotiate a loan
35 secured or to be secured by mortgage or other encumbrance upon or
36 transfer of any real estate for others; or any person who, for
37 pecuniary gain or expectation of pecuniary gain conducts a public
38 or private competitive sale of lands or any interest in lands. In the
39 sale of lots, the term "real estate broker" shall also include any
40 person, partnership, association, or corporation employed by or on
41 behalf of the owner or owners of lots or other parcels of real estate,
42 at a stated salary, or upon a commission, or upon a salary and
43 commission or otherwise, to sell such real estate, or any parts
44 thereof, in lots or other parcels, and who shall sell or exchange, or
45 offer or attempt or agree to negotiate the sale or exchange, of any
46 such lot or parcel of real estate.

47 p. "Real estate salesperson" includes any person who, for
48 compensation, valuable consideration or commission, or other thing

1 of value, or by reason of a promise or reasonable expectation
2 thereof, is employed by and operates under the supervision of a
3 licensed real estate broker to sell or offer to sell, buy or offer to buy
4 or negotiate the purchase, sale, or exchange of real estate, or offers
5 or attempts to negotiate a loan secured or to be secured by a
6 mortgage or other encumbrance upon or transfer of real estate, or to
7 lease or rent, or offer to lease or rent any real estate for others, or to
8 collect rents for the use of real estate, or to solicit for prospective
9 purchasers or lessees of real estate, or who is employed by a
10 licensed real estate broker to sell or offer to sell lots or other parcels
11 of real estate, at a stated salary, or upon a commission, or upon a
12 salary and commission, or otherwise to sell real estate, or any parts
13 thereof, in lots or other parcels.

14 q. "Disability" means physical or sensory disability, infirmity,
15 malformation, or disfigurement which is caused by bodily injury,
16 birth defect, or illness including epilepsy and other seizure
17 disorders, and which shall include, but not be limited to, any degree
18 of paralysis, amputation, lack of physical coordination, blindness or
19 visual impairment, deafness or hearing impairment, muteness or
20 speech impairment, or physical reliance on a service or guide dog,
21 wheelchair, or other remedial appliance or device, or any mental,
22 psychological, or developmental disability, including autism
23 spectrum disorders, resulting from anatomical, psychological,
24 physiological, or neurological conditions which prevents the typical
25 exercise of any bodily or mental functions or is demonstrable,
26 medically or psychologically, by accepted clinical or laboratory
27 diagnostic techniques. Disability shall also mean AIDS or HIV
28 infection.

29 r. "Blind person" or "person who is blind" means any
30 individual whose central visual acuity does not exceed 20/200 in the
31 better eye with correcting lens or whose visual acuity is better than
32 20/200 if accompanied by a limit to the field of vision in the better
33 eye to such a degree that its widest diameter subtends an angle of
34 no greater than 20 degrees.

35 s. "Guide dog" means a dog used to assist persons who are
36 deaf, or which is fitted with a special harness so as to be suitable as
37 an aid to the mobility of a person who is blind, and is used by a
38 person who is blind and has satisfactorily completed a specific
39 course of training in the use of such a dog, and has been trained by
40 an organization generally recognized by agencies involved in the
41 rehabilitation of persons with disabilities, including, but not limited
42 to, those persons who are blind or deaf, as reputable and competent
43 to provide dogs with training of this type.

44 t. "Guide or service dog trainer" means any person who is
45 employed by an organization generally recognized by agencies
46 involved in the rehabilitation of persons with disabilities, including,
47 but not limited to, those persons who are blind, have visual
48 impairments, or are deaf or have hearing impairments, as reputable

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- 1 and competent to provide dogs with training, as defined in this
2 section, and who is actually involved in the training process.
- 3 u. "Housing accommodation" means any publicly assisted
4 housing accommodation or any real property, or portion thereof,
5 which is used or occupied, or is intended, arranged, or designed to
6 be used or occupied, as the home, residence, or sleeping place of
7 one or more persons, but shall not include any single family
8 residence the occupants of which rent, lease, or furnish for
9 compensation not more than one room therein.
- 10 v. "Public facility" means any place of public accommodation
11 and any street, highway, sidewalk, walkway, public building, and
12 any other place or structure to which the general public is regularly,
13 normally, or customarily permitted or invited.
- 14 w. "Deaf person" or "person who is deaf" means any person
15 whose hearing is so severely impaired that the person is unable to
16 hear and understand conversational speech through the unaided ear
17 alone, and who must depend primarily on an assistive listening
18 device or visual communication such as writing, lip reading, sign
19 language, and gestures.
- 20 x. "Atypical hereditary cellular or blood trait" means sickle cell
21 trait, hemoglobin C trait, thalassemia trait, Tay-Sachs trait, or cystic
22 fibrosis trait.
- 23 y. "Sickle cell trait" means the condition wherein the major
24 natural hemoglobin components present in the blood of the
25 individual are hemoglobin A (normal) and hemoglobin S (sickle
26 hemoglobin) as defined by standard chemical and physical analytic
27 techniques, including electrophoresis; and the proportion of
28 hemoglobin A is greater than the proportion of hemoglobin S or one
29 natural parent of the individual is shown to have only normal
30 hemoglobin components (hemoglobin A, hemoglobin A2,
31 hemoglobin F) in the normal proportions by standard chemical and
32 physical analytic tests.
- 33 z. "Hemoglobin C trait" means the condition wherein the major
34 natural hemoglobin components present in the blood of the
35 individual are hemoglobin A (normal) and hemoglobin C as defined
36 by standard chemical and physical analytic techniques, including
37 electrophoresis; and the proportion of hemoglobin A is greater than
38 the proportion of hemoglobin C or one natural parent of the
39 individual is shown to have only normal hemoglobin components
40 (hemoglobin A, hemoglobin A2, hemoglobin F) in normal
41 proportions by standard chemical and physical analytic tests.
- 42 aa. "Thalassemia trait" means the presence of the thalassemia
43 gene which in combination with another similar gene results in the
44 chronic hereditary disease Cooley's anemia.
- 45 bb. "Tay-Sachs trait" means the presence of the Tay-Sachs gene
46 which in combination with another similar gene results in the
47 chronic hereditary disease Tay-Sachs.

- 1 cc. "Cystic fibrosis trait" means the presence of the cystic
2 fibrosis gene which in combination with another similar gene
3 results in the chronic hereditary disease cystic fibrosis.
- 4 dd. "Service dog" means any dog individually trained to the
5 requirements of a person with a disability including, but not limited
6 to minimal protection work, rescue work, pulling a wheelchair or
7 retrieving dropped items. This term shall include a "seizure dog"
8 trained to alert or otherwise assist persons with epilepsy or other
9 seizure disorders.
- 10 ee. "Qualified Medicaid applicant" means an individual who is a
11 qualified applicant pursuant to P.L.1968, c.413 (C.30:4D-1 et seq.).
- 12 ff. "AIDS" means acquired immune deficiency syndrome as
13 defined by the Centers for Disease Control and Prevention of the
14 United States Public Health Service.
- 15 gg. "HIV infection" means infection with the human
16 immunodeficiency virus or any other related virus identified as a
17 probable causative agent of AIDS.
- 18 hh. "Affectional or sexual orientation" means male or female
19 heterosexuality, homosexuality, or bisexuality by inclination,
20 practice, identity, or expression, having a history thereof or being
21 perceived, presumed, or identified by others as having such an
22 orientation.
- 23 ii. "Heterosexuality" means affectional, emotional, or physical
24 attraction or behavior which is primarily directed towards persons
25 of the other gender.
- 26 jj. "Homosexuality" means affectional, emotional, or physical
27 attraction or behavior which is primarily directed towards persons
28 of the same gender.
- 29 kk. "Bisexuality" means affectional, emotional, or physical
30 attraction or behavior which is directed towards persons of either
31 gender.
- 32 ll. "Familial status" means being the natural parent of a child,
33 the adoptive parent of a child, the resource family parent of a child,
34 having a "parent and child relationship" with a child as defined by
35 State law, or having sole or joint legal or physical custody, care,
36 guardianship, or visitation with a child, or any person who is
37 pregnant or is in the process of securing legal custody of any
38 individual who has not attained the age of 18 years.
- 39 mm. "Housing for older persons" means housing:
- 40 (1) provided under any State program that the Attorney General
41 determines is specifically designed and operated to assist persons
42 who are elderly (as defined in the State program); or provided under
43 any federal program that the United States Department of Housing
44 and Urban Development determines is specifically designed and
45 operated to assist persons who are elderly (as defined in the federal
46 program); or
- 47 (2) intended for, and solely occupied by, persons 62 years of age
48 or older; or

1 (3) intended and operated for occupancy by at least one person
2 55 years of age or older per unit. In determining whether housing
3 qualifies as housing for older persons under this paragraph, the
4 Attorney General shall adopt regulations which require at least the
5 following factors:

6 (a) the existence of significant facilities and services
7 specifically designed to meet the physical or social needs of older
8 persons, or if the provision of such facilities and services is not
9 practicable, that such housing is necessary to provide important
10 housing opportunities for older persons; and

11 (b) that at least 80 percent of the units are occupied by at least
12 one person 55 years of age or older per unit; and

13 (c) the publication of, and adherence to, policies and procedures
14 which demonstrate an intent by the owner or manager to provide
15 housing for persons 55 years of age or older.

16 Housing shall not fail to meet the requirements for housing for
17 older persons by reason of: persons residing in such housing as of
18 September 13, 1988 not meeting the age requirements of this
19 subsection, provided that new occupants of such housing meet the
20 age requirements of this subsection; or unoccupied units, provided
21 that such units are reserved for occupancy by persons who meet the
22 age requirements of this subsection.

23 nn. "Genetic characteristic" means any inherited gene or
24 chromosome, or alteration thereof, that is scientifically or medically
25 believed to predispose an individual to a disease, disorder, or
26 syndrome, or to be associated with a statistically significant
27 increased risk of development of a disease, disorder, or syndrome.

28 oo. "Genetic information" means the information about genes,
29 gene products, or inherited characteristics that may derive from an
30 individual or family member.

31 pp. "Genetic test" means a test for determining the presence or
32 absence of an inherited genetic characteristic in an individual,
33 including tests of nucleic acids such as DNA, RNA, and
34 mitochondrial DNA, chromosomes, or proteins in order to identify a
35 predisposing genetic characteristic.

36 qq. "Domestic partnership" means a domestic partnership
37 established pursuant to section 4 of P.L.2003, c.246 (C.26:8A-4).

38 rr. "Gender identity or expression" means having or being
39 perceived as having a gender related identity or expression whether
40 or not stereotypically associated with a person's assigned sex at
41 birth.

42 ss. "Civil Union" means a legally recognized union of two
43 eligible individuals established pursuant to R.S.37:1-1 et seq. and
44 P.L.2006, c.103 (C.37:1-28 et al.).

45 tt. "Premium wages" means additional remuneration for night,
46 weekend, or holiday work, or for standby or irregular duty.

47 uu. "Premium benefit" means an employment benefit, such as
48 seniority, group life insurance, health insurance, disability

1 insurance, sick leave, annual leave, or an educational or pension
2 benefit that is greater than the employment benefit due the
3 employee for an equivalent period of work performed during the
4 regular work schedule of the employee.

5 vv. "Race" is inclusive of traits historically associated with race,
6 including, but not limited to, hair texture, hair types, and protective
7 hairstyles.

8 ww. "Protective hairstyles" includes, but is not limited to, such
9 hairstyles as braids, locks, and twists.

10 xx. "Family member" means a child, parent, parent-in-law,
11 sibling, grandparent, grandchild, spouse, partner in a civil union
12 couple, domestic partner, or any other individual related by blood to
13 the person, and any other individual that the person shows to have a
14 close association with the person which is the equivalent of a family
15 relationship.

16 (cf: P.L.2019, c.436, s.2)

17

18 4. Section 2 of P.L.1965, c.164 (C.34:6A-2) is amended to read
19 as follows:

20 2. The following terms wherever used or referred to in this act
21 shall have the following meaning:

22 (a) "Act" means this act and rules and regulations promulgated
23 hereunder.

24 (b) "Board" means the Industrial Safety Board established under
25 this act.

26 (c) "Bureau" means the Bureau of Engineering and Safety in the
27 Division of Labor, Department of Labor and Industry established
28 under this act.

29 (d) "Commissioner" means the Commissioner of the Department
30 of Labor and Industry or his authorized representatives.

31 (e) "Committee" means the New Jersey State Industrial Safety
32 Committee established under this act.

33 (f) "Department" means the Department of Labor and Industry.

34 (g) "Employee" means any person engaged in service to an
35 employer for wages, salary or other compensation.

36 (h) "Employer" means any person or corporation, partnership,
37 individual proprietorship, joint venture, firm, company or other
38 similar legal entity who engages the services of an employee and
39 who pays his wages, salary, or other compensation; and any person
40 exercising supervision of employees on an employer's behalf; and
41 includes all "hiring entities" as defined by section 2 of P.L. _____,
42 c. (C. _____) (pending before the Legislature as this bill).

43 (i) "Owner" means the person possessing legal or equitable
44 title. For the purposes of this act "Person possessing equitable title"
45 shall mean that person or corporation, partnership, individual
46 proprietorship, joint venture, firm, company or other legal entity
47 that has actual control over the premises used in whole or in part as
48 a place of employment.

1 (j) "Place of employment" means any building or other
2 premises occupied by an employer in or about which an employee
3 customarily is suffered or permitted to work.

4 (k) "Domestic worker" means all persons defined as a domestic
5 worker by section 2 of P.L. , c. (C.) (pending before the
6 Legislature as bill).

7 (cf: P.L.1965, c.154, s.2)

8

9 5. Section 6 of P.L.1965, c.154 (C.34:6A-6) is amended to read
10 as follows:

11 6. a. The commissioner shall enforce the provisions of this act,
12 make complaints against persons violating its provisions and
13 prosecute violations of the same.

14 b. The commissioner shall have the power and authority,
15 without notice or delay during regular working hours or other
16 reasonable hours within reasonable limits and in a reasonable
17 manner, to enter and inspect any place of employment and all
18 pertinent conditions, structures, machinery, apparatus, devices,
19 equipment and materials and to question privately the owner and
20 any employer or employee.

21 c. In the case where the place of employment is a residential
22 dwelling and the employee is a domestic worker, the commissioner
23 or the commissioner's authorized representative shall initiate
24 telephone contact with the hiring entity as soon as possible, but not
25 later than 14 calendar days after receipt of a complaint charging a
26 violation.

27 When telephone contact is successfully made, the commissioner
28 or the authorized representative shall:

29 (1) Notify the hiring entity of the existence of any alleged
30 unsafe or unhealthful condition;

31 (2) Describe the alleged hazard and any specific regulatory
32 standard alleged to have been violated;

33 (3) Inform the hiring entity that the entity is required to
34 investigate and abate any hazard discovered during the investigation
35 regarding violations of section 3 of P.L.1965, c.154 (C.34:6A-3);

36 (4) Inform the hiring entity by letter sent by facsimile or email,
37 or by certified mail if the employer cannot receive facsimile or
38 email, of each alleged hazard and each specific allegation of a
39 violation of a standard;

40 (5) Inform the hiring entity that if the department determines
41 that the hiring entity's response is unsatisfactory for any reason, the
42 department shall seek permission from the hiring entity to enter the
43 residential dwelling to investigate the matter, and if permission is
44 denied, may secure an inspection warrant to conduct an onsite
45 inspection of the residential dwelling; and

46 (6) Provide the complainant with copies of the law and
47 regulations alleged to have been violated, the department's letter to

1 the employer, and all subsequent correspondence concerning the
2 investigation of any alleged hazards;

3 d. A hiring entity subject to investigation shall:

4 (1) Provide the department, within 14 days of the hiring entity's
5 receipt of the department's letter, a response describing the results
6 of the employer's investigation of the alleged hazard and a
7 description of all actions taken, in the process of being taken, or
8 planned to be taken, by the hiring entity to abate the alleged hazard;

9 (2) Provide a copy of the commissioner or the commissioner's
10 authorized representative's letter to the domestic worker, and all
11 subsequent correspondence from and to the hiring entity to the
12 affected domestic worker, or prominently post the letter and
13 correspondence in the method prescribed by letter sent pursuant to
14 subsection c. of this section regarding each alleged hazard and each
15 specific standard to have been violated;

16 e. For complaints alleging serious illness or injury or death
17 while performing domestic services as defined by section 2 of
18 P.L. , c. (C.) (pending before the Legislature as this bill),
19 the commissioner or the authorized representative may enter the
20 premises with permission or with an inspection warrant issued
21 pursuant to subsection b. of this section without first initiating the
22 telephone contact described in subsection c. of this section.

23 f. Notwithstanding any other provision of this chapter to the
24 contrary, investigations of complaints in domestic services as
25 defined by section 2 of P.L. , c. (C.) (pending before the
26 Legislature as this bill), shall be conducted in a manner to avoid any
27 unwarranted invasion of personal privacy and shall not contain any
28 personal, financial, or medical information of the individuals
29 residing in the residential dwelling that is not pertinent to the
30 investigation of the complaint.

31 g. No person shall obstruct, hinder or delay or interfere with by
32 force or otherwise the performance by the commissioner of any
33 duty under the provisions of this act.

34 (cf: P.L.1973, c.259, s.1)

35
36 6. Section 9 of P.L.1965, c.154 (C.34:6A-9) is amended to read
37 as follows:

38 9. The commissioner shall make and promulgate rules and
39 regulations reasonably necessary to implement the purposes of this
40 act. Such rules and regulations shall have the force and effect of
41 law and shall be enforced in the manner provided in this act.

42 The commissioner shall make and promulgate rules to ensure the
43 requirements of section 3 of P.L.1965, c.154 (C.34:6A-3) apply to
44 the hiring entities of domestic workers. These rules shall include
45 the establishment of a mechanism to receive complaints within the
46 department that prompts inspections by the commissioner in
47 accordance with section 6 of P.L.1965, c.154 (C.34:6A-6).

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1 Buildings or other structures in use on the effective date of this
2 act as a place of employment other than a place where the
3 manufacturing of goods of any kind is carried on shall not be made
4 to comply with the requirements of rules and regulations
5 promulgated hereunder substantially affecting such building or
6 other structures unless such compliance is essential to correct an
7 unsafe or unhealthful condition which constitutes a serious and
8 substantial threat to the health or safety of employees.

9 The commissioner shall before promulgation furnish a copy of
10 proposed rules and regulations to the members of the committee for
11 its review and recommendations. Within 90 days of the receipt of
12 said proposed rules and regulations the committee shall provide the
13 commissioner and the board with its written recommendations.
14 Following receipt of the committee's recommendations or upon the
15 expiration of 90 days, the commissioner shall furnish to every
16 member of the board a copy of the proposed rules and regulations
17 with or without change in his discretion and at the same time a
18 notice of intent to promulgate proposed rules and regulations shall
19 be published by the commissioner. This notice of intent shall state
20 briefly the purpose of the proposed rules and regulations, shall state
21 that a copy of the proposed rules and regulations may be obtained
22 by any person upon written request to the department, and shall fix
23 the date, time and place for a public hearing on the proposed rules
24 and regulations, which date shall be not less than 21 days after the
25 publication of the notice. All person appearing at such hearing shall
26 be given the opportunity to be heard. Rules and regulations, as so
27 proposed or as changed by the commissioner after such hearing,
28 may be promulgated by the commissioner 90 days following
29 delivery to the board to be effective on such date as the rules and
30 regulations shall provide unless disapproved by a majority of the
31 board and if so disapproved such rules or regulations shall not
32 become effective. Within 30 days after the public hearing and on
33 30 days' notice the commissioner shall call a meeting of the board
34 for the purpose of discussing the proposed rules and regulations. If
35 any changes were made in the proposed rules or regulations
36 following the public hearing, a copy of such change shall
37 accompany such notice. At any meeting called for such purpose
38 disapproval shall be by vote of the majority of the members of the
39 board.

40 (cf: P.L.1965, c.154, s.9)

41

42 7. Section 19 of P.L.1965, c.154 (C.34:6A-19) is amended to
43 read as follows:

44 19. Any person violating any of the provisions of this act shall
45 be liable to a penalty of not less than **[\$25.00]** \$975 nor more than
46 **[\$500.00]** \$13,653 to be collected in a civil action by a summary
47 proceeding under the Penalty Enforcement Law **[(N.J.S. 2A:58-1)]**
48 of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.). Notwithstanding

1 the penalties prescribed in this section, the penalty amounts shall be
 2 subject to adjustment by the commissioner to remain consistent
 3 with the federal Occupational Safety and Health Act of 1970 (29
 4 U.S.C. s. 651 et seq.). 50 percent of the sum collected as a penalty
 5 pursuant to this subsection shall be provided to the employee
 6 harmed by violation. Any violation of the act by an officer, agent or
 7 employee shall also be a violation of the act by his employer if such
 8 employer had knowledge of and actual control over the cause of
 9 such violation. Where the violation is of a continuing nature each
 10 day during which it continues, after the date given by which the
 11 violation must be eliminated in the order by the commissioner, shall
 12 constitute an additional, separate and distinct offense, except during
 13 the time an appeal from said order may be taken or is pending.

14 The commissioner is hereby authorized and empowered to
 15 compromise and settle any claim for a penalty under this section in
 16 such amount in the discretion of the commissioner as may appear
 17 appropriate and equitable under all of the circumstances.

18 Nothing in this subsection shall affect the rights of employees or
 19 any remedies available to employees provided by section 5 of
 20 P.L.1986, c.105 (C.34:19-5) or any other provision of law.

21 (cf: P.L.1965 c.154, s.19)

22

23 8. Section 22 of P.L.1965, c.154 (C34:6A-22) is amended to
 24 read as follows:

25 22. This act is not intended to apply and shall not apply to the
 26 following:

27 (a) Places of employment under the exclusive jurisdiction of the
 28 Federal Government with respect to the health and safety of
 29 employees;

30 (b) Places of employment subject to the provisions of the Mine
 31 Safety Act, P.L.1954, c. 197;

32 (c) Employment and places of employment subject to the
 33 provisions of the Construction Safety Act, P.L.1962, c. 45;

34 (d) **【Domestic employment;】** (Deleted by amendment, P.L. _____,
 35 c. _____ (pending before the Legislature as this bill)

36 (e) Transportation equipment coming under the jurisdiction of
 37 the Interstate Commerce Commission, Federal Aviation
 38 Administration, or of the New Jersey Division of Motor Vehicles;

39 (f) **【Institutions requiring a license issued by the Department of**
 40 **Institutions and Agencies pursuant to Revised Statutes 30:11-1;】**
 41 (Deleted by amendment, P.L. _____, c. _____ (pending before the
 42 Legislature as this bill)

43 (g) Schools, colleges and universities;

44 (h) Places of employment with fewer than 4 employees, except
 45 places of employment of domestic services; employment in which
 46 the manufacturing of goods of any kind is carried on; and except as
 47 hereinafter provided in paragraph (o) of this section;

48 (i) Agricultural employment;

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- 1 (j) Banks and other financial institutions;
- 2 (k) Places of employment in which the employees are primarily
3 engaged in office operations and buildings under the actual control
4 of one employer and in which the employees are primarily engaged
5 in office operations or laboratories primarily engaged in research,
6 development, or testing conducted on premises, in separate
7 buildings, or in building sections devoted exclusively to these
8 operations;
- 9 (l) Public utilities which own, operate, manage or control any
10 autobus, canal, express, railroad, street railway, traction railway,
11 subway, pipeline, gas, electric light, heat, power, water, oil, sewer,
12 telephone or telegraph system, plant or equipment for public use,
13 under privileges granted by the State or by any political subdivision
14 thereof, with respect to work operations performed in connection
15 with the plant or facilities of such public utility located in the public
16 streets and highways, roads and alleys, private rights-of-way, or
17 upon their customers' premises;
- 18 (m) Liquefied petroleum gas bulk plants and facilities subject to
19 the jurisdiction and supervision of the Superintendent of State
20 Police, pursuant to chapter 139 of the laws of 1950 (N.J.S.A.
21 21:1B-1 to 21:1B-8);
- 22 (n) Natural gas pipeline utilities subject to the provisions of the
23 Natural Gas Safety Act (P.L.1952, c. 166) (N.J.S.A. 48:10-2 to
24 48:10-9); and
- 25 (o) Establishments with fewer than 10 employees and which are
26 devoted exclusively to the sale of goods, or furnishing of services,
27 at retail.
28 (cf: P.L.1965, c.154, s.22)
- 29
- 30 9. Section 2 of P.L.1966, c.113 (C.34:11-56a1) is amended to
31 read as follows:
- 32 2. As used in this act:
- 33 (a) "Commissioner" means the Commissioner of Labor and
34 Workforce Development.
- 35 (b) "Director" means the director in charge of the bureau
36 referred to in section 3 of this act.
- 37 (c) "Wage board" means a board created as provided in section
38 10 of this act.
- 39 (d) "Wages" means any moneys due an employee from an
40 employer for services rendered or made available by the employee
41 to the employer as a result of their employment relationship
42 including commissions, bonus and piecework compensation and
43 including the fair value of any food or lodgings supplied by an
44 employer to an employee, and, until December 31, 2018, "wages"
45 includes any gratuities received by an employee for services
46 rendered for an employer or a customer of an employer. The
47 commissioner may, by regulation, establish the average value of
48 gratuities received by an employee in any occupation and the fair

1 value of food and lodging provided to employees in any occupation,
2 which average values shall be acceptable for the purposes of
3 determining compliance with this act in the absence of evidence of
4 the actual value of such items.

5 (e) "Regular hourly wage" means the amount that an employee
6 is regularly paid for each hour of work as determined by dividing
7 the total hours of work during the week into the employee's total
8 earnings for the week, exclusive of overtime premium pay.

9 (f) "Employ" includes to suffer or to permit to work.

10 (g) "Employer" includes any individual, partnership,
11 association, corporation, and the State and any county,
12 municipality, or school district in the State, or any agency,
13 authority, department, bureau, or instrumentality thereof, or any
14 person or group of persons acting directly or indirectly in the
15 interest of an employer in relation to an employee, and includes
16 "hiring entities" as defined in section 2 of P.L. , c. (C.)
17 (pending before the Legislature as this bill).

18 (h) "Employee" includes any individual employed by an
19 employer.

20 (i) "Occupation" means any occupation, service, trade,
21 business, industry or branch or group of industries or employment
22 or class of employment in which employees are gainfully employed.

23 (j) "Minimum fair wage order" means a wage order
24 promulgated pursuant to this act.

25 (k) "Fair wage" means a wage fairly and reasonably
26 commensurate with the value of the service or class of service
27 rendered and sufficient to meet the minimum cost of living
28 necessary for health.

29 (l) "Oppressive and unreasonable wage" means a wage which is
30 both less than the fair and reasonable value of the service rendered
31 and less than sufficient to meet the minimum cost of living
32 necessary for health.

33 (m) "Limousine" means a motor vehicle used in the business of
34 carrying passengers for hire to provide prearranged passenger
35 transportation at a premium fare on a dedicated, nonscheduled,
36 charter basis that is not conducted on a regular route and with a
37 seating capacity in no event of more than 14 passengers, not
38 including the driver, provided, that such a motor vehicle shall not
39 have a seating capacity in excess of four passengers, not including
40 the driver, beyond the maximum passenger seating capacity of the
41 vehicle, not including the driver, at the time of manufacture.
42 "Limousine" shall not include taxicabs, hotel or airport shuttles and
43 buses, buses employed solely in transporting school children or
44 teachers to and from school, vehicles owned and operated directly
45 or indirectly by businesses engaged in the practice of mortuary
46 science when those vehicles are used exclusively for providing
47 transportation related to the provision of funeral services or vehicles

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1 owned and operated without charge or remuneration by a business
2 entity for its own purposes.

3 (n) "Seasonal employment" means employment during a year by
4 an employer that is a seasonal employer, or employment by a non-
5 profit or government entity of an individual who is not employed by
6 that employer outside of the period of that year commencing on
7 May 1 and ending September 30, or employment by a governmental
8 entity in a recreational program or service during the period
9 commencing on May 1 and ending September 30, except that
10 "seasonal employment" does not include employment of employees
11 engaged to labor on a farm on either a piece-rate or regular hourly
12 rate basis.

13 (o) "Seasonal employer" means an employer who exclusively
14 provides its services in a continuous period of not more than ten
15 weeks during the months of June, July, August, and September, or
16 an employer for which, during the immediately previous calendar
17 year, not less than two thirds of the employer's gross receipts were
18 received in a continuous period of not more than sixteen weeks or
19 for which not less than 75 percent of the wages paid by the
20 employer during the immediately preceding year were paid for work
21 performed during a single calendar quarter.

22 (p) "Small employer" means any employer who employed less
23 than six employees for every working day during each of a majority
24 of the calendar workweeks in the current calendar year and less than
25 six employees for every working day during not less than 48
26 calendar workweeks in the preceding calendar year, except that, if
27 the employer was newly established during the preceding calendar
28 year, the employer shall be regarded as a "small employer" if the
29 employer employed less than six employees for every working day
30 during all of the weeks of that year, and during a majority of the
31 calendar workweeks in the current calendar year, and, if the
32 employer is newly established during the current calendar year, the
33 employer shall be regarded as a "small employer" if the employer
34 employed less than six employees for every working day during a
35 majority of the calendar workweeks in the current calendar year.

36 (q) "Long-term care facility direct care staff member" means
37 any health care professional licensed or certified pursuant to Title
38 26 or Title 45 of the Revised Statutes who is employed by a long-
39 term care facility and who provides personal care, assistance, or
40 treatment services directly to residents of the facility in the course
41 of the professional's regular duties.

42 (cf: P.L.2020, c.89, s.1)

43

44 10. Section 5 of P.L.1966, c.113 (C.34:11-56a4) is amended to
45 read as follows:

46 5. a. Except as provided in subsections c., d., e. g., and i. of
47 this section, each employer shall pay to each of his employees
48 wages at a rate of not less than \$8.85 per hour as of January 1, 2019

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1 and, on January 1 of 2020 and January 1 of each subsequent year,
2 the minimum wage shall be increased by any increase in the
3 consumer price index for all urban wage earners and clerical
4 workers (CPI-W) as calculated by the federal government for the 12
5 months prior to the September 30 preceding that January 1, except
6 that any of the following rates shall apply if it exceeds the rate
7 determined in accordance with the applicable increase in the CPI-W
8 for the indicated year: on July 1, 2019, the minimum wage shall be
9 \$10.00 per hour; on January 1, 2020, the minimum wage shall be
10 \$11.00 per hour; and on January 1 of each year from 2021 to 2024,
11 inclusive, the minimum wage shall be increased from the rate of the
12 preceding year by \$1.00 per hour. If the federal minimum hourly
13 wage rate set by section 6 of the federal "Fair Labor Standards Act
14 of 1938" (29 U.S.C. s.206), or a successor federal law, is raised to a
15 level higher than the State minimum wage rate set by this
16 subsection, then the State minimum wage rate shall be increased to
17 the level of the federal minimum wage rate and subsequent
18 increases based on increases in the CPI-W pursuant to this section
19 shall be applied to the higher minimum wage rate. If an applicable
20 wage order has been issued by the commissioner under section 17
21 (C.34:11-56a16) of this act, the employer shall also pay not less
22 than the wages prescribed in said order. The wage rates fixed in
23 this section shall not be applicable to [part-time employees
24 primarily engaged in the care and tending of children in the home of
25 the employer, to] persons under the age of 18 not possessing a
26 special vocational school graduate permit issued pursuant to section
27 15 of P.L.1940, c.153 (C.34:2-21.15), or to persons employed as
28 salesmen of motor vehicles, or to persons employed as outside
29 salesmen as such terms shall be defined and delimited in regulations
30 adopted by the commissioner, or to persons employed in a volunteer
31 capacity and receiving only incidental benefits at a county or other
32 agricultural fair by a nonprofit or religious corporation or a
33 nonprofit or religious association which conducts or participates in
34 that fair.

35 b. (1) An employer shall also pay each employee not less than
36 1 1/2 times such employee's regular hourly rate for each hour of
37 working time in excess of 40 hours in any week, except that this
38 overtime rate shall not apply: to any individual employed in a bona
39 fide executive, administrative, or professional capacity; or to
40 employees engaged to labor on a farm or employed in a hotel; or to
41 an employee of a common carrier of passengers by motor bus; or to
42 a limousine driver who is an employee of an employer engaged in
43 the business of operating limousines; or to employees engaged in
44 labor relative to the raising or care of livestock.

45 (2) Employees engaged on a piece-rate or regular hourly rate
46 basis to labor on a farm shall be paid for each day worked not less
47 than the applicable minimum hourly wage rate multiplied by the
48 total number of hours worked.

1 (3) Full-time students may be employed by the college or
2 university at which they are enrolled at not less than 85% of the
3 effective applicable minimum wage rate.

4 c. Employees of a small employer, and employees who are
5 engaged in seasonal employment, except for employees who
6 customarily and regularly receive gratuities or tips who shall be
7 subject to the provisions of subsections a. and d. of this section,
8 shall be paid \$8.85 per hour as of January 1, 2019 and, on January 1
9 of 2020 and January 1 of each subsequent year, that minimum wage
10 rate shall be increased by any increase in the consumer price index
11 for all urban wage earners and clerical workers (CPI-W) as
12 calculated by the federal government for the 12 months prior to the
13 September 30 preceding that January 1, except that any of the
14 following rates shall apply if it exceeds the rate determined in
15 accordance with the applicable increase in the CPI-W for the
16 indicated year: on January 1, 2020, the minimum wage shall be
17 \$10.30 per hour; and on January 1 of each year from 2021 to 2025,
18 inclusive, the minimum wage shall be increased from the rate of the
19 preceding year by eighty cents per hour, and, in 2026, the minimum
20 wage shall be increased from the rate of the preceding year by
21 seventy cents per hour, and, in each year from 2027 to 2028
22 inclusive, the minimum wage for employees subject to this
23 subsection c. shall be increased by the same amount as the increase
24 for employees subject to subsection a. of this section based on CPI-
25 W increases, plus one half of the difference between \$15.00 per
26 hour and the minimum wage in effect in 2026 for employees
27 pursuant to subsection a. of this section, so that, by 2028, the
28 minimum wage for employees subject to this subsection shall be the
29 same as the minimum wage in effect for employees subject to
30 subsection a. of this section. If the federal minimum hourly wage
31 rate set by section 6 of the federal "Fair Labor Standards Act of
32 1938" (29 U.S.C. s.206), or a successor federal law, is raised to a
33 level higher than the State minimum wage rate set by this
34 subsection, then the State minimum wage rate shall be increased to
35 the level of the federal minimum wage rate and subsequent
36 increases based on increases in the CPI-W pursuant to this
37 subsection shall be applied to the higher minimum wage rate.

38 d. Employees engaged on a piece-rate or regular hourly rate
39 basis to labor on a farm shall be paid \$8.85 per hour as of January
40 1, 2019 and, on January 1 of 2020 and January 1 of each subsequent
41 year, that minimum wage rate shall be increased by any increase in
42 the consumer price index for all urban wage earners and clerical
43 workers (CPI-W) as calculated by the federal government for the 12
44 months prior to the September 30 preceding that January 1, except
45 that any of the following rates shall apply if it exceeds the rate
46 determined in accordance with the applicable increase in the CPI-W
47 for the indicated year:

1 (1) on January 1, 2020, the minimum wage shall be \$10.30 per
2 hour; on January 1, 2022, the minimum wage shall be \$10.90 per
3 hour; and on January 1 of each year from 2023 to 2024, inclusive,
4 the minimum wage shall be increased from the rate of the preceding
5 year by eighty cents per hour; and

6 (2) subject to the provisions of paragraph (3) of this subsection
7 d., minimum wage rates shall be increased as follows: on January 1
8 of 2025, the minimum wage shall be increased to \$13.40, and on
9 January 1 of each year from 2026 to 2027, inclusive, the minimum
10 wage shall be increased from the rate of the preceding year by
11 eighty cents per hour, and, in each year from 2028 to 2030
12 inclusive, the minimum wage for employees subject to this
13 subsection d. shall be increased during that year by the same
14 amount as the increase in that year for employees subject to
15 subsection a. of this section based on CPI-W increases, plus one
16 third of the difference between \$15.00 per hour and the minimum
17 wage in effect in 2027 for employees pursuant to subsection a. of
18 this section, so that, by 2030, the minimum wage for employees
19 subject to this subsection shall be the same as the minimum wage in
20 effect for employees subject to subsection a. of this section.

21 (3) Not later than March 31, 2024, the commissioner and the
22 Secretary of Agriculture shall review the report issued by the
23 commissioner pursuant to subsection b. of section 4 of P.L.2019,
24 c.32 (C.34:11-56a4.10) and shall consider any information provided
25 by the secretary regarding the impact on farm employers and the
26 viability of the State's agricultural industry of the increases of the
27 minimum wage made pursuant to paragraph (1) of this subsection,
28 and the potential impact of the increases which would be set by
29 paragraph (2) of this subsection, including comparisons with the
30 wage rates in the agricultural industries in other states, and shall
31 recommend: approval of the increases set forth in paragraph (2) of
32 this subsection; disapproval of the increases set forth in paragraph
33 (2) of this subsection; or an alternative manner of changing the
34 minimum wage after 2024 for employees engaged on a piece-rate or
35 regular hourly rate basis to labor on a farm. In contemplation of the
36 possibility that the commissioner and the secretary are unable to
37 agree on the recommendation required by this paragraph, by
38 December 31, 2021, the Governor shall appoint a public member
39 subject to advice and consent by the Senate, who will serve as a tie-
40 breaking member if needed. The increases set forth in paragraph
41 (2) of this subsection shall take effect unless there is a
42 recommendation pursuant to this paragraph to disapprove the
43 increases or for an alternative manner of changing the minimum
44 wage after 2024 for employees engaged on a piece-rate or regular
45 hourly rate basis to labor on a farm and the Legislature, not later
46 than June 30, 2024, enacts a concurrent resolution approving the
47 implementation of that recommendation. Beginning in 2024, the
48 commissioner, secretary, and public member shall meet biennially

1 to make either a one or two year recommendation to the Legislature
2 for implementation by way of concurrent resolution.

3 (4) If the federal minimum hourly wage rate set by section 6 of
4 the federal "Fair Labor Standards Act of 1938" (29 U.S.C. s.206), or
5 a successor federal law, is raised to a level higher than the State
6 minimum wage rate set by this subsection, then the State minimum
7 wage rate shall be increased to the level of the federal minimum
8 wage rate and subsequent increases based on increases in the CPI-
9 W pursuant to this subsection shall be applied to the higher
10 minimum wage rate.

11 e. With respect to an employee who customarily and regularly
12 receives gratuities or tips, every employer is entitled to a credit for
13 the gratuities or tips received by the employee against the hourly
14 wage rate that would otherwise be paid to the employee pursuant to
15 subsection a. of this section of the following amounts: after
16 December 31, 2018 and before July 1, 2019, \$6.72 per hour; after
17 June 30, 2019 and before January 1, 2020, \$7.37 per hour; during
18 calendar years 2020, 2021 and 2022, \$7.87 per hour; during
19 calendar year 2023, \$8.87 per hour; and during calendar year 2024
20 and subsequent calendar years, \$9.87 per hour.

21 f. Notwithstanding the provisions of this section to the
22 contrary, every trucking industry employer shall pay to all drivers,
23 helpers, loaders and mechanics for whom the Secretary of
24 Transportation may prescribe maximum hours of work for the safe
25 operation of vehicles, pursuant to section 31502(b) of the federal
26 Motor Carrier Act, 49 U.S.C.s.31502(b), an overtime rate not less
27 than 1 1/2 times the minimum wage required pursuant to this
28 section and N.J.A.C. 12:56-3.1. Employees engaged in the trucking
29 industry shall be paid no less than the minimum wage rate as
30 provided in this section and N.J.A.C. 12:56-3.1. As used in this
31 section, "trucking industry employer" means any business or
32 establishment primarily operating for the purpose of conveying
33 property from one place to another by road or highway, including
34 the storage and warehousing of goods and property. Such an
35 employer shall also be subject to the jurisdiction of the Secretary of
36 Transportation pursuant to the federal Motor Carrier Act, 49
37 U.S.C.s.31501 et seq., whose employees are exempt under section
38 213(b)(1) of the federal "Fair Labor Standards Act of 1938," 29
39 U.S.C. s.213(b)(1), which provides an exemption to employees
40 regulated by section 207 of the federal "Fair Labor Standards Act of
41 1938," 29 U.S.C. s.207, and the Interstate Commerce Act, 49
42 U.S.C. s.501 et al.

43 g. Commencing on January 1, 2020, a training wage of not less
44 than 90 percent of the minimum wage rate otherwise set pursuant to
45 subsection a. of this section may be paid to an employee who is
46 enrolled in an established employer on-the-job or other training
47 program which meets standards set by regulations adopted by the
48 commissioner. The period during which an employer may pay the

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1 training wage to the employee shall be the first 120 hours of work
2 after hiring the employee in employment in an occupation in which
3 the employee has no previous similar or related experience. An
4 employer shall not utilize any employee paid the training wage in a
5 manner which causes, induces, encourages or assists any
6 displacement or partial displacement of any currently employed
7 worker, including any previous recipient of the training wage, by
8 reducing hours of a currently employed worker, replacing a current
9 or laid off employee with a trainee, or by relocating operations
10 resulting in a loss of employment at a previous workplace, or in a
11 manner which replaces, supplants, competes with or duplicates any
12 approved apprenticeship program. An employer who pays an
13 employee a training wage shall make a good faith effort to continue
14 to employ the employee after the period of the training wage
15 expires and shall not hire the employee at the training wage unless
16 there is a reasonable expectation that there will be regular
17 employment, paying at or above the effective minimum wage, for
18 the trainee upon the successful completion of the period of the
19 training wage. If the commissioner determines that an employer
20 has made repeated, knowing violations of the provisions of this
21 subsection regarding the payment of a training wage, the
22 commissioner shall suspend the employer's right to pay a training
23 wage for a period set pursuant to regulations adopted by the
24 commissioner, but not less than three years.

25 h. The provisions of this section shall not be construed as
26 prohibiting any political subdivision of the State from adopting an
27 ordinance, resolution, regulation or rule, or entering into any
28 agreement, establishing any standard for vendors, contractors and
29 subcontractors of the subdivision regarding wage rates or overtime
30 compensation which is higher than the standards provided for in
31 this section, and no provision of any other State or federal law
32 establishing a minimum standard regarding wages or other terms
33 and conditions of employment shall be construed as preventing a
34 political subdivision of the State from adopting an ordinance,
35 resolution, regulation or rule, or entering into any agreement,
36 establishing a standard for vendors, contractors and subcontractors
37 of the subdivision which is higher than the State or federal law or
38 which otherwise provides greater protections or rights to employees
39 of the vendors, contractors and subcontractors of the subdivision,
40 unless the State or federal law expressly prohibits the subdivision
41 from adopting the ordinance, resolution, regulation or rule, or
42 entering into the agreement.

43 i. Effective on the first day of the second month next following
44 the effective date of P.L.2020, c.89 (C.30:4D-7cc et al.), the
45 minimum wage for long-term care facility direct care staff members
46 shall be in an amount that is \$3 higher than the prevailing minimum
47 wage established pursuant to subsection a. of this section.
48 (cf: P.L.2020, c.89, s.2)

1 11. Section 1 of P.L.1952, c.9 (C.34:11-56.1) is amended to read
2 as follows:

3 1. As used in this act:

4 a. "Employee" includes any person, either male or female,
5 employed by an employer, but shall not include persons performing
6 volunteer service for nonprofit organizations or corporations nor
7 persons employed on a farm~~],~~ or in domestic service in a private
8 home,~~]~~ or in a hotel.

9 b. "Employer" includes any person acting directly or indirectly
10 in the interest, or as agent, of an employer in relation to an
11 employee and further includes one or more individuals,
12 partnerships, corporations, associations, legal representatives,
13 trustees, trustees in bankruptcy, or receivers, and "hiring entities" as
14 defined by section 2 of P.L. , c. (C.) (pending before the
15 Legislature as this bill), such term shall not include nonprofit
16 hospital associations or corporations.

17 c. "Employ" includes to suffer or permit to work.

18 d. "Occupation" includes any industry, trade, business or
19 branch thereof, or any employment or class of employment.

20 e. "Commissioner" means the Commissioner of Labor and
21 **Industry Workforce Development** of the State of New Jersey.

22

23 12. R.S.34:15-36 is amended to read as follows:

24 34:15-36. "Willful negligence" within the intent of this chapter
25 shall consist of (1) deliberate act or deliberate failure to act, or (2)
26 such conduct as evidences reckless indifference to safety, or (3)
27 intoxication, operating as the proximate cause of injury, or (4)
28 unlawful use of a controlled dangerous substance as defined in the
29 "New Jersey Controlled Dangerous Substances Act," P.L.1970,
30 c.226 (C.24:21-1 et seq.).

31 "Employer" **is** declared to be synonymous with master, and~~]~~
32 includes natural persons, partnerships, **and** corporations, and
33 "hiring entities" as defined by section 2 of P.L. , c. (C.)
34 (pending before the Legislature as this bill); "employee" **is**
35 synonymous with servant, and~~]~~ includes all natural persons,
36 including officers of corporations, who perform service for an
37 employer for financial consideration, exclusive of (1) employees
38 eligible under the federal "Longshore and Harbor Workers'
39 Compensation Act," 44 Stat. 1424 (33 U.S.C.s.901 et seq.), for
40 benefits payable with respect to accidental death or injury, or
41 occupational disease or infection; and (2) casual employments,
42 which shall be defined~~],~~ if in connection with the employer's
43 business, as employment the occasion for which arises by chance or
44 is purely accidental; or if not in connection with any business of the
45 employer, as employment not regular, periodic or recurring;~~]~~ as
46 work that is:

47 (a) irregular, uncertain, or incidental in nature or duration; and

1 (b) different in nature from the type of paid work in which the
2 worker is customarily engaged, provided, however, that forest fire
3 wardens and forest firefighters employed by the State of New Jersey
4 shall, in no event, be deemed casual employees.

5 An individual providing services for remuneration shall be
6 regarded as an employee of an employer for the purposes of the
7 workers' compensation law, R.S.34:15-1 et seq. unless and until it is
8 shown to the satisfaction of the division that:

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

12 (b) the service is either outside the usual course of the business
13 for which the service is performed, or that such service is performed
14 outside of all the places of business of the enterprise for which such
15 service is performed; and

16 (c) the individual is customarily engaged in an independently
17 established trade, occupation, profession, or business.

18 A self-employed person, partners of a limited liability
19 partnership, members of a limited liability company or partners of a
20 partnership who actively perform services on behalf of the self-
21 employed person's business, the limited liability partnership, limited
22 liability company or the partnership shall be deemed an "employee"
23 of the business, limited liability partnership, limited liability
24 company or partnership for purposes of receipt of benefits and
25 payment of premiums pursuant to this chapter, if the business,
26 limited liability partnership, limited liability company or
27 partnership elects, when the workers' compensation policy of the
28 business, limited liability partnership, limited liability company or
29 partnership is purchased or renewed, to obtain coverage for the
30 person, the limited liability partners, the limited liability company
31 members or the partners. If the business, limited liability
32 partnership, limited liability company or partnership elects to obtain
33 coverage for the self-employed person, limited liability partners,
34 limited liability company members or the partners, the election may
35 only be made at purchase or at renewal and may not be withdrawn
36 during the policy term. If the business, limited liability partnership,
37 limited liability company or partnership performs services covered
38 under a homeowner's policy or other policies providing
39 comprehensive personal liability insurance for domestic **servants**
40 employees, household employees or the dependents thereof, the
41 workers' compensation policy of the business, limited liability
42 partnership, limited liability company or partnership shall have
43 primary responsibility for the payment of benefits. Notwithstanding
44 the provisions of R.S.34:15-71 and 34:15-72, the business, limited
45 liability partnership, limited liability company or partnership shall
46 not be required to purchase a policy unless the business, limited
47 liability partnership, limited liability company or partnership is an
48 "employer" of a least one employee as defined in this section who is

1 not a self-employed person, limited liability partner, limited
2 liability company member or partner actively performing services
3 on behalf of the business, limited liability partnership, limited
4 liability company or partnership.

5 Notwithstanding any other provision of law to the contrary, no
6 insurer or insurance producer [as defined in section 2 of P.L.1987,
7 c.293 (C.17:22A-2)] shall be liable in an action for damages on
8 account of the failure of a business, limited liability partnership,
9 limited liability company or partnership to elect to obtain workers'
10 compensation coverage for a self-employed person, limited liability
11 partner, limited liability company member or partner, unless the
12 insurer or insurance producer causes damage by a willful, wanton or
13 grossly negligent act of commission or omission. Every application
14 for workers' compensation made on or after the effective date of
15 this amendatory act shall include notice, as approved by the
16 Commissioner of Banking and Insurance, concerning the
17 availability of workers' compensation coverage for self-employed
18 persons, limited liability partners, limited liability company
19 members or partners. That application shall also contain a notice of
20 election of coverage and shall clearly state that coverage for self-
21 employed persons, limited liability partners, limited liability
22 company members and partners shall not be provided under the
23 policy unless the application containing the notice of election is
24 executed and filed with the insurer or insurance producer. The
25 application containing the notice of election shall also contain a
26 statement that the insurer or insurance producer shall not be liable
27 in an action for damages on account of the failure of a business,
28 limited liability partnership, limited liability company or
29 partnership to elect to obtain workers' compensation coverage for a
30 self-employed person, limited liability partner, limited liability
31 company member or partner, unless the insurer or insurance
32 producer causes damage by a willful, wanton or grossly negligent
33 act of commission or omission. The failure of a self-employed
34 person, limited liability partnership, limited liability company or
35 partnership to elect to obtain workers' compensation coverage for
36 the self-employed person, the limited liability partners, the limited
37 liability company members or the partners shall not affect benefits
38 available under any other accident or health policy.

39 Employment shall be deemed to commence when an employee
40 arrives at the employer's place of employment to report for work
41 and shall terminate when the employee leaves the employer's place
42 of employment, excluding areas not under the control of the
43 employer; provided, however, when the employee is required by the
44 employer to be away from the employer's place of employment, the
45 employee shall be deemed to be in the course of employment when
46 the employee is engaged in the direct performance of duties
47 assigned or directed by the employer; but the employment of
48 employee paid travel time by an employer for time spent traveling

1 to and from a job site or of any employee who utilizes an employer
2 authorized vehicle shall commence and terminate with the time
3 spent traveling to and from a job site or the authorized operation of
4 a vehicle on business authorized by the employer. Travel by a
5 policeman, fireman, or a member of a first aid or rescue squad, in
6 responding to and returning from an emergency, shall be deemed to
7 be in the course of employment.

8 Employment shall also be deemed to commence when an
9 employee is traveling in a ridesharing arrangement between his or
10 her place of residence or terminal near such place and his or her
11 place of employment, if one of the following conditions is satisfied:
12 the vehicle used in the ridesharing arrangement is owned, leased or
13 contracted for by the employer, or the employee is required by the
14 employer to travel in a ridesharing arrangement as a condition of
15 employment.

16 "Disability permanent in quality and partial in character" means
17 a permanent impairment caused by a compensable accident or
18 compensable occupational disease, based upon demonstrable
19 objective medical evidence, which restricts the function of the body
20 or of its members or organs; included in the criteria which shall be
21 considered shall be whether there has been a lessening to a material
22 degree of an employee's working ability. Subject to the above
23 provisions, nothing in this definition shall be construed to preclude
24 benefits to a worker who returns to work following a compensable
25 accident even if there be no reduction in earnings. Injuries such as
26 minor lacerations, minor contusions, minor sprains, and scars which
27 do not constitute significant permanent disfigurement, and
28 occupational disease of a minor nature such as mild dermatitis and
29 mild bronchitis shall not constitute permanent disability within the
30 meaning of this definition.

31 "Disability permanent in quality and total in character" means a
32 physical or neuropsychiatric total permanent impairment caused by
33 a compensable accident or compensable occupational disease,
34 where no fundamental or marked improvement in such condition
35 can be reasonably expected.

36 Factors other than physical and neuropsychiatric impairments
37 may be considered in the determination of permanent total
38 disability, where such physical and neuropsychiatric impairments
39 constitute at least 75% or higher of total disability.

40 "Ridesharing" means the transportation of persons in a motor
41 vehicle, with a maximum carrying capacity of not more than 15
42 passengers, including the driver, where such transportation is
43 incidental to the purpose of the driver. This term shall include such
44 ridesharing arrangements known as carpools and vanpools.

45 "Medical services, medical treatment, physicians' services and
46 physicians' treatment" shall include, but not be limited to, the
47 services which a chiropractor is authorized by law to perform and

1 which are authorized by an employer pursuant to the provisions of
2 R.S.34:15-1 et seq.
3 (cf: P.L.1999, c.383. s.1)
4

5 13. R.S.34:15-92 is amended to read as follows:

6 34:15-92. ~~【Each employer】~~ Employers and hiring entities of
7 domestic ~~【servants or household employees】~~ workers and every
8 stock company or mutual association affording insurance for the
9 liability of such employers by reason of that employment shall be
10 exempted from the provisions of ~~【 R.S. 34:15-79, and】~~ R.S. 34:15-
11 80~~【. The provisions of 】~~ and R.S. 34:15-81 ~~【shall not be~~
12 ~~applicable where the insurance coverage is afforded pursuant to~~
13 ~~P.L....., c..... (now pending before the Legislature as Assembly~~
14 ~~Bill No. 949 of 1978)】~~, but are required to provide written notice of
15 insurance coverage and cancellation of a policy.

16 (cf: P.L.1979, c.380, s.3)
17

18 14. R.S.43:21-19 is amended to read as follows:

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

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

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

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

4 (c) (1) "Base year" with respect to benefit years commencing
5 on or after July 1, 1986, shall mean the first four of the last five
6 completed calendar quarters immediately preceding an individual's
7 benefit year.

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

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

37 (2) With respect to a benefit year commencing on or after June
38 1, 1990 for an individual who immediately preceding the benefit
39 year was subject to a disability compensable under the provisions of
40 the "Temporary Disability Benefits Law," P.L.1948, c.110
41 (C.43:21-25 et seq.), "base year" shall mean the first four of the last
42 five completed calendar quarters immediately preceding the
43 individual's period of disability, if the employment held by the
44 individual immediately preceding the period of disability is no
45 longer available at the conclusion of that period and the individual
46 files a valid claim for unemployment benefits after the conclusion
47 of that period. For the purposes of this paragraph, "period of
48 disability" means the period defined as a period of disability by

1 section 3 of the "Temporary Disability Benefits Law," P.L.1948,
2 c.110 (C.43:21-27). An individual who files a claim under the
3 provisions of this paragraph (2) shall not be regarded as having left
4 work voluntarily for the purposes of subsection (a) of R.S.43:21-5.

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

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

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

40 (2) "Controller" means the Office of the Assistant
41 Commissioner for Finance and Controller of the Department of
42 Labor and Workforce Development, established by the 1982
43 Reorganization Plan of the Department of Labor.

44 (f) "Contributions" means the money payments to the State
45 Unemployment Compensation Fund, required by R.S.43:21-7.
46 "Payments in lieu of contributions" means the money payments to
47 the State Unemployment Compensation Fund by employers electing
48 or required to make payments in lieu of contributions, as provided

1 in section 3 or section 4 of P.L.1971, c.346 (C.43:21-7.2 or 43:21-
2 7.3).

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

25 (h) "Employer" means:

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

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

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

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

46 (5) Any employing unit for which service in employment as
47 defined in R.S.43:21-19 (i) (1) (B) (i) is performed after December

- 1 31, 1971; and as defined in R.S.43:21-19 (i) (1) (B) (ii) is
2 performed after December 31, 1977;
- 3 (6) Any employing unit for which service in employment as
4 defined in R.S.43:21-19 (i) (1) (c) is performed after December 31,
5 1971 and which in either the current or the preceding calendar year
6 paid remuneration for employment in the amount of \$1,000.00 or
7 more;
- 8 (7) Any employing unit not an employer by reason of any other
9 paragraph of this subsection (h) for which, within either the current
10 or preceding calendar year, service is or was performed with respect
11 to which such employing unit is liable for any federal tax against
12 which credit may be taken for contributions required to be paid into
13 a state unemployment fund; or which, as a condition for approval of
14 the "unemployment compensation law" for full tax credit against
15 the tax imposed by the Federal Unemployment Tax Act, is required
16 pursuant to such act to be an employer under this chapter
17 (R.S.43:21-1 et seq.);
- 18 (8) (Deleted by amendment; P.L.1977, c.307.)
- 19 (9) (Deleted by amendment; P.L.1977, c.307.)
- 20 (10) (Deleted by amendment; P.L.1977, c.307.)
- 21 (11) Any employing unit subject to the provisions of the Federal
22 Unemployment Tax Act within either the current or the preceding
23 calendar year, except for employment hereinafter excluded under
24 paragraph (7) of subsection (i) of this section;
- 25 (12) Any employing unit for which agricultural labor in
26 employment as defined in R.S.43:21-19 (i) (1) (I) is performed after
27 December 31, 1977;
- 28 (13) (a) Any employing unit for which domestic service in
29 employment as defined in R.S.43:21-19 (i) (1) (J) is performed after
30 December 31, 1977 and before January 1, 2022; and
- 31 (b) Any employing unit or hiring entity for domestic services as
32 defined in section 2 of P.L. , c. (C.)(pending before the
33 Legislature as this bill);
- 34 (14) Any employing unit which having become an employer
35 under the "unemployment compensation law" (R.S.43:21-1 et seq.),
36 has not under R.S.43:21-8 ceased to be an employer; or for the
37 effective period of its election pursuant to R.S.43:21-8, any other
38 employing unit which has elected to become fully subject to this
39 chapter (R.S.43:21-1 et seq.).
- 40 (i) (1) "Employment" means:
- 41 (A) Any service performed prior to January 1, 1972, which was
42 employment as defined in the "unemployment compensation law"
43 (R.S.43:21-1 et seq.) prior to such date, and, subject to the other
44 provisions of this subsection, service performed on or after January
45 1, 1972, including service in interstate commerce, performed for
46 remuneration or under any contract of hire, written or oral, express
47 or implied.

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

7 (ii) Service performed after December 31, 1977, in the employ
8 of this State or any of its instrumentalities or any political
9 subdivision thereof or any of its instrumentalities or any
10 instrumentality of more than one of the foregoing or any
11 instrumentality of the foregoing and one or more other states or
12 political subdivisions, if such service is not excluded from
13 "employment" under paragraph (D) below.

14 (C) Service performed after December 31, 1971 by an individual
15 in the employ of a religious, charitable, educational, or other
16 organization, which is excluded from "employment" as defined in
17 the Federal Unemployment Tax Act, solely by reason of section
18 3306 (c)(8) of that act, if such service is not excluded from
19 "employment" under paragraph (D) below.

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

22 (i) In the employ of (I) a church or convention or association of
23 churches, or (II) an organization, or school which is operated
24 primarily for religious purposes and which is operated, supervised,
25 controlled or principally supported by a church or convention or
26 association of churches;

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

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

35 (aa) as an elected official;

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

38 (cc) as a member of the State National Guard or Air National
39 Guard;

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

42 (ee) in a position which, under or pursuant to the laws of this
43 State, is designated as a major nontenured policy making or
44 advisory position, or a policy making or advisory position, the
45 performance of the duties of which ordinarily does not require more
46 than eight hours per week; or

47 (iv) By an individual receiving rehabilitation or remunerative
48 work in a facility conducted for the purpose of carrying out a

1 program of rehabilitation of individuals whose earning capacity is
2 impaired by age or physical or mental deficiency or injury or
3 providing remunerative work for individuals who because of their
4 impaired physical or mental capacity cannot be readily absorbed in
5 the competitive labor market;

6 (v) By an individual receiving work-relief or work-training as
7 part of an unemployment work-relief or work-training program
8 assisted in whole or in part by any federal agency or an agency of a
9 state or political subdivision thereof; or

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

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

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

28 (ii) The American employer has no place of business in the
29 United States, but (I) the American employer is an individual who
30 is a resident of this State; or (II) the American employer is a
31 corporation which is organized under the laws of this State; or (III)
32 the American employer is a partnership or trust and the number of
33 partners or trustees who are residents of this State is greater than the
34 number who are residents of another state; or

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

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

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

8 (G) Notwithstanding any other provision of this subsection,
9 service in this State with respect to which the taxes required to be
10 paid under any federal law imposing a tax against which credit may
11 be taken for contributions required to be paid into a state
12 unemployment fund or which as a condition for full tax credit
13 against the tax imposed by the Federal Unemployment Tax Act is
14 required to be covered under the "unemployment compensation
15 law" (R.S.43:21-1 et seq.).

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

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

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

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

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

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

- 1 (bb) if such individual is not an employee of such other person
2 for whom services were performed.
- 3 (iii) For the purposes of subparagraph (I) (i) in the case of any
4 individual who is furnished by a crew leader to perform service in
5 agricultural labor or any other entity and who is not treated as an
6 employee of such crew leader under (I) (ii)
- 7 (aa) such other entity and not the crew leader shall be treated as
8 the employer of such individual; and
- 9 (bb) such other entity shall be treated as having paid cash
10 remuneration to such individual in an amount equal to the amount
11 of cash remuneration paid to such individual by the crew leader
12 (either on his own behalf or on behalf of such other entity) for the
13 service in agricultural labor performed for such other entity.
- 14 (iv) For the purpose of subparagraph (I)(ii), the term "crew
15 leader" means an individual who
- 16 (aa) furnishes individuals to perform service in agricultural labor
17 for any other entity;
- 18 (bb) pays (either on his own behalf or on behalf of such other
19 entity) the individuals so furnished by him for the service in
20 agricultural labor performed by them; and
- 21 (cc) has not entered into a written agreement with such other
22 entity under which such individual is designated as an employee of
23 such other entity.
- 24 (J) (i) Domestic service after December 31, 1977 and before
25 January 1, 2022 performed in the private home of an employing unit
26 which paid cash remuneration of \$1,000.00 or more to one or more
27 individuals for such domestic service in any calendar quarter in the
28 current or preceding calendar year.
- 29 (ii) Domestic services as defined by section 2 of P.L. _____,
30 c. (C. _____) (pending before the Legislature as this bill) after
31 December 31, 2021 in either the current or preceding calendar year
32 paid remuneration for employment in the amount of \$1,000 or
33 more.
- 34 (2) The term "employment" shall include an individual's entire
35 service performed within or both within and without this State if:
- 36 (A) The service is localized in this State; or
- 37 (B) The service is not localized in any state but some of the
38 service is performed in this State, and (i) the base of operations, or,
39 if there is no base of operations, then the place from which such
40 service is directed or controlled, is in this State; or (ii) the base of
41 operations or place from which such service is directed or
42 controlled is not in any state in which some part of the service is
43 performed, but the individual's residence is in this State.
- 44 (3) Services performed within this State but not covered under
45 paragraph (2) of this subsection shall be deemed to be employment
46 subject to this chapter (R.S.43:21-1 et seq.) if contributions are not
47 required and paid with respect to such services under an

1 unemployment compensation law of any other state or of the federal
2 government.

3 (4) Services not covered under paragraph (2) of this subsection
4 and performed entirely without this State, with respect to no part of
5 which contributions are required and paid under an unemployment
6 compensation law of any other state or of the federal government,
7 shall be deemed to be employment subject to this chapter
8 (R.S.43:21-1 et seq.) if the individual performing such services is a
9 resident of this State and the employing unit for whom such
10 services are performed files with the division an election that the
11 entire service of such individual shall be deemed to be employment
12 subject to this chapter (R.S.43:21-1 et seq.).

13 (5) Service shall be deemed to be localized within a state if:

14 (A) The service is performed entirely within such state; or

15 (B) The service is performed both within and without such state,
16 but the service performed without such state is incidental to the
17 individual's service within the state; for example, is temporary or
18 transitory in nature or consists of isolated transactions.

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

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

26 (B) Such service is either outside the usual course of the
27 business for which such service is performed, or that such service is
28 performed outside of all the places of business of the enterprise for
29 which such service is performed; and

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

32 (7) Provided that such services are also exempt under the
33 Federal Unemployment Tax Act, as amended, or that contributions
34 with respect to such services are not required to be paid into a state
35 unemployment fund as a condition for a tax offset credit against the
36 tax imposed by the Federal Unemployment Tax Act, as amended,
37 the term "employment" shall not include:

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

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

46 (ii) for some portion of a day in each of 20 different calendar
47 weeks, whether or not such weeks were consecutive, in either the
48 current or the preceding calendar year, employed in agricultural

1 labor 10 or more individuals, regardless of whether they were
2 employed at the same moment in time;

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

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

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

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

24 (F) Service performed in the employ of the United States
25 Government or of any instrumentality of the United States exempt
26 under the Constitution of the United States from the contributions
27 imposed by the "unemployment compensation law," except that to
28 the extent that the Congress of the United States shall permit states
29 to require any instrumentalities of the United States to make
30 payments into an unemployment fund under a state unemployment
31 compensation law, all of the provisions of this act shall be
32 applicable to such instrumentalities, and to service performed for
33 such instrumentalities, in the same manner, to the same extent and
34 on the same terms as to all other employers, employing units,
35 individuals and services; provided that if this State shall not be
36 certified for any year by the Secretary of Labor of the United States
37 under section 3304 of the federal Internal Revenue Code of 1986
38 (26 U.S.C. s.3304), the payments required of such instrumentalities
39 with respect to such year shall be refunded by the division from the
40 fund in the same manner and within the same period as is provided
41 in R.S.43:21-14 (f) with respect to contributions erroneously paid to
42 or collected by the division;

43 (G) Services performed in the employ of fraternal beneficiary
44 societies, orders, or associations operating under the lodge system
45 or for the exclusive benefit of the members of a fraternity itself
46 operating under the lodge system and providing for the payment of
47 life, sick, accident, or other benefits to the members of such society,
48 order, or association, or their dependents;

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1 (H) Services performed as a member of the board of directors, a
2 board of trustees, a board of managers, or a committee of any bank,
3 building and loan, or savings and loan association, incorporated or
4 organized under the laws of this State or of the United States, where
5 such services do not constitute the principal employment of the
6 individual;

7 (I) Service with respect to which unemployment insurance is
8 payable under an unemployment insurance program established by
9 an Act of Congress;

10 (J) Service performed by agents of mutual fund brokers or
11 dealers in the sale of mutual funds or other securities, by agents of
12 insurance companies, exclusive of industrial insurance agents or by
13 agents of investment companies, if the compensation to such agents
14 for such services is wholly on a commission basis;

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

17 (L) Services performed in the employ of any veterans'
18 organization chartered by Act of Congress or of any auxiliary
19 thereof, no part of the net earnings of which organization, or
20 auxiliary thereof, inures to the benefit of any private shareholder or
21 individual;

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

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

34 (O) Services performed in the sale or distribution of merchandise
35 by home-to-home salespersons or in-the-home demonstrators whose
36 remuneration consists wholly of commissions or commissions and
37 bonuses;

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

41 (Q) Service performed in the employ of an instrumentality
42 wholly owned by a foreign government if (i) the service is of a
43 character similar to that performed in foreign countries by
44 employees of the United States Government or of an instrumentality
45 thereof, and (ii) the division finds that the United States Secretary
46 of State has certified to the United States Secretary of the Treasury
47 that the foreign government, with respect to whose instrumentality
48 exemption is claimed, grants an equivalent exemption with respect

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- 1 to similar services performed in the foreign country by employees
2 of the United States Government and of instrumentalities thereof;
- 3 (R) Service in the employ of an international organization
4 entitled to enjoy the privileges, exemptions and immunities under
5 the International Organizations Immunities Act (22 U.S.C. s.288 et
6 seq.);
- 7 (S) Service covered by an election duly approved by an agency
8 charged with the administration of any other state or federal
9 unemployment compensation or employment security law, in
10 accordance with an arrangement pursuant to R.S.43:21-21 during
11 the effective period of such election;
- 12 (T) Service performed in the employ of a school, college, or
13 university if such service is performed (i) by a student enrolled at
14 such school, college, or university on a full-time basis in an
15 educational program or completing such educational program
16 leading to a degree at any of the severally recognized levels, or (ii)
17 by the spouse of such a student, if such spouse is advised at the time
18 such spouse commences to perform such service that (I) the
19 employment of such spouse to perform such service is provided
20 under a program to provide financial assistance to such student by
21 such school, college, or university, and (II) such employment will
22 not be covered by any program of unemployment insurance;
- 23 (U) Service performed by an individual who is enrolled at a
24 nonprofit or public educational institution which normally
25 maintains a regular faculty and curriculum and normally has a
26 regularly organized body of students in attendance at the place
27 where its educational activities are carried on, as a student in a full-
28 time program, taken for credit at such institution, which combines
29 academic instruction with work experience, if such service is an
30 integral part of such program, and such institution has so certified
31 to the employer, except that this subparagraph shall not apply to
32 service performed in a program established for or on behalf of an
33 employer or group of employers;
- 34 (V) Service performed in the employ of a hospital, if such
35 service is performed by a patient of the hospital; service performed
36 as a student nurse in the employ of a hospital or a nurses' training
37 school by an individual who is enrolled and regularly attending
38 classes in a nurses' training school approved under the laws of this
39 State;
- 40 (W) Services performed after the effective date of this
41 amendatory act by agents of mutual benefit associations if the
42 compensation to such agents for such services is wholly on a
43 commission basis;
- 44 (X) Services performed by operators of motor vehicles weighing
45 18,000 pounds or more, licensed for commercial use and used for
46 the highway movement of motor freight, who own their equipment
47 or who lease or finance the purchase of their equipment through an
48 entity which is not owned or controlled directly or indirectly by the

1 entity for which the services were performed and who were
2 compensated by receiving a percentage of the gross revenue
3 generated by the transportation move or by a schedule of payment
4 based on the distance and weight of the transportation move;

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

6 (Z) Services performed, using facilities provided by a travel
7 agent, by a person, commonly known as an outside travel agent,
8 who acts as an independent contractor, is paid on a commission
9 basis, sets his own work schedule and receives no benefits, sick
10 leave, vacation or other leave from the travel agent owning the
11 facilities.

12 (8) If one-half or more of the services in any pay period
13 performed by an individual for an employing unit constitutes
14 employment, all the services of such individual shall be deemed to
15 be employment; but if more than one-half of the service in any pay
16 period performed by an individual for an employing unit does not
17 constitute employment, then none of the service of such individual
18 shall be deemed to be employment. As used in this paragraph, the
19 term "pay period" means a period of not more than 31 consecutive
20 days for which a payment for service is ordinarily made by an
21 employing unit to individuals in its employ.

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

26 (A) The limousine franchisee is incorporated;

27 (B) The franchisee is subject to regulation by the Interstate
28 Commerce Commission;

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

32 (D) The franchisee registers with the Department of Labor and
33 Workforce Development and receives an employer registration
34 number.

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

46 For purposes of this paragraph (10): "legal transcription service"
47 and "legal transcribing" mean making use, by audio, video or voice
48 recording, of a verbatim record of court proceedings, depositions,

1 other judicial proceedings, meetings of boards, agencies,
2 corporations, or other bodies or groups, and causing that record to
3 be printed in readable form or produced on a computer screen in
4 readable form; and "legal transcriber" means a person who engages
5 in "legal transcribing."

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

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

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

13 (m) "Unemployment."

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

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

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

29 (2) The term "remuneration" with respect to any individual for
30 benefit years commencing on or after July 1, 1961, and as used in
31 this subsection, shall include only that part of the same which in
32 any week exceeds 20% of his weekly benefit rate (fractional parts
33 of a dollar omitted) or \$5.00, whichever is the larger, and shall not
34 include any moneys paid to an individual by a county board of
35 elections for work as a board worker on an election day.

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

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

44 (o) "Wages" means remuneration paid by employers for
45 employment. If a worker receives gratuities regularly in the course
46 of his employment from other than his employer, his "wages" shall
47 also include the gratuities so received, if reported in writing to his
48 employer in accordance with regulations of the division, and if not

1 so reported, his "wages" shall be determined in accordance with the
2 minimum wage rates prescribed under any labor law or regulation
3 of this State or of the United States, or the amount of remuneration
4 actually received by the employee from his employer, whichever is
5 the higher.

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

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

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

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

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

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

20 (A) Any calendar week during which the individual earned in
21 employment from an employer remuneration not less than an
22 amount which is 20% of the Statewide average weekly
23 remuneration defined in subsection (c) of R.S.43:21-3 which
24 amount shall be adjusted to the next higher multiple of \$1.00 if not
25 already a multiple thereof, except that if in any calendar week an
26 individual subject to this subparagraph (A) is in employment with
27 more than one employer, the individual may in that calendar week
28 establish a base week with respect to each of the employers from
29 whom the individual earns remuneration equal to not less than the
30 amount defined in this subparagraph (A) during that week; or

31 (B) If the individual does not establish in his base year 20 or
32 more base weeks as defined in subparagraph (A) of this paragraph
33 (2), any calendar week of an individual's base year during which the
34 individual earned in employment from an employer remuneration
35 not less than an amount 20 times the minimum wage in effect
36 pursuant to section 5 of P.L.1966, c.113 (C.34:11-56a4) on October
37 1 of the calendar year preceding the calendar year in which the
38 benefit year commences, which amount shall be adjusted to the next
39 higher multiple of \$1.00 if not already a multiple thereof, except
40 that if in any calendar week an individual subject to this
41 subparagraph (B) is in employment with more than one employer,
42 the individual may in that calendar week establish a base week with
43 respect to each of the employers from whom the individual earns
44 remuneration not less than the amount defined in this subparagraph
45 (B) during that week.

46 (3) "Base week," commencing on or after January 1, 2001,
47 means any calendar week during which the individual earned in
48 employment from an employer remuneration not less than an

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1 amount 20 times the minimum wage in effect pursuant to section 5
2 of P.L.1966, c.113 (C.34:11-56a4) on October 1 of the calendar
3 year preceding the calendar year in which the benefit year
4 commences, which amount shall be adjusted to the next higher
5 multiple of \$1.00 if not already a multiple thereof, except that if in
6 any calendar week an individual subject to this paragraph (3) is in
7 employment with more than one employer, the individual may in
8 that calendar week establish a base week with respect to each of the
9 employers from whom the individual earns remuneration equal to
10 not less than the amount defined in this paragraph (3) during that
11 week.

12 (u) "Average weekly wage" means the amount derived by
13 dividing an individual's total wages received during his base year
14 base weeks (as defined in subsection (t) of this section) from that
15 most recent base year employer with whom he has established at
16 least 20 base weeks, by the number of base weeks in which such
17 wages were earned. In the event that such claimant had no employer
18 in his base year with whom he had established at least 20 base
19 weeks, then such individual's average weekly wage shall be
20 computed as if all of his base week wages were received from one
21 employer and as if all his base weeks of employment had been
22 performed in the employ of one employer.

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

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

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

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

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

46 (A) In which participants, trainees, or students are offered an
47 organized course of study or training designed to transfer to them

1 knowledge, skills, information, doctrines, attitudes or abilities from,
2 by or under the guidance of an instructor or teacher;

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

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

10 (2) "Institution of higher education" means an educational
11 institution which:

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

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

17 (C) Provides an educational program for which it awards a
18 bachelor's or higher degree, or provides a program which is
19 acceptable for full credit toward such a degree, a program of post-
20 graduate or post-doctoral studies, or a program of training to
21 prepare students for gainful employment in a recognized
22 occupation; and

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

24 Notwithstanding any of the foregoing provisions of this
25 subsection, all colleges and universities in this State are institutions
26 of higher education for purposes of this section.

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

29 (cf: P.L.2017, c.230, s.1)

30

31 15. (New section) Except as otherwise provided, the following
32 minimum terms, and such other minimum terms as may be
33 established by the department by regulation, shall apply to a work
34 relationship between a domestic worker and a hiring entity:

35 a. Written agreements. No employer shall employ a domestic
36 worker, except for casual work or work of less than five hours per
37 month, unless the engagement is governed by a written contract
38 governing the following: a specific list of job duties; hourly wage
39 and overtime wage; weekly schedule including number of hours per
40 week; the manner and frequency of payment; breaks for rest and
41 meals; paid or unpaid leave including sick time; paid holidays; any
42 other benefits provided; modes of transportation required and
43 whether provided; value of housing if provided; sleeping period and
44 personal time for live-in workers; the term of the contract; and any
45 other terms and conditions as agreed upon by the domestic worker
46 and employer or as mandated pursuant to this act. The written
47 agreement shall be signed and dated by all parties after ample
48 opportunity to review.

- 1 b. The written agreement required under this section shall not
2 be construed to waive the protections of domestic workers under
3 federal, State, and local laws and shall not contain any:
- 4 (1) Mandatory pre-dispute arbitration agreement for claims
5 made by a covered domestic worker against a domestic work hiring
6 entity regarding the local rights of the worker; and
- 7 (2) Non-disclosure agreement, restrictive covenant, or non-
8 disparagement agreement, limiting the ability of the covered
9 domestic worker to seek compensation for performing domestic
10 services after the worker ceases to receive compensation from the
11 domestic work hiring entity for the performance of domestic
12 services.
- 13 c. The agreement shall be in English and such other language
14 as may be preferred by the worker. The hiring entity shall make
15 reasonable efforts to determine if the worker would prefer the
16 agreement to be in another language.
- 17 d. The department shall make available model contracts
18 complying with this act shall in multiple languages on its Internet
19 website.
- 20 e. A referral and employment agency shall provide domestic
21 workers and hiring entities with information concerning the contract
22 requirements of this act at the time a hiring entity is connected with
23 a worker and shall make any model contracts adopted by the
24 department available to the hiring entity.
- 25
- 26 16. (New section) a. The hiring entity shall allow the domestic
27 worker an uninterrupted paid rest-period of not less than ten
28 minutes for each four consecutive hours worked, unless the nature
29 of the work prevents the domestic worker from being relieved of all
30 duties for such period of time, such as some types of child care and
31 caretaker work for a sick, elderly or disabled person. The hiring
32 entity shall pay the domestic worker for the time spent on a rest
33 break at the domestic worker's regular rate of pay.
- 34 b. The hiring entity shall allow an uninterrupted 30-minute
35 meal break after more than five consecutive hours worked. Unless
36 the domestic worker is relieved of all work duties during such 30-
37 minute period, the meal period shall be considered an "on-duty"
38 meal period and shall be paid at the domestic worker's regular rate
39 of pay.
- 40 (1) An "on-duty" meal period shall be permitted only when the
41 nature of the work prevents a domestic worker from being relieved
42 of all duties and when, by written agreement between the parties, an
43 "on-duty" meal period is agreed to. The agreement may be revoked
44 by the domestic worker, in writing, at any time.
- 45 c. The hiring entity shall not impede or discourage a domestic
46 worker from taking any meal or rest breaks.
- 47 d. Failure to allow a meal or rest period in accordance with this
48 paragraph (1) shall entitle the domestic worker to one additional

1 hour of pay at the domestic worker's regular rate of compensation
2 for each workday that the meal or rest period was not provided.
3 Payment of this extra pay shall not excuse non-compliance with this
4 subsection.

5

6 17. (New section) A "live-in" domestic worker shall not be
7 required to work more than six consecutive days for the same hiring
8 entity without a 24-hour period of rest, which may be unpaid.

9

10 18. (New section) a. The hiring entity shall provide a minimum
11 two-week notification period before termination of employment,
12 and for live-in domestic workers a minimum four-week notification
13 period before termination of employment. No notification period is
14 required in connection with the termination of casual work
15 performed for a hiring entity.

16 b. The hiring entity may terminate the employment without
17 complying with the full notification period based on a good-faith
18 belief that the domestic worker has engaged in significant
19 misconduct.

20 c. Failure to provide notification as required under this section
21 shall entitle the domestic worker to severance pay in the amount of
22 the worker's regular hourly rate multiplied by the regular number of
23 hours worked over the period of time during which the required
24 notification was not provided.

25

26 19. (New section) No hiring entity shall:

27 a. Keep or hold the original copies of any personal documents
28 of a domestic worker;

29 b. Monitor or record, through any means, the activities of a
30 domestic worker:

31 (1) using any bathroom or similar facility;

32 (2) in the living quarters of a domestic worker; or

33 (3) while the worker is engaged in any activities associated with
34 dressing or changing clothes; or

35 c. Monitor, record or interfere with the private communications
36 of a domestic worker.

37

38 20. (New section) a. A hiring entity shall provide to a domestic
39 worker notification of the rights of domestic workers under P.L. ,

40 c. (C. et seq.) (pending before the Legislature as this bill),
41 and information on how to file a complaint for violation of these
42 rights, as shall be determined by the department by regulation.

43 b. A hiring entity shall create and maintain records
44 documenting hours worked, pay rate, meals and rest breaks, leave
45 time earned and used, if applicable, and the existence of a written
46 agreement, all pursuant to requirements established by regulation by
47 the department. If a hiring entity does not maintain the required
48 records or does not allow the department reasonable access to the

1 records, an adverse inference may be drawn with respect to facts
2 alleged regarding the issues about which records were not kept.

3 c. The department shall maintain the confidentiality of all
4 records it obtains in connection with enforcement activities to the
5 full extent permitted by law.
6

7 21. (New section) a. It shall be unlawful for a hiring entity or
8 any other person to interfere with, restrain, or deny the exercise of,
9 or the attempt to exercise, any right set forth in P.L. ,
10 c. (C. et seq.) (pending before the Legislature as this bill).

11 b. The minimum requirements of sections 15 through 20 of
12 P.L. , c. (C.) (pending before the Legislature as this bill)
13 shall be deemed incorporated into any contract, whether actual or
14 implied, between the employer and the domestic worker.

15 c. A material breach by a hiring entity of a contract with a
16 domestic worker shall constitute a violation of P.L. ,
17 c. (C. et seq.) (pending before the Legislature as this bill),
18 without regard to whether the breach is of a provision required by
19 this act.

20 d. No hiring entity or any other person shall take or threaten
21 retaliatory action against any person because a domestic worker has
22 exercised rights or pursued a claim of violation under P.L. ,
23 c. (C. et seq.) (pending before the Legislature as this bill).
24 These rights include the right to demand compliance with
25 protections established by written agreement; the right to file a
26 complaint or inform any person about an employer's alleged
27 violation of this act; the right to cooperate with the department in
28 any investigation pursuant to this act; and the right to inform any
29 person of the rights established under this act.

30 e. No hiring entity or any other person shall communicate to a
31 person exercising rights protected under P.L. c. (C.)
32 (pending before the Legislature as this bill) the willingness or intent
33 to contact, report to, or to make an implied or express assertion to
34 report to a government agency regarding the suspected citizenship
35 or immigration status of a domestic worker or family member of a
36 domestic worker because the worker has or has expressed an intent
37 to exercise rights protected under this act or because of a belief the
38 worker may do so.

39 f. The protections of this section shall apply to any person who
40 mistakenly but in good faith alleges a violation of P.L. ,
41 c. (C. et seq.) (pending before the Legislature as this bill).

42 g. It shall be considered a rebuttable presumption of retaliation
43 if the hiring entity or any other person takes an adverse action
44 against a domestic worker within 90 calendar days of the worker's
45 exercise of rights protected in P.L. c. (C. et seq.) (pending
46 before the Legislature as this bill). However, in the case of
47 temporary or seasonal employment that ended before the close of
48 the 90 calendar day period, the presumption also applies if the

1 hiring entity fails to rehire a former domestic worker at the next
2 opportunity for work in the same position. The hiring entity may
3 rebut the presumption with clear and convincing evidence that the
4 adverse action would have been taken in the absence of such
5 protected activity.

6 h. Proof of retaliation under P.L. , c. (C. et seq.)
7 (pending before the Legislature as this bill) shall be sufficient upon
8 a showing that the hiring entity or any other person has taken an
9 adverse action against a person and the persons exercise or rights
10 protected in P.L. , c. (C. et seq.) (pending before the
11 Legislature as this bill) was a motivating factor in the absence of
12 that protected activity.

13 i. A complaint or other communication by any person triggers
14 the protection of P.L. , c. (C. et seq.) (pending before the
15 Legislature as this bill) regardless of whether the complaint or
16 communication is in writing or makes explicit reference to P.L. ,
17 c. (C.) (pending before the Legislature as this bill).

18
19 22. (New section) The department is authorized to coordinate
20 implementation, administration, and enforcement for P.L. ,
21 c. (C.) (pending before the Legislature as this bill), and shall
22 promulgate appropriate guidelines and regulations to effectuate the
23 purposes of for P.L. , c. (C.) (pending before the
24 Legislature as this bill) through the Domestic Workers Standards
25 and Implementation Board, established in section 25 of P.L. ,
26 c. (C.)(pending before the Legislature as this bill).

27
28 23. (New section) a. Individuals and hiring entities with an
29 overlapping employment relationship with a domestic worker are
30 subject to joint and several liability, and concurrent finds and
31 penalties, in connection with P.L. , c. (C.) (pending before
32 the Legislature as this bill).

33 b. A domestic worker or other person representing a domestic
34 worker may report to the department any suspected violation of
35 P.L. , c. (C.) (pending before the Legislature as this bill).

36 c. The department shall collaborate with the Domestic Workers
37 Standards and Implementation Board, as established by section 25
38 of P.L. , c. (C.) (pending before the Legislature as this bill)
39 to take any steps as it deems appropriate to resolve complaints and
40 enforce P.L. , c. (C.) (pending before the Legislature as
41 this bill), including, but not limited to, establishing a system to
42 receive complaints regarding noncompliance with P.L. ,
43 c. (C.) (pending before the Legislature as this bill),
44 investigating alleged violations in a timely manner and resolving
45 complaints through a separate “referral” process for claims of
46 employees in domestic services.

47 d. The department shall have the power to subpoena records
48 and testimony from any party to a complaint. The records shall be

1 provided to the department within 30 days after receipt of the
2 subpoena.

3 e. Any person alleging a violation of P.L. , c. (C.)
4 (pending before the Legislature as this bill) shall file a complaint
5 with the department within two years of the date that the person
6 knew or should have known of the alleged violation.

7 f. Upon establishment of a system of administrative
8 adjudication, the department shall have the power to impose the
9 penalties and fines for a violation of P.L. , c. (C.) (pending
10 before the Legislature as this bill), and to provide or obtain
11 appropriate relief. Remedies may include reinstatement and full
12 restitution to the domestic worker for lost wages and benefits,
13 including presumed damages to be awarded to a domestic worker
14 for the hiring entity's violation of P.L. , c. (C.) (pending
15 before the Legislature as this bill). The department shall determine
16 by regulation an amount of presumed damages.

17 g. A hiring entity who knowingly retaliates against an
18 employee for any activity protected under P.L. , c. (C.)
19 (pending before the Legislature as this bill), or any other knowing
20 violation of P.L. , c. (C.) (pending before the Legislature
21 as this bill), shall be a crime of the fourth degree. Otherwise, it
22 shall be a disorderly persons offense and the hiring entity shall,
23 upon conviction for a violation, be punished by a fine of not less
24 than \$100 not more than \$2,000 for an initial violation and not less
25 than \$200 nor more than \$4,000 for each subsequent violation.
26 Each day during which any violation of P.L. , c. (C.)
27 (pending before the Legislature as this bill) continues shall
28 constitute a separate and distinct offense, and the employment of
29 any domestic worker in violation of P.L. , c. (C.) (pending
30 before the Legislature as this bill), shall, with respect to each
31 domestic worker employed, constitute a separate and violation.

32 h. Any domestic worker or person who is aggrieved by a
33 violation of P.L. , c. (C.) (pending before the Legislature
34 as this bill), or the department may bring civil action in a court of
35 competent jurisdiction against a hiring entity violating P.L. ,
36 c. (C.) (pending before the Legislature as this bill). Nothing
37 in P.L. , c. (C.) (pending before the Legislature as this bill)
38 or its implementing regulations shall be construed to require a
39 complaint to be filed with the department before bringing an action
40 in court. Upon prevailing in an action brought pursuant to this
41 section, an aggrieved person shall be entitled to any legal or
42 equitable relief as may be appropriate to remedy the violation, that
43 is not duplicative of any relief provided to the person in
44 administrative proceedings, including, without limitation,
45 reinstatement in employment, back pay, and injunctive relief. The
46 aggrieved person shall be entitled to an award of reasonable
47 attorney's fees and costs.

1 24. (New section) a. The department shall, upon appropriation
2 of funds to the department for purposes of this section, establish and
3 maintain a Domestic Work Enforcement Program in collaboration
4 with qualified organizations. P.L. , c. (C.) (pending before
5 the Legislature as this bill) requires the department to issue a
6 competitive request to community-based organizations (CBOs) to
7 provide education and outreach services in this program and would
8 prescribe requirements for these organizations. The CBOs would
9 be responsible for developing and consulting with the department
10 regarding the core education and outreach materials, as specified.
11 The program shall increase the capacity and expertise of the
12 department to improve education and enforcement of labor
13 standards in the domestic work industry. The program shall
14 include, but not be limited to, the following:

15 (1) Education and training for domestic work employees and
16 hiring entities addressing minimum wage, overtime, sick leave,
17 recordkeeping, wage adjudication, and retaliation, along with new
18 rights extended by P.L. , c. (C.) (pending before the
19 Legislature as this bill);

20 (2) Training for domestic worker leaders to provide peer-to-peer
21 support and wraparound service referrals to domestic work
22 employees who have elected to file wage claims or take other
23 actions seeking remedy from hiring entities;

24 (3) Development of core training curriculum to be used in the
25 education and training of domestic work employees and hiring
26 entities;

27 (4) Provision of technical and legal assistance to domestic work
28 employees through a Statewide telephone help line and the
29 promotion of the help line to domestic worker populations; and

30 (5) Development of an online resource hub to provide
31 information for hiring entities on State labor laws and guidelines on
32 fair employment.

33 b. Qualified organizations that collaborate under subsection a.
34 of this section shall issue reports and meet quarterly with the
35 department to review the implementation and success of the
36 program.

37 c. (1) A nonprofit organization that has a minimum of five
38 years of experience working with domestic work employees or
39 hiring entities; or

40 (2) An organization that works with nonprofit organizations that
41 has a minimum of five years of experience working with domestic
42 work employees or hiring entities.

43
44 25. (New section) a. The department shall establish, within 90
45 days of the date of enactment of P.L. , c. (C.) (pending
46 before the Legislature as this bill), a “Domestic Workers Standards
47 and Implementation Board” (Board), which shall be established to
48 provide a forum for hiring entities, domestic workers, worker

1 organizations, and the public to consider analyze, and make
2 recommendations to the State on the legal protections, benefits, and
3 working conditions for domestic worker industry standards. The
4 board shall be established to permanently promote the health,
5 safety, and well-being of domestic workers; and a living wage for
6 domestic workers along with development of the mechanisms to
7 support implementation of P.L. , c. (C. (pending before the
8 Legislature as this bill), including the development of regulations
9 promulgated under P.L. , c. (C.)(pending before the
10 Legislature as this bill). The board shall also make
11 recommendations to the department regarding enforcement and
12 implementation strategies, including the development of the
13 Domestic Work Enforcement Program.

14 b. (1) The board shall consist of 13 members composed of
15 members with expertise in labor standards, wage theft, law, and
16 policy; and domestic worker industry. The board shall meet at least
17 quarterly, and all meetings shall be open to the public. The board
18 shall create by-laws in order to conduct and structure future
19 meetings including, but not limited to, scheduling quarterly
20 meetings, determining recommended timetables for submission of
21 recommendations to the Legislature, the Department of Labor and
22 Workforce Development, the Governor's Office, determining term
23 lengths and appointments of individuals to the board. All State
24 departments, agencies, boards, commissions shall support and
25 cooperate with the board and provide the board with any data it may
26 need which may include logistical support in regard to translation,
27 interpretation, and outreach to ensure equal access and equity of
28 domestic worker representatives and hiring entities on the board.
29 The board will be comprised of various stakeholders from the
30 private, non-profit sectors, domestic workers, hiring entities, and
31 will have representation from members of the Department of Labor
32 and Workforce Development, and Governor's office; and

33 (2) (a) The Governor shall appoint seven members as follows:

34 (i) one representative from the Department of Labor and
35 Workforce Development;

36 (ii) one representative from the National Domestic Workers
37 Alliance;

38 (iii) one representative from a labor or union organization;

39 (iv) two representatives from a State-based community
40 organization or worker center, which is focused on the rights of
41 low-wage and immigrant workers;

42 (v) one domestic worker; and

43 (vi) one hiring entity; and

44 (b) The Legislature shall appoint six members as follows: three
45 members to be appointed by the President of the Senate and three
46 members to be appointed by the Speaker of the General Assembly,
47 as follows:

- 1 (i) four domestic workers, two each selected respectively by the
2 President of the Senate and the Speaker of the General Assembly;
3 and
4 (ii) two hiring entities, one each selected respectively by the
5 President of the Senate and the Speaker of the General Assembly.
- 6 c. The board's responsibilities include, but are not limited to,
7 providing a forum for hiring entities, domestic workers, worker
8 organizations, and other affected parties to share information,
9 insights, and experiences on the working conditions of domestic
10 workers, and recommendations on how the working conditions can
11 be changed to meet the needs of domestic workers and hiring
12 entities. These recommendations shall include:
13 (1) possible legislation or policy changes;
14 (2) wage standards for the industry;
15 (3) development and advancement of enforcement and
16 implementation efforts in collaboration with the department; and
17 (4) the promulgation of regulations to enforce P.L. ,
18 c. (C.) (pending before the Legislature as this bill).
- 19 d. The board, in consultation with the department and other
20 State agencies, within six months after all members have been
21 established, shall submit to the Governor, and Legislature, pursuant
22 to section 2 of P.L.1991, c.164 (C.52:14-19.1), with oversight by
23 the department, a work plan identifying the topics the board will
24 address in the first two years. The board in consultation with the
25 department and other relevant State agencies, shall submit an
26 updated work plan every two years. The board's first
27 recommendation shall be submitted to the Governor and Legislature
28 by the end of the first quarter of the year following the year in
29 which the work plan has been submitted.
- 30 Within 120 days from the date of receipt of any work plan
31 submitted by the board, the Legislature, through its committees that
32 consider labor subject matter, shall consider and respond to the
33 board's work plan. The response shall include proposed legislation
34 and policies, requests for additional information needed from the
35 board, requests for alternative plans from the board, reasons for
36 rejection of any plan submitted by the board, or an explanation of
37 why additional time is needed to submit a response to the board's
38 plan. Additionally, the Legislature, sua sponte, may notify the
39 board of any policies or legislation it may introduce for enactment,
40 request further information from the board, request that the board
41 develop alternatives, or take any other action that it deems
42 appropriate.
- 43 e. The board shall make recommendations to the Legislature on
44 the following subjects:
45 (1) Wage standards, such as industry standards, overtime, and
46 pay differentials;
47 (2) Training for hiring entities and domestic workers on federal,
48 State, and local labor laws, benefits, and protections,

- 1 discrimination, and sexual harassment, workplace health; and safety
2 standards;
- 3 (3) Jobs skills and professional development opportunities;
- 4 (4) Access to portable benefits, such as paid time off, retirement
5 pensions, health benefits, and paid family and disability leave;
- 6 (5) Workers' compensation and temporary disability benefits;
- 7 (6) Development and advancement of written agreement,
8 including notice of rights and recordkeeping templates;
- 9 (7) Outreach and enforcement strategies to ensure compliance
10 with P.L. , c. (C.) (pending before the Legislature as this
11 bill), and to provide effective information to both hiring entities and
12 domestic workers; and
- 13 (8) Any other emerging issues the board wishes to include in its
14 work plan.
- 15 f. Members of the board shall serve without compensation but
16 shall be reimbursed for the reasonable travel and other out-of-
17 pocket expenses incurred in the performance of their duties.

18
19 26. (New section) a. Nothing in P.L. , c. (C.) (pending
20 before the Legislature as this bill) shall be construed to diminish
21 any rights or protections granted to domestic workers by any other
22 law.

23 b. If any provision of P.L. , c. (C.) (pending before the
24 Legislature as this bill) or its application to any person or
25 circumstance is held invalid, the invalidity does not affect other
26 provisions or applications of P.L. , c. (C.) (pending before
27 the Legislature as this bill) which can be given effect without the
28 invalid provision or application, and to this end the provisions of
29 P.L. , c. (C.) (pending before the Legislature as this bill)
30 are severable.

31
32 27. This act shall take effect on the first day of the sixth month
33 next following enactment, except that the commissioner may take
34 any anticipatory action as may be necessary to effectuate the
35 purposes of this act.

36
37
38 STATEMENT

39
40 This bill creates various rights and employment protections for
41 domestic workers who, under the bill, are defined as hourly and
42 salaried employees, independent contractors, full-time and part-time
43 individuals and temporary individuals, and any worker who:

- 44 (1) works for one or more employer; and
- 45 (2) is an individual who works in the residence of the employer
46 for the purposes of caring for a child, serving as a companion or
47 caretaker for a sick, convalescing, or elderly person, or a person
48 with a disability; housekeeping or house cleaning; cooking;

1 providing food or butler service; parking cars; cleaning laundry;
2 gardening; personal organizing; or for any other domestic service
3 purpose.

4 The bill excludes from the definition of domestic worker any
5 individual taking care of or providing services to that individual's
6 family member; an individual primarily engaged in house sitting,
7 pet sitting, or dog walking; an individual working at a business
8 operating out of a residence, such as a home daycare business; an
9 individual whose primary work involves house repair or
10 maintenance, such a roofer, plumber, or other similar contractor; a
11 home health care aide while the aide is paid through public funds;
12 an individual established as a kinship legal guardian of a child who
13 lives in the residence, or an individual who participates in the
14 Kinship Navigator Program, as authorized by the Department of
15 Children and Families, as a caregiver of a child who lives in the
16 residence and receives services provided by a kinship navigator
17 service provider; and an individual less than 18 years of age.

18 The bill removes the exclusion of the domestic worker from the
19 "Law Against Discrimination," P.L.1945, c.169 (C.10:5-1 et seq.)
20 and the "New Jersey State Wage and Hour Law," P.L.1966, c.113
21 (C.34:11-56a et seq.).

22 The bill also provides privacy rights to domestic workers, and it
23 requires the employer or hiring entity to enter into a written contract
24 with the domestic worker.

25 The bill establishes penalties for violations of its provisions,
26 including penalties against retaliation by the employer or hiring
27 entity.

28 The bill creates the Domestic Workers Standards and
29 Implementation Board to monitor and review the implementation of
30 the bill and make policy recommendations to the State regarding
31 additional measures to be taken.

SENATE LABOR COMMITTEE

STATEMENT TO

SENATE, No. 723

with committee amendments

STATE OF NEW JERSEY

DATED: DECEMBER 1, 2022

The Senate Labor Committee reports favorably, with committee amendments, Senate Bill No. 723.

This bill creates various rights and employment protections for domestic workers. The bill:

1. removes the exclusion of domestic workers from the "Law Against Discrimination," P.L.1945, c.169 (C.10:5-1 et seq.) and the "New Jersey State Wage and Hour Law," P.L.1966, c.113 (C.34:11-56a et seq.);

2. prohibits employers from keeping original copies of personal documents of domestic workers and from making certain intrusions against the privacy rights to domestic workers;

3. requires the employer or hiring entity to enter into a written contract with the domestic worker and prohibits the contract from including non-disclosure provisions, restrictive covenants, or mandatory arbitration provisions;

4. sets requirements for uninterrupted rest and meal break times;

5. limits to six the number of consecutive days an employer may require a "live-in" domestic worker to work;

6. requires employers to provide domestic workers with a notification of their rights under the bill;

7. establishes penalties for violations of its provisions, including penalties against retaliation by the employer or hiring entity; and

8. creates the Domestic Workers Standards and Implementation Board to monitor and review the implementation of the bill and make policy recommendations to the State regarding additional measures to be taken.

The bill defines domestic workers as hourly and salaried employees, independent contractors, full-time and part-time individuals, and temporary individuals, each one of whom works for one or more employers, and works in residence caring for a child; serving as a companion or caretaker for a sick, convalescing, elderly, or disabled person; housekeeping or house cleaning; cooking; providing food or butler service; parking cars; cleaning laundry; gardening; personal organizing; or for any other domestic service purpose. The bill's definition of domestic worker excludes any individual providing care services for a family member of the

individual; an individual primarily engaged in house sitting, pet sitting, or dog walking; an individual working at a business operating out of a residence; an individual whose primary work involves house repair or maintenance; a home health care aide paid through Medicare or Medicaid; an individual who is a kinship legal guardian of a child, an individual participating in the Kinship Navigator Program; and an individual less than 18 years of age.

The amendments adopted by the committee:

1. update the effective dates of certain provisions in the bill;
2. replace certain references to “hiring entity” with “employer”;
3. remove an exclusion from the definition of “domestic worker” to ensure that all home care workers are covered, regardless of whether or not they serve consumers who are Medicaid or Medicare recipients;
4. remove language that amends the workers’ compensation law to apply the “ABC” test of the unemployment compensation law for determining who is an independent contractor to workers’ compensation;
5. apply all applicable occupational standards adopted under the federal “Occupational Safety and Health Act of 1970,” to domestic workers employed by individuals in their residences; and
6. make minor technical amendments.

SENATE BUDGET AND APPROPRIATIONS COMMITTEE

STATEMENT TO

[First Reprint]

SENATE, No. 723

with committee amendments

STATE OF NEW JERSEY

DATED: DECEMBER 14, 2023

The Senate Budget and Appropriations Committee reports favorably and with committee amendments Senate Bill No. 723 (1R).

As amended, this bill creates various rights and employment protections for domestic workers. The bill:

1. removes the exclusion of domestic workers from the "Law Against Discrimination," P.L.1945, c.169 (C.10:5-1 et seq.) and the "New Jersey State Wage and Hour Law," P.L.1966, c.113 (C.34:11-56a et seq.);

2. prohibits employers from keeping original copies of personal documents of domestic workers and from making certain intrusions against the privacy rights to domestic workers;

3. requires the employer or hiring entity to enter into a written contract with the domestic worker and prohibits the contract from including non-disclosure provisions, restrictive covenants, or mandatory arbitration provisions;

4. sets requirements for uninterrupted rest and meal break times;

5. limits to six the number of consecutive days an employer may require a "live-in" domestic worker to work;

6. requires employers to provide domestic workers with a notification of their rights under the bill;

7. establishes penalties for violations of its provisions, including penalties against retaliation by the employer or hiring entity; and

8. provides standards for on-duty breaks.

As amended, the bill defines domestic workers as hourly and salaried employees, full-time and part-time individuals, and temporary individuals, each one of whom works for one or more employers, and works in residence caring for a child; serving as a companion or caretaker for a sick, convalescing, elderly, or disabled person; housekeeping or house cleaning; cooking; providing food or butler service; parking cars; cleaning laundry; gardening; personal organizing; or for any other domestic service purpose. As amended, the bill's definition of domestic worker excludes any individual providing care services for a family member of the individual; an individual primarily engaged in house sitting, pet sitting, or dog

walking; an individual working at a business operating out of a residence; an individual whose primary work involves house repair or maintenance; a home health care aide paid through Medicare or Medicaid; an individual who is a kinship legal guardian of a child, and an individual participating in the Kinship Navigator Program.

COMMITTEE AMENDMENTS:

The committee amended the bill to:

(1) specify that if a domestic worker declines to be rehired to a position or resigns from a position, the rebuttable presumption of retaliation if the hiring entity or any other person takes an adverse action against a domestic worker within 90 calendar days of the worker's exercise of rights under the bill shall not apply;

(2) remove language that amended the definition of casual employment in the workers' compensation law;

(3) add a definition of significant misconduct to the section requiring notice of termination of employment, except in cases of significant misconduct;

(4) provide that the employer notification requirements for termination do not apply if:

(a) a domestic worker completes placement in a particular position and is not immediately placed or scheduled for another position by an employer if the employer is a temporary help service firm, employment agency, or other staffing or placement agency, but the domestic worker remains on the employer's payroll for future placement opportunities; or

(b) a domestic worker is employed by an employer that is an individual, whether or not the employer is the person receiving care from the domestic worker, and the domestic worker completes or fulfills all duties of the position, and there is no longer a practicable need for the position, including but not limited to, if the domestic worker's employer is an individual who has employed the domestic worker to care a person who is terminally ill person, and the terminally ill person passes away;

(5) provide standards for "on-duty" breaks;

(6) eliminate references to independent contractors and any other category that is not an employee;

(7) remove the establishment of the Domestic Workers Standards and Implementation Board;

(8) change certain definitions in the bill;

(9) remove the exception for minors under the definition of domestic worker in the bill; and

(10) make technical corrections.

FISCAL IMPACT:

Fiscal information for this bill is currently unavailable.

LEGISLATIVE FISCAL ESTIMATE

[First Reprint]

SENATE, No. 723

STATE OF NEW JERSEY 220th LEGISLATURE

DATED: FEBRUARY 15, 2023

SUMMARY

- Synopsis:** Creates “New Jersey Domestic Workers’ Bill of Rights Act.”
- Type of Impact:** Uncertain annual impacts on State revenue collections and expenditures.
- Agencies Affected:** Department of the Treasury; Department of Labor and Workforce Development.

Office of Legislative Services Estimate

Fiscal Impact	<u>Annual</u>
State Net Revenue Impact	Indeterminate
State Net Cost Impact	Indeterminate

- The Office of Legislative Services (OLS) is unable to determine the direction and magnitude of the bill’s net fiscal impact owing to uncertainty regarding the precise number of individuals who would benefit from the enactment of the bill and their current income, employer practices, and the countervailing effects of the bill on State revenue collections and expenditures related to a potential increase in reported minimum wage for those individuals.
- This Legislative Fiscal Estimate only identifies the often countervailing effects of the bill is likely to have on State government revenue collections and expenditures.

BILL DESCRIPTION

This bill creates various rights and employment protections for domestic workers.

The bill removes the exclusion of domestic workers from the Law Against Discrimination and the New Jersey State Wage and Hour Law; requires employers to provide domestic workers with a notification of their rights under the bill; establishes penalties for violations of its provisions, including penalties against retaliation by the employer or hiring entity; and creates the Domestic

Workers Standards and Implementation Board to monitor and review the implementation of the bill and make policy recommendations to the State regarding additional measures to be taken.

The bill defines domestic workers as hourly and salaried employees, independent contractors, full-time and part-time individuals, and temporary individuals, each one of whom works for one or more employers, and works in residence caring for a child; serving as a companion or caretaker for a sick, convalescing, elderly, or disabled person; housekeeping or house cleaning; cooking; providing food or butler service; parking cars; cleaning laundry; gardening; personal organizing; or for any other domestic service purpose. The bill's definition of domestic worker excludes any individual providing care services for a family member of the individual; an individual primarily engaged in house sitting, pet sitting, or dog walking; an individual working at a business operating out of a residence; an individual whose primary work involves house repair or maintenance; a home health care aide paid through Medicare or Medicaid; an individual who is a kinship legal guardian of a child, an individual participating in the Kinship Navigator Program; and an individual less than 18 years of age.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The OLS is unable to determine the direction and magnitude of the bill's net fiscal impact owing to uncertainty regarding the precise number of individuals who would benefit from the enactment of the bill and their current income, employer practices, and the countervailing effects of the bill on State revenue collections and expenditures related to a potential increase in reported minimum wage for those individuals.

State Revenues: The OLS cannot determine the net impact of a potential higher reported State minimum wage on State revenue collections, but it expects that the net outcome will depend upon a number of key factors, the magnitude of their individual impacts, and the extent to which the different impacts may offset one another. These include, but are not limited to, the number of taxpayers benefiting from an increase in income, their current income versus income reported as required under the bill, the proportion of any income increase or decrease, job losses, and the level of employers' compliance with the provisions of the bill.

The OLS anticipates a State revenue gain from employees whose wages will increase to at least the current State minimum wage per hour. These employees will have larger taxable incomes under the gross income tax and will pay more in payroll taxes (unemployment insurance and temporary disability and family leave insurance); and will qualify for a lower earned income tax credit or cease being eligible altogether. The OLS also anticipates a State revenue gain in employer payroll taxes (unemployment insurance, workers' compensation insurance, and temporary disability leave insurance) from employers whose employees' wages will increase to at least the current State minimum wage per hour.

Counteracting such gains, State revenue collections will decrease if the higher minimum wage causes employers to: (1) reduce their demand for labor by eliminating the need for the domestic worker or cutting hours, thereby lowering affected employees' incomes, gross income, and payroll

tax liabilities, and potentially increasing their earned income tax credit claims; and (2) absorb a decrease in employers' net income, thereby lowering their gross income tax liabilities.

Gross Income Tax: Tax data on the number of domestic workers who may be impacted by the enactment of this bill, their current income levels, and their current State tax liabilities are not available at the time of this Legislative Fiscal Estimate.

Gross income tax revenues would increase to the extent that certain domestic workers who report income below the statutory minimum filing thresholds would have their income boosted above the thresholds. In addition, revenues would also increase as complying employers withhold taxes from domestic workers who are currently paid in cash and do not report gross income tax. Most taxpayers become liable for New Jersey gross income tax when their gross income exceeds \$20,000, but for a single filer or a married spouse filing a separate return, the threshold is \$10,000. A taxpayer with income below the applicable minimum filing threshold does not owe tax.

For a domestic worker in the abovementioned example, the marginal tax rate of 1.75 percent would be applied to all the additional taxable income above the statutory \$20,000 income level, or \$17.50 per each \$1,000 of such additional taxable income. Also, this domestic worker would pay 1.4 percent tax on all income below the \$20,000 level, or \$280.

For purposes of illustration, a domestic worker who is paid an hourly wage of \$12.90 (worker employed by employer with less than six employees) per hour and works 35 hours each week during the year would have an annual gross income of approximately \$23,500. Assuming this domestic worker is a single filer who can only claim the personal exemption of \$1,000, the taxpayer's GIT liability would approximate \$210. If that domestic worker's hourly wage is increased to at least the State's minimum wage of \$14.13, the domestic worker's annual gross income would grow to \$28,400, resulting in a \$3,400 tax liability, a \$130 difference. For every 10,000 taxpayers who meet these criteria, the State would realize a recurring gross income tax revenue increase of \$1.3 million.

The OLS further notes that the enactment of the bill may result in some job losses, to the extent that some employees are priced out of the market, given that some employers may not be willing to pay additional payroll taxes, sick leave, workers' compensation insurance, or higher wages.

For purposes of illustration, in the abovementioned example for a single full-time domestic worker earning \$23,500 per year at the current minimum wage, the gross income tax collection is approximately \$210. For every 1,000 such domestic workers who lose a job due to the enactment of the bill, the State would see a \$210,000 gross income tax revenue reduction. Lastly, some employers may choose to reduce hours of employment due to higher wages, sick leave benefits, workers' compensation insurance, or higher employer payroll tax contributions, resulting in some additional State revenue losses. The OLS does not have enough information to estimate the number of potential job losses and the total possible State tax revenue loss.

Earned Income Tax Credit: If enacted, the bill may reduce the cost of the State earned income tax credit program, which is equal to 40 percent of the federal earned income tax credit, which provided \$657 million in estimated benefits to around 675,000 claimants in FY 2022. The earned income tax credit is a refundable tax credit for working people with low to moderate incomes that is administered through the gross income tax. Accordingly, any reduction in earned income tax credit benefits will increase gross income tax collections; however, the OLS is unable to estimate the potential annual fiscal impact of the legislation on the earned income tax credit program.

For 2022, a domestic worker employed full- or part-time would have had earned income and adjusted gross income which must each be less than: \$53,057 for a single filer (or \$59,187 if married filing jointly) with three or more qualifying dependent children – maximum NJ earned income tax credit of \$2,774; \$49,399 for a single filer (or \$55,529 if married filing jointly) with

two qualifying children – maximum NJ earned income tax credit of \$2,466; \$43,492 for a single filer (or \$49,622 if married filing jointly) with one qualifying child – maximum NJ earned income tax credit of \$1,493; and \$16,480 for a single filer (or \$22,610 if married filing jointly) with no qualifying children – maximum NJ earned income tax credit of \$224. Based on the income limits above, it is reasonable to assume that any domestic worker whose 2022 wages were \$59,187 or less was eligible for the 2022 Earned Income Tax Credits. The OLS notes that any increase in wages which would cause a domestic worker's total income to surpass the program's income eligibility, at \$59,187, would result in the domestic worker no longer receiving the credit, reducing the cost of the State earned income tax credit program reflected in increased gross income tax revenue collections.

Payroll Taxes: The OLS notes that the bill may result in annual increases in unemployment insurance, temporary disability, and family leave contributions from employers (employers do not contribute to the family leave program) and employees, provided that domestic workers' wages increase and there are income tax increases from informal domestic workers who currently do not report income tax.

To qualify for unemployment, temporary disability, or family leave benefits in 2023, an applicant must earn at least \$260 per week for 20 base weeks, or alternatively, earn at least \$13,000. Benefit eligibility criteria are based on the state minimum wage in effect on the date of the Legislative Fiscal Estimate, when the minimum wage in New Jersey is \$14.13 per hour for most employees.

Unemployment Insurance Fund.

Employer Contribution: The unemployment insurance fund's reserve ratio, in part, determines an employer's tax rate, which will increase as the reserve ratio falls in order to replenish the fund balance as unemployment benefits get paid out. Currently, unemployment contribution rates for employers in FY 2023 are set by column "D" of the Experience Rating Tax Table. The OLS notes that it is reasonable to assume, if the enactment of the bill leads to compliance with reportable income for some domestic workers or higher wages for others, an increase in employer contributions to the unemployment insurance compensation fund, which magnitude the OLS cannot determine. However, given the countervailing effects of the bill on higher income and loss of wages or jobs, and to what extent the two effects may offset one another, the OLS cannot determine the direction or magnitude in payroll benefits.

Employees Contribution: New Jersey is one of only three states in which employees are subject to a tax for unemployment insurance. In New Jersey, the tax on the employee is levied at a rate of 0.3825 percent on the first \$41,100 of income earned. Thus, in calendar year 2023, the maximum employee contribution is approximately \$157 per employee ($0.003825 \times 41,100$). If the enactment of the bill results in higher wages for some domestic workers and new reportable income for others, it is reasonable to assume an indeterminate, likely insignificant, increase in the employee contribution to the unemployment insurance fund. Given the regressive nature of this tax, gains in income by the domestic worker will be partially, if not fully, offset by contributions to the unemployment insurance fund.

Temporary Disability and Family Leave Insurance: The Department of Labor and Workforce Development announced in October 2022 a reduction in worker contribution rates for the calendar year 2023, with temporary disability dropping to zero percent, from .14 percent, and Family Leave decreasing by more than half, to .06 percent, from .14 percent. The family leave program is funded entirely through an assessment on workers' wages, the rate of which is set by the department

annually to cover anticipated program expenditures and a reserve requirement. The assessment equals the rate, which is projected to generate contributions equal to 125 percent of estimated annual family leave benefits plus 100 percent of estimated administrative costs, reduced by any unexpended prior-year account balances. The same method is used to set the temporary disability tax rate, except that the assessment amount for temporary disability insurance benefits is 120 percent of estimated benefits. Given the statutory funding formula for both programs, the OLS projects an increase in the rate for both programs for calendar year 2024.

Penalty Collections: The OLS estimates that the bill may result in an indeterminate annual increase in State revenues from penalties collected for violations established in the bill. This bill increases existing wage and hour law penalties to employers who fail to comply with the provisions of the bill. The OLS cannot determine the number of violations that employers may commit under the bill and, therefore, the amount of penalty revenue that may be generated.

State Expenditures: The OLS notes that the bill may result in annually recurring State government expenditures in a few areas: (a) means-tested government assistance programs; (b) earned income tax credit; (c) unemployment compensation and temporary disability and family leave insurance; and (d) State government workload.

Means-Tested Government Assistance Programs: Depending on employer responses to the implementation of the provisions of the bill, the outlay of State government for means-tested assistance programs, such as NJ FamilyCare, Work First New Jersey, and New Jersey Health Plan Savings, could fall or rise. Domestic workers whose income rises as a result of the bill will, depending on the eligibility criteria of a specific program, either cease being eligible for benefits or qualify for reduced benefits. Offsetting the State cost savings from the reduced reliance on means-tested assistance programs by individuals with higher incomes, the State may see an increase in program participation from individuals who cannot secure employment because of any reduction in the supply of jobs and work hours attributable to the potential of loss of jobs or loss of income. The OLS, however, has no information on which it could base an estimate of the countervailing cost effects on means-tested assistance programs, and to what extent the two effects may offset one another.

Earned Income Tax Credit: To the extent that the bill result in gross income tax increases from informal domestic workers who currently do not report income tax, the OLS notes that these workers may become eligible for the earned income tax credit.

Payroll Benefits: The bill allows an eligible domestic worker to benefit from unemployment insurance and workers compensation and temporary disability and family leave insurance. Given the countervailing effects of the bill on higher income and loss of wages or jobs, and to what extent the two effects may offset one another, the OLS cannot determine the direction or magnitude in payroll benefits.

State Government Workload: The bill may increase the annual operating expenses of the Department of Labor and Workforce Development. The extent to which the increased responsibilities will add to the department's annual expenditures will depend on the operational decisions the department will make in response thereto. The bill furthermore requires that the department to establish the Domestic Workers Standards and Implementation Board to monitor and review the implementation of the bill and make policy recommendations to the State regarding

additional measures to be taken. The OLS, however, does not have full information to predict the department's operational responses to the bill.

The OLS notes that the bill may increase future workload expenditures of the Legislature to the extent that the bill requires the Legislature, through its committees that consider labor subject matter, to consider and respond to the Domestic Workers Standards and Implementation Board's work plan. The Legislature is to provide proposed legislation and policies, to request for additional information from the board, and to prepare proposed legislation and policies, among other requirements.

Unit: Legislative Budget and Finance Office

*Analyst: Juan C. Rodriguez
Revenue and Economic Policy Analyst*

*Approved: Thomas Koenig
Legislative Budget and Finance Officer*

This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).

LEGISLATIVE FISCAL ESTIMATE

[Second Reprint]

SENATE, No. 723

STATE OF NEW JERSEY 220th LEGISLATURE

DATED: DECEMBER 27, 2023

SUMMARY

- Synopsis:** Creates “New Jersey Domestic Workers’ Bill of Rights Act.”
- Type of Impact:** Uncertain annual impacts on State revenue collections and expenditures.
- Agencies Affected:** Department of the Treasury; Department of Labor and Workforce Development.

Office of Legislative Services Estimate

Fiscal Impact	<u>Annual</u>
State Net Revenue Impact	Indeterminate
State Net Cost Impact	Indeterminate

- The Office of Legislative Services (OLS) is unable to determine the direction and magnitude of the bill’s net fiscal impact owing to uncertainty regarding the precise number of individuals who would benefit from the enactment of the bill and their current income, employer practices, and the countervailing effects of the bill on State revenue collections and expenditures related to a potential increase in reported minimum wage for those individuals.

BILL DESCRIPTION

This bill creates various rights and employment protections for domestic workers.

The bill removes the exclusion of domestic workers from the Law Against Discrimination and the New Jersey State Wage and Hour Law; requires employers to provide domestic workers with a notification of their rights under the bill; and establishes penalties for violations of its provisions, including penalties against retaliation by the employer or hiring entity.

The bill defines domestic workers as hourly and salaried employees, full-time and part-time individuals, and temporary individuals, each one of whom works for one or more employers, and works in residence caring for a child; serving as a companion or caretaker for a sick, convalescing, elderly, or disabled person; housekeeping or house cleaning; cooking; providing food or butler

service; parking cars; cleaning laundry; gardening; personal organizing; or for any other domestic service purpose. The bill's definition of domestic worker excludes any individual providing care services for a family member of the individual; an individual primarily engaged in house sitting, pet sitting, or dog walking; an individual working at a business operating out of a residence; an individual whose primary work involves house repair or maintenance; a home health care aide paid through Medicare or Medicaid; an individual who is a kinship legal guardian of a child; and an individual participating in the Kinship Navigator Program.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The OLS is unable to determine the direction and magnitude of the bill's net fiscal impact owing to uncertainty regarding the precise number of individuals who would benefit from the enactment of the bill and their current income, employer practices, and the countervailing effects of the bill on State revenue collections and expenditures related to a potential increase in reported minimum wage for those individuals.

State Revenues: The OLS cannot determine the net impact of a potential higher reported State minimum wage on State revenue collections, but it expects that the net outcome will depend upon a number of key factors, the magnitude of their individual impacts, and the extent to which the different impacts may offset one another. These include, but are not limited to, the number of taxpayers benefiting from an increase in income, their current income versus income reported as required under the bill, the proportion of any income increase or decrease, job losses, and the level of employers' compliance with the provisions of the bill.

The OLS anticipates a State revenue gain from employees whose wages will increase to at least the current State minimum wage per hour. These employees will have larger taxable incomes under the gross income tax and will pay more in payroll taxes (unemployment insurance and temporary disability and family leave insurance); and will qualify for a lower earned income tax credit or cease being eligible altogether. The OLS also anticipates a State revenue gain in employer payroll taxes (unemployment insurance, workers' compensation insurance, and temporary disability leave insurance) from employers whose employees' wages will increase to at least the current State minimum wage per hour.

Counteracting such gains, State revenue collections will decrease if the higher minimum wage causes employers to: (1) reduce their demand for labor by eliminating the need for the domestic worker or cutting hours, thereby lowering affected employees' incomes, gross income, and payroll tax liabilities, and potentially increasing their earned income tax credit claims; and (2) absorb a decrease in employers' net income, thereby lowering their gross income tax liabilities.

Gross Income Tax: Tax data on the number of domestic workers who may be impacted by the enactment of this bill, their current income levels, and their current State tax liabilities are not available at the time of this Legislative Fiscal Estimate.

Gross income tax revenues would increase to the extent that certain domestic workers who report income below the statutory minimum filing thresholds would have their income boosted

above the thresholds. In addition, revenues would also increase as complying employers withhold taxes from domestic workers who are currently paid in cash and do not report gross income tax. Most taxpayers become liable for New Jersey gross income tax when their gross income exceeds \$20,000, but for a single filer or a married spouse filing a separate return, the threshold is \$10,000. A taxpayer with income below the applicable minimum filing threshold does not owe tax.

For a domestic worker in the abovementioned example, the marginal tax rate of 1.75 percent would be applied to all the additional taxable income above the statutory \$20,000 income level, or \$17.50 per each \$1,000 of such additional taxable income. Also, this domestic worker would pay 1.4 percent tax on all income below the \$20,000 level, or \$280.

For purposes of illustration, a domestic worker who is paid an hourly wage of \$12.90 (worker employed by employer with less than six employees) per hour and works 35 hours each week during the year would have an annual gross income of approximately \$23,500. Assuming this domestic worker is a single filer who can only claim the personal exemption of \$1,000, the taxpayer's gross income tax liability would approximate \$210. If that domestic worker's hourly wage is increased to at least the State's minimum wage of \$14.13, the domestic worker's annual gross income would grow to \$28,400, resulting in a \$3,400 tax liability, a \$130 difference. For every 10,000 taxpayers who meet these criteria, the State would realize a recurring gross income tax revenue increase of \$1.3 million.

The OLS further notes that the enactment of the bill may result in some job losses, to the extent that some employees are priced out of the market, given that some employers may not be willing to pay additional payroll taxes, sick leave, workers' compensation insurance, or higher wages.

For purposes of illustration, in the abovementioned example for a single full-time domestic worker earning \$23,500 per year at the current minimum wage, the gross income tax collection is approximately \$210. For every 1,000 domestic workers who lose a job due to the enactment of the bill, the State would see a \$210,000 gross income tax revenue reduction. Lastly, some employers may choose to reduce hours of employment due to higher wages, sick leave benefits, workers' compensation insurance, or higher employer payroll tax contributions, resulting in some additional State revenue losses. The OLS does not have enough information to estimate the number of potential job losses and the total possible State tax revenue loss.

Earned Income Tax Credit: If enacted, the bill may reduce the cost of the State earned income tax credit program, which is equal to 40 percent of the federal earned income tax credit, which provided \$657 million in estimated benefits to around 675,000 claimants in FY 2022. The earned income tax credit is a refundable tax credit for working people with low to moderate incomes that is administered through the gross income tax. Accordingly, any reduction in earned income tax credit benefits will increase gross income tax collections; however, the OLS is unable to estimate the potential annual fiscal impact of the legislation on the earned income tax credit program.

For 2022, a domestic worker employed full- or part-time would have had earned income and adjusted gross income which must each be less than: \$53,057 for a single filer (or \$59,187 if married filing jointly) with three or more qualifying dependent children – maximum NJ earned income tax credit of \$2,774; \$49,399 for a single filer (or \$55,529 if married filing jointly) with two qualifying children – maximum NJ earned income tax credit of \$2,466; \$43,492 for a single filer (or \$49,622 if married filing jointly) with one qualifying child – maximum NJ earned income tax credit of \$1,493; and \$16,480 for a single filer (or \$22,610 if married filing jointly) with no qualifying children – maximum NJ earned income tax credit of \$224. Based on the income limits above, it is reasonable to assume that any domestic worker whose 2022 wages were \$59,187 or less was eligible for the 2022 Earned Income Tax Credits. The OLS notes that any increase in wages which would cause a domestic worker's total income to surpass the program's income eligibility, at \$59,187, would result in the domestic worker no longer receiving the credit, reducing

the cost of the State earned income tax credit program reflected in increased gross income tax revenue collections.

Payroll Taxes: The OLS notes that the bill may result in annual increases in unemployment insurance, temporary disability, and family leave contributions from employers (employers do not contribute to the family leave program) and employees, provided that domestic workers' wages increase and there are income tax increases from informal domestic workers who currently do not report income tax.

To qualify for unemployment, temporary disability, or family leave benefits in 2023, an applicant must earn at least \$260 per week for 20 base weeks, or alternatively, earn at least \$13,000. Benefit eligibility criteria are based on the state minimum wage in effect on the date of the Legislative Fiscal Estimate, when the minimum wage in New Jersey is \$14.13 per hour for most employees.

Unemployment Insurance Fund.

Employer Contribution: The unemployment insurance fund's reserve ratio, in part, determines an employer's tax rate, which will increase as the reserve ratio falls in order to replenish the fund balance as unemployment benefits get paid out. Currently, unemployment contribution rates for employers in FY 2023 are set by column "D" of the Experience Rating Tax Table. The OLS notes that it is reasonable to assume, if the enactment of the bill leads to compliance with reportable income for some domestic workers or higher wages for others, an increase in employer contributions to the unemployment insurance compensation fund, which magnitude the OLS cannot determine. However, given the countervailing effects of the bill on higher income and loss of wages or jobs, and to what extent the two effects may offset one another, the OLS cannot determine the direction or magnitude in payroll benefits.

Employees Contribution: New Jersey is one of only three states in which employees are subject to a tax for unemployment insurance. In New Jersey, the tax on the employee is levied at a rate of 0.3825 percent on the first \$41,100 of income earned. Thus, in calendar year 2023, the maximum employee contribution is approximately \$157 per employee ($0.003825 \times 41,100$). If the enactment of the bill results in higher wages for some domestic workers and new reportable income for others, it is reasonable to assume an indeterminate, likely insignificant, increase in the employee contribution to the unemployment insurance fund. Given the regressive nature of this tax, gains in income by the domestic worker will be partially offset by contributions to the unemployment insurance fund.

Temporary Disability and Family Leave Insurance: The Department of Labor and Workforce Development announced in October 2022 a reduction in worker contribution rates for the calendar year 2023, with temporary disability dropping to zero percent, from 0.14 percent, and family leave decreasing by more than half, to 0.06 percent, from 0.14 percent. The family leave program is funded entirely through an assessment on workers' wages, the rate of which is set by the department annually to cover anticipated program expenditures and a reserve requirement. The assessment equals the rate, which is projected to generate contributions equal to 125 percent of estimated annual family leave benefits plus 100 percent of estimated administrative costs, reduced by any unexpended prior-year account balances. The same method is used to set the temporary disability tax rate, except that the assessment amount for temporary disability insurance benefits is 120 percent of estimated benefits. Given the statutory funding formula for both programs, the OLS projects an increase in the rate for both programs for calendar year 2024.

Penalty Collections: The OLS estimates that the bill may result in an indeterminate annual increase in State revenues from penalties collected for violations established in the bill. This bill increases existing wage and hour law penalties to employers who fail to comply with the provisions of the bill. The OLS cannot determine the number of violations that employers may commit under the bill and, therefore, the amount of penalty revenue that may be generated.

State Expenditures: The OLS notes that the bill may result in annually recurring State government expenditures in a few areas: (a) means-tested government assistance programs; (b) earned income tax credit; (c) unemployment compensation and temporary disability and family leave insurance; and (d) State government workload.

Means-Tested Government Assistance Programs: Depending on employer responses to the implementation of the provisions of the bill, the outlay of State government for means-tested assistance programs, such as NJ FamilyCare, Work First New Jersey, and New Jersey Health Plan Savings, could fall or rise. Domestic workers whose income rises as a result of the bill will, depending on the eligibility criteria of a specific program, either cease being eligible for benefits or qualify for reduced benefits. Offsetting the State cost savings from the reduced reliance on means-tested assistance programs by individuals with higher incomes, the State may see an increase in program participation from individuals who cannot secure employment because of any reduction in the supply of jobs and work hours attributable to the potential of loss of jobs or loss of income. The OLS, however, has no information on which it could base an estimate of the countervailing cost effects on means-tested assistance programs, and to what extent the two effects may offset one another.

Earned Income Tax Credit: To the extent that the bill result in gross income tax increases from informal domestic workers who currently do not report income tax, the OLS notes that these workers may become eligible for the earned income tax credit.

Payroll Benefits: The bill allows an eligible domestic worker to benefit from unemployment insurance and workers compensation and temporary disability and family leave insurance. Given the countervailing effects of the bill on higher income and loss of wages or jobs, and to what extent the two effects may offset one another, the OLS cannot determine the direction or magnitude in payroll benefits.

State Government Workload: The bill may increase the annual operating expenses of the Department of Labor and Workforce Development. The extent to which the increased responsibilities will add to the department's annual expenditures will depend on the operational decisions the department will make in response to the bill. The OLS, however, does not have full information to predict the department's operational responses to the bill.

Section: Commerce, Labor and Industry
Analyst: John Gaudio
Assistant Fiscal Analyst
Approved: Thomas Koenig
Legislative Budget and Finance Officer

This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).

ASSEMBLY, No. 822

STATE OF NEW JERSEY

220th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2022 SESSION

Sponsored by:

Assemblywoman BRITNEE N. TIMBERLAKE

District 34 (Essex and Passaic)

Assemblywoman MILA M. JASEY

District 27 (Essex and Morris)

Assemblywoman VERLINA REYNOLDS-JACKSON

District 15 (Hunterdon and Mercer)

Co-Sponsored by:

Assemblyman Mukherji, Assemblywoman Sumter and Assemblyman Atkins

SYNOPSIS

Creates “New Jersey Domestic Workers’ Bill of Rights Act.”

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



(Sponsorship Updated As Of: 5/12/2022)

1 **AN ACT** concerning the employment rights of domestic workers and
2 amending and supplementing 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. (New section) The Legislature finds and declares that:

8 a. Domestic workers provide valuable services in industries
9 such as in-home child care, house cleaning, home care, cooking,
10 gardening, and other household occupations.

11 b. The labor domestic workers provide is an important
12 contribution to the State’s economy and prosperity, including but
13 not limited to, by providing support services that enable other
14 individuals to participate in the workforce.

15 c. Many domestic workers are women, immigrants, and
16 persons of color who work in or about private homes, isolated from
17 other workers.

18 d. Since 2007, the National Domestic Workers Alliance
19 (NDWA) has advocated for respect for domestic workers by
20 including them in national, State, and local labor protection laws.
21 NDWA. In September 2020, NDWA affiliates, Adhikaar, Casa
22 Freehold, New Labor and Wind of the Spirit, in collaboration with
23 the Center for Women at Work at Rutgers University, released a
24 report which found low pay, lack of benefits, and rampant wage
25 theft occurs throughout the domestic worker industry, and that there
26 is a lack of enforcement regarding existing rights of domestic
27 workers.

28 e. At least 10 other states and two cities have enacted
29 legislation to provide rights, benefits, and protections for domestic
30 workers.

31 f. The Legislature therefore finds that it is in the best interest
32 of the State of New Jersey and its residents to provide rights,
33 benefits, and protections to the countless domestic workers
34 providing valuable services throughout the State.

35

36 2. (New section) As used in P.L. , c. (C.) (pending
37 before the Legislature as this bill):

38 “Casual work” means work that is:

- 39 (1) irregular, uncertain, or incidental in nature and duration; and
40 (2) different in nature from the type of paid work in which the
41 worker is customarily engaged.

42 “Domestic services” means services of a household nature and
43 performed by an individual in or about a private home on a
44 permanent or temporary basis, and includes services performed by a
45 domestic worker.

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 "Domestic worker" or "worker" means hourly and salaried
2 employees, independent contractors, full-time and part-time
3 individuals and temporary individuals and is narrowly construed to
4 mean any worker who:

5 (1) works for one or more employers; and

6 (2) is an individual who works in residence for the purposes of
7 providing any of the following services: caring for a child; serving
8 as a companion or caretaker for a sick, convalescing, or elderly
9 person, or a person with a disability; housekeeping or house
10 cleaning; cooking; providing food or butler service; parking cars;
11 cleaning laundry; gardening; personal organizing, or for any other
12 domestic service purpose; provided that the term domestic worker
13 does not include:

14 (a) A family member, with "family member" meaning a spouse,
15 child, parent, sibling, aunt, uncle, niece, nephew, first cousin,
16 grandparent, grandchild, father-in-law, mother-in-law, son-in-law,
17 daughter-in-law, stepparent, stepchild, stepbrother, stepsister, half
18 brother, or half sister, whether the individual is related by blood,
19 marriage, or adoption;

20 (b) An individual primarily engaged in house sitting, pet sitting,
21 or dog walking;

22 (c) An individual working at a business operated primarily out
23 of the residence, such as a home day-care business;

24 (d) An individual whose primary work involves household
25 repair or maintenance, such as a roofer, plumber, mason, painter or
26 other
27 similar contractor;

28 (e) A home health care worker while they are paid through
29 public funds, such as a home health care worker while paid through
30 Medicaid or Medicare;

31 (f) An individual established as a kinship legal guardian, as
32 defined by section 2. of P.L.2001, c. 250 (C.3B:12A-2), of a child
33 who lives in the residence, or an individual who participates in the
34 Kinship Navigator Program, as authorized by the Department of
35 Children and Families, as a caregiver of a child who lives in the
36 residence and receives services provided by a kinship navigator
37 service provider; or

38 (g) An individual less than 18 years of age.

39 "Department" means the Department of Labor and Workforce
40 Development.

41 "Employment agency" means any person or entity that procures,
42 or attempts to procure, directly or indirectly through placement in a
43 physical or virtual labor pool:

44 (1) employees, independent contractors, or domestic workers for
45 employers or companies seeking the services of employees,
46 independent contractors, or domestic workers; and

47 (2) after the procurement is complete, continues involvement in
48 the terms of exchange of domestic services with the employees,

1 independent contractors, or domestic workers through activities,
2 including, but not limited to:

3 (a) processing or distributing or withholding workers' payment
4 that the workers are owed from hiring entities or clients;

5 (b) levying fees, fines, or discipline for unsatisfactory worker
6 behavior that happened during an employment, independent
7 contractor engagement, or other job, including the termination of
8 workers;

9 (c) rating workers on an ongoing basis and publicly sharing
10 those ratings to employers or clients;

11 (d) adjusting wages or payment based on ratings from
12 employers or clients; or

13 (e) other forms of continued involvement after procurement that
14 evidence ongoing control.

15 "Hiring entity" means any employer, as defined in section 1 of
16 P.L.1965, c.173 (C.34:11-4.1), who employs a domestic worker,
17 and also means any person, firm, business, partnership, association,
18 corporation, limited liability company, or other entity, including
19 referral, employment, and internet based or on-demand platforms,
20 that provides compensation directly or indirectly to a domestic
21 worker for the performance of domestic services and any person or
22 persons acting directly or indirectly in the interest of the employer
23 in relation to the domestic worker.

24 "Live-in domestic worker" includes any individuals, who, as part
25 of their employment, reside in the personal residence of the hiring
26 entity

27 "Referral agency" means any person or entity that procures, or
28 attempts to procure, directly or indirectly through placement in a
29 physical or virtual labor pool:

30 (1) employees, independent contractors, or domestic workers for
31 employers or companies seeking the services of employees,
32 independent contractors, or domestic workers; and

33 (2) after the procurement does not continue involvement in the
34 terms of exchange of domestic services with the employees,
35 independent contractors, or domestic workers in any way, with the
36 exception of the following:

37 (a) continuing to display or host or advertise, either through
38 physical means or virtual means, the workers' contact information,
39 job qualifications, resume, image, or digital profile which
40 employers or clients can use to independently contact employees,
41 independent contractors, or domestic workers about employment,
42 independent contractor engagement, or domestic workers about
43 employment, independent contractor engagements, or other jobs; or

44 (b) removing, either through physical means or virtual means,
45 the workers' contact information, job qualifications, resume, image,
46 or digital profile which employers or clients can use to
47 independently contact employees, upon the mandate of any federal,
48 State, or local

1 "Wage" means compensation due to the work of a domestic
2 worker, payable in legal tender of the United States or checks on
3 banks convertible into cash on demand at full face value, subject to
4 any deductions, charges, or allowances as may be permitted by rules
5 of the department.

6 "Written" or "writing" means a printed or printable
7 communication in physical or electronic form, including a
8 communication that is transmitted through email, text message, or a
9 computer system, or is otherwise sent and maintained
10 electronically.

11
12 3. Section 5 of P.L.1945, c.169 (C.10:5-5) is amended to read
13 as follows:

14 5. As used in P.L.1945, c.169 (C.10:5-1 et seq.), unless a
15 different meaning clearly appears from the context:

16 a. "Person" includes one or more individuals, partnerships,
17 associations, organizations, labor organizations, corporations, legal
18 representatives, trustees, trustees in bankruptcy, receivers, and
19 fiduciaries.

20 b. "Employment agency" **【**includes any person undertaking to
21 procure employees or opportunities for others to work**】** shall have
22 the same meaning as in section 2 of P.L. , c. (C.) (pending
23 before the Legislature as this bill).

24 c. "Labor organization" includes any organization which exists
25 and is constituted for the purpose, in whole or in part, of collective
26 bargaining, or of dealing with employers concerning grievances,
27 terms or conditions of employment, or of other mutual aid or
28 protection in connection with employment.

29 d. "Unlawful employment practice" and "unlawful
30 discrimination" include only those unlawful practices and acts
31 specified in section 11 of P.L.1945, c.169 (C.10:5-12).

32 e. "Employer" includes all persons as defined in subsection a.
33 of this section and "hiring entities" as defined by section 2 of
34 P.L. , c. (C.) (pending before the Legislature as this bill),
35 unless otherwise specifically exempt under another section of
36 P.L.1945, c.169 (C.10:5-1 et seq.), and includes the State, any
37 political or civil subdivision thereof, and all public officers,
38 agencies, boards, or bodies.

39 f. **【**"Employee" does not include any individual employed in
40 the domestic service of any person.**】** (Deleted by amendment,
41 P.L. , c. (pending before the Legislature as this bill)

42 g. "Liability for service in the Armed Forces of the United
43 States" means subject to being ordered as an individual or member
44 of an organized unit into active service in the Armed Forces of the
45 United States by reason of membership in the National Guard, naval
46 militia or a reserve component of the Armed Forces of the United
47 States, or subject to being inducted into such armed forces through
48 a system of national selective service.

- 1 h. "Division" means the "Division on Civil Rights" created by
2 P.L.1945, c.169 (C.10:5-1 et seq.).
- 3 i. "Attorney General" means the Attorney General of the State
4 of New Jersey or the Attorney General's representative or designee.
- 5 j. "Commission" means the Commission on Civil Rights
6 created by P.L.1945, c.169 (C.10:5-1 et seq.).
- 7 k. "Director" means the Director of the Division on Civil
8 Rights.
- 9 l. "A place of public accommodation" shall include, but not be
10 limited to: any tavern, roadhouse, hotel, motel, trailer camp,
11 summer camp, day camp, or resort camp, whether for entertainment
12 of transient guests or accommodation of those seeking health,
13 recreation, or rest; any producer, manufacturer, wholesaler,
14 distributor, retail shop, store, establishment, or concession dealing
15 with goods or services of any kind; any restaurant, eating house, or
16 place where food is sold for consumption on the premises; any
17 place maintained for the sale of ice cream, ice and fruit preparations
18 or their derivatives, soda water or confections, or where any
19 beverages of any kind are retailed for consumption on the premises;
20 any garage, any public conveyance operated on land or water or in
21 the air or any stations and terminals thereof; any bathhouse,
22 boardwalk, or seashore accommodation; any auditorium, meeting
23 place, or hall; any theatre, motion-picture house, music hall, roof
24 garden, skating rink, swimming pool, amusement and recreation
25 park, fair, bowling alley, gymnasium, shooting gallery, billiard and
26 pool parlor, or other place of amusement; any comfort station; any
27 dispensary, clinic, or hospital; any public library; and any
28 kindergarten, primary and secondary school, trade or business
29 school, high school, academy, college and university, or any
30 educational institution under the supervision of the State Board of
31 Education or the Commissioner of Education of the State of New
32 Jersey. Nothing herein contained shall be construed to include or to
33 apply to any institution, bona fide club, or place of accommodation,
34 which is in its nature distinctly private; nor shall anything herein
35 contained apply to any educational facility operated or maintained
36 by a bona fide religious or sectarian institution, and the right of a
37 natural parent or one in loco parentis to direct the education and
38 upbringing of a child under his control is hereby affirmed; nor shall
39 anything herein contained be construed to bar any private secondary
40 or post-secondary school from using in good faith criteria other than
41 race, creed, color, national origin, ancestry, gender identity, or
42 expression or affectional or sexual orientation in the admission of
43 students.
- 44 m. "A publicly assisted housing accommodation" shall include
45 all housing built with public funds or public assistance pursuant to
46 P.L.1949, c.300, P.L.1941, c.213, P.L.1944, c.169, P.L.1949, c.303,
47 P.L.1938, c.19, P.L.1938, c.20, P.L.1946, c.52, and P.L.1949,
48 c.184, and all housing financed in whole or in part by a loan,

1 whether or not secured by a mortgage, the repayment of which is
2 guaranteed or insured by the federal government or any agency
3 thereof.

4 n. The term "real property" includes real estate, lands,
5 tenements and hereditaments, corporeal and incorporeal, and
6 leaseholds, provided, however, that, except as to publicly assisted
7 housing accommodations, the provisions of this act shall not apply
8 to the rental: (1) of a single apartment or flat in a two-family
9 dwelling, the other occupancy unit of which is occupied by the
10 owner as a residence; or (2) of a room or rooms to another person or
11 persons by the owner or occupant of a one-family dwelling
12 occupied by the owner or occupant as a residence at the time of
13 such rental. Nothing herein contained shall be construed to bar any
14 religious or denominational institution or organization, or any
15 organization operated for charitable or educational purposes, which
16 is operated, supervised, or controlled by or in connection with a
17 religious organization, in the sale, lease, or rental of real property,
18 from limiting admission to or giving preference to persons of the
19 same religion or denomination or from making such selection as is
20 calculated by such organization to promote the religious principles
21 for which it is established or maintained. Nor does any provision
22 under this act regarding discrimination on the basis of familial
23 status apply with respect to housing for older persons.

24 o. "Real estate broker" includes a person, firm, or corporation
25 who, for a fee, commission, or other valuable consideration, or by
26 reason of promise or reasonable expectation thereof, lists for sale,
27 sells, exchanges, buys or rents, or offers or attempts to negotiate a
28 sale, exchange, purchase, or rental of real estate or an interest
29 therein, or collects or offers or attempts to collect rent for the use of
30 real estate, or solicits for prospective purchasers or assists or directs
31 in the procuring of prospects or the negotiation or closing of any
32 transaction which does or is contemplated to result in the sale,
33 exchange, leasing, renting, or auctioning of any real estate, or
34 negotiates, or offers or attempts or agrees to negotiate a loan
35 secured or to be secured by mortgage or other encumbrance upon or
36 transfer of any real estate for others; or any person who, for
37 pecuniary gain or expectation of pecuniary gain conducts a public
38 or private competitive sale of lands or any interest in lands. In the
39 sale of lots, the term "real estate broker" shall also include any
40 person, partnership, association, or corporation employed by or on
41 behalf of the owner or owners of lots or other parcels of real estate,
42 at a stated salary, or upon a commission, or upon a salary and
43 commission or otherwise, to sell such real estate, or any parts
44 thereof, in lots or other parcels, and who shall sell or exchange, or
45 offer or attempt or agree to negotiate the sale or exchange, of any
46 such lot or parcel of real estate.

47 p. "Real estate salesperson" includes any person who, for
48 compensation, valuable consideration or commission, or other thing

1 of value, or by reason of a promise or reasonable expectation
2 thereof, is employed by and operates under the supervision of a
3 licensed real estate broker to sell or offer to sell, buy or offer to buy
4 or negotiate the purchase, sale, or exchange of real estate, or offers
5 or attempts to negotiate a loan secured or to be secured by a
6 mortgage or other encumbrance upon or transfer of real estate, or to
7 lease or rent, or offer to lease or rent any real estate for others, or to
8 collect rents for the use of real estate, or to solicit for prospective
9 purchasers or lessees of real estate, or who is employed by a
10 licensed real estate broker to sell or offer to sell lots or other parcels
11 of real estate, at a stated salary, or upon a commission, or upon a
12 salary and commission, or otherwise to sell real estate, or any parts
13 thereof, in lots or other parcels.

14 q. "Disability" means physical or sensory disability, infirmity,
15 malformation, or disfigurement which is caused by bodily injury,
16 birth defect, or illness including epilepsy and other seizure
17 disorders, and which shall include, but not be limited to, any degree
18 of paralysis, amputation, lack of physical coordination, blindness or
19 visual impairment, deafness or hearing impairment, muteness or
20 speech impairment, or physical reliance on a service or guide dog,
21 wheelchair, or other remedial appliance or device, or any mental,
22 psychological, or developmental disability, including autism
23 spectrum disorders, resulting from anatomical, psychological,
24 physiological, or neurological conditions which prevents the typical
25 exercise of any bodily or mental functions or is demonstrable,
26 medically or psychologically, by accepted clinical or laboratory
27 diagnostic techniques. Disability shall also mean AIDS or HIV
28 infection.

29 r. "Blind person" or "person who is blind" means any
30 individual whose central visual acuity does not exceed 20/200 in the
31 better eye with correcting lens or whose visual acuity is better than
32 20/200 if accompanied by a limit to the field of vision in the better
33 eye to such a degree that its widest diameter subtends an angle of
34 no greater than 20 degrees.

35 s. "Guide dog" means a dog used to assist persons who are
36 deaf, or which is fitted with a special harness so as to be suitable as
37 an aid to the mobility of a person who is blind, and is used by a
38 person who is blind and has satisfactorily completed a specific
39 course of training in the use of such a dog, and has been trained by
40 an organization generally recognized by agencies involved in the
41 rehabilitation of persons with disabilities, including, but not limited
42 to, those persons who are blind or deaf, as reputable and competent
43 to provide dogs with training of this type.

44 t. "Guide or service dog trainer" means any person who is
45 employed by an organization generally recognized by agencies
46 involved in the rehabilitation of persons with disabilities, including,
47 but not limited to, those persons who are blind, have visual
48 impairments, or are deaf or have hearing impairments, as reputable

- 1 and competent to provide dogs with training, as defined in this
2 section, and who is actually involved in the training process.
- 3 u. "Housing accommodation" means any publicly assisted
4 housing accommodation or any real property, or portion thereof,
5 which is used or occupied, or is intended, arranged, or designed to
6 be used or occupied, as the home, residence, or sleeping place of
7 one or more persons, but shall not include any single family
8 residence the occupants of which rent, lease, or furnish for
9 compensation not more than one room therein.
- 10 v. "Public facility" means any place of public accommodation
11 and any street, highway, sidewalk, walkway, public building, and
12 any other place or structure to which the general public is regularly,
13 normally, or customarily permitted or invited.
- 14 w. "Deaf person" or "person who is deaf" means any person
15 whose hearing is so severely impaired that the person is unable to
16 hear and understand conversational speech through the unaided ear
17 alone, and who must depend primarily on an assistive listening
18 device or visual communication such as writing, lip reading, sign
19 language, and gestures.
- 20 x. "Atypical hereditary cellular or blood trait" means sickle cell
21 trait, hemoglobin C trait, thalassemia trait, Tay-Sachs trait, or cystic
22 fibrosis trait.
- 23 y. "Sickle cell trait" means the condition wherein the major
24 natural hemoglobin components present in the blood of the
25 individual are hemoglobin A (normal) and hemoglobin S (sickle
26 hemoglobin) as defined by standard chemical and physical analytic
27 techniques, including electrophoresis; and the proportion of
28 hemoglobin A is greater than the proportion of hemoglobin S or one
29 natural parent of the individual is shown to have only normal
30 hemoglobin components (hemoglobin A, hemoglobin A2,
31 hemoglobin F) in the normal proportions by standard chemical and
32 physical analytic tests.
- 33 z. "Hemoglobin C trait" means the condition wherein the major
34 natural hemoglobin components present in the blood of the
35 individual are hemoglobin A (normal) and hemoglobin C as defined
36 by standard chemical and physical analytic techniques, including
37 electrophoresis; and the proportion of hemoglobin A is greater than
38 the proportion of hemoglobin C or one natural parent of the
39 individual is shown to have only normal hemoglobin components
40 (hemoglobin A, hemoglobin A2, hemoglobin F) in normal
41 proportions by standard chemical and physical analytic tests.
- 42 aa. "Thalassemia trait" means the presence of the thalassemia
43 gene which in combination with another similar gene results in the
44 chronic hereditary disease Cooley's anemia.
- 45 bb. "Tay-Sachs trait" means the presence of the Tay-Sachs gene
46 which in combination with another similar gene results in the
47 chronic hereditary disease Tay-Sachs.

- 1 cc. "Cystic fibrosis trait" means the presence of the cystic
2 fibrosis gene which in combination with another similar gene
3 results in the chronic hereditary disease cystic fibrosis.
- 4 dd. "Service dog" means any dog individually trained to the
5 requirements of a person with a disability including, but not limited
6 to minimal protection work, rescue work, pulling a wheelchair or
7 retrieving dropped items. This term shall include a "seizure dog"
8 trained to alert or otherwise assist persons with epilepsy or other
9 seizure disorders.
- 10 ee. "Qualified Medicaid applicant" means an individual who is a
11 qualified applicant pursuant to P.L.1968, c.413 (C.30:4D-1 et seq.).
- 12 ff. "AIDS" means acquired immune deficiency syndrome as
13 defined by the Centers for Disease Control and Prevention of the
14 United States Public Health Service.
- 15 gg. "HIV infection" means infection with the human
16 immunodeficiency virus or any other related virus identified as a
17 probable causative agent of AIDS.
- 18 hh. "Affectional or sexual orientation" means male or female
19 heterosexuality, homosexuality, or bisexuality by inclination,
20 practice, identity, or expression, having a history thereof or being
21 perceived, presumed, or identified by others as having such an
22 orientation.
- 23 ii. "Heterosexuality" means affectional, emotional, or physical
24 attraction or behavior which is primarily directed towards persons
25 of the other gender.
- 26 jj. "Homosexuality" means affectional, emotional, or physical
27 attraction or behavior which is primarily directed towards persons
28 of the same gender.
- 29 kk. "Bisexuality" means affectional, emotional, or physical
30 attraction or behavior which is directed towards persons of either
31 gender.
- 32 ll. "Familial status" means being the natural parent of a child,
33 the adoptive parent of a child, the resource family parent of a child,
34 having a "parent and child relationship" with a child as defined by
35 State law, or having sole or joint legal or physical custody, care,
36 guardianship, or visitation with a child, or any person who is
37 pregnant or is in the process of securing legal custody of any
38 individual who has not attained the age of 18 years.
- 39 mm. "Housing for older persons" means housing:
- 40 (1) provided under any State program that the Attorney General
41 determines is specifically designed and operated to assist persons
42 who are elderly (as defined in the State program); or provided under
43 any federal program that the United States Department of Housing
44 and Urban Development determines is specifically designed and
45 operated to assist persons who are elderly (as defined in the federal
46 program); or
- 47 (2) intended for, and solely occupied by, persons 62 years of age
48 or older; or

1 (3) intended and operated for occupancy by at least one person
2 55 years of age or older per unit. In determining whether housing
3 qualifies as housing for older persons under this paragraph, the
4 Attorney General shall adopt regulations which require at least the
5 following factors:

6 (a) the existence of significant facilities and services
7 specifically designed to meet the physical or social needs of older
8 persons, or if the provision of such facilities and services is not
9 practicable, that such housing is necessary to provide important
10 housing opportunities for older persons; and

11 (b) that at least 80 percent of the units are occupied by at least
12 one person 55 years of age or older per unit; and

13 (c) the publication of, and adherence to, policies and procedures
14 which demonstrate an intent by the owner or manager to provide
15 housing for persons 55 years of age or older.

16 Housing shall not fail to meet the requirements for housing for
17 older persons by reason of: persons residing in such housing as of
18 September 13, 1988 not meeting the age requirements of this
19 subsection, provided that new occupants of such housing meet the
20 age requirements of this subsection; or unoccupied units, provided
21 that such units are reserved for occupancy by persons who meet the
22 age requirements of this subsection.

23 nn. "Genetic characteristic" means any inherited gene or
24 chromosome, or alteration thereof, that is scientifically or medically
25 believed to predispose an individual to a disease, disorder, or
26 syndrome, or to be associated with a statistically significant
27 increased risk of development of a disease, disorder, or syndrome.

28 oo. "Genetic information" means the information about genes,
29 gene products, or inherited characteristics that may derive from an
30 individual or family member.

31 pp. "Genetic test" means a test for determining the presence or
32 absence of an inherited genetic characteristic in an individual,
33 including tests of nucleic acids such as DNA, RNA, and
34 mitochondrial DNA, chromosomes, or proteins in order to identify a
35 predisposing genetic characteristic.

36 qq. "Domestic partnership" means a domestic partnership
37 established pursuant to section 4 of P.L.2003, c.246 (C.26:8A-4).

38 rr. "Gender identity or expression" means having or being
39 perceived as having a gender related identity or expression whether
40 or not stereotypically associated with a person's assigned sex at
41 birth.

42 ss. "Civil Union" means a legally recognized union of two
43 eligible individuals established pursuant to R.S.37:1-1 et seq. and
44 P.L.2006, c.103 (C.37:1-28 et al.).

45 tt. "Premium wages" means additional remuneration for night,
46 weekend, or holiday work, or for standby or irregular duty.

47 uu. "Premium benefit" means an employment benefit, such as
48 seniority, group life insurance, health insurance, disability

1 insurance, sick leave, annual leave, or an educational or pension
2 benefit that is greater than the employment benefit due the
3 employee for an equivalent period of work performed during the
4 regular work schedule of the employee.

5 vv. "Race" is inclusive of traits historically associated with race,
6 including, but not limited to, hair texture, hair types, and protective
7 hairstyles.

8 ww. "Protective hairstyles" includes, but is not limited to, such
9 hairstyles as braids, locks, and twists.

10 xx. "Family member" means a child, parent, parent-in-law,
11 sibling, grandparent, grandchild, spouse, partner in a civil union
12 couple, domestic partner, or any other individual related by blood to
13 the person, and any other individual that the person shows to have a
14 close association with the person which is the equivalent of a family
15 relationship.

16 (cf: P.L.2019, c.436, s.2)

17

18 4. Section 2 of P.L.1965, c.164 (C.34:6A-2) is amended to read
19 as follows:

20 2. The following terms wherever used or referred to in this act
21 shall have the following meaning:

22 (a) "Act" means this act and rules and regulations promulgated
23 hereunder.

24 (b) "Board" means the Industrial Safety Board established under
25 this act.

26 (c) "Bureau" means the Bureau of Engineering and Safety in the
27 Division of Labor, Department of Labor and Industry established
28 under this act.

29 (d) "Commissioner" means the Commissioner of the Department
30 of Labor and Industry or his authorized representatives.

31 (e) "Committee" means the New Jersey State Industrial Safety
32 Committee established under this act.

33 (f) "Department" means the Department of Labor and Industry.

34 (g) "Employee" means any person engaged in service to an
35 employer for wages, salary or other compensation.

36 (h) "Employer" means any person or corporation, partnership,
37 individual proprietorship, joint venture, firm, company or other
38 similar legal entity who engages the services of an employee and
39 who pays his wages, salary, or other compensation; and any person
40 exercising supervision of employees on an employer's behalf; and
41 includes all "hiring entities" as defined by section 2 of P.L. _____, c.
42 (C. _____) (pending before the Legislature as this bill).

43 (i) "Owner" means the person possessing legal or equitable
44 title. For the purposes of this act "Person possessing equitable title"
45 shall mean that person or corporation, partnership, individual
46 proprietorship, joint venture, firm, company or other legal entity
47 that has actual control over the premises used in whole or in part as
48 a place of employment.

1 (j) "Place of employment" means any building or other
2 premises occupied by an employer in or about which an employee
3 customarily is suffered or permitted to work.

4 (k) "Domestic worker" means all persons defined as a domestic
5 worker by section 2 of P.L. , c. (C.) (pending before the
6 Legislature as bill).

7 (cf: P.L.1965, c.154, s.2)

8

9 5. Section 6 of P.L.1965, c.154 (C.34:6A-6) is amended to read
10 as follows:

11 6. a. The commissioner shall enforce the provisions of this act,
12 make complaints against persons violating its provisions and
13 prosecute violations of the same.

14 b. The commissioner shall have the power and authority,
15 without notice or delay during regular working hours or other
16 reasonable hours within reasonable limits and in a reasonable
17 manner, to enter and inspect any place of employment and all
18 pertinent conditions, structures, machinery, apparatus, devices,
19 equipment and materials and to question privately the owner and
20 any employer or employee.

21 c. In the case where the place of employment is a residential
22 dwelling and the employee is a domestic worker, the commissioner
23 or the commissioner's authorized representative shall initiate
24 telephone contact with the hiring entity as soon as possible, but not
25 later than 14 calendar days after receipt of a complaint charging a
26 violation.

27 When telephone contact is successfully made, the commissioner
28 or the authorized representative shall:

29 (1) Notify the hiring entity of the existence of any alleged
30 unsafe or unhealthful condition;

31 (2) Describe the alleged hazard and any specific regulatory
32 standard alleged to have been violated;

33 (3) Inform the hiring entity that the entity is required to
34 investigate and abate any hazard discovered during the investigation
35 regarding violations of section 3 of P.L.1965, c.154 (C.34:6A-3);

36 (4) Inform the hiring entity by letter sent by facsimile or email,
37 or by certified mail if the employer cannot receive facsimile or
38 email, of each alleged hazard and each specific allegation of a
39 violation of a standard;

40 (5) Inform the hiring entity that if the department determines
41 that the hiring entity's response is unsatisfactory for any reason, the
42 department shall seek permission from the hiring entity to enter the
43 residential dwelling to investigate the matter, and if permission is
44 denied, may secure an inspection warrant to conduct an onsite
45 inspection of the residential dwelling; and

46 (6) Provide the complainant with copies of the law and
47 regulations alleged to have been violated, the department's letter to

1 the employer, and all subsequent correspondence concerning the
2 investigation of any alleged hazards;

3 d. A hiring entity subject to investigation shall:

4 (1) Provide the department, within 14 days of the hiring entity's
5 receipt of the department's letter, a response describing the results
6 of the employer's investigation of the alleged hazard and a
7 description of all actions taken, in the process of being taken, or
8 planned to be taken, by the hiring entity to abate the alleged hazard;

9 (2) Provide a copy of the commissioner or the commissioner's
10 authorized representative's letter to the domestic worker, and all
11 subsequent correspondence from and to the hiring entity to the
12 affected domestic worker, or prominently post the letter and
13 correspondence in the method prescribed by letter sent pursuant to
14 subsection c. of this section regarding each alleged hazard and each
15 specific standard to have been violated;

16 e. For complaints alleging serious illness or injury or death
17 while performing domestic services as defined by section 2 of
18 P.L. , c. (C.) (pending before the Legislature as this bill),
19 the commissioner or the authorized representative may enter the
20 premises with permission or with an inspection warrant issued
21 pursuant to subsection b. of this section without first initiating the
22 telephone contact described in subsection c. of this section.

23 f. Notwithstanding any other provision of this chapter to the
24 contrary, investigations of complaints in domestic services as
25 defined by section 2 of P.L. , c. (C.) (pending before the
26 Legislature as this bill), shall be conducted in a manner to avoid any
27 unwarranted invasion of personal privacy and shall not contain any
28 personal, financial, or medical information of the individuals
29 residing in the residential dwelling that is not pertinent to the
30 investigation of the complaint.

31 g. No person shall obstruct, hinder or delay or interfere with by
32 force or otherwise the performance by the commissioner of any
33 duty under the provisions of this act.

34 (cf: P.L.1973, c.259, s.1)

35
36 6. Section 9 of P.L.1965, c.154 (C.34:6A-9) is amended to read
37 as follows:

38 9. The commissioner shall make and promulgate rules and
39 regulations reasonably necessary to implement the purposes of this
40 act. Such rules and regulations shall have the force and effect of
41 law and shall be enforced in the manner provided in this act.

42 The commissioner shall make and promulgate rules to ensure the
43 requirements of section 3 of P.L.1965, c.154 (C.34:6A-3) apply to
44 the hiring entities of domestic workers. These rules shall include
45 the establishment of a mechanism to receive complaints within the
46 department that prompts inspections by the commissioner in
47 accordance with section 6 of P.L.1965, c.154 (C.34:6A-6).

1 Buildings or other structures in use on the effective date of this
2 act as a place of employment other than a place where the
3 manufacturing of goods of any kind is carried on shall not be made
4 to comply with the requirements of rules and regulations
5 promulgated hereunder substantially affecting such building or
6 other structures unless such compliance is essential to correct an
7 unsafe or unhealthful condition which constitutes a serious and
8 substantial threat to the health or safety of employees.

9 The commissioner shall before promulgation furnish a copy of
10 proposed rules and regulations to the members of the committee for
11 its review and recommendations. Within 90 days of the receipt of
12 said proposed rules and regulations the committee shall provide the
13 commissioner and the board with its written recommendations.
14 Following receipt of the committee's recommendations or upon the
15 expiration of 90 days, the commissioner shall furnish to every
16 member of the board a copy of the proposed rules and regulations
17 with or without change in his discretion and at the same time a
18 notice of intent to promulgate proposed rules and regulations shall
19 be published by the commissioner. This notice of intent shall state
20 briefly the purpose of the proposed rules and regulations, shall state
21 that a copy of the proposed rules and regulations may be obtained
22 by any person upon written request to the department, and shall fix
23 the date, time and place for a public hearing on the proposed rules
24 and regulations, which date shall be not less than 21 days after the
25 publication of the notice. All person appearing at such hearing shall
26 be given the opportunity to be heard. Rules and regulations, as so
27 proposed or as changed by the commissioner after such hearing,
28 may be promulgated by the commissioner 90 days following
29 delivery to the board to be effective on such date as the rules and
30 regulations shall provide unless disapproved by a majority of the
31 board and if so disapproved such rules or regulations shall not
32 become effective. Within 30 days after the public hearing and on
33 30 days' notice the commissioner shall call a meeting of the board
34 for the purpose of discussing the proposed rules and regulations. If
35 any changes were made in the proposed rules or regulations
36 following the public hearing, a copy of such change shall
37 accompany such notice. At any meeting called for such purpose
38 disapproval shall be by vote of the majority of the members of the
39 board.

40 (cf: P.L.1965, c.154, s.9)

41
42 7. Section 19 of P.L.1965, c.154 (C.34:6A-19) is amended to
43 read as follows:

44 19. Any person violating any of the provisions of this act shall
45 be liable to a penalty of not less than **【\$25.00】** \$975 nor more than
46 **【\$500.00】** \$13,653 to be collected in a civil action by a summary
47 proceeding under the Penalty Enforcement Law **【(N.J.S. 2A:58-1)】**
48 of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.). Notwithstanding

1 the penalties prescribed in this section, the penalty amounts shall be
 2 subject to adjustment by the commissioner to remain consistent
 3 with the federal Occupational Safety and Health Act of 1970 (29
 4 U.S.C. s. 651 et seq.). 50 percent of the sum collected as a penalty
 5 pursuant to this subsection shall be provided to the employee
 6 harmed by violation. Any violation of the act by an officer, agent or
 7 employee shall also be a violation of the act by his employer if such
 8 employer had knowledge of and actual control over the cause of
 9 such violation. Where the violation is of a continuing nature each
 10 day during which it continues, after the date given by which the
 11 violation must be eliminated in the order by the commissioner, shall
 12 constitute an additional, separate and distinct offense, except during
 13 the time an appeal from said order may be taken or is pending.

14 The commissioner is hereby authorized and empowered to
 15 compromise and settle any claim for a penalty under this section in
 16 such amount in the discretion of the commissioner as may appear
 17 appropriate and equitable under all of the circumstances.

18 Nothing in this subsection shall affect the rights of employees or
 19 any remedies available to employees provided by section 5 of
 20 P.L.1986, c.105 (C.34:19-5) or any other provision of law.

21 (cf: P.L.1965 c.154, s.19)

22

23 8. Section 22 of P.L.1965, c.154 (C34:6A-22) is amended to
 24 read as follows:

25 22. This act is not intended to apply and shall not apply to the
 26 following:

27 (a) Places of employment under the exclusive jurisdiction of the
 28 Federal Government with respect to the health and safety of
 29 employees;

30 (b) Places of employment subject to the provisions of the Mine
 31 Safety Act, P.L.1954, c. 197;

32 (c) Employment and places of employment subject to the
 33 provisions of the Construction Safety Act, P.L.1962, c. 45;

34 (d) **【Domestic employment;】** (Deleted by amendment, P.L. _____,
 35 c. (pending before the Legislature as this bill)

36 (e) Transportation equipment coming under the jurisdiction of
 37 the Interstate Commerce Commission, Federal Aviation
 38 Administration, or of the New Jersey Division of Motor Vehicles;

39 (f) **【Institutions requiring a license issued by the Department of**
 40 **Institutions and Agencies pursuant to Revised Statutes 30:11-1;】**
 41 (Deleted by amendment, P.L. _____, c. _____ (pending before the
 42 Legislature as this bill)

43 (g) Schools, colleges and universities;

44 (h) Places of employment with fewer than 4 employees, except
 45 places of employment of domestic services; employment in which
 46 the manufacturing of goods of any kind is carried on; and except as
 47 hereinafter provided in paragraph (o) of this section;

48 (i) Agricultural employment;

1 (j) Banks and other financial institutions;

2 (k) Places of employment in which the employees are primarily
3 engaged in office operations and buildings under the actual control
4 of one employer and in which the employees are primarily engaged
5 in office operations or laboratories primarily engaged in research,
6 development, or testing conducted on premises, in separate
7 buildings, or in building sections devoted exclusively to these
8 operations;

9 (l) Public utilities which own, operate, manage or control any
10 autobus, canal, express, railroad, street railway, traction railway,
11 subway, pipeline, gas, electric light, heat, power, water, oil, sewer,
12 telephone or telegraph system, plant or equipment for public use,
13 under privileges granted by the State or by any political subdivision
14 thereof, with respect to work operations performed in connection
15 with the plant or facilities of such public utility located in the public
16 streets and highways, roads and alleys, private rights-of-way, or
17 upon their customers' premises;

18 (m) Liquefied petroleum gas bulk plants and facilities subject to
19 the jurisdiction and supervision of the Superintendent of State
20 Police, pursuant to chapter 139 of the laws of 1950 (N.J.S.A.
21 21:1B-1 to 21:1B-8);

22 (n) Natural gas pipeline utilities subject to the provisions of the
23 Natural Gas Safety Act (P.L.1952, c. 166) (N.J.S.A. 48:10-2 to
24 48:10-9); and

25 (o) Establishments with fewer than 10 employees and which are
26 devoted exclusively to the sale of goods, or furnishing of services,
27 at retail.

28 (cf: P.L.1965, c.154, s.22)

29

30 9. Section 2 of P.L.1966, c.113 (C.34:11-56a1) is amended to
31 read as follows:

32 2. As used in this act:

33 (a) "Commissioner" means the Commissioner of Labor and
34 Workforce Development.

35 (b) "Director" means the director in charge of the bureau
36 referred to in section 3 of this act.

37 (c) "Wage board" means a board created as provided in section
38 10 of this act.

39 (d) "Wages" means any moneys due an employee from an
40 employer for services rendered or made available by the employee
41 to the employer as a result of their employment relationship
42 including commissions, bonus and piecework compensation and
43 including the fair value of any food or lodgings supplied by an
44 employer to an employee, and, until December 31, 2018, "wages"
45 includes any gratuities received by an employee for services
46 rendered for an employer or a customer of an employer. The
47 commissioner may, by regulation, establish the average value of
48 gratuities received by an employee in any occupation and the fair

1 value of food and lodging provided to employees in any occupation,
2 which average values shall be acceptable for the purposes of
3 determining compliance with this act in the absence of evidence of
4 the actual value of such items.

5 (e) "Regular hourly wage" means the amount that an employee
6 is regularly paid for each hour of work as determined by dividing
7 the total hours of work during the week into the employee's total
8 earnings for the week, exclusive of overtime premium pay.

9 (f) "Employ" includes to suffer or to permit to work.

10 (g) "Employer" includes any individual, partnership,
11 association, corporation, and the State and any county,
12 municipality, or school district in the State, or any agency,
13 authority, department, bureau, or instrumentality thereof, or any
14 person or group of persons acting directly or indirectly in the
15 interest of an employer in relation to an employee, and includes
16 "hiring entities" as defined in section 2 of P.L. , c. (C.)
17 (pending before the Legislature as this bill).

18 (h) "Employee" includes any individual employed by an
19 employer.

20 (i) "Occupation" means any occupation, service, trade,
21 business, industry or branch or group of industries or employment
22 or class of employment in which employees are gainfully employed.

23 (j) "Minimum fair wage order" means a wage order
24 promulgated pursuant to this act.

25 (k) "Fair wage" means a wage fairly and reasonably
26 commensurate with the value of the service or class of service
27 rendered and sufficient to meet the minimum cost of living
28 necessary for health.

29 (l) "Oppressive and unreasonable wage" means a wage which is
30 both less than the fair and reasonable value of the service rendered
31 and less than sufficient to meet the minimum cost of living
32 necessary for health.

33 (m) "Limousine" means a motor vehicle used in the business of
34 carrying passengers for hire to provide prearranged passenger
35 transportation at a premium fare on a dedicated, nonscheduled,
36 charter basis that is not conducted on a regular route and with a
37 seating capacity in no event of more than 14 passengers, not
38 including the driver, provided, that such a motor vehicle shall not
39 have a seating capacity in excess of four passengers, not including
40 the driver, beyond the maximum passenger seating capacity of the
41 vehicle, not including the driver, at the time of manufacture.
42 "Limousine" shall not include taxicabs, hotel or airport shuttles and
43 buses, buses employed solely in transporting school children or
44 teachers to and from school, vehicles owned and operated directly
45 or indirectly by businesses engaged in the practice of mortuary
46 science when those vehicles are used exclusively for providing
47 transportation related to the provision of funeral services or vehicles

1 owned and operated without charge or remuneration by a business
2 entity for its own purposes.

3 (n) "Seasonal employment" means employment during a year by
4 an employer that is a seasonal employer, or employment by a non-
5 profit or government entity of an individual who is not employed by
6 that employer outside of the period of that year commencing on
7 May 1 and ending September 30, or employment by a governmental
8 entity in a recreational program or service during the period
9 commencing on May 1 and ending September 30, except that
10 "seasonal employment" does not include employment of employees
11 engaged to labor on a farm on either a piece-rate or regular hourly
12 rate basis.

13 (o) "Seasonal employer" means an employer who exclusively
14 provides its services in a continuous period of not more than ten
15 weeks during the months of June, July, August, and September, or
16 an employer for which, during the immediately previous calendar
17 year, not less than two thirds of the employer's gross receipts were
18 received in a continuous period of not more than sixteen weeks or
19 for which not less than 75 percent of the wages paid by the
20 employer during the immediately preceding year were paid for work
21 performed during a single calendar quarter.

22 (p) "Small employer" means any employer who employed less
23 than six employees for every working day during each of a majority
24 of the calendar workweeks in the current calendar year and less than
25 six employees for every working day during not less than 48
26 calendar workweeks in the preceding calendar year, except that, if
27 the employer was newly established during the preceding calendar
28 year, the employer shall be regarded as a "small employer" if the
29 employer employed less than six employees for every working day
30 during all of the weeks of that year, and during a majority of the
31 calendar workweeks in the current calendar year, and, if the
32 employer is newly established during the current calendar year, the
33 employer shall be regarded as a "small employer" if the employer
34 employed less than six employees for every working day during a
35 majority of the calendar workweeks in the current calendar year.

36 (q) "Long-term care facility direct care staff member" means
37 any health care professional licensed or certified pursuant to Title
38 26 or Title 45 of the Revised Statutes who is employed by a long-
39 term care facility and who provides personal care, assistance, or
40 treatment services directly to residents of the facility in the course
41 of the professional's regular duties.

42 (cf: P.L.2020, c.89, s.1)

43

44 10. Section 5 of P.L.1966, c.113 (C.34:11-56a4) is amended to
45 read as follows:

46 5. a. Except as provided in subsections c., d., e. g., and i. of
47 this section, each employer shall pay to each of his employees
48 wages at a rate of not less than \$8.85 per hour as of January 1, 2019

1 and, on January 1 of 2020 and January 1 of each subsequent year,
2 the minimum wage shall be increased by any increase in the
3 consumer price index for all urban wage earners and clerical
4 workers (CPI-W) as calculated by the federal government for the 12
5 months prior to the September 30 preceding that January 1, except
6 that any of the following rates shall apply if it exceeds the rate
7 determined in accordance with the applicable increase in the CPI-W
8 for the indicated year: on July 1, 2019, the minimum wage shall be
9 \$10.00 per hour; on January 1, 2020, the minimum wage shall be
10 \$11.00 per hour; and on January 1 of each year from 2021 to 2024,
11 inclusive, the minimum wage shall be increased from the rate of the
12 preceding year by \$1.00 per hour. If the federal minimum hourly
13 wage rate set by section 6 of the federal "Fair Labor Standards Act
14 of 1938" (29 U.S.C. s.206), or a successor federal law, is raised to a
15 level higher than the State minimum wage rate set by this
16 subsection, then the State minimum wage rate shall be increased to
17 the level of the federal minimum wage rate and subsequent
18 increases based on increases in the CPI-W pursuant to this section
19 shall be applied to the higher minimum wage rate. If an applicable
20 wage order has been issued by the commissioner under section 17
21 (C.34:11-56a16) of this act, the employer shall also pay not less
22 than the wages prescribed in said order. The wage rates fixed in
23 this section shall not be applicable to [part-time employees
24 primarily engaged in the care and tending of children in the home of
25 the employer, to] persons under the age of 18 not possessing a
26 special vocational school graduate permit issued pursuant to section
27 15 of P.L.1940, c.153 (C.34:2-21.15), or to persons employed as
28 salesmen of motor vehicles, or to persons employed as outside
29 salesmen as such terms shall be defined and delimited in regulations
30 adopted by the commissioner, or to persons employed in a volunteer
31 capacity and receiving only incidental benefits at a county or other
32 agricultural fair by a nonprofit or religious corporation or a
33 nonprofit or religious association which conducts or participates in
34 that fair.

35 b. (1) An employer shall also pay each employee not less than
36 1 1/2 times such employee's regular hourly rate for each hour of
37 working time in excess of 40 hours in any week, except that this
38 overtime rate shall not apply: to any individual employed in a bona
39 fide executive, administrative, or professional capacity; or to
40 employees engaged to labor on a farm or employed in a hotel; or to
41 an employee of a common carrier of passengers by motor bus; or to
42 a limousine driver who is an employee of an employer engaged in
43 the business of operating limousines; or to employees engaged in
44 labor relative to the raising or care of livestock.

45 (2) Employees engaged on a piece-rate or regular hourly rate
46 basis to labor on a farm shall be paid for each day worked not less
47 than the applicable minimum hourly wage rate multiplied by the
48 total number of hours worked.

1 (3) Full-time students may be employed by the college or
2 university at which they are enrolled at not less than 85% of the
3 effective applicable minimum wage rate.

4 c. Employees of a small employer, and employees who are
5 engaged in seasonal employment, except for employees who
6 customarily and regularly receive gratuities or tips who shall be
7 subject to the provisions of subsections a. and d. of this section,
8 shall be paid \$8.85 per hour as of January 1, 2019 and, on January 1
9 of 2020 and January 1 of each subsequent year, that minimum wage
10 rate shall be increased by any increase in the consumer price index
11 for all urban wage earners and clerical workers (CPI-W) as
12 calculated by the federal government for the 12 months prior to the
13 September 30 preceding that January 1, except that any of the
14 following rates shall apply if it exceeds the rate determined in
15 accordance with the applicable increase in the CPI-W for the
16 indicated year: on January 1, 2020, the minimum wage shall be
17 \$10.30 per hour; and on January 1 of each year from 2021 to 2025,
18 inclusive, the minimum wage shall be increased from the rate of the
19 preceding year by eighty cents per hour, and, in 2026, the minimum
20 wage shall be increased from the rate of the preceding year by
21 seventy cents per hour, and, in each year from 2027 to 2028
22 inclusive, the minimum wage for employees subject to this
23 subsection c. shall be increased by the same amount as the increase
24 for employees subject to subsection a. of this section based on CPI-
25 W increases, plus one half of the difference between \$15.00 per
26 hour and the minimum wage in effect in 2026 for employees
27 pursuant to subsection a. of this section, so that, by 2028, the
28 minimum wage for employees subject to this subsection shall be the
29 same as the minimum wage in effect for employees subject to
30 subsection a. of this section. If the federal minimum hourly wage
31 rate set by section 6 of the federal "Fair Labor Standards Act of
32 1938" (29 U.S.C. s.206), or a successor federal law, is raised to a
33 level higher than the State minimum wage rate set by this
34 subsection, then the State minimum wage rate shall be increased to
35 the level of the federal minimum wage rate and subsequent
36 increases based on increases in the CPI-W pursuant to this
37 subsection shall be applied to the higher minimum wage rate.

38 d. Employees engaged on a piece-rate or regular hourly rate
39 basis to labor on a farm shall be paid \$8.85 per hour as of January
40 1, 2019 and, on January 1 of 2020 and January 1 of each subsequent
41 year, that minimum wage rate shall be increased by any increase in
42 the consumer price index for all urban wage earners and clerical
43 workers (CPI-W) as calculated by the federal government for the 12
44 months prior to the September 30 preceding that January 1, except
45 that any of the following rates shall apply if it exceeds the rate
46 determined in accordance with the applicable increase in the CPI-W
47 for the indicated year:

1 (1) on January 1, 2020, the minimum wage shall be \$10.30 per
2 hour; on January 1, 2022, the minimum wage shall be \$10.90 per
3 hour; and on January 1 of each year from 2023 to 2024, inclusive,
4 the minimum wage shall be increased from the rate of the preceding
5 year by eighty cents per hour; and

6 (2) subject to the provisions of paragraph (3) of this subsection
7 d., minimum wage rates shall be increased as follows: on January 1
8 of 2025, the minimum wage shall be increased to \$13.40, and on
9 January 1 of each year from 2026 to 2027, inclusive, the minimum
10 wage shall be increased from the rate of the preceding year by
11 eighty cents per hour, and, in each year from 2028 to 2030
12 inclusive, the minimum wage for employees subject to this
13 subsection d. shall be increased during that year by the same
14 amount as the increase in that year for employees subject to
15 subsection a. of this section based on CPI-W increases, plus one
16 third of the difference between \$15.00 per hour and the minimum
17 wage in effect in 2027 for employees pursuant to subsection a. of
18 this section, so that, by 2030, the minimum wage for employees
19 subject to this subsection shall be the same as the minimum wage in
20 effect for employees subject to subsection a. of this section.

21 (3) Not later than March 31, 2024, the commissioner and the
22 Secretary of Agriculture shall review the report issued by the
23 commissioner pursuant to subsection b. of section 4 of P.L.2019,
24 c.32 (C.34:11-56a4.10) and shall consider any information provided
25 by the secretary regarding the impact on farm employers and the
26 viability of the State's agricultural industry of the increases of the
27 minimum wage made pursuant to paragraph (1) of this subsection,
28 and the potential impact of the increases which would be set by
29 paragraph (2) of this subsection, including comparisons with the
30 wage rates in the agricultural industries in other states, and shall
31 recommend: approval of the increases set forth in paragraph (2) of
32 this subsection; disapproval of the increases set forth in paragraph
33 (2) of this subsection; or an alternative manner of changing the
34 minimum wage after 2024 for employees engaged on a piece-rate or
35 regular hourly rate basis to labor on a farm. In contemplation of the
36 possibility that the commissioner and the secretary are unable to
37 agree on the recommendation required by this paragraph, by
38 December 31, 2021, the Governor shall appoint a public member
39 subject to advice and consent by the Senate, who will serve as a tie-
40 breaking member if needed. The increases set forth in paragraph
41 (2) of this subsection shall take effect unless there is a
42 recommendation pursuant to this paragraph to disapprove the
43 increases or for an alternative manner of changing the minimum
44 wage after 2024 for employees engaged on a piece-rate or regular
45 hourly rate basis to labor on a farm and the Legislature, not later
46 than June 30, 2024, enacts a concurrent resolution approving the
47 implementation of that recommendation. Beginning in 2024, the
48 commissioner, secretary, and public member shall meet biennially

1 to make either a one or two year recommendation to the Legislature
2 for implementation by way of concurrent resolution.

3 (4) If the federal minimum hourly wage rate set by section 6 of
4 the federal "Fair Labor Standards Act of 1938" (29 U.S.C. s.206), or
5 a successor federal law, is raised to a level higher than the State
6 minimum wage rate set by this subsection, then the State minimum
7 wage rate shall be increased to the level of the federal minimum
8 wage rate and subsequent increases based on increases in the CPI-
9 W pursuant to this subsection shall be applied to the higher
10 minimum wage rate.

11 e. With respect to an employee who customarily and regularly
12 receives gratuities or tips, every employer is entitled to a credit for
13 the gratuities or tips received by the employee against the hourly
14 wage rate that would otherwise be paid to the employee pursuant to
15 subsection a. of this section of the following amounts: after
16 December 31, 2018 and before July 1, 2019, \$6.72 per hour; after
17 June 30, 2019 and before January 1, 2020, \$7.37 per hour; during
18 calendar years 2020, 2021 and 2022, \$7.87 per hour; during
19 calendar year 2023, \$8.87 per hour; and during calendar year 2024
20 and subsequent calendar years, \$9.87 per hour.

21 f. Notwithstanding the provisions of this section to the
22 contrary, every trucking industry employer shall pay to all drivers,
23 helpers, loaders and mechanics for whom the Secretary of
24 Transportation may prescribe maximum hours of work for the safe
25 operation of vehicles, pursuant to section 31502(b) of the federal
26 Motor Carrier Act, 49 U.S.C.s.31502(b), an overtime rate not less
27 than 1 1/2 times the minimum wage required pursuant to this
28 section and N.J.A.C. 12:56-3.1. Employees engaged in the trucking
29 industry shall be paid no less than the minimum wage rate as
30 provided in this section and N.J.A.C. 12:56-3.1. As used in this
31 section, "trucking industry employer" means any business or
32 establishment primarily operating for the purpose of conveying
33 property from one place to another by road or highway, including
34 the storage and warehousing of goods and property. Such an
35 employer shall also be subject to the jurisdiction of the Secretary of
36 Transportation pursuant to the federal Motor Carrier Act, 49
37 U.S.C.s.31501 et seq., whose employees are exempt under section
38 213(b)(1) of the federal "Fair Labor Standards Act of 1938," 29
39 U.S.C. s.213(b)(1), which provides an exemption to employees
40 regulated by section 207 of the federal "Fair Labor Standards Act of
41 1938," 29 U.S.C. s.207, and the Interstate Commerce Act, 49
42 U.S.C. s.501 et al.

43 g. Commencing on January 1, 2020, a training wage of not less
44 than 90 percent of the minimum wage rate otherwise set pursuant to
45 subsection a. of this section may be paid to an employee who is
46 enrolled in an established employer on-the-job or other training
47 program which meets standards set by regulations adopted by the
48 commissioner. The period during which an employer may pay the

1 training wage to the employee shall be the first 120 hours of work
2 after hiring the employee in employment in an occupation in which
3 the employee has no previous similar or related experience. An
4 employer shall not utilize any employee paid the training wage in a
5 manner which causes, induces, encourages or assists any
6 displacement or partial displacement of any currently employed
7 worker, including any previous recipient of the training wage, by
8 reducing hours of a currently employed worker, replacing a current
9 or laid off employee with a trainee, or by relocating operations
10 resulting in a loss of employment at a previous workplace, or in a
11 manner which replaces, supplants, competes with or duplicates any
12 approved apprenticeship program. An employer who pays an
13 employee a training wage shall make a good faith effort to continue
14 to employ the employee after the period of the training wage
15 expires and shall not hire the employee at the training wage unless
16 there is a reasonable expectation that there will be regular
17 employment, paying at or above the effective minimum wage, for
18 the trainee upon the successful completion of the period of the
19 training wage. If the commissioner determines that an employer
20 has made repeated, knowing violations of the provisions of this
21 subsection regarding the payment of a training wage, the
22 commissioner shall suspend the employer's right to pay a training
23 wage for a period set pursuant to regulations adopted by the
24 commissioner, but not less than three years.

25 h. The provisions of this section shall not be construed as
26 prohibiting any political subdivision of the State from adopting an
27 ordinance, resolution, regulation or rule, or entering into any
28 agreement, establishing any standard for vendors, contractors and
29 subcontractors of the subdivision regarding wage rates or overtime
30 compensation which is higher than the standards provided for in
31 this section, and no provision of any other State or federal law
32 establishing a minimum standard regarding wages or other terms
33 and conditions of employment shall be construed as preventing a
34 political subdivision of the State from adopting an ordinance,
35 resolution, regulation or rule, or entering into any agreement,
36 establishing a standard for vendors, contractors and subcontractors
37 of the subdivision which is higher than the State or federal law or
38 which otherwise provides greater protections or rights to employees
39 of the vendors, contractors and subcontractors of the subdivision,
40 unless the State or federal law expressly prohibits the subdivision
41 from adopting the ordinance, resolution, regulation or rule, or
42 entering into the agreement.

43 i. Effective on the first day of the second month next following
44 the effective date of P.L.2020, c.89 (C.30:4D-7cc et al.), the
45 minimum wage for long-term care facility direct care staff members
46 shall be in an amount that is \$3 higher than the prevailing minimum
47 wage established pursuant to subsection a. of this section.
48 (cf: P.L.2020, c.89, s.2)

1 11. Section 1 of P.L.1952, c.9 (C.34:11-56.1) is amended to read
2 as follows:

3 1. As used in this act:

4 a. "Employee" includes any person, either male or female,
5 employed by an employer, but shall not include persons performing
6 volunteer service for nonprofit organizations or corporations nor
7 persons employed on a farm~~],~~ or in domestic service in a private
8 home,~~]~~ or in a hotel.

9 b. "Employer" includes any person acting directly or indirectly
10 in the interest, or as agent, of an employer in relation to an
11 employee and further includes one or more individuals,
12 partnerships, corporations, associations, legal representatives,
13 trustees, trustees in bankruptcy, or receivers, and "hiring entities" as
14 defined by section 2 of P.L. , c. (C.) (pending before the
15 Legislature as this bill), such term shall not include nonprofit
16 hospital associations or corporations.

17 c. "Employ" includes to suffer or permit to work.

18 d. "Occupation" includes any industry, trade, business or
19 branch thereof, or any employment or class of employment.

20 e. "Commissioner" means the Commissioner of Labor and
21 **【Industry】** Workforce Development of the State of New Jersey.

22

23 12. R.S.34:15-36 is amended to read as follows:

24 34:15-36. "Willful negligence" within the intent of this chapter
25 shall consist of (1) deliberate act or deliberate failure to act, or (2)
26 such conduct as evidences reckless indifference to safety, or (3)
27 intoxication, operating as the proximate cause of injury, or (4)
28 unlawful use of a controlled dangerous substance as defined in the
29 "New Jersey Controlled Dangerous Substances Act," P.L.1970,
30 c.226 (C.24:21-1 et seq.).

31 "Employer" **【is declared to be synonymous with master, and】**
32 includes natural persons, partnerships, **【and】** corporations, and
33 "hiring entities" as defined by section 2 of P.L. , c. (C.)
34 (pending before the Legislature as this bill); "employee" **【is**
35 **synonymous with servant, and】** includes all natural persons,
36 including officers of corporations, who perform service for an
37 employer for financial consideration, exclusive of (1) employees
38 eligible under the federal "Longshore and Harbor Workers'
39 Compensation Act," 44 Stat. 1424 (33 U.S.C.s.901 et seq.), for
40 benefits payable with respect to accidental death or injury, or
41 occupational disease or infection; and (2) casual employments,
42 which shall be defined~~],~~ if in connection with the employer's
43 business, as employment the occasion for which arises by chance or
44 is purely accidental; or if not in connection with any business of the
45 employer, as employment not regular, periodic or recurring;~~】~~ as
46 work that is:

47 (a) irregular, uncertain, or incidental in nature or duration; and

1 (b) different in nature from the type of paid work in which the
2 worker is customarily engaged, provided, however, that forest fire
3 wardens and forest firefighters employed by the State of New Jersey
4 shall, in no event, be deemed casual employees.

5 An individual providing services for remuneration shall be
6 regarded as an employee of an employer for the purposes of the
7 workers' compensation law, R.S.34:15-1 et seq. unless and until it is
8 shown to the satisfaction of the division that:

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

12 (b) the service is either outside the usual course of the business
13 for which the service is performed, or that such service is performed
14 outside of all the places of business of the enterprise for which such
15 service is performed; and

16 (c) the individual is customarily engaged in an independently
17 established trade, occupation, profession, or business.

18 A self-employed person, partners of a limited liability
19 partnership, members of a limited liability company or partners of a
20 partnership who actively perform services on behalf of the self-
21 employed person's business, the limited liability partnership, limited
22 liability company or the partnership shall be deemed an "employee"
23 of the business, limited liability partnership, limited liability
24 company or partnership for purposes of receipt of benefits and
25 payment of premiums pursuant to this chapter, if the business,
26 limited liability partnership, limited liability company or
27 partnership elects, when the workers' compensation policy of the
28 business, limited liability partnership, limited liability company or
29 partnership is purchased or renewed, to obtain coverage for the
30 person, the limited liability partners, the limited liability company
31 members or the partners. If the business, limited liability
32 partnership, limited liability company or partnership elects to obtain
33 coverage for the self-employed person, limited liability partners,
34 limited liability company members or the partners, the election may
35 only be made at purchase or at renewal and may not be withdrawn
36 during the policy term. If the business, limited liability partnership,
37 limited liability company or partnership performs services covered
38 under a homeowner's policy or other policies providing
39 comprehensive personal liability insurance for domestic **servants**
40 employees, household employees or the dependents thereof, the
41 workers' compensation policy of the business, limited liability
42 partnership, limited liability company or partnership shall have
43 primary responsibility for the payment of benefits. Notwithstanding
44 the provisions of R.S.34:15-71 and 34:15-72, the business, limited
45 liability partnership, limited liability company or partnership shall
46 not be required to purchase a policy unless the business, limited
47 liability partnership, limited liability company or partnership is an
48 "employer" of a least one employee as defined in this section who is

1 not a self-employed person, limited liability partner, limited
2 liability company member or partner actively performing services
3 on behalf of the business, limited liability partnership, limited
4 liability company or partnership.

5 Notwithstanding any other provision of law to the contrary, no
6 insurer or insurance producer [as defined in section 2 of P.L.1987,
7 c.293 (C.17:22A-2)] shall be liable in an action for damages on
8 account of the failure of a business, limited liability partnership,
9 limited liability company or partnership to elect to obtain workers'
10 compensation coverage for a self-employed person, limited liability
11 partner, limited liability company member or partner, unless the
12 insurer or insurance producer causes damage by a willful, wanton or
13 grossly negligent act of commission or omission. Every application
14 for workers' compensation made on or after the effective date of
15 this amendatory act shall include notice, as approved by the
16 Commissioner of Banking and Insurance, concerning the
17 availability of workers' compensation coverage for self-employed
18 persons, limited liability partners, limited liability company
19 members or partners. That application shall also contain a notice of
20 election of coverage and shall clearly state that coverage for self-
21 employed persons, limited liability partners, limited liability
22 company members and partners shall not be provided under the
23 policy unless the application containing the notice of election is
24 executed and filed with the insurer or insurance producer. The
25 application containing the notice of election shall also contain a
26 statement that the insurer or insurance producer shall not be liable
27 in an action for damages on account of the failure of a business,
28 limited liability partnership, limited liability company or
29 partnership to elect to obtain workers' compensation coverage for a
30 self-employed person, limited liability partner, limited liability
31 company member or partner, unless the insurer or insurance
32 producer causes damage by a willful, wanton or grossly negligent
33 act of commission or omission. The failure of a self-employed
34 person, limited liability partnership, limited liability company or
35 partnership to elect to obtain workers' compensation coverage for
36 the self-employed person, the limited liability partners, the limited
37 liability company members or the partners shall not affect benefits
38 available under any other accident or health policy.

39 Employment shall be deemed to commence when an employee
40 arrives at the employer's place of employment to report for work
41 and shall terminate when the employee leaves the employer's place
42 of employment, excluding areas not under the control of the
43 employer; provided, however, when the employee is required by the
44 employer to be away from the employer's place of employment, the
45 employee shall be deemed to be in the course of employment when
46 the employee is engaged in the direct performance of duties
47 assigned or directed by the employer; but the employment of
48 employee paid travel time by an employer for time spent traveling

1 to and from a job site or of any employee who utilizes an employer
2 authorized vehicle shall commence and terminate with the time
3 spent traveling to and from a job site or the authorized operation of
4 a vehicle on business authorized by the employer. Travel by a
5 policeman, fireman, or a member of a first aid or rescue squad, in
6 responding to and returning from an emergency, shall be deemed to
7 be in the course of employment.

8 Employment shall also be deemed to commence when an
9 employee is traveling in a ridesharing arrangement between his or
10 her place of residence or terminal near such place and his or her
11 place of employment, if one of the following conditions is satisfied:
12 the vehicle used in the ridesharing arrangement is owned, leased or
13 contracted for by the employer, or the employee is required by the
14 employer to travel in a ridesharing arrangement as a condition of
15 employment.

16 "Disability permanent in quality and partial in character" means
17 a permanent impairment caused by a compensable accident or
18 compensable occupational disease, based upon demonstrable
19 objective medical evidence, which restricts the function of the body
20 or of its members or organs; included in the criteria which shall be
21 considered shall be whether there has been a lessening to a material
22 degree of an employee's working ability. Subject to the above
23 provisions, nothing in this definition shall be construed to preclude
24 benefits to a worker who returns to work following a compensable
25 accident even if there be no reduction in earnings. Injuries such as
26 minor lacerations, minor contusions, minor sprains, and scars which
27 do not constitute significant permanent disfigurement, and
28 occupational disease of a minor nature such as mild dermatitis and
29 mild bronchitis shall not constitute permanent disability within the
30 meaning of this definition.

31 "Disability permanent in quality and total in character" means a
32 physical or neuropsychiatric total permanent impairment caused by
33 a compensable accident or compensable occupational disease,
34 where no fundamental or marked improvement in such condition
35 can be reasonably expected.

36 Factors other than physical and neuropsychiatric impairments
37 may be considered in the determination of permanent total
38 disability, where such physical and neuropsychiatric impairments
39 constitute at least 75% or higher of total disability.

40 "Ridesharing" means the transportation of persons in a motor
41 vehicle, with a maximum carrying capacity of not more than 15
42 passengers, including the driver, where such transportation is
43 incidental to the purpose of the driver. This term shall include such
44 ridesharing arrangements known as carpools and vanpools.

45 "Medical services, medical treatment, physicians' services and
46 physicians' treatment" shall include, but not be limited to, the
47 services which a chiropractor is authorized by law to perform and

1 which are authorized by an employer pursuant to the provisions of
2 R.S.34:15-1 et seq.
3 (cf: P.L.1999, c.383. s.1)
4

5 13. R.S.34:15-92 is amended to read as follows:

6 34:15-92. **【Each employer】** Employers and hiring entities of
7 domestic **【servants or household employees】** workers and every
8 stock company or mutual association affording insurance for the
9 liability of such employers by reason of that employment shall be
10 exempted from the provisions of **【 R.S. 34:15-79, and】** R.S. 34:15-
11 80**【. The provisions of 】** and R.S. 34:15-81 **【shall not be**
12 **applicable where the insurance coverage is afforded pursuant to**
13 **P.L....., c..... (now pending before the Legislature as Assembly**
14 **Bill No. 949 of 1978)】**, but are required to provide written notice of
15 insurance coverage and cancellation of a policy.

16 (cf: P.L.1979, c.380, s.3)
17

18 14. R.S.43:21-19 is amended to read as follows:

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

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

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

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

4 (c) (1) "Base year" with respect to benefit years commencing
5 on or after July 1, 1986, shall mean the first four of the last five
6 completed calendar quarters immediately preceding an individual's
7 benefit year.

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

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

37 (2) With respect to a benefit year commencing on or after June
38 1, 1990 for an individual who immediately preceding the benefit
39 year was subject to a disability compensable under the provisions of
40 the "Temporary Disability Benefits Law," P.L.1948, c.110
41 (C.43:21-25 et seq.), "base year" shall mean the first four of the last
42 five completed calendar quarters immediately preceding the
43 individual's period of disability, if the employment held by the
44 individual immediately preceding the period of disability is no
45 longer available at the conclusion of that period and the individual
46 files a valid claim for unemployment benefits after the conclusion
47 of that period. For the purposes of this paragraph, "period of
48 disability" means the period defined as a period of disability by

1 section 3 of the "Temporary Disability Benefits Law," P.L.1948,
2 c.110 (C.43:21-27). An individual who files a claim under the
3 provisions of this paragraph (2) shall not be regarded as having left
4 work voluntarily for the purposes of subsection (a) of R.S.43:21-5.

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

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

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

40 (2) "Controller" means the Office of the Assistant
41 Commissioner for Finance and Controller of the Department of
42 Labor and Workforce Development, established by the 1982
43 Reorganization Plan of the Department of Labor.

44 (f) "Contributions" means the money payments to the State
45 Unemployment Compensation Fund, required by R.S.43:21-7.
46 "Payments in lieu of contributions" means the money payments to
47 the State Unemployment Compensation Fund by employers electing
48 or required to make payments in lieu of contributions, as provided

1 in section 3 or section 4 of P.L.1971, c.346 (C.43:21-7.2 or 43:21-
2 7.3).

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

25 (h) "Employer" means:

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

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

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

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

46 (5) Any employing unit for which service in employment as
47 defined in R.S.43:21-19 (i) (1) (B) (i) is performed after December

- 1 31, 1971; and as defined in R.S.43:21-19 (i) (1) (B) (ii) is
2 performed after December 31, 1977;
- 3 (6) Any employing unit for which service in employment as
4 defined in R.S.43:21-19 (i) (1) (c) is performed after December 31,
5 1971 and which in either the current or the preceding calendar year
6 paid remuneration for employment in the amount of \$1,000.00 or
7 more;
- 8 (7) Any employing unit not an employer by reason of any other
9 paragraph of this subsection (h) for which, within either the current
10 or preceding calendar year, service is or was performed with respect
11 to which such employing unit is liable for any federal tax against
12 which credit may be taken for contributions required to be paid into
13 a state unemployment fund; or which, as a condition for approval of
14 the "unemployment compensation law" for full tax credit against
15 the tax imposed by the Federal Unemployment Tax Act, is required
16 pursuant to such act to be an employer under this chapter
17 (R.S.43:21-1 et seq.);
- 18 (8) (Deleted by amendment; P.L.1977, c.307.)
- 19 (9) (Deleted by amendment; P.L.1977, c.307.)
- 20 (10) (Deleted by amendment; P.L.1977, c.307.)
- 21 (11) Any employing unit subject to the provisions of the Federal
22 Unemployment Tax Act within either the current or the preceding
23 calendar year, except for employment hereinafter excluded under
24 paragraph (7) of subsection (i) of this section;
- 25 (12) Any employing unit for which agricultural labor in
26 employment as defined in R.S.43:21-19 (i) (1) (I) is performed after
27 December 31, 1977;
- 28 (13) (a) Any employing unit for which domestic service in
29 employment as defined in R.S.43:21-19 (i) (1) (J) is performed after
30 December 31, 1977 and before January 1, 2022; and
- 31 (b) Any employing unit or hiring entity for domestic services as
32 defined in section 2 of P.L. , c. (C.)(pending before the
33 Legislature as this bill);
- 34 (14) Any employing unit which having become an employer
35 under the "unemployment compensation law" (R.S.43:21-1 et seq.),
36 has not under R.S.43:21-8 ceased to be an employer; or for the
37 effective period of its election pursuant to R.S.43:21-8, any other
38 employing unit which has elected to become fully subject to this
39 chapter (R.S.43:21-1 et seq.).
- 40 (i) (1) "Employment" means:
- 41 (A) Any service performed prior to January 1, 1972, which was
42 employment as defined in the "unemployment compensation law"
43 (R.S.43:21-1 et seq.) prior to such date, and, subject to the other
44 provisions of this subsection, service performed on or after January
45 1, 1972, including service in interstate commerce, performed for
46 remuneration or under any contract of hire, written or oral, express
47 or implied.

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

7 (ii) Service performed after December 31, 1977, in the employ
8 of this State or any of its instrumentalities or any political
9 subdivision thereof or any of its instrumentalities or any
10 instrumentality of more than one of the foregoing or any
11 instrumentality of the foregoing and one or more other states or
12 political subdivisions, if such service is not excluded from
13 "employment" under paragraph (D) below.

14 (C) Service performed after December 31, 1971 by an individual
15 in the employ of a religious, charitable, educational, or other
16 organization, which is excluded from "employment" as defined in
17 the Federal Unemployment Tax Act, solely by reason of section
18 3306 (c)(8) of that act, if such service is not excluded from
19 "employment" under paragraph (D) below.

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

22 (i) In the employ of (I) a church or convention or association of
23 churches, or (II) an organization, or school which is operated
24 primarily for religious purposes and which is operated, supervised,
25 controlled or principally supported by a church or convention or
26 association of churches;

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

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

35 (aa) as an elected official;

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

38 (cc) as a member of the State National Guard or Air National
39 Guard;

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

42 (ee) in a position which, under or pursuant to the laws of this
43 State, is designated as a major nontenured policy making or
44 advisory position, or a policy making or advisory position, the
45 performance of the duties of which ordinarily does not require more
46 than eight hours per week; or

47 (iv) By an individual receiving rehabilitation or remunerative
48 work in a facility conducted for the purpose of carrying out a

1 program of rehabilitation of individuals whose earning capacity is
2 impaired by age or physical or mental deficiency or injury or
3 providing remunerative work for individuals who because of their
4 impaired physical or mental capacity cannot be readily absorbed in
5 the competitive labor market;

6 (v) By an individual receiving work-relief or work-training as
7 part of an unemployment work-relief or work-training program
8 assisted in whole or in part by any federal agency or an agency of a
9 state or political subdivision thereof; or

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

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

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

28 (ii) The American employer has no place of business in the
29 United States, but (I) the American employer is an individual who
30 is a resident of this State; or (II) the American employer is a
31 corporation which is organized under the laws of this State; or (III)
32 the American employer is a partnership or trust and the number of
33 partners or trustees who are residents of this State is greater than the
34 number who are residents of another state; or

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

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

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

8 (G) Notwithstanding any other provision of this subsection,
9 service in this State with respect to which the taxes required to be
10 paid under any federal law imposing a tax against which credit may
11 be taken for contributions required to be paid into a state
12 unemployment fund or which as a condition for full tax credit
13 against the tax imposed by the Federal Unemployment Tax Act is
14 required to be covered under the "unemployment compensation
15 law" (R.S.43:21-1 et seq.).

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

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

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

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

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

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

- 1 (bb) if such individual is not an employee of such other person
2 for whom services were performed.
- 3 (iii) For the purposes of subparagraph (I) (i) in the case of any
4 individual who is furnished by a crew leader to perform service in
5 agricultural labor or any other entity and who is not treated as an
6 employee of such crew leader under (I) (ii)
- 7 (aa) such other entity and not the crew leader shall be treated as
8 the employer of such individual; and
- 9 (bb) such other entity shall be treated as having paid cash
10 remuneration to such individual in an amount equal to the amount
11 of cash remuneration paid to such individual by the crew leader
12 (either on his own behalf or on behalf of such other entity) for the
13 service in agricultural labor performed for such other entity.
- 14 (iv) For the purpose of subparagraph (I)(ii), the term "crew
15 leader" means an individual who
- 16 (aa) furnishes individuals to perform service in agricultural
17 labor for any other entity;
- 18 (bb) pays (either on his own behalf or on behalf of such other
19 entity) the individuals so furnished by him for the service in
20 agricultural labor performed by them; and
- 21 (cc) has not entered into a written agreement with such other
22 entity under which such individual is designated as an employee of
23 such other entity.
- 24 (J) (i) Domestic service after December 31, 1977 and before
25 January 1, 2022 performed in the private home of an employing unit
26 which paid cash remuneration of \$1,000.00 or more to one or more
27 individuals for such domestic service in any calendar quarter in the
28 current or preceding calendar year.
- 29 (ii) Domestic services as defined by section 2 of P.L. , c.
30 (C.) (pending before the Legislature as this bill) after
31 December 31, 2021 in either the current or preceding calendar year
32 paid remuneration for employment in the amount of \$1,000 or
33 more.
- 34 (2) The term "employment" shall include an individual's entire
35 service performed within or both within and without this State if:
- 36 (A) The service is localized in this State; or
- 37 (B) The service is not localized in any state but some of the
38 service is performed in this State, and (i) the base of operations, or,
39 if there is no base of operations, then the place from which such
40 service is directed or controlled, is in this State; or (ii) the base of
41 operations or place from which such service is directed or
42 controlled is not in any state in which some part of the service is
43 performed, but the individual's residence is in this State.
- 44 (3) Services performed within this State but not covered under
45 paragraph (2) of this subsection shall be deemed to be employment
46 subject to this chapter (R.S.43:21-1 et seq.) if contributions are not
47 required and paid with respect to such services under an

1 unemployment compensation law of any other state or of the federal
2 government.

3 (4) Services not covered under paragraph (2) of this subsection
4 and performed entirely without this State, with respect to no part of
5 which contributions are required and paid under an unemployment
6 compensation law of any other state or of the federal government,
7 shall be deemed to be employment subject to this chapter
8 (R.S.43:21-1 et seq.) if the individual performing such services is a
9 resident of this State and the employing unit for whom such
10 services are performed files with the division an election that the
11 entire service of such individual shall be deemed to be employment
12 subject to this chapter (R.S.43:21-1 et seq.).

13 (5) Service shall be deemed to be localized within a state if:

14 (A) The service is performed entirely within such state; or

15 (B) The service is performed both within and without such state,
16 but the service performed without such state is incidental to the
17 individual's service within the state; for example, is temporary or
18 transitory in nature or consists of isolated transactions.

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

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

26 (B) Such service is either outside the usual course of the
27 business for which such service is performed, or that such service is
28 performed outside of all the places of business of the enterprise for
29 which such service is performed; and

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

32 (7) Provided that such services are also exempt under the
33 Federal Unemployment Tax Act, as amended, or that contributions
34 with respect to such services are not required to be paid into a state
35 unemployment fund as a condition for a tax offset credit against the
36 tax imposed by the Federal Unemployment Tax Act, as amended,
37 the term "employment" shall not include:

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

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

46 (ii) for some portion of a day in each of 20 different calendar
47 weeks, whether or not such weeks were consecutive, in either the
48 current or the preceding calendar year, employed in agricultural

1 labor 10 or more individuals, regardless of whether they were
2 employed at the same moment in time;

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

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

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

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

24 (F) Service performed in the employ of the United States
25 Government or of any instrumentality of the United States exempt
26 under the Constitution of the United States from the contributions
27 imposed by the "unemployment compensation law," except that to
28 the extent that the Congress of the United States shall permit states
29 to require any instrumentalities of the United States to make
30 payments into an unemployment fund under a state unemployment
31 compensation law, all of the provisions of this act shall be
32 applicable to such instrumentalities, and to service performed for
33 such instrumentalities, in the same manner, to the same extent and
34 on the same terms as to all other employers, employing units,
35 individuals and services; provided that if this State shall not be
36 certified for any year by the Secretary of Labor of the United States
37 under section 3304 of the federal Internal Revenue Code of 1986
38 (26 U.S.C. s.3304), the payments required of such instrumentalities
39 with respect to such year shall be refunded by the division from the
40 fund in the same manner and within the same period as is provided
41 in R.S.43:21-14 (f) with respect to contributions erroneously paid to
42 or collected by the division;

43 (G) Services performed in the employ of fraternal beneficiary
44 societies, orders, or associations operating under the lodge system
45 or for the exclusive benefit of the members of a fraternity itself
46 operating under the lodge system and providing for the payment of
47 life, sick, accident, or other benefits to the members of such society,
48 order, or association, or their dependents;

1 (H) Services performed as a member of the board of directors, a
2 board of trustees, a board of managers, or a committee of any bank,
3 building and loan, or savings and loan association, incorporated or
4 organized under the laws of this State or of the United States, where
5 such services do not constitute the principal employment of the
6 individual;

7 (I) Service with respect to which unemployment insurance is
8 payable under an unemployment insurance program established by
9 an Act of Congress;

10 (J) Service performed by agents of mutual fund brokers or
11 dealers in the sale of mutual funds or other securities, by agents of
12 insurance companies, exclusive of industrial insurance agents or by
13 agents of investment companies, if the compensation to such agents
14 for such services is wholly on a commission basis;

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

17 (L) Services performed in the employ of any veterans'
18 organization chartered by Act of Congress or of any auxiliary
19 thereof, no part of the net earnings of which organization, or
20 auxiliary thereof, inures to the benefit of any private shareholder or
21 individual;

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

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

34 (O) Services performed in the sale or distribution of merchandise
35 by home-to-home salespersons or in-the-home demonstrators whose
36 remuneration consists wholly of commissions or commissions and
37 bonuses;

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

41 (Q) Service performed in the employ of an instrumentality
42 wholly owned by a foreign government if (i) the service is of a
43 character similar to that performed in foreign countries by
44 employees of the United States Government or of an instrumentality
45 thereof, and (ii) the division finds that the United States Secretary
46 of State has certified to the United States Secretary of the Treasury
47 that the foreign government, with respect to whose instrumentality
48 exemption is claimed, grants an equivalent exemption with respect

- 1 to similar services performed in the foreign country by employees
2 of the United States Government and of instrumentalities thereof;
- 3 (R) Service in the employ of an international organization
4 entitled to enjoy the privileges, exemptions and immunities under
5 the International Organizations Immunities Act (22 U.S.C. s.288 et
6 seq.);
- 7 (S) Service covered by an election duly approved by an agency
8 charged with the administration of any other state or federal
9 unemployment compensation or employment security law, in
10 accordance with an arrangement pursuant to R.S.43:21-21 during
11 the effective period of such election;
- 12 (T) Service performed in the employ of a school, college, or
13 university if such service is performed (i) by a student enrolled at
14 such school, college, or university on a full-time basis in an
15 educational program or completing such educational program
16 leading to a degree at any of the severally recognized levels, or (ii)
17 by the spouse of such a student, if such spouse is advised at the time
18 such spouse commences to perform such service that (I) the
19 employment of such spouse to perform such service is provided
20 under a program to provide financial assistance to such student by
21 such school, college, or university, and (II) such employment will
22 not be covered by any program of unemployment insurance;
- 23 (U) Service performed by an individual who is enrolled at a
24 nonprofit or public educational institution which normally
25 maintains a regular faculty and curriculum and normally has a
26 regularly organized body of students in attendance at the place
27 where its educational activities are carried on, as a student in a full-
28 time program, taken for credit at such institution, which combines
29 academic instruction with work experience, if such service is an
30 integral part of such program, and such institution has so certified
31 to the employer, except that this subparagraph shall not apply to
32 service performed in a program established for or on behalf of an
33 employer or group of employers;
- 34 (V) Service performed in the employ of a hospital, if such
35 service is performed by a patient of the hospital; service performed
36 as a student nurse in the employ of a hospital or a nurses' training
37 school by an individual who is enrolled and regularly attending
38 classes in a nurses' training school approved under the laws of this
39 State;
- 40 (W) Services performed after the effective date of this
41 amendatory act by agents of mutual benefit associations if the
42 compensation to such agents for such services is wholly on a
43 commission basis;
- 44 (X) Services performed by operators of motor vehicles weighing
45 18,000 pounds or more, licensed for commercial use and used for
46 the highway movement of motor freight, who own their equipment
47 or who lease or finance the purchase of their equipment through an
48 entity which is not owned or controlled directly or indirectly by the

1 entity for which the services were performed and who were
2 compensated by receiving a percentage of the gross revenue
3 generated by the transportation move or by a schedule of payment
4 based on the distance and weight of the transportation move;

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

6 (Z) Services performed, using facilities provided by a travel
7 agent, by a person, commonly known as an outside travel agent,
8 who acts as an independent contractor, is paid on a commission
9 basis, sets his own work schedule and receives no benefits, sick
10 leave, vacation or other leave from the travel agent owning the
11 facilities.

12 (8) If one-half or more of the services in any pay period
13 performed by an individual for an employing unit constitutes
14 employment, all the services of such individual shall be deemed to
15 be employment; but if more than one-half of the service in any pay
16 period performed by an individual for an employing unit does not
17 constitute employment, then none of the service of such individual
18 shall be deemed to be employment. As used in this paragraph, the
19 term "pay period" means a period of not more than 31 consecutive
20 days for which a payment for service is ordinarily made by an
21 employing unit to individuals in its employ.

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

26 (A) The limousine franchisee is incorporated;

27 (B) The franchisee is subject to regulation by the Interstate
28 Commerce Commission;

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

32 (D) The franchisee registers with the Department of Labor and
33 Workforce Development and receives an employer registration
34 number.

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

46 For purposes of this paragraph (10): "legal transcription service"
47 and "legal transcribing" mean making use, by audio, video or voice
48 recording, of a verbatim record of court proceedings, depositions,

1 other judicial proceedings, meetings of boards, agencies,
2 corporations, or other bodies or groups, and causing that record to
3 be printed in readable form or produced on a computer screen in
4 readable form; and "legal transcriber" means a person who engages
5 in "legal transcribing."

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

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

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

13 (m) "Unemployment."

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

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

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

29 (2) The term "remuneration" with respect to any individual for
30 benefit years commencing on or after July 1, 1961, and as used in
31 this subsection, shall include only that part of the same which in
32 any week exceeds 20% of his weekly benefit rate (fractional parts
33 of a dollar omitted) or \$5.00, whichever is the larger, and shall not
34 include any moneys paid to an individual by a county board of
35 elections for work as a board worker on an election day.

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

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

44 (o) "Wages" means remuneration paid by employers for
45 employment. If a worker receives gratuities regularly in the course
46 of his employment from other than his employer, his "wages" shall
47 also include the gratuities so received, if reported in writing to his
48 employer in accordance with regulations of the division, and if not

1 so reported, his "wages" shall be determined in accordance with the
2 minimum wage rates prescribed under any labor law or regulation
3 of this State or of the United States, or the amount of remuneration
4 actually received by the employee from his employer, whichever is
5 the higher.

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

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

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

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

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

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

20 (A) Any calendar week during which the individual earned in
21 employment from an employer remuneration not less than an
22 amount which is 20% of the Statewide average weekly
23 remuneration defined in subsection (c) of R.S.43:21-3 which
24 amount shall be adjusted to the next higher multiple of \$1.00 if not
25 already a multiple thereof, except that if in any calendar week an
26 individual subject to this subparagraph (A) is in employment with
27 more than one employer, the individual may in that calendar week
28 establish a base week with respect to each of the employers from
29 whom the individual earns remuneration equal to not less than the
30 amount defined in this subparagraph (A) during that week; or

31 (B) If the individual does not establish in his base year 20 or
32 more base weeks as defined in subparagraph (A) of this paragraph
33 (2), any calendar week of an individual's base year during which the
34 individual earned in employment from an employer remuneration
35 not less than an amount 20 times the minimum wage in effect
36 pursuant to section 5 of P.L.1966, c.113 (C.34:11-56a4) on October
37 1 of the calendar year preceding the calendar year in which the
38 benefit year commences, which amount shall be adjusted to the next
39 higher multiple of \$1.00 if not already a multiple thereof, except
40 that if in any calendar week an individual subject to this
41 subparagraph (B) is in employment with more than one employer,
42 the individual may in that calendar week establish a base week with
43 respect to each of the employers from whom the individual earns
44 remuneration not less than the amount defined in this subparagraph
45 (B) during that week.

46 (3) "Base week," commencing on or after January 1, 2001,
47 means any calendar week during which the individual earned in
48 employment from an employer remuneration not less than an

1 amount 20 times the minimum wage in effect pursuant to section 5
2 of P.L.1966, c.113 (C.34:11-56a4) on October 1 of the calendar
3 year preceding the calendar year in which the benefit year
4 commences, which amount shall be adjusted to the next higher
5 multiple of \$1.00 if not already a multiple thereof, except that if in
6 any calendar week an individual subject to this paragraph (3) is in
7 employment with more than one employer, the individual may in
8 that calendar week establish a base week with respect to each of the
9 employers from whom the individual earns remuneration equal to
10 not less than the amount defined in this paragraph (3) during that
11 week.

12 (u) "Average weekly wage" means the amount derived by
13 dividing an individual's total wages received during his base year
14 base weeks (as defined in subsection (t) of this section) from that
15 most recent base year employer with whom he has established at
16 least 20 base weeks, by the number of base weeks in which such
17 wages were earned. In the event that such claimant had no employer
18 in his base year with whom he had established at least 20 base
19 weeks, then such individual's average weekly wage shall be
20 computed as if all of his base week wages were received from one
21 employer and as if all his base weeks of employment had been
22 performed in the employ of one employer.

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

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

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

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

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

46 (A) In which participants, trainees, or students are offered an
47 organized course of study or training designed to transfer to them

1 knowledge, skills, information, doctrines, attitudes or abilities from,
2 by or under the guidance of an instructor or teacher;

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

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

10 (2) "Institution of higher education" means an educational
11 institution which:

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

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

17 (C) Provides an educational program for which it awards a
18 bachelor's or higher degree, or provides a program which is
19 acceptable for full credit toward such a degree, a program of post-
20 graduate or post-doctoral studies, or a program of training to
21 prepare students for gainful employment in a recognized
22 occupation; and

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

24 Notwithstanding any of the foregoing provisions of this
25 subsection, all colleges and universities in this State are institutions
26 of higher education for purposes of this section.

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

29 (cf: P.L.2017, c.230, s.1)

30

31 15. (New section) Except as otherwise provided, the following
32 minimum terms, and such other minimum terms as may be
33 established by the department by regulation, shall apply to a work
34 relationship between a domestic worker and a hiring entity:

35 a. Written agreements. No employer shall employ a domestic
36 worker, except for casual work or work of less than five hours per
37 month, unless the engagement is governed by a written contract
38 governing the following: a specific list of job duties; hourly wage
39 and overtime wage; weekly schedule including number of hours per
40 week; the manner and frequency of payment; breaks for rest and
41 meals; paid or unpaid leave including sick time; paid holidays; any
42 other benefits provided; modes of transportation required and
43 whether provided; value of housing if provided; sleeping period and
44 personal time for live-in workers; the term of the contract; and any
45 other terms and conditions as agreed upon by the domestic worker
46 and employer or as mandated pursuant to this act. The written
47 agreement shall be signed and dated by all parties after ample
48 opportunity to review.

1 b. The written agreement required under this section shall not
2 be construed to waive the protections of domestic workers under
3 federal, State, and local laws and shall not contain any:

4 (1) Mandatory pre-dispute arbitration agreement for claims
5 made by a covered domestic worker against a domestic work hiring
6 entity regarding the local rights of the worker; and

7 (2) Non-disclosure agreement, restrictive covenant, or non-
8 disparagement agreement, limiting the ability of the covered
9 domestic worker to seek compensation for performing domestic
10 services after the worker ceases to receive compensation from the
11 domestic work hiring entity for the performance of domestic
12 services.

13 c. The agreement shall be in English and such other language
14 as may be preferred by the worker. The hiring entity shall make
15 reasonable efforts to determine if the worker would prefer the
16 agreement to be in another language.

17 d. The department shall make available model contracts
18 complying with this act shall in multiple languages on its Internet
19 website.

20 e. A referral and employment agency shall provide domestic
21 workers and hiring entities with information concerning the contract
22 requirements of this act at the time a hiring entity is connected with
23 a worker and shall make any model contracts adopted by the
24 department available to the hiring entity.

25
26 16. (New section) a. The hiring entity shall allow the domestic
27 worker an uninterrupted paid rest-period of not less than ten
28 minutes for each four consecutive hours worked, unless the nature
29 of the work prevents the domestic worker from being relieved of all
30 duties for such period of time, such as some types of child care and
31 caretaker work for a sick, elderly or disabled person. The hiring
32 entity shall pay the domestic worker for the time spent on a rest
33 break at the domestic worker's regular rate of pay.

34 b. The hiring entity shall allow an uninterrupted 30-minute
35 meal break after more than five consecutive hours worked. Unless
36 the domestic worker is relieved of all work duties during such 30-
37 minute period, the meal period shall be considered an "on-duty"
38 meal period and shall be paid at the domestic worker's regular rate
39 of pay.

40 (1) An "on-duty" meal period shall be permitted only when the
41 nature of the work prevents a domestic worker from being relieved
42 of all duties and when, by written agreement between the parties, an
43 "on-duty" meal period is agreed to. The agreement may be revoked
44 by the domestic worker, in writing, at any time.

45 c. The hiring entity shall not impede or discourage a domestic
46 worker from taking any meal or rest breaks.

47 d. Failure to allow a meal or rest period in accordance with this
48 paragraph (1) shall entitle the domestic worker to one additional

1 hour of pay at the domestic worker's regular rate of compensation
2 for each workday that the meal or rest period was not provided.
3 Payment of this extra pay shall not excuse non-compliance with this
4 subsection.

5

6 17. (New section) A "live-in" domestic worker shall not be
7 required to work more than six consecutive days for the same hiring
8 entity without a 24-hour period of rest, which may be unpaid.

9

10 18. (New section) a. The hiring entity shall provide a minimum
11 two-week notification period before termination of employment,
12 and for live-in domestic workers a minimum four-week notification
13 period before termination of employment. No notification period is
14 required in connection with the termination of casual work
15 performed for a hiring entity.

16 b. The hiring entity may terminate the employment without
17 complying with the full notification period based on a good-faith
18 belief that the domestic worker has engaged in significant
19 misconduct.

20 c. Failure to provide notification as required under this section
21 shall entitle the domestic worker to severance pay in the amount of
22 the worker's regular hourly rate multiplied by the regular number of
23 hours worked over the period of time during which the required
24 notification was not provided.

25

26 19. (New section) No hiring entity shall:

27 a. Keep or hold the original copies of any personal documents
28 of a domestic worker;

29 b. Monitor or record, through any means, the activities of a
30 domestic worker:

31 (1) using any bathroom or similar facility;

32 (2) in the living quarters of a domestic worker; or

33 (3) while the worker is engaged in any activities associated with
34 dressing or changing clothes; or

35 c. Monitor, record or interfere with the private communications
36 of a domestic worker.

37

38 20. (New section) a. A hiring entity shall provide to a domestic
39 worker notification of the rights of domestic workers under P.L. ,

40 c. (C. et seq.) (pending before the Legislature as this bill),
41 and information on how to file a complaint for violation of these
42 rights, as shall be determined by the department by regulation.

43 b. A hiring entity shall create and maintain records
44 documenting hours worked, pay rate, meals and rest breaks, leave
45 time earned and used, if applicable, and the existence of a written
46 agreement, all pursuant to requirements established by regulation by
47 the department. If a hiring entity does not maintain the required
48 records or does not allow the department reasonable access to the

1 records, an adverse inference may be drawn with respect to facts
2 alleged regarding the issues about which records were not kept.

3 c. The department shall maintain the confidentiality of all
4 records it obtains in connection with enforcement activities to the
5 full extent permitted by law.

6
7 21. (New section) a. It shall be unlawful for a hiring entity or
8 any other person to interfere with, restrain, or deny the exercise of,
9 or the attempt to exercise, any right set forth in P.L. , c.
10 (C. et seq.) (pending before the Legislature as this bill).

11 b. The minimum requirements of sections 15 through 20 of
12 P.L. , c. (C.) (pending before the Legislature as this bill)
13 shall be deemed incorporated into any contract, whether actual or
14 implied, between the employer and the domestic worker.

15 c. A material breach by a hiring entity of a contract with a
16 domestic worker shall constitute a violation of P.L. , c.
17 (C. et seq.) (pending before the Legislature as this bill),
18 without regard to whether the breach is of a provision required by
19 this act.

20 d. No hiring entity or any other person shall take or threaten
21 retaliatory action against any person because a domestic worker has
22 exercised rights or pursued a claim of violation under P.L. , c.
23 (C. et seq.) (pending before the Legislature as this bill). These
24 rights include the right to demand compliance with protections
25 established by written agreement; the right to file a complaint or
26 inform any person about an employer's alleged violation of this act;
27 the right to cooperate with the department in any investigation
28 pursuant to this act; and the right to inform any person of the rights
29 established under this act.

30 e. No hiring entity or any other person shall communicate to a
31 person exercising rights protected under P.L. c. (C.)
32 (pending before the Legislature as this bill) the willingness or intent
33 to contact, report to, or to make an implied or express assertion to
34 report to a government agency regarding the suspected citizenship
35 or immigration status of a domestic worker or family member of a
36 domestic worker because the worker has or has expressed an intent
37 to exercise rights protected under this act or because of a belief the
38 worker may do so.

39 f. The protections of this section shall apply to any person who
40 mistakenly but in good faith alleges a violation of P.L. , c.
41 (C. et seq.) (pending before the Legislature as this bill).

42 g. It shall be considered a rebuttable presumption of retaliation
43 if the hiring entity or any other person takes an adverse action
44 against a domestic worker within 90 calendar days of the worker's
45 exercise of rights protected in P.L. c. (C. et seq.) (pending
46 before the Legislature as this bill). However, in the case of
47 temporary or seasonal employment that ended before the close of
48 the 90 calendar day period, the presumption also applies if the

1 hiring entity fails to rehire a former domestic worker at the next
2 opportunity for work in the same position. The hiring entity may
3 rebut the presumption with clear and convincing evidence that the
4 adverse action would have been taken in the absence of such
5 protected activity.

6 h. Proof of retaliation under P.L. , c. (C. et seq.)
7 (pending before the Legislature as this bill) shall be sufficient upon
8 a showing that the hiring entity or any other person has taken an
9 adverse action against a person and the persons exercise or rights
10 protected in P.L. , c. (C. et seq.) (pending before the
11 Legislature as this bill) was a motivating factor in the absence of
12 that protected activity.

13 i. A complaint or other communication by any person triggers
14 the protection of P.L. , c. (C. et seq.) (pending before the
15 Legislature as this bill) regardless of whether the complaint or
16 communication is in writing or makes explicit reference to P.L. ,
17 c. (C.) (pending before the Legislature as this bill).

18
19 22. (New section) The department is authorized to coordinate
20 implementation, administration, and enforcement for P.L. , c.
21 (C.) (pending before the Legislature as this bill), and shall
22 promulgate appropriate guidelines and regulations to effectuate the
23 purposes of for P.L. , c. (C.) (pending before the
24 Legislature as this bill) through the Domestic Workers Standards
25 and Implementation Board, established in section 25 of P.L. , c.
26 (C.) (pending before the Legislature as this bill).

27
28 23. (New section) a. Individuals and hiring entities with an
29 overlapping employment relationship with a domestic worker are
30 subject to joint and several liability, and concurrent finds and
31 penalties, in connection with P.L. , c. (C.) (pending before
32 the Legislature as this bill).

33 b. A domestic worker or other person representing a domestic
34 worker may report to the department any suspected violation of
35 P.L. , c. (C.) (pending before the Legislature as this bill).

36 c. The department shall collaborate with the Domestic Workers
37 Standards and Implementation Board, as established by section 25
38 of P.L. , c. (C.) (pending before the Legislature as this bill)
39 to take any steps as it deems appropriate to resolve complaints and
40 enforce P.L. , c. (C.) (pending before the Legislature as
41 this bill), including, but not limited to, establishing a system to
42 receive complaints regarding noncompliance with P.L. , c.
43 (C.) (pending before the Legislature as this bill), investigating
44 alleged violations in a timely manner and resolving complaints
45 through a separate “referral” process for claims of employees in
46 domestic services.

47 d. The department shall have the power to subpoena records
48 and testimony from any party to a complaint. The records shall be

1 provided to the department within 30 days after receipt of the
2 subpoena.

3 e. Any person alleging a violation of P.L. , c. (C.)
4 (pending before the Legislature as this bill) shall file a complaint
5 with the department within two years of the date that the person
6 knew or should have known of the alleged violation.

7 f. Upon establishment of a system of administrative
8 adjudication, the department shall have the power to impose the
9 penalties and fines for a violation of P.L. , c. (C.) (pending
10 before the Legislature as this bill), and to provide or obtain
11 appropriate relief. Remedies may include reinstatement and full
12 restitution to the domestic worker for lost wages and benefits,
13 including presumed damages to be awarded to a domestic worker
14 for the hiring entity's violation of P.L. , c. (C.) (pending
15 before the Legislature as this bill). The department shall determine
16 by regulation an amount of presumed damages.

17 g. A hiring entity who knowingly retaliates against an
18 employee for any activity protected under P.L. , c. (C.)
19 (pending before the Legislature as this bill), or any other knowing
20 violation of P.L. , c. (C.) (pending before the Legislature
21 as this bill), shall be a crime of the fourth degree. Otherwise, it
22 shall be a disorderly persons offense and the hiring entity shall,
23 upon conviction for a violation, be punished by a fine of not less
24 than \$100 not more than \$2,000 for an initial violation and not less
25 than \$200 nor more than \$4,000 for each subsequent violation.
26 Each day during which any violation of P.L. , c. (C.)
27 (pending before the Legislature as this bill) continues shall
28 constitute a separate and distinct offense, and the employment of
29 any domestic worker in violation of P.L. , c. (C.) (pending
30 before the Legislature as this bill), shall, with respect to each
31 domestic worker employed, constitute a separate and violation.

32 h. Any domestic worker or person who is aggrieved by a
33 violation of P.L. , c. (C.) (pending before the Legislature
34 as this bill), or the department may bring civil action in a court of
35 competent jurisdiction against a hiring entity violating P.L. , c.
36 (C.) (pending before the Legislature as this bill). Nothing in
37 P.L. , c. (C.) (pending before the Legislature as this bill) or
38 its implementing regulations shall be construed to require a
39 complaint to be filed with the department before bringing an action
40 in court. Upon prevailing in an action brought pursuant to this
41 section, an aggrieved person shall be entitled to any legal or
42 equitable relief as may be appropriate to remedy the violation, that
43 is not duplicative of any relief provided to the person in
44 administrative proceedings, including, without limitation,
45 reinstatement in employment, back pay, and injunctive relief. The
46 aggrieved person shall be entitled to an award of reasonable
47 attorney's fees and costs.

1 24. (New section) a. The department shall, upon appropriation
2 of funds to the department for purposes of this section, establish and
3 maintain a Domestic Work Enforcement Program in collaboration
4 with qualified organizations. P.L. , c. (C.) (pending before
5 the Legislature as this bill) requires the department to issue a
6 competitive request to community-based organizations (CBOs) to
7 provide education and outreach services in this program and would
8 prescribe requirements for these organizations. The CBOs would
9 be responsible for developing and consulting with the department
10 regarding the core education and outreach materials, as specified.
11 The program shall increase the capacity and expertise of the
12 department to improve education and enforcement of labor
13 standards in the domestic work industry. The program shall
14 include, but not be limited to, the following:

15 (1) Education and training for domestic work employees and
16 hiring entities addressing minimum wage, overtime, sick leave,
17 recordkeeping, wage adjudication, and retaliation, along with new
18 rights extended by P.L. , c. (C.) (pending before the
19 Legislature as this bill);

20 (2) Training for domestic worker leaders to provide peer-to-peer
21 support and wraparound service referrals to domestic work
22 employees who have elected to file wage claims or take other
23 actions seeking remedy from hiring entities;

24 (3) Development of core training curriculum to be used in the
25 education and training of domestic work employees and hiring
26 entities;

27 (4) Provision of technical and legal assistance to domestic work
28 employees through a Statewide telephone help line and the
29 promotion of the help line to domestic worker populations; and

30 (5) Development of an online resource hub to provide
31 information for hiring entities on State labor laws and guidelines on
32 fair employment.

33 b. Qualified organizations that collaborate under subsection a.
34 of this section shall issue reports and meet quarterly with the
35 department to review the implementation and success of the
36 program.

37 c. (1) A nonprofit organization that has a minimum of five
38 years of experience working with domestic work employees or
39 hiring entities; or

40 (2) An organization that works with nonprofit organizations that
41 has a minimum of five years of experience working with domestic
42 work employees or hiring entities.

43
44 25. (New section) a. The department shall establish, within 90
45 days of the date of enactment of P.L. , c. (C.) (pending
46 before the Legislature as this bill), a “Domestic Workers Standards
47 and Implementation Board” (Board), which shall be established to
48 provide a forum for hiring entities, domestic workers, worker

1 organizations, and the public to consider analyze, and make
2 recommendations to the State on the legal protections, benefits, and
3 working conditions for domestic worker industry standards. The
4 board shall be established to permanently promote the health,
5 safety, and well-being of domestic workers; and a living wage for
6 domestic workers along with development of the mechanisms to
7 support implementation of P.L. , c. (C. (pending before the
8 Legislature as this bill), including the development of regulations
9 promulgated under P.L. , c. (C.)(pending before the
10 Legislature as this bill). The board shall also make
11 recommendations to the department regarding enforcement and
12 implementation strategies, including the development of the
13 Domestic Work Enforcement Program.

14 b. (1) The board shall consist of 13 members composed of
15 members with expertise in labor standards, wage theft, law, and
16 policy; and domestic worker industry. The board shall meet at least
17 quarterly, and all meetings shall be open to the public. The board
18 shall create by-laws in order to conduct and structure future
19 meetings including, but not limited to, scheduling quarterly
20 meetings, determining recommended timetables for submission of
21 recommendations to the Legislature, the Department of Labor and
22 Workforce Development, the Governor's Office, determining term
23 lengths and appointments of individuals to the board. All State
24 departments, agencies, boards, commissions shall support and
25 cooperate with the board and provide the board with any data it may
26 need which may include logistical support in regard to translation,
27 interpretation, and outreach to ensure equal access and equity of
28 domestic worker representatives and hiring entities on the board.
29 The board will be comprised of various stakeholders from the
30 private, non-profit sectors, domestic workers, hiring entities, and
31 will have representation from members of the Department of Labor
32 and Workforce Development, and Governor's office; and

33 (2) (a)The Governor shall appoint seven members as follows:

34 (i) one representative from the Department of Labor and
35 Workforce Development;

36 (ii) one representative from the National Domestic Workers
37 Alliance;

38 (iii) one representative from a labor or union organization;

39 (iv) two representatives from a State-based community
40 organization or worker center, which is focused on the rights of
41 low-wage and immigrant workers;

42 (v) one domestic worker; and

43 (vi) one hiring entity; and

44 (b) The Legislature shall appoint six members as follows: three
45 members to be appointed by the President of the Senate and three
46 members to be appointed by the Speaker of the General Assembly,
47 as follows:

- 1 (i) four domestic workers, two each selected respectively by the
2 President of the Senate and the Speaker of the General Assembly;
3 and
- 4 (ii) two hiring entities, one each selected respectively by the
5 President of the Senate and the Speaker of the General Assembly.
- 6 c. The board's responsibilities include, but are not limited to,
7 providing a forum for hiring entities, domestic workers, worker
8 organizations, and other affected parties to share information,
9 insights, and experiences on the working conditions of domestic
10 workers, and recommendations on how the working conditions can
11 be changed to meet the needs of domestic workers and hiring
12 entities. These recommendations shall include:
- 13 (1) possible legislation or policy changes;
14 (2) wage standards for the industry;
15 (3) development and advancement of enforcement and
16 implementation efforts in collaboration with the department; and
17 (4) the promulgation of regulations to enforce P.L. , c.
18 (C.) (pending before the Legislature as this bill).
- 19 d. The board, in consultation with the department and other
20 State agencies, within six months after all members have been
21 established, shall submit to the Governor, and Legislature, pursuant
22 to section 2 of P.L.1991, c.164 (C.52:14-19.1), with oversight by
23 the department, a work plan identifying the topics the board will
24 address in the first two years. The board in consultation with the
25 department and other relevant State agencies, shall submit an
26 updated work plan every two years. The board's first
27 recommendation shall be submitted to the Governor and Legislature
28 by the end of the first quarter of the year following the year in
29 which the work plan has been submitted.
- 30 Within 120 days from the date of receipt of any work plan
31 submitted by the board, the Legislature, through its committees that
32 consider labor subject matter, shall consider and respond to the
33 board's work plan. The response shall include proposed legislation
34 and policies, requests for additional information needed from the
35 board, requests for alternative plans from the board, reasons for
36 rejection of any plan submitted by the board, or an explanation of
37 why additional time is needed to submit a response to the board's
38 plan. Additionally, the Legislature, sua sponte, may notify the
39 board of any policies or legislation it may introduce for enactment,
40 request further information from the board, request that the board
41 develop alternatives, or take any other action that it deems
42 appropriate.
- 43 e. The board shall make recommendations to the Legislature on
44 the following subjects:
- 45 (1) Wage standards, such as industry standards, overtime, and
46 pay differentials;
47 (2) Training for hiring entities and domestic workers on federal,
48 State, and local labor laws, benefits, and protections,

- 1 discrimination, and sexual harassment, workplace health; and safety
2 standards;
- 3 (3) Jobs skills and professional development opportunities;
- 4 (4) Access to portable benefits, such as paid time off, retirement
5 pensions, health benefits, and paid family and disability leave;
- 6 (5) Workers' compensation and temporary disability benefits;
- 7 (6) Development and advancement of written agreement,
8 including notice of rights and recordkeeping templates;
- 9 (7) Outreach and enforcement strategies to ensure compliance
10 with P.L. , c. (C.) (pending before the Legislature as this
11 bill), and to provide effective information to both hiring entities and
12 domestic workers; and
- 13 (8) Any other emerging issues the board wishes to include in its
14 work plan.
- 15 f. Members of the board shall serve without compensation but
16 shall be reimbursed for the reasonable travel and other out-of-
17 pocket expenses incurred in the performance of their duties.

18
19 26. (New section) a. Nothing in P.L. , c. (C.) (pending
20 before the Legislature as this bill) shall be construed to diminish
21 any rights or protections granted to domestic workers by any other
22 law.

23 b. If any provision of P.L. , c. (C.) (pending before the
24 Legislature as this bill) or its application to any person or
25 circumstance is held invalid, the invalidity does not affect other
26 provisions or applications of P.L. , c. (C.) (pending before
27 the Legislature as this bill) which can be given effect without the
28 invalid provision or application, and to this end the provisions of
29 P.L. , c. (C.) (pending before the Legislature as this bill)
30 are severable.

31
32 27. This act shall take effect on the first day of the sixth month
33 next following enactment, except that the commissioner may take
34 any anticipatory action as may be necessary to effectuate the
35 purposes of this act.

36
37

38 STATEMENT

39

40 This bill creates various rights and employment protections for
41 domestic workers who, under the bill, are defined as hourly and
42 salaried employees, independent contractors, full-time and part-time
43 individuals and temporary individuals, and any worker who:

- 44 (1) works for one or more employer; and
- 45 (2) is an individual who works in the residence of the employer
46 for the purposes of caring for a child, serving as a companion or
47 caretaker for a sick, convalescing, or elderly person, or a person
48 with a disability; housekeeping or house cleaning; cooking;

1 providing food or butler service; parking cars; cleaning laundry;
2 gardening; personal organizing; or for any other domestic service
3 purpose.

4 The bill excludes from the definition of domestic worker any
5 individual taking care of or providing services to that individual's
6 family member; an individual primarily engaged in house sitting,
7 pet sitting, or dog walking; an individual working at a business
8 operating out of a residence, such as a home daycare business; an
9 individual whose primary work involves house repair or
10 maintenance, such a roofer, plumber, or other similar contractor; a
11 home health care aide while the aide is paid through public funds;
12 an individual established as a kinship legal guardian of a child who
13 lives in the residence, or an individual who participates in the
14 Kinship Navigator Program, as authorized by the Department of
15 Children and Families, as a caregiver of a child who lives in the
16 residence and receives services provided by a kinship navigator
17 service provider; and an individual less than 18 years of age.

18 The bill removes the exclusion of the domestic worker from the
19 "Law Against Discrimination," P.L.1945, c.169 (C.10:5-1 et seq.)
20 and the "New Jersey State Wage and Hour Law," P.L.1966, c.113
21 (C.34:11-56a et seq.).

22 The bill also provides privacy rights to domestic workers, and it
23 requires the employer or hiring entity to enter into a written contract
24 with the domestic worker.

25 The bill establishes penalties for violations of its provisions,
26 including penalties against retaliation by the employer or hiring
27 entity.

28 The bill creates the Domestic Workers Standards and
29 Implementation Board to monitor and review the implementation of
30 the bill and make policy recommendations to the State regarding
31 additional measures to be taken.

ASSEMBLY LABOR COMMITTEE

STATEMENT TO

ASSEMBLY, No. 822

with committee amendments

STATE OF NEW JERSEY

DATED: MAY 19, 2022

The Assembly Labor Committee reports favorably Assembly Bill No. 822 with committee amendments.

As amended, this bill creates various rights and employment protections for domestic workers who, under the bill, are defined as hourly and salaried employees, independent contractors, full-time and part-time individuals and temporary individuals, and any worker who:

(1) works for one or more employer; and

(2) is an individual who works in the residence of the employer for the purposes of caring for a child, serving as a companion or caretaker for a sick, convalescing, or elderly person, or person with a disability; housekeeping or house cleaning; cooking; providing food or butler service; parking cars; cleaning laundry; gardening; personal organizing; or for any other domestic service purpose.

The bill excludes from the definition of domestic worker any individual taking care of or providing services to that individual's family member; an individual primarily engaged in house sitting, pet sitting, or dog walking; an individual working at a business operating out of a residence, such as a home daycare business; an individual whose primary work involves house repair or maintenance, such as a roofer, plumber, or other similar contractor; a home health care aide while the aide is paid through public funds; an individual established as a kinship legal guardian of a child who lives in the residence, or an individual who participates in the Kinship Navigator Program, as authorized by the Department of Children and Families, as a caregiver of a child who lives in the residence and receives services provided by a kinship navigator service provider; and an individual less than 18 years of age.

The bill removes the exclusion of the domestic worker from the "Law Against Discrimination," P.L.1945, c.169 (C.10:5-1 et seq.) and the "New Jersey State Wage and Hour Law," P.L.1966, c.113 (C.34:11-56a et seq.).

The bill also provides privacy rights to domestic workers, and it requires the employer to enter into a written contract with the domestic worker.

The bill establishes penalties for violations of its provisions, including penalties against retaliation by the employer.

The bill creates the Domestic Workers Standards and Implementation Board to monitor and review the implementation of the bill and make policy recommendations to the State regarding additional measures to be taken.

This bill was pre-filed for introduction in the 2022-2023 session pending technical review. As reported, the bill includes the changes required by technical review, which has been performed.

COMMITTEE AMENDMENTS:

The committee amended the bill to:

- (1) Remove the terms “hiring entity” and “hiring entities” and replace with “employer” and “employers”;
- (2) Require the Commissioner of Labor and Workforce Development to provide for the adoption of all applicable occupational standards, amendments, or changes adopted or recognized by the Secretary of Labor under the authority of the “Occupational Safety and Health Act of 1970,” which will be applicable to domestic workers employed by individuals in the residences of the individuals;
- (3) Update effective dates of certain provisions in the bill; and
- (4) Make minor technical amendments.

ASSEMBLY STATE AND LOCAL GOVERNMENT
COMMITTEE

STATEMENT TO

[First Reprint]

ASSEMBLY, No. 822

with committee amendments

STATE OF NEW JERSEY

DATED: OCTOBER 17, 2022

The Assembly State and Local Government Committee reports favorably and with committee amendments Assembly Bill No. 822 (1R).

As amended, this bill creates various rights and employment protections for domestic workers who, under the bill, are defined as hourly and salaried employees, independent contractors, full-time and part-time individuals and temporary individuals, and any worker who:

(1) works for one or more employer; and

(2) is an individual who works in the residence of the employer for the purposes of caring for a child, serving as a companion or caretaker for a sick, convalescing, or elderly person, or person with a disability; housekeeping or house cleaning; cooking; providing food or butler service; parking cars; cleaning laundry; gardening; personal organizing; or for any other domestic service purpose.

The bill excludes from the definition of domestic worker any individual taking care of or providing services to that individual's family member; an individual primarily engaged in house sitting, pet sitting, or dog walking; an individual working at a business operating out of a residence, such as a home daycare business; an individual whose primary work involves house repair or maintenance, such a roofer, plumber, or other similar contractor; a home health care aide while the aide is paid through public funds; an individual established as a kinship legal guardian of a child who lives in the residence, or an individual who participates in the Kinship Navigator Program, as authorized by the Department of Children and Families, as a caregiver of a child who lives in the residence and receives services provided by a kinship navigator service provider; and an individual less than 18 years of age.

The bill removes the exclusion of the domestic worker from the "Law Against Discrimination," P.L.1945, c.169 (C.10:5-1 et seq.) and the "New Jersey State Wage and Hour Law," P.L.1966, c.113 (C.34:11-56a et seq.).

The bill also provides privacy rights to domestic workers, and it requires the employer to enter into a written contract with the domestic worker.

The bill establishes penalties for violations of its provisions, including penalties against retaliation by the employer.

The bill creates the Domestic Workers Standards and Implementation Board to monitor and review the implementation of the bill and make policy recommendations to the State regarding additional measures to be taken.

COMMITTEE AMENDMENTS:

The committee amended the bill to:

- (1) replace certain references to employer with hiring entity;
- (2) add a definition for hiring entity to section 2 of the bill;
- (3) remove an exclusion from the definition of domestic worker to ensure that all home care workers are covered, regardless of whether or not they serve consumers who Medicaid or Medicare recipients;
- (4) make changes to reflect a statutory update (P.L.2022, c.71, s.4) in R.S.43:21-19, which exempted work performed on an election day or during the early voting period;
- (5) make technical amendments; and
- (6) remove language that amends the workers' compensation law to apply the "ABC" test in the unemployment compensation law for determining who is an independent contractor to workers' compensation.

ASSEMBLY APPROPRIATIONS COMMITTEE

STATEMENT TO

[Second Reprint]

ASSEMBLY, No. 822

STATE OF NEW JERSEY

DATED: JANUARY 4, 2024

The Assembly Appropriations Committee reports favorably Assembly Bill No. 822 (2R).

This bill creates various rights and employment protections for domestic workers who, under the bill, are defined as hourly and salaried employees, independent contractors, full-time and part-time individuals and temporary individuals, and any worker who:

(1) works for one or more employer; and

(2) is an individual who works in the residence of the employer for the purposes of caring for a child, serving as a companion or caretaker for a sick, convalescing, or elderly person, or person with a disability; housekeeping or house cleaning; cooking; providing food or butler service; parking cars; cleaning laundry; gardening; personal organizing; or for any other domestic service purpose.

The bill excludes from the definition of domestic worker any individual taking care of or providing services to that individual's family member; an individual primarily engaged in house sitting, pet sitting, or dog walking; an individual working at a business operating out of a residence, such as a home daycare business; an individual whose primary work involves house repair or maintenance, such a roofer, plumber, or other similar contractor; a home health care aide while the aide is paid through public funds; an individual established as a kinship legal guardian of a child who lives in the residence, or an individual who participates in the Kinship Navigator Program, as authorized by the Department of Children and Families, as a caregiver of a child who lives in the residence and receives services provided by a kinship navigator service provider; and an individual less than 18 years of age.

The bill removes the exclusion of the domestic worker from the "Law Against Discrimination," P.L.1945, c.169 (C.10:5-1 et seq.) and the "New Jersey State Wage and Hour Law," P.L.1966, c.113 (C.34:11-56a et seq.).

The bill also provides privacy rights to domestic workers, and it requires the employer to enter into a written contract with the domestic worker.

The bill establishes penalties for violations of its provisions, including penalties against retaliation by the employer.

The bill creates the Domestic Workers Standards and Implementation Board to monitor and review the implementation of the bill and make policy recommendations to the State regarding additional measures to be taken.

FISCAL IMPACT:

Fiscal information for this bill is currently unavailable.

STATEMENT TO
[Second Reprint]
ASSEMBLY, No. 822

with Assembly Floor Amendments
(Proposed by Assemblywoman TIMBERLAKE)

ADOPTED: JANUARY 8, 2024

These floor amendments:

(1) specify that if a domestic worker declines to be rehired to a position or resigns from a position, the rebuttable presumption of retaliation if the hiring entity or any other person takes an adverse action against a domestic worker within 90 calendar days of the worker's exercise of rights under the bill shall not apply;

(2) remove language that amended the definition of casual employment in the workers' compensation law;

(3) add a definition of significant misconduct to the section requiring notice of termination of employment, except in cases of significant misconduct;

(4) provide that the employer notification requirements for termination do not apply if:

(a) a domestic worker completes placement in a particular position and is not immediately placed or scheduled for another position by an employer if the employer is a temporary help service firm, employment agency, or other staffing or placement agency, but the domestic worker remains on the employer's payroll for future placement opportunities; or

(b) a domestic worker is employed by an employer that is an individual, whether or not the employer is the person receiving care from the domestic worker, and the domestic worker completes or fulfills all duties of the position, and there is no longer a practicable need for the position, including but not limited to, if the domestic worker's employer is an individual who has employed the domestic worker to care for a person who is terminally ill person, and the terminally ill person passes away;

(5) provide standards for "on-duty" breaks;

(6) eliminate references to independent contractors and any other category that is not an employee;

(7) remove the establishment of the Domestic Workers Standards and Implementation Board;

(8) change certain definitions in the bill;

(9) remove the exception for minors under the definition of domestic worker in the bill; and

(10) make technical corrections.

LEGISLATIVE FISCAL ESTIMATE

[Second Reprint]

ASSEMBLY, No. 822

STATE OF NEW JERSEY 220th LEGISLATURE

DATED: JANUARY 11, 2024

SUMMARY

- Synopsis:** Creates “New Jersey Domestic Workers’ Bill of Rights Act.”
- Type of Impact:** Uncertain annual impacts on State revenue collections and expenditures.
- Agencies Affected:** Department of the Treasury; Department of Labor and Workforce Development.

Office of Legislative Services Estimate

Fiscal Impact	<u>Annual</u>
State Net Revenue Impact	Indeterminate
State Net Cost Impact	Indeterminate

- The Office of Legislative Services (OLS) is unable to determine the direction and magnitude of the bill’s net fiscal impact owing to uncertainty regarding the precise number of individuals who would benefit from the enactment of the bill and their current income, employer practices, and the countervailing effects of the bill on State revenue collections and expenditures related to a potential increase in reported minimum wage for those individuals.

BILL DESCRIPTION

This bill creates various rights and employment protections for domestic workers.

The bill removes the exclusion of domestic workers from the Law Against Discrimination and the New Jersey State Wage and Hour Law; requires employers to provide domestic workers with a notification of their rights under the bill; and establishes penalties for violations of its provisions, including penalties against retaliation by the employer or hiring entity.

The bill defines domestic workers as hourly and salaried employees, full-time and part-time individuals, and temporary individuals, each one of whom works for one or more employers, and works in residence caring for a child; serving as a companion or caretaker for a sick, convalescing, elderly, or disabled person; housekeeping or house cleaning; cooking; providing food or butler

service; parking cars; cleaning laundry; gardening; personal organizing; or for any other domestic service purpose. The bill's definition of domestic worker excludes any individual providing care services for a family member of the individual; an individual primarily engaged in house sitting, pet sitting, or dog walking; an individual working at a business operating out of a residence; an individual whose primary work involves house repair or maintenance; a home health care aide paid through Medicare or Medicaid; an individual who is a kinship legal guardian of a child; and an individual participating in the Kinship Navigator Program.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The OLS is unable to determine the direction and magnitude of the bill's net fiscal impact owing to uncertainty regarding the precise number of individuals who would benefit from the enactment of the bill and their current income, employer practices, and the countervailing effects of the bill on State revenue collections and expenditures related to a potential increase in reported minimum wage for those individuals.

State Revenues: The OLS cannot determine the net impact of a potential higher reported State minimum wage on State revenue collections, but it expects that the net outcome will depend upon a number of key factors, the magnitude of their individual impacts, and the extent to which the different impacts may offset one another. These include, but are not limited to, the number of taxpayers benefiting from an increase in income, their current income versus income reported as required under the bill, the proportion of any income increase or decrease, job losses, and the level of employers' compliance with the provisions of the bill.

The OLS anticipates a State revenue gain from employees whose wages will increase to at least the current State minimum wage per hour. These employees will have larger taxable incomes under the gross income tax and will pay more in payroll taxes (unemployment insurance and temporary disability and family leave insurance); and will qualify for a lower earned income tax credit or cease being eligible altogether. The OLS also anticipates a State revenue gain in employer payroll taxes (unemployment insurance, workers' compensation insurance, and temporary disability leave insurance) from employers whose employees' wages will increase to at least the current State minimum wage per hour.

Counteracting such gains, State revenue collections will decrease if the higher minimum wage causes employers to: (1) reduce their demand for labor by eliminating the need for the domestic worker or cutting hours, thereby lowering affected employees' incomes, gross income, and payroll tax liabilities, and potentially increasing their earned income tax credit claims; and (2) absorb a decrease in employers' net income, thereby lowering their gross income tax liabilities.

Gross Income Tax: Tax data on the number of domestic workers who may be impacted by the enactment of this bill, their current income levels, and their current State tax liabilities are not available at the time of this Legislative Fiscal Estimate.

Gross income tax revenues would increase to the extent that certain domestic workers who report income below the statutory minimum filing thresholds would have their income boosted

above the thresholds. In addition, revenues would also increase as complying employers withhold taxes from domestic workers who are currently paid in cash and do not report gross income tax. Most taxpayers become liable for New Jersey gross income tax when their gross income exceeds \$20,000, but for a single filer or a married spouse filing a separate return, the threshold is \$10,000. A taxpayer with income below the applicable minimum filing threshold does not owe tax.

For a domestic worker in the abovementioned example, the marginal tax rate of 1.75 percent would be applied to all the additional taxable income above the statutory \$20,000 income level, or \$17.50 per each \$1,000 of such additional taxable income. Also, this domestic worker would pay 1.4 percent tax on all income below the \$20,000 level, or \$280.

For purposes of illustration, a domestic worker who is paid an hourly wage of \$12.90 (worker employed by employer with less than six employees) per hour and works 35 hours each week during the year would have an annual gross income of approximately \$23,500. Assuming this domestic worker is a single filer who can only claim the personal exemption of \$1,000, the taxpayer's GIT liability would approximate \$210. If that domestic worker's hourly wage is increased to at least the State's minimum wage of \$14.13, the domestic worker's annual gross income would grow to \$28,400, resulting in a \$3,400 tax liability, a \$130 difference. For every 10,000 taxpayers who meet these criteria, the State would realize a recurring gross income tax revenue increase of \$1.3 million.

The OLS further notes that the enactment of the bill may result in some job losses, to the extent that some employees are priced out of the market, given that some employers may not be willing to pay additional payroll taxes, sick leave, workers' compensation insurance, or higher wages.

For purposes of illustration, in the abovementioned example for a single full-time domestic worker earning \$23,500 per year at the current minimum wage, the gross income tax collection is approximately \$210. For every 1,000 domestic workers who lose a job due to the enactment of the bill, the State would see a \$210,000 gross income tax revenue reduction. Lastly, some employers may choose to reduce hours of employment due to higher wages, sick leave benefits, workers' compensation insurance, or higher employer payroll tax contributions, resulting in some additional State revenue losses. The OLS does not have enough information to estimate the number of potential job losses and the total possible State tax revenue loss.

Earned Income Tax Credit: If enacted, the bill may reduce the cost of the State earned income tax credit program, which is equal to 40 percent of the federal earned income tax credit, which provided \$657 million in estimated benefits to around 675,000 claimants in FY 2022. The earned income tax credit is a refundable tax credit for working people with low to moderate incomes that is administered through the gross income tax. Accordingly, any reduction in earned income tax credit benefits will increase gross income tax collections; however, the OLS is unable to estimate the potential annual fiscal impact of the legislation on the earned income tax credit program.

For 2022, a domestic worker employed full- or part-time would have had earned income and adjusted gross income which must each be less than: \$53,057 for a single filer (or \$59,187 if married filing jointly) with three or more qualifying dependent children – maximum NJ earned income tax credit of \$2,774; \$49,399 for a single filer (or \$55,529 if married filing jointly) with two qualifying children – maximum NJ earned income tax credit of \$2,466; \$43,492 for a single filer (or \$49,622 if married filing jointly) with one qualifying child – maximum NJ earned income tax credit of \$1,493; and \$16,480 for a single filer (or \$22,610 if married filing jointly) with no qualifying children – maximum NJ earned income tax credit of \$224. Based on the income limits above, it is reasonable to assume that any domestic worker whose 2022 wages were \$59,187 or less was eligible for the 2022 Earned Income Tax Credits. The OLS notes that any increase in wages which would cause a domestic worker's total income to surpass the program's income eligibility, at \$59,187, would result in the domestic worker no longer receiving the credit, reducing

the cost of the State earned income tax credit program reflected in increased gross income tax revenue collections.

Payroll Taxes: The OLS notes that the bill may result in annual increases in unemployment insurance, temporary disability, and family leave contributions from employers (employers do not contribute to the family leave program) and employees, provided that domestic workers' wages increase and there are income tax increases from informal domestic workers who currently do not report income tax.

To qualify for unemployment, temporary disability, or family leave benefits in 2023, an applicant must earn at least \$260 per week for 20 base weeks, or alternatively, earn at least \$13,000. Benefit eligibility criteria are based on the state minimum wage in effect when this Legislative Fiscal Estimate was formulated, when the minimum wage in New Jersey was \$14.13 per hour for most employees.

Unemployment Insurance Fund.

Employer Contribution: The unemployment insurance fund's reserve ratio, in part, determines an employer's tax rate, which will increase as the reserve ratio falls in order to replenish the fund balance as unemployment benefits get paid out. Currently, unemployment contribution rates for employers in FY 2023 are set by column "D" of the Experience Rating Tax Table. The OLS notes that it is reasonable to assume, if the enactment of the bill leads to compliance with reportable income for some domestic workers or higher wages for others, an increase in employer contributions to the unemployment insurance compensation fund, which magnitude the OLS cannot determine. However, given the countervailing effects of the bill on higher income and loss of wages or jobs, and to what extent the two effects may offset one another, the OLS cannot determine the direction or magnitude in payroll benefits.

Employees Contribution: New Jersey is one of only three states in which employees are subject to a tax for unemployment insurance. In New Jersey, the tax on the employee is levied at a rate of 0.3825 percent on the first \$41,100 of income earned. Thus, in calendar year 2023, the maximum employee contribution is approximately \$157 per employee ($0.003825 \times 41,100$). If the enactment of the bill results in higher wages for some domestic workers and new reportable income for others, it is reasonable to assume an indeterminate, likely insignificant, increase in the employee contribution to the unemployment insurance fund. Given the regressive nature of this tax, gains in income by the domestic worker will be partially offset by contributions to the unemployment insurance fund.

Temporary Disability and Family Leave Insurance: The Department of Labor and Workforce Development announced in October 2022 a reduction in worker contribution rates for the calendar year 2023, with temporary disability dropping to zero percent, from 0.14 percent, and family leave decreasing by more than half, to 0.06 percent, from 0.14 percent. The family leave program is funded entirely through an assessment on workers' wages, the rate of which is set by the department annually to cover anticipated program expenditures and a reserve requirement. The assessment equals the rate, which is projected to generate contributions equal to 125 percent of estimated annual family leave benefits plus 100 percent of estimated administrative costs, reduced by any unexpended prior-year account balances. The same method is used to set the temporary disability tax rate, except that the assessment amount for temporary disability insurance benefits is 120 percent of estimated benefits. Given the statutory funding formula for both programs, the OLS projects an increase in the rate for both programs for calendar year 2024.

Penalty Collections: The OLS estimates that the bill may result in an indeterminate annual increase in State revenues from penalties collected for violations established in the bill. This bill increases existing wage and hour law penalties to employers who fail to comply with the provisions of the bill. The OLS cannot determine the number of violations that employers may commit under the bill and, therefore, the amount of penalty revenue that may be generated.

State Expenditures: The OLS notes that the bill may result in annually recurring State government expenditures in a few areas: (a) means-tested government assistance programs; (b) earned income tax credit; (c) unemployment compensation and temporary disability and family leave insurance; and (d) State government workload.

Means-Tested Government Assistance Programs: Depending on employer responses to the implementation of the provisions of the bill, the outlay of State government for means-tested assistance programs, such as NJ FamilyCare, Work First New Jersey, and New Jersey Health Plan Savings, could fall or rise. Domestic workers whose income rises as a result of the bill will, depending on the eligibility criteria of a specific program, either cease being eligible for benefits or qualify for reduced benefits. Offsetting the State cost savings from the reduced reliance on means-tested assistance programs by individuals with higher incomes, the State may see an increase in program participation from individuals who cannot secure employment because of any reduction in the supply of jobs and work hours attributable to the potential of loss of jobs or loss of income. The OLS, however, has no information on which it could base an estimate of the countervailing cost effects on means-tested assistance programs, and to what extent the two effects may offset one another.

Earned Income Tax Credit: To the extent that the bill result in gross income tax increases from informal domestic workers who currently do not report income tax, the OLS notes that these workers may become eligible for the earned income tax credit.

Payroll Benefits: The bill allows an eligible domestic worker to benefit from unemployment insurance and workers compensation and temporary disability and family leave insurance. Given the countervailing effects of the bill on higher income and loss of wages or jobs, and to what extent the two effects may offset one another, the OLS cannot determine the direction or magnitude in payroll benefits.

State Government Workload: The bill may increase the annual operating expenses of the Department of Labor and Workforce Development. The extent to which the increased responsibilities will add to the department's annual expenditures will depend on the operational decisions the department will make in response to the bill. The OLS, however, does not have full information to predict the department's operational responses to the bill.

Section: Commerce, Labor and Industry
Analyst: John Gaudio
Assistant Fiscal Analyst
Approved: Thomas Koenig
Legislative Budget and Finance Officer

This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).

Press Pool Coverage: Governor Murphy Governor Murphy Signs Immigrants' Rights Legislation on January 12, 2024

01/12/2024

PRINT

Gov. Phil Murphy signed three bills in a room packed with immigrant advocacy groups in the Statehouse in Trenton Friday.

This was the second bill signing ceremony the governor held Friday, though it was much bigger than his morning event. With about 70 people in the audience of the media room, the governor appeared stunned when he entered.

He greeted the lawmakers sitting in the front row and shouted out some advocates in the audience of about 70 people.

He detailed the three bills he prepared to sign, calling them part of the "people's agenda." He also noted that his administration is highlighting just 11 bills out of the 109 passed during lame duck.

The first bill Murphy signed at the event changes how data is collected on residents who identify as members of the Asian-American/Pacific Islander (AAPI) community. The law requires state agencies to break down data collection into groups including Native Hawaiian, Middle Eastern, South Asian and Indian.

Murphy said the bill will "give folks the ability to stand up and be proud with a much more specific designation."

The second bill he signed was the Domestic Workers Bill of Rights, which was greeted with cheers and applause from the crowd. New Jersey's 50K domestic workers will have new standards for working conditions, wage protections, and required meal time and paid breaks.

"It's fair to say this is an overused phrase, but it's certainly true. I think they've been treated as second-class citizens, within the labor realm," Murphy said about domestic workers.

Dozens of advocates joined him at the desk for the bill signing, along with state officials like Sen. Richard Codey, prime sponsor of the legislation, and Labor Commissioner Robert Asaro-Angelo.

With the bill signed into law, New Jersey is the 11th state with a Domestic Workers Bill of Rights. Murphy said he was told this is the strongest Domestic Workers Bill of Rights in the country.

"This is now the law of the land," he said, holding a copy of the bill while taking photos with the advocates.

And New Jersey agencies and departments will be required to translate documents into the seven most spoken non-English languages in the state, under the third bill Murphy signed into law at the event Friday.

State agencies, departments, commissions, boards, bureaus, divisions and other officers providing direct services will now be required to translate "vital" materials. The law requires those materials be translated into languages including Spanish, Chinese (Mandarin and Cantonese), Arabic, Korean, and Gujarati.

Murphy joked he wanted the people receiving pens to thank him in different languages. People responded in Spanish, French, American Sign Language, Portuguese, Korean and more.

Following the signings, people lined up to take photos with him. The event lasted around 40 minutes.

According to the governor's office, the following people received pens:

Data disaggregation (A-3092wGR/S2415):

Assemblyman Sterley Stanley

Erik Cruz Morales, Policy and Advocacy Manager, New Jersey Alliance for Immigrant Justice

Anjali Mehrotra, 2023 Agent of Change, American Association of University Women of New Jersey (AAUW)

Dr. Jesselly De La Cruz, Executive Director, Latino Action Network Foundation

New Jersey Domestic Workers Bill of Rights Act (S723/A822)

Senator Britnee Timberlake

Assemblywoman Verlina Reynolds-Jackson

Robert Asaro-Angelo, Commissioner, New Jersey Department of Labor and Workforce Development

Jenn Stowe, Executive Director, National Domestic Workers Alliance

Jennifer Garcia Pelaez, Organizer and Outreach Strategist, New Labor

Diana Mejia, Founder, Wind of the Spirit Immigrant Resource Center

Steve Way, Actor and Founder, Hand in Hand

Narbada Chhetri, Director of Organizing and Programs, Adhikaar

(S2459/ACS for A3837)

Senator Teresa Ruiz

Assemblywoman Sadaf Jaffer

Senator Nilsa Cruz-Perez

Assemblywoman Ellen Park

Amy Torres, Executive Director, New Jersey Alliance for Immigrant Justice

Amol Sinha, Executive Director, American Civil Liberties Union of New Jersey (ACLU-NJ)

Charlene Walker, Executive Director, Faith in New Jersey

Nicole Rodriguez, President, New Jersey Policy Perspective

Amber Reed, President, AAPI Montclair

Sophie Nieto-Muñoz, NJ Monitor

PHOTO

[Phil Murphy | Flickr](#)

Rich Hundley, New Jersey Governor's Office

El gobernador Murphy firma la legislación sobre derechos de los inmigrantes para fortalecer los derechos de los trabajadores y reconocer a la diversidad de Nueva Jersey.

01/12/2024

TRENTON: El gobernador Phil Murphy firmó hoy una serie de proyectos de ley sobre los derechos de los inmigrantes para fortalecer los derechos de los trabajadores domésticos promover el acceso lingüístico a los servicios y beneficios del gobierno y comprender con precisión la diversidad de las comunidades de Nueva Jersey, basándose en el compromiso de la administración Murphy de construir un estado más justo e inclusivo para todos.

"En Nueva Jersey, nuestra mayor fortaleza yace en nuestra diversidad", dijo el gobernador Murphy. "Estas propuestas reconocen que las familias inmigrantes y las comunidades diversas de nuestro estado enriquecen nuestra identidad cultural, social y económica. Me siento orgulloso de firmar una legislación que apoya a los habitantes de Nueva Jersey que puedan alcanzar el sueño americano, acceder a los servicios gubernamentales y tener una representación adecuada en los datos y análisis que pueden informar nuestro trabajo".

El gobernador firmó los tres proyectos de ley siguientes:

S-723/A-822 (Codey/Timberlake, Jasey, Reynolds-Jackson): Crea la "Ley de derechos de las trabajadoras domésticas de Nueva Jersey".

S-2459/ACS for A-3837 (Ruiz, Pou, Cruz-Perez/Jaffer, Park, Stanley): Exige que las entidades gubernamentales estatales proporcionen documentos vitales y servicios de traducción en 15 de los siete idiomas ingleses más comunes.

A-3092wGR/S2415 (Stanley, Jaffer, Mukherji/Gopal, Ruiz): Exige que los organismos estatales actualicen los métodos de recopilación de datos demográficos sobre los residentes asiáticos, hawaianos nativos, isleños del Pacífico, de Oriente Medio, norteafricanos, del sur de Asia y de la diáspora india de este Estado.

"Las barreras lingüísticas impiden que las comunidades de inmigrantes de Nueva Jersey accedan a los programas gubernamentales y a la información, servicios y protecciones laborales importantes cuando hacen de nuestro Estado su hogar. Las nuevas leyes promulgadas hoy por el gobernador Murphy eliminarán estas barreras y fortalecerán el compromiso de Nueva Jersey de apoyar y fomentar la confianza con las comunidades a las que servimos". NJ Human Services agradece al gobernador Murphy y a nuestros socios legislativos las puertas que estas nuevas leyes abrirán", **declaró Johanna Calle, directora de la Oficina de Nuevos Americanos de NJ Human Services.**

"Aplaudo al gobernador Murphy y a la Legislatura por demostrar una vez más su compromiso continuo para hacer de Nueva Jersey un lugar de inclusión, donde reconocemos, respetamos y protegemos los derechos de todos". Superar las barreras lingüísticas y garantizar los derechos civiles de los trabajadores del hogar son dos etapas importantes en el camino", **afirmó el fiscal general Matthew J. Platkin.** "La Carta de Derechos de las Trabajadoras Domésticas pone remedio a un legado histórico de prejuicios raciales que conlleva la exclusión de las trabajadoras domésticas de nuestras leyes sobre salarios y horarios. Y aumentar el acceso lingüístico a servicios gubernamentales vitales ayudará a mantener a nuestros residentes seguros, sanos y debidamente informados".

"Nos hemos comprometido a hacer de Nueva Jersey el mejor estado para las trabajadoras. Esta ley es otro paso adelante para garantizar que todos los trabajadores, especialmente los que pueden ser vulnerables, marginados o pasar desapercibidos, gocen de nuestras rigurosas protecciones y generosas prestaciones", **afirmó el comisario de trabajo, Rob Asaro-Angelo.**

La Ley de Carta de Derechos de los Trabajadores Domésticos de Nueva Jersey (S-723/A-822) establece una amplia gama de derechos y protecciones laborales para las trabajadoras domésticas.

La legislación que ha firmado hoy el gobernador Murphy otorga a las trabajadoras domésticas derechos contra la discriminación y el acoso, protecciones de salud y seguridad, y derechos de privacidad. Asimismo, suprime la actual exclusión de determinados trabajadores domésticos de la Ley de Salarios y Horas del Estado de Nueva Jersey, requiere que las trabajadoras domésticas celebren un contrato por escrito con la trabajadora doméstica, impone requisitos relativos a los tiempos de descanso y pausas para comer, y exige que los empleadores notifiquen con suficiente antelación a las trabajadoras domésticas antes de su despido. El proyecto de ley también establece sanciones por incumplimiento de sus disposiciones, incluidas sanciones contra las represalias del empleador, y exige a los empleadores que notifiquen a las trabajadoras domésticas sus derechos.

"Las trabajadoras domésticas mantienen aproximadamente a un tercio de las familias de Nueva Jersey, y solo se espera que la demanda de su trabajo aumente a medida que el envejece. A pesar de sus servicios esenciales, se les ha excluido de muchas leyes de protección laboral, lo que permite que muchos de los aproximadamente 50,000 trabajadoras domésticas de Nueva Jersey sean víctimas de robo de salarios, intimidación por parte de los empleadores, así como de la denegación de descansos y comidas básicas", **dijo el exgobernador Codey.** "La firma de esta legislación dará a estas trabajadoras esenciales las protecciones legales y los derechos que cada trabajadora merece, y ayudará a prevenir los abusos patronales a los que a menudo se enfrentan".

"Esta ley establece derechos legales básicos para las 50,000 trabajadoras de Nueva Jersey, muchas de las cuales sufren de robo salarial, denegación de descansos y falta de pago por enfermedad", **dijo la senadora y exasambleísta Britnee Timberlake.** "Las trabajadoras domésticas cuidan de familias y hogares en todo nuestro estado. Merecen derechos básicos y dignidad. En honor a mi abuela, Mary L. Whitely, trabajadora doméstica de profesión que cuidó a innumerables niños y trabajó largas y duras horas, me llena de orgullo mi proyecto de ley convertido en tal."

"Esta ley garantizará los derechos fundamentales de una comunidad desatendida desde hace mucho tiempo", **dijo la exasambleísta Mila Jasey.** "Esta ley también garantizará que los empleadores sean conscientes de sus responsabilidades y los empleadores sean conscientes de sus derechos. Además, incluye disposiciones para apoyar a las autoridades locales estatales en la aplicación de la ley".

"Ninguna trabajadora de Nueva Jersey debe sufrir abusos o discriminación", **dijo la asambleísta Verlina Reynolds-Jackson.** "Esta ley protegerá a las personas vulnerables, con cuidadores de niños y los trabajadores domésticos internos. Tendrá una enorme repercusión en su vida cotidiana y ofrecerá una medida de justicia para esta fuerza laboral, compuesta en su inmensa mayoría por mujeres".

La iniciativa S-2459/ACS para A-3837 exige a las entidades gubernamentales estatales del Poder Ejecutivo que presten servicios directos al público la traducción de documentos e información vitales, incluyendo documentos públicos como formularios e instrucciones que se proporcionan a personas con un dominio limitado del inglés en este Estado en, al menos, los siete idiomas más comunes distintos del inglés hablados según los datos de la Encuesta Comunitaria, y que son pertinentes para los servicios ofrecidos por cada entidad gubernamental estatal.

El proyecto de ley entra en vigor inmediatamente, pero las traducciones requeridas se aplicarán de forma continua, con traducciones en todos los idiomas requeridos completadas más tarde 23 meses después de la fecha de entrada en vigor del proyecto de ley. Asimismo, el proyecto de ley exige que cada entidad de la Administración estatal que ofrezca servicios directos al público desarrolle y ejecute planes de acceso lingüístico que incluyan una evaluación de las necesidades de traducción de los ciudadanos con conocimientos limitados de inglés y un plan para ofrecer servicios de traducción a quienes los necesiten.

"Esta legislación eliminará la barrera del idioma que enfrentan tantas de nuestras comunidades al asegurar que todas las entidades estatales estén preparadas para asistir a nuestros residentes sin importar el idioma que hablen", **dijo el líder de la mayoría Ruiz.** "Ahora que el gobernador Murphy ha firmado este proyecto de ley, cuando las personas con necesidades, y especialmente en crisis, podrán conectarse a los recursos disponibles para ellos. Esto se puso aún más de relieve durante la pandemia, cuando vimos diversos obstáculos que impedían a las personas acceder a la información gubernamental en tiempo real y a los servicios gubernamentales habituales. Es un paso para cerrar esa brecha

acceso fundamental".

"Tratar con agencias estatales y solicitudes formales puede resultar confuso para los hablantes nativos, pero se convierte en un desafío mucho mayor cuando la información densa presenta en un idioma que no conoces bien", **dijo la senadora Nellie Pou, presidenta del Legislative Latino Caucus.** "Esta legislación asegurará que los residentes tengan el acceso a documentos esenciales en su primera lengua, para que no tengan que recurrir a otros para conectarlos con los servicios que necesitan".

Traducir para los padres es simplemente una parte de la vida para muchos niños de primera generación, pero como uno de los estados más diversos del país nuestros residentes merecen algo mejor", **dijo la senadora Cruz-Perez.** "Esta ley ayudará a garantizar que no dependamos de los niños para conectar a las familias con los recursos que salvan vida

"Como estado que se enorgullece de su rica diversidad, Nueva Jersey se compromete a garantizar que todo el mundo tenga el mejor acceso posible a los servicios gubernamentales", **expresó la exasambleísta Sadaf Jaffer.** "Ampliar estos documentos y servicios de traducción más allá del inglés y brindarlos en varios de los idiomas más hablados es extremadamente oportuno e importante."

"La diversidad es uno de los mayores activos de Garden State y prácticamente un tercio de los habitantes de Nueva Jersey de cinco años en adelante hablan un idioma distinto de inglés", **dijo la asambleísta Ellen Park.** "Al exigir que los documentos esenciales y otras informaciones estén disponibles en siete de los idiomas más hablados, que no sean inglés Nueva Jersey garantizará que el acceso a los servicios públicos se determine por la elegibilidad, no por el dominio del idioma, y no podría estar más orgulloso de ver este proyecto ahora convertido en ley"

"Aquí en Nueva Jersey nos enorgullecemos de nuestra diversidad, por lo que estoy muy orgulloso de estar con el gobernador y mis colegas en la legislatura, ya que reconocemos nuestra responsabilidad de asegurar que nuestro estado no abdique de su responsabilidad de servir a todos los habitantes de Nueva Jersey, independientemente del idioma que hablen, asegurándonos de que todos los formularios y documentos sean accesibles a cada habitante de Nueva Jersey," **dijo el asambleísta Sterley Stanley.**

La A-3092wGR/S2415 exigirá que las agencias estatales actualicen sus métodos de recolección de datos demográficos e informes para que reflejen de manera más precisa la identidad única de las comunidades de origen asiático americano, hawaiano nativo e isleño del Pacífico (AANHPI), de Medio Oriente y norte de África (MENA) y las diásporas surasiáticas y de la India. Este desglose de los datos demográficos ayudará a los organismos estatales a tener en cuenta las diferencias socioeconómicas propias de la ascendencia de una persona, lo que redundará en una mejora de la administración de los programas gubernamentales y en una elaboración de políticas mejor informadas. Las comunidades AANHPI, MENA y de la diáspora del sur de Asia e India son de vital importancia en Nueva Jersey, y casi un millón de estadounidenses de origen asiático, hawaianos nativos e isleños del Pacífico residen en el Estado.

La Asamblea Legislativa se mostró de acuerdo con el veto condicional del gobernador a una versión anterior de la legislación. El gobernador recomendó cambios para dar a los organismos estatales la flexibilidad necesaria para cumplir con cualquier práctica distinta de recogida de datos y presentación de informes exigida por las leyes, reglamentos, programas o encuestas federales, y para tener en cuenta la evolución de las normas y orientaciones que pueden publicar en el futuro la Oficina Federal de Administración y Presupuesto o la Oficina del Censo de los Estados Unidos.

"Una democracia representativa y justa exige el reconocimiento y validación de las contribuciones y las necesidades de las comunidades diversas que tenemos en el Estado. Jard agregó el líder de la mayoría del Senado Ruiz". Ahora que podremos recabar datos más precisos, podemos tomar el pulso a las necesidades específicas de todas las personas de Nueva Jersey."

"Nuestro estado ha sido durante mucho tiempo un crisol cultural y étnico, que acoge a nuevos inmigrantes de todo el mundo. A medida que más y más variados grupos raciales y étnicos siguen llegando a Nueva Jersey, los organismos estatales deben revisar y, cuando sea necesario, ajustar los métodos de recopilación de datos para que reflejen la información demográfica de estos recién llegados, con el fin de ayudar a los organismos a satisfacer sus necesidades específicas a medida que surjan", **afirmó el senador Vin Gopal.**

"Los datos agregados pueden ocultar las desigualdades sanitarias en las comunidades asiático-americanas y en otras comunidades y frustrar los esfuerzos por eliminar las barreras de acceso a los recursos", **declaró el senador Raj Mukherji, presidente electo del Grupo Nacional de Legisladores Estatales Asiático-Americanos del Pacífico.** "Al aceptar la riqueza de nuestra diversidad y desglosar los datos, nuestro estado estará facultado para impulsar políticas basadas en pruebas y tomar decisiones informadas que reflejen las necesidades y aspiraciones de nuestras diversas comunidades".

"Mediante la recopilación de datos demográficos de una forma más matizada y precisa, podemos crear políticas más específicas y eficaces, amplificando las voces de las poblaciones a menudo subrepresentadas", **agregó la exasambleísta Sadaf Jaffer.** "La aprobación de este proyecto de ley ayudará a servir realmente a nuestra comunidad, en particular a atender las necesidades de los residentes con antecedentes de las comunidades de Oriente Medio, Norte de África y asiático-americana, que son muy diversas y requieren métodos de recopilación de datos más granulares."

"Como uno de los arquitectos de este proyecto de ley, me siento increíblemente agradecido de unirme al gobernador Murphy en la firma de esta importante ley", **continuó el asambleísta Sterley Stanley.** "En Nueva Jersey y muchos otros estados del país, innumerable cantidad de norteamericanos son prácticamente invisibles por la desafortunada marginación general en que recopilamos y comunicamos los datos demográficos. Por eso me enorgullece sumarme al Gobernador y a mis colegas de la legislatura en el reconocimiento de nuestra responsabilidad de garantizar que ningún ciudadano de Nueva Jersey quede sin ser censado, al exigir a los organismos estatales que actualicen sus métodos de recopilación de datos demográficos para que todos los ciudadanos de Nueva Jersey puedan sentirse reconocidos y seguros".

"Estos tres proyectos de ley envían un mensaje alto y claro: Nueva Jersey es un hogar orgulloso de sus inmigrantes. Con las bases que sientan estos proyectos de ley, algún día tendremos una Nueva Jersey en la que nadie dude en defender sus derechos por barreras lingüísticas. Sería una Nueva Jersey en la que los niños ya no sean los principales traductores de hogares enteros o en la que nuestras poblaciones de más rápido crecimiento no sean borradas o excluidas por culpa de datos mal recopilados. Hoy, Nueva Jersey reafirma que no solo los inmigrantes son bienvenidos aquí, sino que todos los habitantes de Nueva Jersey merecen un Estado que hable por todos nosotros", **declaró Amy Torre, directora ejecutiva de la Alianza de Nueva Jersey para la Justicia con los Inmigrantes.** Al margen de los cambios transformadores que aportan estas políticas, destaca la fuerza con que se ganaron las campañas a favor de estos proyectos de ley. Hoy es una victoria histórica por y para los inmigrantes: desde las comunidades que alzaron la voz cuando se sintieron borradas y silenciadas, hasta nuestros legisladores defensores que centraron la experiencia propia, la de sus familias y la de sus electores para llevar estos proyectos de ley a la mesa del Gobernador. Agradecemos mucho a las muchas voces que han colaborado en esta lucha, y especialmente a la oficina del Gobernador por haberlas convertido en ley

"Como uno de los estados más diversos del país, donde uno de cada cuatro residentes es inmigrante, Nueva Jersey tiene la responsabilidad de proteger y garantizar los derechos de bienestar de nuestras comunidades de inmigrantes", **afirmó el director ejecutivo de la ACLU de Nueva Jersey, Amol Sinha.** La legislación firmada hoy por el gobernador Murphy significa el compromiso de Nueva Jersey con esta responsabilidad y subraya las necesidades de la comunidad: ampliar el acceso al idioma es imperativo para que nuestros funcionarios estatales se comuniquen con los electores y construyan confianza; proteger los derechos de las trabajadoras domésticas ayudará a garantizar la seguridad de algunas de las más vulnerables en nuestra fuerza laboral; y exigir la recopilación de datos demográficos desglosados es un paso importante hacia la equidad, en particular dentro de nuestras comunidades AAPI y MENA, que tienen experiencias y necesidades diversas y variadas. En una época en la que la retórica antiinmigrante va en aumento, Nueva Jersey está adoptando una postura. Elogiamos al gobernador Murphy y a los patrocinadores del proyecto de ley por tomar medidas para garantizar que Nueva Jersey sea justa y acogedora para todos los que la llaman hogar".

"Al recibir el nuevo año, hoy es un día especial y transformador para las trabajadoras domésticas en Nueva Jersey. La Carta de Derechos de las Trabajadoras Domésticas de Nueva Jersey es algo más que una ley; es una auténtica muestra de respeto por la dignidad y el valioso trabajo de las trabajadoras domésticas", **dijo Jenn Stowe, directora ejecutiva de la National Domestic Workers Alliance (NDWA).** Nos sentimos increíblemente emocionados de que la firma del gobernador Phil Murphy haya promulgado oficialmente la Carta de Derechos de las Trabajadoras Domésticas de Nueva Jersey, ofreciendo protecciones equitativas en el lugar de trabajo para las trabajadoras domésticas, que hacen posible todo el resto del trabajo. Se trata de una gran victoria no solo para las trabajadoras domésticas de Nueva Jersey, sino también de un rayo de esperanza para las trabajadoras domésticas en todo el país, que merecen trabajar con la protección, la dignidad y el respeto que legítimamente merecen. La aprobación de este proyecto de ley es un testimonio de lo que puede lograrse cuando los organizadores, las trabajadoras domésticas y nuestros socios se unen para hacer realidad un cambio histórico".

"Como trabajadora de atención domiciliar y organizadora en Nueva Jersey, la firma hoy de la Carta de Derechos de las Trabajadoras Domésticas de Nueva Jersey me llena de un inmenso orgullo y esperanza", **declaró Evelyn Saz, una extrabajadora de atención domiciliar y organizadora de atención domiciliar de la NDWA en Nueva Jersey.** "Esta legislación no es sólo un documento legal; es un testimonio de la fuerza y la resistencia de las trabajadoras domésticas que durante mucho tiempo han sufrido infravaloración y

desprotección. Mi viaje, desde los retos a los que me enfrenté en El Salvador hasta las luchas como trabajadora doméstica en Nueva Jersey, me ha demostrado la importancia de defender nuestros derechos y nuestra dignidad. Este proyecto de ley es un paso fundamental hacia la justicia, no sólo para nosotras en Nueva Jersey, sino para las trabajadoras domésticas de todo el país. Merecemos trabajar con protecciones, con dignidad y el respeto que nos hemos ganado por derecho. Esta victoria es para todas las trabajadoras domésticas que han cuidado a otros incansablemente mientras soportan injusticias en silencio. Hoy, celebramos nuestra fuerza colectiva y el futuro más prometedor que nos espere todos."

"El conjunto de proyectos de ley que el gobernador Murphy firmó hoy es fundamental para avanzar en la causa de la justicia y la equidad para las comunidades de color en el entorno laboral y en sus interacciones con el gobierno," dijo la **Dra. Jesselly De La Cruz, directora ejecutiva de la Fundación Latino Action Network**. "La comunidad latina en nuestro estado se verá enormemente beneficiada por las protecciones previstas en la Carta de Derechos de las Trabajadoras Domésticas de Nueva Jersey, que protegerá de la discriminación a las ayudantes domésticas, a las empleadas de servicio de limpieza y a otras personas. Al mismo tiempo, estas leyes aseguran que los latinos y otras comunidades inmigrantes tengan un mayor acceso al gobierno gracias a la disponibilidad de intérpretes y que el estado disponga de los datos demográficos que necesita para tomar decisiones informadas sobre cómo afectan las políticas gubernamentales a las comunidades de color. Queremos agradecer el liderazgo del gobernador Murphy y de los patrocinadores de estos proyectos de ley por sus incansables esfuerzos para hacer de Nueva Jersey un estado más justo."

"Como grupo musulmán de derechos civiles que representa una notable población que no habla inglés, nos ilusiona que el gobernador haya firmado el inicio del S-2459/ACS par 3837. Esto significa que nuestros padres, nuestros hermanos y nuestros amigos que tal vez no dominen el inglés podrán sentirse capacitados para hacer preguntas y valerse por sí mismos en sus experiencias en hospitales, escuelas, oficinas gubernamentales y más", señaló **Selaedin Maksut, director ejecutivo de CAIR-NJ**. "El desglose de datos lleva mucho tiempo afectando a la comunidad musulmana de Nueva Jersey. Cuando no nos ven, no nos ayudan. Tenemos la esperanza de que la ley A-3092wGR/S2415 contribuya a garantizar que las comunidades musulmanas (especialmente los sectores de nuestra población que durante mucho tiempo han sido catalogados como "blancos") reciban los servicios que necesitan para prosperar y sobresalir. Estos avances no habrían sido posibles sin el apoyo de nuestros aliados en la legislatura y de nuestros amigos y compañeros de la Alianza Nueva Jersey por la Justicia de los Inmigrantes, entre otros".

"La Ley de la Carta de Derechos de las Trabajadoras Domésticas de Nueva Jersey es una legislación muy importante, ya que aporta derechos muy esperados a una industria compuesta principalmente por mujeres de color con bajos ingresos e inmigrantes", declaró **Diana Mejía, de Wind of the Spirit**. "Wind of the Spirit fue fundada hace 23 años y en todos estos años su membresía ha estado compuesta por una mayoría de trabajadoras domésticas que luchan por los Derechos Humanos básicos y la Dignidad. Esta legislación ayudará a cerrar la brecha entre las trabajadoras con y sin derechos. Wind of the Spirit elogia a la legislatura y al gobernador por lograr esto y a todos los miembros de la comunidad que trabajaron arduamente durante varios años para que llegáramos a este momento histórico."

"Casi una cuarta parte de la población de Nueva Jersey está compuesta por inmigrantes en comunidades que representan una importante diversidad geográfica y lingüística," dijo **Anjali Mehrotra, comisionada de la Comisión AAPI de Nueva Jersey**. "Mejorar la recolección de datos y dar mejor acceso a los servicios para estas comunidades es esencial para crear un estado realmente acogedor. Le agradecemos al gobernador y a todos nuestros patrocinadores en la legislatura: los senadores Gopal, Ruiz, Pou y Cruz-Pérez, y los miembros de la Asamblea Stanley, Mukherji, Jaffer y Park por defender estas medidas. Las leyes que serán firmadas hoy asegurarán que se recopile y comunique información sobre cada una de nuestras comunidades para que nadie quede al margen de la solución y que el idioma no sea un obstáculo para acceder a los servicios disponibles."

"Hoy en día, Nueva Jersey da un gran paso adelante para garantizar que su comunidad de 1.1 millones de asiáticos americanos e isleños del Pacífico sea vista, escuchada y comprendida", indicó **Amber Reed, presidenta de AAPI Nueva Jersey**. Cuando estas leyes se implementen efectivamente, nuestra seguridad, salud, prosperidad, y bienestar aumentarán, al tiempo que enviarán un mensaje a todos de que pertenecemos aquí y somos importantes. Estamos agradecidos al gobernador Murphy, a la Legislatura y a la coalición interracial liderada por inmigrantes que hicieron realidad esta legislación histórica."

"Estas piezas críticas de la legislación ayudarán al gobierno estatal a servir mejor a las diversas comunidades de Nueva Jersey y proteger los derechos de aquellos que a menudo pasan por alto", declaró **Marleina Ubel, analista principal de políticas de New Jersey Policy Perspective (NJPP)**. "Y lo que es más importante, al apoyar estos proyectos de ley el gobernador Murphy se asegura de que el estado cumpla con nuestros valores al cuidar de cada residente, sin importar su idioma o su lugar de origen. Con políticas como esta se fomenta un estado más inclusivo, y el gobernador y los patrocinadores de este proyecto de ley merecen un gran reconocimiento por todo su trabajo en torno al acceso al idioma, el desglose de datos y la declaración de derechos de las trabajadoras domésticas."

"La declaración de derechos de las trabajadoras domésticas es fundamental, ya que necesitamos que se nos notifique cuándo dejamos de ser necesarias, porque mi vida puede cambiar en un instante", declaró **Elda Vargas, trabajadora doméstica y líder del Comité de Trabajadoras Domésticas de New Labor**. "Ahora tenemos las protecciones contempladas en la ley que puedo utilizar para luchar por mis derechos y tener tranquilidad y tiempo para buscar un nuevo trabajo. También tengo pausas para comer y descansar ¡Podré hacer mi mejor esfuerzo!"

"Felicitó al gobernador Murphy, a los patrocinadores de estos proyectos de ley vitales y a la legislatura por mostrar al resto del país cómo un estado puede amar verdaderamente al prójimo construyendo una Nueva Jersey más justa y acogedora para las familias inmigrantes. Al eliminar las barreras del idioma, los seres queridos pueden empezar a prosperar y participar de lleno en su comunidad. El desglose de datos dará visibilidad a las historias, a menudo invisibles de quiénes son los habitantes de Nueva Jersey, a qué retos se enfrentan y nos ayudará a trazar un camino inclusivo hacia el futuro. Mientras que la Carta de Derechos de las Trabajadoras Domésticas ofrece protección vital para las mujeres negras y mor que son la columna vertebral del cuidado y el apoyo doméstico en todo el estado. Estos proyectos de ley honran el valor y la dignidad inherentes de los habitantes de Nueva Jersey son un paso importante en el camino hacia una Nueva Jersey de la que todos podamos sentirnos orgullosos", señaló **Charlene Walker, directora ejecutiva de Faith en Nueva Jersey**.