

October 28, 1966

LEGISLATIVE HISTORY OF R.S. 43:21-6 (b) (1)
Final paragraph.

(Unemployment Compensation - Claims for benefits)

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- L. 1936, Chapter 270, § 6 - SSA 1
Introduced December 21 by Mr. Young.
Not amended during passage.
No statement on bill (copy of § 6 enclosed).
- L. 1945, Chapter 308, § 2 - A305
Introduced March 12 by Mr. Leonard.
Amended during passage (This section not amended)
Statement on bill:

The purpose of this bill is to clarify language, eliminate redundant provisions, and to simplify and facilitate administration. The changes proposed are of a technical nature and are needed to avoid duplication of effort and overlapping of administration.
(copy of § 2 of bill enclosed).

- L. 1950, Chapter 167, § 1 - S85
Introduced February 13 by Mr. Clapp.
Amended during passage.
Statement on bill (copy of original bill and statement enclosed).
- L. 1951, Chapter 338, § 1 - A549
Adds § 1, does not affect present section.
- L. 1952, Chapter 187, § 3 - S154
Introduced March 10 by Mr. Bodine.
Not amended during passage.
Statement on bill (copy of § 3 of bill and statement enclosed).
- L. 1955, Chapter 203, § 2 - A264
Introduced March 7 by Messrs. Mosch and Mintz.
No statement on bill.
Section 2 added by Senate Committee Amendments
(copy of amendments enclosed).
Bill returned by Governor (copy of Governor's message enclosed).

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L. 1961, Chapter 43, § 4 - S179
 Introduced May 1 by Senators Ozard and Haines.
 Amended during passage (Section 4 not amended).
 No statement on bill (copy of § 4 of bill enclosed).

Also see the following:

974.90 N.J. Social Security Commission.
 U55 Report on unemployment compensation, report
 1936i no. 2. December, 1936. (pp. 29, 37ff., 105ff.)

974.90 N.J. Social Security Commission.
 U55 Three alternate plans for unemployment compensation.
 1936g November, 1936. (pp. 49ff., 72ff.)

974.90 N.J. Social Security Commission.
 U55 Memorandum by the sponsors of Plan D.
 1936h (pp. 8-9).

974.90 N.J. Social Security Commission.
 U55 Public hearing, December 2, 1936.
 1936j (p. 32).

974.901 N.J. Unemployment Compensation Commission.
 E78 Annual report, 1945 (p. 22-23).

974.90 N.J. Legislature. Special Commission to Study
 U55 Employment Security Laws.
 1950 Public hearing on unemployment and temporary
 disability benefits, December 20, 1950 (p. 80).

974.90 N.J. Legislature. Special Commission to Study
 U55 Employment Security Laws.
 1951 Reports to the Governor and Legislature.
 October, 1951. (pp. C-1 ff., K-1 ff.)

CK/PC

36 was last employed; *provided*, that this subsection shall not apply if it is
37 shown to the satisfaction of the board of review that—(1) He is not
38 participating in or financing or directly interested in the labor dispute which
39 caused the stoppage of work; and

40 (2) He does not belong to a grade or class of workers of which, im-
41 mediately before the commencement of the stoppage, there were members
42 employed at the premises at which the stoppage occurs, any of whom are
43 participating in or financing or directly interested in the dispute; *provided*,
44 that if in any case in which (1) or (2) above applies separate branches of
45 work which are commonly conducted as separate businesses in separate
46 premises are conducted in separate departments of the same premises, each
47 such department shall, for the purposes of this subsection, be deemed to be a
48 separate factory, establishment, or other premises.

49 (c) For any week with respect to which he is receiving or has received
50 remuneration in the form of—(1) Remuneration in lieu of notice;

51 (2) Compensation for temporary partial disability under the work-
52 men's compensation law of any State or under a similar law of the United
53 States; or

54 (3) Old-age benefits under title II of the Social Security Act, as
55 amended, or similar payments under any act of Congress; *provided*, that if
56 such remuneration is less than the benefits which would otherwise be due
57 under this act, he shall be entitled to receive for such week, if otherwise
58 eligible, benefits reduced by the amount of such remuneration.

CLAIMS FOR BENEFITS

1 6. (a) Filing—Claims for benefits shall be made in accordance with such
2 regulations as the commission may approve. Each employer shall post and
3 maintain printed statements of such regulations in places readily accessible
4 to individuals in his service and shall make available to each such individual
5 at the time he becomes unemployed, a printed statement of such regulations.
6 Such printed statements shall be supplied by the commission to each em-
7 ployer without cost to him.

8 (b) Initial determination.—A representative designated by the execu-
9 tive director, and hereinafter referred to as a deputy, shall promptly examine
10 the claim and, on the basis of the facts found by him, shall either determine
11 whether or not such claim is valid, and if valid, the week with respect to
12 which benefits shall commence, the weekly benefit amount payable and the
13 maximum duration thereof, or shall refer such claim or any question in-
14 volved therein to an appeal tribunal or to the board of review, which shall
15 make its determinations with respect thereto in accordance with the pro-
16 cedure described in subsection (c) of this section, except that in any case in
17 which the payment or denial of benefits will be determined by the provisions
18 of section five (d) of this act, the deputy shall promptly transmit his full
19 findings of fact with respect to that subsection to the board of review, which,
20 on the basis of the evidence submitted and such additional evidence as it
21 may require, shall affirm, modify, or set aside such findings of fact and
22 transmit to the deputy a decision upon the issues involved under that sub-
23 section. The deputy shall promptly notify the claimant and any other in-
24 terested party of the decision and the reasons therefor. Unless the claim-
25 ant or any such interested party, within five calendar days after the de-
26 livery of such notification, or within seven calendar days after such notifi-
27 cation was mailed to his last-known address, files an appeal from such
28 decision, such decision shall be final and benefits shall be paid or denied in
29 accordance therewith. If an appeal is duly filed, benefits with respect to
30 the period prior to the final determination of the board of review, shall be
31 paid only after such determination; *provided*, that if an appeal tribunal
32 affirms a decision of a deputy, or the board of review affirms a decision of
33 an appeal tribunal, allowing benefits, such benefits shall be paid regardless
34 of any appeal which may thereafter be taken, but if such decision is finally
35 reversed, no employer's account shall be charged with benefits so paid.

36 (c) Appeals.—Unless such appeal is withdrawn, an appeal tribunal, after
37 affording the parties reasonable opportunity for fair hearing, shall affirm
38 or modify the findings of fact and decision of the deputy. The parties

39 shall be duly notified of such tribunal's decision, together with its reasons
40 therefor, which shall be deemed to be the final decision of the board of re-
41 view, unless within ten days after the date of notification or mailing of such
42 decision, further appeal is initiated pursuant to subsection (e) of this sec-
43 tion.

44 (d) Appeal tribunals.—To hear and decide disputed claims, the executive
45 director with the approval of the commission shall establish one or more
46 impartial appeal tribunals consisting in each case of either a salaried ex-
46½ aminer or a body consisting of three members, one of whom shall
47 be a salaried examiner, who shall serve as chairman, one of whom shall be
48 a representative of employers and the other of whom shall be a representa-
49 tive of employees; each of the latter two members shall serve at the pleas-
50 ure of the commission and be paid a fee of not more than twenty dollars
51 (\$20.00) per day of active service on such tribunal plus necessary expenses.
52 No person shall participate on behalf of the commission in any case in which
53 he is an interested party. The executive director may designate alternates
54 to serve in the absence or disqualification of any member of an appeal tri-
55 bunal. The chairman shall act alone in the absence or disqualification of
56 any other member and his alternates. In no case shall the hearings proceed
57 unless the chairman of the appeal tribunal is present.

58 (e) Board of review.—The board of review may on its own motion affirm,
59 modify, or set aside any decision of an appeal tribunal on the basis of the
60 evidence previously submitted in such case, or direct the taking of additional
61 evidence, or may permit any of the parties to such decision to initiate fur-
62 ther appeals before it. The board of review shall permit such further appeal
63 by any of the parties interested in a decision of an appeal tribunal which is
64 not unanimous and by the deputy whose decision has been overruled or
65 modified by an appeal tribunal. The board of review may remove to itself
66 or transfer to another appeal tribunal the proceedings on any claim pend-
67 ing before an appeal tribunal. Any proceeding so removed to the board of
68 review shall be heard by a quorum thereof in accordance with the require-

69 ments in subsection (c) of this section. The board of review shall
70 promptly notify the interested parties of its findings and decision.

71 (f) Procedure.—The manner in which disputed claims shall be presented,
72 the reports thereon required from the claimant and from employers, and
73 the conduct of hearings and appeals shall be in accordance with rules pre-
74 scribed by the board of review for determining the rights of the parties,
75 whether or not such rules conform to common law or statutory rules of evi-
76 dence and other technical rules of procedure. A full and complete record
77 shall be kept of all proceedings in connection with a disputed claim. All
78 testimony at any hearing upon a disputed claim shall be recorded, but need
79 not be transcribed unless the disputed claim is further appealed.

80 (g) Witness fees.—Witnesses subpoenaed pursuant to this section shall
81 be allowed fees at a rate fixed by the commission. Such fees and all expenses
82 of proceedings involving disputed claims shall be deemed a part of the ex-
83 pense of administering this act.

84 (h) Appeal to courts.—Any decision of the board of review in the ab-
85 sence of an appeal therefrom as herein provided shall become final ten days
86 after the date of notification or mailing thereof, and judicial review thereof
87 shall be permitted only after any party claiming to be aggrieved thereby
88 has exhausted his remedies before the board of review as provided by this
89 act. The board of review shall be deemed to be a party to any judicial ac-
90 tion involving any such decision, and may be represented in any such
91 judicial action by any qualified attorney who may be a regular salaried em-
92 ployee of the board of review or has been designated by it for that pur-
93 pose, or at the board of review's request, by the Attorney-General.

94 (i) Court review.—Within ten days after the decision of the board of
95 review has become final, any party aggrieved thereby may secure judicial
96 review thereof by writ of certiorari directed to the board of review, in which
97 action any other party to the proceeding before the board of review shall
98 be made a defendant.

50 (e) For any week with respect to which he is receiving or has received
51 remuneration in [the form of:] lieu of notice.

52 [(1) Remuneration in lieu of notice;

53 (2) Compensation for temporary partial disability under the work-
54 men's compensation law of any State or under a similar law of the
55 United States; or

56 (3) Old age benefits under Title II of the social security act, as
57 amended, or similar payments under any act of Congress; *provided*, that
58 if such remuneration is less than the benefits which would otherwise be
59 due under this chapter, he shall be entitled to receive for such week, if
60 otherwise eligible, benefits reduced by the amount of such remuneration.]

61 (f) For any week with respect to which or a part of which he has
62 received or is seeking unemployment benefits under an unemployment com-
63 pensation law of any other State or of the United States; *provided*, that if
63 the appropriate agency of such other State or of the United States finally
64 determines that he is not entitled to such unemployment benefits, this dis-
65 qualification shall not apply.

1 2. Section 43:21-6 of the Revised Statutes is amended to read as fol-
2 lows:

3 43:21-6. (a) Filing. Claims for benefits shall be made in accordance
4 with such regulations as the commission may approve. Each employer shall
5 post and maintain printed statements of such regulations in places readily
6 accessible to individuals in his service and shall make available to each such
7 individual at the time he becomes unemployed, a printed statement of such
8 regulations. Such printed statements shall be supplied by the commission
9 to each employer without cost to him.

10 (b) (1) Initial determination. A representative designated by the execu-
11 tive director, and hereinafter referred to as a "deputy," shall promptly ex-
12 amine the claim and, on the basis of the facts found by him, shall either
13 determine whether or not such claim is valid, and if valid, the week with re-
14 spect to which benefits shall commence, the weekly benefit amount payable

15 and the maximum duration thereof, or shall refer such claim or any question
16 involved therein to an appeal tribunal or to the board of review, which shall
17 make its determinations with respect thereto in accordance with the procedure
18 described in subsection (c) of this section [, except that in any case in which
19 the payment or denial of benefits will be determined by the provisions of
20 subsection (d) of section 43:21-5 of this Title, the deputy shall promptly
21 transmit his full findings of fact with respect to that subsection to the board
22 of review, which, on the basis of the evidence submitted and such additional
23 evidence as it may require, shall affirm, modify, or set aside such findings of
24 fact and transmit to the deputy a decision upon the issues involved under
25 that subsection.]. The deputy shall promptly notify the claimant [and any
26 other interested party], the most recent employing unit and all employers in
27 the base year of the decision and the reasons therefor. Unless the claimant
28 or any such interested party, within five calendar days after the delivery of
28½ such notification, or within seven calendar days after such notification
29 was mailed to his and their last-known address and addresses, files
30 an appeal from such decision, such decision shall be final and benefits
31 shall be paid or denied in accordance therewith. If an appeal is duly
32 filed, benefits with respect to the period prior to the final determination of
33 the board of review, shall be paid only after such determination; *provided*,
34 that if an appeal tribunal affirms a decision of a deputy, or the board of re-
35 view affirms a decision of an appeal tribunal, allowing benefits, such benefits
36 shall be paid regardless of any appeal which may thereafter be taken, but if
37 such decision is finally reversed, no employer's account shall be charged with
38 benefits so paid.

39 (2) Subsequent determinations. The deputy shall make determinations
40 with respect to claims for benefits thereafter in the course of the benefit year
41 in accordance with any initial determination allowing benefits; *provided*, the
42 claimant is eligible and not disqualified; the allowance of benefits by the
43 deputy on any such claim (if disputed), or the denial of benefits by the deputy

SENATE, No. 85

STATE OF NEW JERSEY

INTRODUCED FEBRUARY 13, 1950

By Mr. CLAPP

Referred to Committee on Labor, Industries and Social Welfare

AN ACT concerning unemployment compensation, and amending section 43:21-6
and section 43:21-16 of the Revised Statutes.

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

1 1. Section 43:21-6 of the Revised Statutes is amended to read as fol-
2 lows:

3 43:21-6.. (a) Filing. Claims for benefits shall be made in accordance
4 with such regulations as the [commission] director of the Division of Em-
5 ployment Security of the Department of Labor and Industry of the State of
6 New Jersey may approve. Each employer shall post and maintain on his
7 premises printed [statements of such regulations in places readily accessible
8 to individuals in his service and shall make available to each such individual
9 at the time he becomes unemployed, a printed statement of such regula-
10 tions] notices of his subject status, of such design, in such numbers, and at
11 such places as the director of the division may determine to be necessary to
12 give notice thereof to persons in the employer's service. Each employer
13 shall give to each individual at the time he becomes unemployed a printed
14 copy of benefit instructions. [Such printed statements shall be supplied by
15 the commission to each employer without cost to him.] Both the aforesaid
16 notices and instructions shall be supplied by the division to employers
17 without cost to them.

18 (b) (1) Initial determinations. [A representative designated by the
19 executive director, and hereinafter referred to as a "deputy," shall prompt-
20 ly examine the claim and, on the basis of the facts found by him, shall either
21 determine whether or not such claim is valid, and if valid, the week with
22 respect to which benefits shall commence, the weekly benefit amount pay-
23 able and the maximum duration thereof, or shall refer such claim or any
24 question involved therein to an appeal tribunal or to the board of review,
25 which shall make its determinations with respect thereto in accordance with
26 the procedure described in subsection (c) of this section. The deputy shall
27 promptly notify the claimant, the most recent employing unit and all em-
28 ployers in the base year of the decision and the reasons therefor. Unless
29 the claimant or any such interested party, within five calendar days after
30 the delivery of such notification, or within seven calendar days after such
31 notification was mailed to his and their last-known address and addresses,
32 files an appeal from such decision, such decision shall be final and benefits
33 shall be paid or denied in accordance therewith. If an appeal is duly filed,
34 benefits with respect to the period prior to the final determination of the
35 board of review, shall be paid only after such determination; *provided*, that
36 if an appeal tribunal affirms a decision of a deputy, or the board of review
37 affirms a decision of an appeal tribunal, allowing benefits, such benefits
38 shall be paid regardless of any appeal which may thereafter be taken, but if
39 such decision is finally reversed, no employer's account shall be charged with
40 benefits so paid.] The director of the division shall designate a representa-
41 tive or representatives to promptly examine the claims and to determine
42 which claims do and which claims do not meet the requirements of section
43 4(e); and as to those claims meeting the requirements of section 4(e) to
44 further determine the weekly benefit rates and the maximum total benefits
45 payable. Each claimant shall be promptly notified of the determination of
46 his claim.

47 (2) [Subsequent determinations. The deputy shall make determina-
 48 tions with respect to claims for benefits thereafter in the course of the bene-
 49 fit year in accordance with any initial determination allowing benefits; *pro-*
 50 *vided*, the claimant is eligible and not disqualified; the allowance of benefits
 51 by the deputy on any such claim (if disputed), or the denial of benefits by
 51½ the deputy on any such claim, shall be appealable within seven calendar
 52 days after the date of notification thereof.] Weekly determinations. The
 53 director of the division shall assign a representative or representatives to
 54 each local claims office for the purpose of making weekly determinations (ex-
 55 cept those under subsections 4(f) and 5(d) in the course of the benefit year,
 56 in accordance with the initial determination of a valid claim. Whenever a
 57 determination of eligibility shall be made with respect to the first week of
 58 the benefit year for which benefits are claimed, the claimant, the last employ-
 59 ing unit and all employers in the base year shall be promptly notified of such
 60 determination. Whenever a determination of ineligibility or disqualification
 61 shall be made with respect to any week of the benefit year, the claimant
 62 shall be promptly notified of such determination.

63 (3) Any claimant or any interested entity or person may file an appeal
 64 from any determination under paragraphs (1) and (2) of this subsection
 65 within five calendar days after the delivery of notification, or within seven
 66 calendar days after the mailing of notification, of such determination. Un-
 67 less such an appeal is filed such determination shall be final and benefits shall
 68 be paid or denied in accordance therewith. If an appeal is duly filed, bene-
 69 fits with respect to the period covered by the appeal shall be payable only
 70 after a determination of entitlement by the appellate tribunal; benefits pay-
 71 able for periods pending an appeal and not in dispute shall be paid as such
 72 benefits accrue; provided that insofar as any such appeal is or may be an
 73 appeal from a determination to the effect that the claimant is disqualified
 74 under the provisions of section 43:21-5 of the Revised Statutes or any
 75 amendments thereof or supplements thereto, benefits pending determination
 76 of the appeal shall be withheld only for the period of disqualification as

77 provided for in said section, and notwithstanding such appeal the benefits
78 otherwise provided by this act shall be paid for the period subsequent to
79 such period of disqualification; and *provided*, also, that if there are two de-
80 terminations of entitlement, benefits for the period covered by such deter-
81 minations shall be paid regardless of any appeal which may thereafter be
82 taken, but no employer's account shall be charged with benefits so paid if the
83 decision is finally reversed.

84 (c) Appeals. Unless such appeal is withdrawn, an appeal tribunal,
85 after affording the parties reasonable opportunity for fair hearing, shall af-
86 firm or modify the findings of fact and [decision of the deputy] the deter-
87 mination. The parties shall be duly notified of such tribunal's decision,
88 together with its reasons therefor, which shall be deemed to be the final de-
89 cision of the board of review, unless within ten days after the date of noti-
90 fication or mailing of such decision, further appeal is initiated pursuant to
91 subsection (e) of this section.

92 (d) Appeal tribunals. To hear and decide disputed benefit claims, in-
93 cluding appeals from determinations with respect to demands [by the
94 deputy] for refunds of benefits under section 43:21-16(d) of this chapter
95 (R. S. 43:21-1 et seq.), the [executive] director with the approval of the
96 [commission] Commissioner of Labor and Industry shall establish one or
97 more impartial appeal tribunals consisting in each case of either a salaried
98 examiner or a body consisting of three members, one of whom shall be a sal-
99 aried examiner, who shall serve as chairman, one of whom shall be a repre-
100 sentative of employers and the other of whom shall be a representative of
101 employees; each of the latter two members shall serve at the pleasure of
102 the [commission] commissioner and be paid a fee of not more than twenty
103 dollars (\$20.00) per day of active service on such tribunal plus necessary
104 expenses. No person shall participate on behalf of the [commission] di-
105 vision in any case in which he is an interested party. The [executive]
106 director may designate alternates to serve in the absence or disqualification
107 of any member of an appeal tribunal. The chairman shall act alone in the

108 absence or disqualification of any other member and his alternates. In no
109 case shall the hearings proceed unless the chairman of the appeal tribunal
110 is present.

111 (e) Board of review. The board of review may on its own motion af-
112 firm, modify, or set aside any decision of an appeal tribunal on the basis
113 of the evidence previously submitted in such case, or direct the taking of
114 additional evidence, or may permit any of the parties to such decision to
115 initiate further appeals before it. The board of review shall permit such
116 further appeal by any of the parties interested in a decision of an appeal
117 tribunal which is not unanimous and [by the deputy whose decision] from
118 any determination which has been overruled or modified by an appeal tri-
119 bunal. The board of review may remove to itself or transfer to another
120 appeal tribunal the proceedings on any claim pending before an appeal tri-
121 bunal. Any proceeding so removed to the board of review shall be heard
122 by a quorum thereof in accordance with the requirements [in] of subsection
123 (c) of this section. The board of review shall promptly notify the inter-
124 ested parties of its findings and decision.

125 (f) Procedure. The manner in which disputed benefit claims, and ap-
126 peals from determinations with respect to (1) claims for benefits and (2) de-
127 mands [by the deputy] for refunds of benefits under section 43:21-16(d) of
128 this chapter (R. S. 43:21-1 et seq.) shall be presented, the reports thereon
129 required from the claimant and from employers, and the conduct of hear-
130 ings and appeals shall be in accordance with rules prescribed by the board
131 of review for determining the rights of the parties, whether or not such rules
132 conform to common law or statutory rules of evidence and other technical
133 rules of procedure. A full and complete record shall be kept of all pro-
134 ceedings in connection with a disputed claim. All testimony at any hearing
135 upon a disputed claim shall be recorded, but need not be transcribed unless
136 the disputed claim is further appealed.

137 (g) Witness fees. Witnesses subpoenaed pursuant to this section shall
138 be allowed fees at a rate fixed by the [commission] director. Such fees

139 and all expenses of proceedings involving disputed claims shall be deemed a
140 part of the expense of administering this chapter (R. S. 43:21-1 et seq.).

141 (h) Appeal to courts. Any decision of the board of review in the ab-
142 sence of an appeal therefrom as herein provided shall become final ten days
143 after the date of notification or mailing thereof, and judicial review thereof
144 shall be permitted only after any party claiming to be aggrieved thereby has
145 exhausted his remedies before the board of review as provided by this chap-
146 ter (R. S. 43:21-1 et seq.). The board of review shall be deemed to be a
147 party to any judicial action involving any such decision, and may be repre-
148 sented in any such judicial action by any qualified attorney who may be a
149 regular salaried employee of the board of review or has been designated by
150 it for that purpose, or at the board of review's request, by the Attorney-
151 General.

152 (i) Court review. Within ten days after the decision of the board of
153 review has become final, any party aggrieved thereby may secure judicial re-
154 view thereof by [writ of certiorari directed to the board of review] a pro-
155 ceeding in lieu of the prerogative writs, in which action any other party to
156 the proceeding before the board of review shall be made a defendant.

1 2. Section 43:21-16 of the Revised Statutes is amended to read as fol-
2 lows:

3 43:21-16. (a) Whoever makes a false statement or representation know-
4 ing it to be false or knowingly fails to disclose a material fact, to obtain or
5 increase any benefit or other payment under this chapter (R. S. 43:21-1 et
6 seq.), either for himself or for any other person, shall be liable to a fine of
7 not less than twenty dollars (\$20.00) nor more than fifty dollars (\$50.00), to
8 be recovered in an action at law in the name of the [commission] Division
9 of Employment Security of the Department of Labor and Industry of the
10 State of New Jersey, said fine when recovered to be paid to the unemploy-
11 ment compensation auxiliary fund for the use of said fund; and each such
12 false statement or representation or failure to disclose a material fact shall
13 constitute a separate offense.

14 (b) Any employing unit or any officer or agent of an employing unit or
15 any other person who makes a false statement or representation knowing it
16 to be false, or who knowingly fails to disclose a material fact, to prevent or
17 reduce the payment of benefits to any individual entitled thereto, or to avoid
18 becoming or remaining subject hereto or to avoid or reduce any contribution
19 or other payment required from an employing unit under this chapter (R. S.
20 43:21-1 et seq.), or who wilfully fails or refuses to make any such contribu-
21 tions or other payment or to furnish any reports required hereunder or to
22 produce or permit the inspection or copying of records as required hereunder,
23 shall be liable to a fine of not less than twenty dollars (\$20.00) nor more
24 than two hundred dollars (\$200.00), to be recovered in an action at law in
25 the name of the [commission], Division of Employment Security of the De-
26 partment of Labor and Industry of the State of New Jersey. Said fine when
27 recovered to be paid to the unemployment compensation auxiliary fund for
28 the use of said fund; and each such false statement or representation or fail-
29 ure to disclose a material fact, and each day of such failure or refusal shall
30 constitute a separate offense.

31 (c) Any person who shall willfully violate any provision of this chap-
32 ter (R. S. 43:21-1 et seq.) or any rule or regulation thereunder, the violation
33 of which is made unlawful or the observance of which is required under the
34 terms of this chapter (R. S. 43:21-1 et seq.), and for which a penalty is
35 neither prescribed herein nor provided by any other applicable statute, shall
36 be liable to a fine of not less than twenty dollars (\$20.00) nor more than two
37 hundred dollars (\$200.00), to be recovered in an action at law in the name of
38 the [commission] Division of Employment Security of the Department of
39 Labor and Industry of the State of New Jersey, said fine when recovered
40 to be paid to the unemployment compensation auxiliary fund for the use of
41 said fund; and each day such violation continues shall be deemed to be a
42 separate offense.

(d) When it is determined by [the deputy] a representative or representatives designated by the director of the division that any person, by reason of the nondisclosure or misrepresentation by him or by another, of a material fact ([irrespective of] whether or not such nondisclosure or misrepresentation was known or fraudulent) has received any sum as benefits under this chapter (R. S. 43:21-1 et seq.) while any conditions for the receipt of benefits imposed by this chapter (R. S. 43:21-1 et seq.) were not fulfilled in his case, or while he was disqualified from receiving benefits, such person shall [, in the discretion of the commission,] be liable, if the director in his discretion directs recovery, either [be liable] to have such sum deducted from any future benefits payable to him under this chapter (R. S. 43:21-1 et seq.) or [shall be liable] to repay to the [commission] division for the unemployment compensation fund, a sum equal to the amount so received by him, and such sum shall be collectible in the manner provided in subsection (e) of section 43:21-14 of this [Title] chapter (R. S. 43:21-1 et seq.) for the collection of past-due contributions. [The deputy shall promptly notify such person of the determination and the reasons therefor.] Such person shall be promptly notified of the determination and the reasons therefor. Unless such person, within five calendar days after the delivery of such determination, or within seven calendar days after such notification was mailed to his [or her] last-known address, files an appeal from such determination, such determination shall be final.

1 3. This act shall take effect July first, one thousand nine hundred and
2 fifty.

STATEMENT

This bill proposes to amend certain technical aspects of sections six and sixteen of the Unemployment Compensation Law. The purpose is to facilitate administration and, particularly, to speed up the payment of benefits to eligible claimants. It is to be noted that provision is made for proper notice to all interested and affected parties.

The amendment to section six enables the division to separate the basic monetary determination from the factual or weekly determination. The monetary determination simply provides the fiscal factors for the payment of benefits, including the total amount for the benefit year and the weekly benefit rate. Experience has demonstrated that about nineteen percentum (19%) of the individuals who assert claims never pick up benefits in the benefit year. As to that nineteen percentum (19%), the work of the division will be completed when the monetary determination is made and notice thereof given to the claimant. Under section six as it now stands, the agency is required to include in the initial determination some matters which are simply not determinable at the time that determination is made; for example, the week when benefits shall first commence. Under the proposed amendment to section six, determinations for compensable weeks in the benefit year are made as claimant establishes his eligibility with respect thereto. A long time may elapse between the basic monetary determination and the determination covering the first compensable week.

The separation of the basic determinations from the weekly determinations, it is felt, will eliminate a lot of misunderstanding on the part of both employers and claimants and will also eliminate a lot of unnecessary correspondence and communications which at the present time arise because of that misunderstanding.

It is the design of these amendments to have the basic monetary determination made at the central office and the weekly determinations made at local offices where the facts of eligibility, disqualifications, etc., are ascertained. It is also felt that this will cut down to a great degree the amount of intra-agency correspondence and communication.

The proposed amendment to section sixteen is to mesh in with the proposed amendments to section six.

64 (5) for the two weeks immediately following detachment from any
65 maritime services performed under shipping articles;

66 (6) for any week with respect to which or part of which he has received
67 or is seeking disability benefits under the Temporary Disability Benefits Law;

68 (7) for any period of disability commencing prior to January first, one
69 thousand nine hundred and forty-nine, or for any period of disability com-
70 mencing while such individual is a "covered individual" as defined in subsec-
71 tion three (b) of the Temporary Disability Benefits Law (chapter 110, P. L.
72 1948), or after the expiration of twenty-six consecutive weeks during which
73 the individual has been unemployed [and ineligible or disqualified for bene-
74 fits for such unemployment].

75 (h) Notwithstanding any other provision of this chapter, the director
76 may, to the extent that he deems efficient and economical, provide for con-
77 solidated administration by one or more representatives or deputies of claims
78 made pursuant to subsection (f) of this section with those made pursuant to
79 article III (State plan) of the Temporary Disability Benefits Law.

1 3. Section 43:21-6 of the Revised Statutes is amended to read as fol-
2 lows:

3 43:21-6. (a) Filing. Claims for benefits shall be made in accordance with
4 such regulations as the Director of the Division of Employment Security of
5 the Department of Labor and Industry of the State of New Jersey may ap-
6 prove. Each employer shall post and maintain on his premises printed no-
7 tices of his subject status, of such design, in such numbers, and at such places
8 as the director of the division may determine to be necessary to give notice
9 thereof to persons in the employer's service. Each employer shall give to each
10 individual at the time he becomes unemployed a printed copy of benefit in-
11 structions. Both the aforesaid notices and instructions shall be supplied by
12 the division to employers without cost to them.

13 (b) (1) Procedure for making determinations with respect to benefit
14 years commencing prior to January first, one thousand nine hundred and
15 fifty-three. (A) Initial determinations. The director of the division shall

16 designate a representative or representatives to promptly examine the claims
17 and to determine which claims do and which claims do not meet the require-
18 ments of section 4 (e) ; and as to those claims meeting the requirements of sec-
19 tion 4 (e) to further determine the weekly benefit rates and the maximum total
20 benefits payable. Each claimant shall promptly be notified of the determina-
21 tion of his claim.

22 [(2)] (B) Weekly determinations. The director of the division shall as-
23 sign a representative or representatives to each local claims office for the pur-
24 pose of making weekly determinations (except those under subsections 4 (f)
25 and 5 (d)) in the course of the benefit year, in accordance with the initial deter-
26 mination of a valid claim. Whenever a determination of eligibility shall be
27 made with respect to the first week of the benefit year for which benefits are
28 claimed, the claimant, the last employing unit and all employers in the base
29 year shall be promptly notified of such determination. Whenever a determina-
30 tion of ineligibility or disqualification shall be made with respect to any week
31 of the benefit year, the claimant shall be promptly notified of such determina-
32 tion.

33 [(3)] (C) Any claimant or any interested entity or person may file an
34 appeal from any determination under paragraphs (1) and (2) of this subsec-
35 tion within five calendar days after the delivery of notification, or within seven
36 calendar days after the mailing of notification, of such determination. Un-
37 less such an appeal is filed such determination shall be final and benefits shall
38 be paid or denied in accordance therewith. If an appeal is duly filed, benefits
39 with respect to the period covered by the appeal shall be payable only after
40 a determination of entitlement by the appellate tribunal; benefits payable for
41 periods pending an appeal and not in dispute shall be paid as such benefits
42 accrue; *provided*, that insofar as any such appeal is or may be an appeal from
43 a determination to the effect that the claimant is disqualified under the pro-
44 visions of section 43:21-5 of the Revised Statutes or any amendments thereof
45 or supplements thereto, benefits pending determination of the appeal shall be
46 withheld only for the period of disqualification as provided for in said section,
47 and notwithstanding such appeal the benefits otherwise provided by this act

48 shall be paid for the period subsequent to such period of disqualification;
 49 *and provided, also*, that if there are two determinations of entitlement, bene-
 50 fits for the period covered by such determinations shall be paid regardless of
 51 any appeal which may thereafter be taken, but no employer's account shall
 52 be charged with benefits so paid if the decision is finally reversed.

53 (2) Procedure for making initial determinations with respect to benefit
 54 years commencing on or after January first, one thousand nine hundred and
 55 fifty-three.

56 A representative or representatives designated by the director of the di-
 57 vision and hereinafter referred to as a "deputy" shall promptly examine the
 58 claim, and shall notify the most recent employing unit and, successively as
 59 necessary, each employer in inverse chronological order during the base year.
 60 Such notification shall require said employing unit and employer to furnish
 61 such information to the deputy as may be necessary to determine the claim-
 62 ant's eligibility and his benefit rights with respect to the employer in ques-
 63 tion, and such notification shall also provide the most recent chargeable em-
 64 ployer in the base year with the name and address of the most recent employ-
 65 ing unit of the claimant. All information transmitted to the director or his
 66 deputy pursuant to this section shall be privileged and shall not be made the
 67 subject matter or basis in any action of slander or libel in any court.

68 In his discretion, the director may appoint special deputies to make initial
 69 or subsequent determinations under subsections 4(f) and 5(d) of this chapter.

70 If any employer or employing unit fails to respond to the request for in-
 71 formation within seven days after the mailing of such request, the deputy may
 72 rely entirely on information from other sources, including an affidavit to the
 73 best of the knowledge and belief of the claimant with respect to his wages
 74 and time worked.

75 The deputy shall promptly make an initial determination based upon the
 76 available information. The initial determination shall show the weekly benefit

78 amount payable, the maximum duration of benefits with respect to the em-
 79 ployer to whom the determination relates, and also shall show whether the
 80 claimant is ineligible or disqualified for benefits under the initial determina-
 81 tion. The claimant and the employer whose account may be charged for
 82 benefits payable pursuant to said determination shall be promptly notified
 83 thereof.

84 Whenever an initial determination is based upon information other than
 85 that supplied by an employer because such employer failed to respond to the
 86 deputy's request for information, such initial determination and any subse-
 87 quent determination thereunder shall be incontestable by the noncomplying
 88 employer, as to any charges to his employer's account because of benefits paid
 89 prior to the close of the calendar week following the receipt of his reply. Such
 90 initial determination shall be altered if necessary upon receipt of informa-
 91 tion from the employer, and any benefits paid or payable with respect to
 92 weeks occurring subsequent to the close of the calendar week following the
 93 receipt of the employer's reply shall be paid in accordance with such altered
 93A initial determination.

94 The deputy shall issue a separate initial benefit determination with re-
 95 spect to each of the claimant's base year employers, starting with the most
 96 recent employer and continuing as necessary in the inverse chronological
 97 order of the claimant's last date of employment with each such employer. If
 97A an appeal is taken from an initial determination as hereinafter provided by
 97B any employer other than the first chargeable base-year employer, then such
 97C appeal shall be limited in scope to include only one or more of the following
 97D matters:

97E (A) the correctness of the benefit payments authorized to be made
 97F under the determination;

97G (B) fraud in connection with the claim pursuant to which the initial
 97H determination is issued; or

97r (C) the refusal of suitable work offered by the chargeable em-
 97r ployer filing the appeal.

98 The amount of benefits payable under an initial determination may be re-
 99 duced or canceled if necessary to avoid payment of benefits for a number of
 100 weeks in excess of the maximum specified in paragraph (2) of subsection (d)
 101 of section 43:21-3 of this Title.

102 Unless the claimant or any interested party within seven calendar days
 103 after delivery of notification of an initial determination or within ten calendar
 104 days after such notification was mailed to his or their last-known address and
 105 addresses, files and appeal from such decision, such decision shall be final and
 106 benefits shall be paid or denied in accordance therewith, except for such de-
 107 terminations as may be altered in benefit amounts or duration as provided in
 108 this paragraph. If an appeal is duly filed, benefits with respect to the period
 109 covered by the appeal shall be payable only after a determination of entitle-
 110 ment by the appellate tribunal; benefits payable for periods pending an ap-
 111 peal and not in dispute shall be paid as such benefits accrue; *provided*, that
 112 insofar as any such appeal is or may be an appeal from a determination to
 113 the effect that the claimant is disqualified under the provisions of section
 114 43:21-5 of the Revised Statutes or any amendments thereof or supplements
 115 thereto, benefits pending determination of the appeal shall be withheld only
 116 for the period of disqualification as provided for in said section, and not-
 117 withstanding such appeal the benefits otherwise provided by this act shall be
 118 paid for the period subsequent to such period of disqualification; *and pro-*
 119 *vided, also*, that if there are two determinations of entitlement, benefits for
 120 the period covered by such determinations shall be paid regardless of any ap-
 121 peal which may thereafter be taken, but no employer's account shall be
 121a charged with benefits so paid if the decision is finally reversed.

122 (3) Procedure for making initial determinations in certain cases of con-
 123 current employment, with respect to benefit years commencing on or after
 124 January first, one thousand nine hundred and fifty-three.

125 Notwithstanding any other provisions of this Title, if an individual shows
126 to the satisfaction of the deputy that there were at least thirteen weeks in his
127 base period in each of which he earned wages from two or more employers
128 totaling fifteen dollars (\$15.00) or more but in each of which there was no
129 single employer from whom he earned as much as fifteen dollars (\$15.00),
130 then such individual's claim shall be determined in accordance with the special
131 provisions of this paragraph. In such case, the deputy shall determine the
132 individual's eligibility for benefits, his average weekly wage, weekly benefit
133 rate and maximum total benefits as if all his base year employers were a single
134 employer. Such determination shall apportion the liability for benefit charges
135 thereunder to the individual's several base year employers so that each em-
136 ployer's maximum liability for charges thereunder bears approximately the
137 same relation to the maximum total benefits allowed as the wages earned by
138 the individual from each employer during the base year bears to his total
139 wages earned from all employers during the base year. Such initial deter-
140 mination shall also specify the individual's last date of employment within
141 the base year with respect to each base year employer, and such employers
142 shall be charged for benefits paid under said initial determination in the in-
143 verse chronological order of such last dates of employment.

144 (4) Procedure for making subsequent determinations with respect to
145 benefit years commencing on or after January first, one thousand nine
146 hundred and fifty-three. The deputy shall make determinations with respect
147 to claims for benefits thereafter in the course of the benefit year in accord-
148 ance with any initial determination allowing benefits, and under which bene-
149 fits have not been exhausted, and each notification of a benefit payment shall
150 be a notification of an affirmative subsequent determination. The allowance
151 of benefits by the deputy on any such determination, or the denial of
152 benefits by the deputy on any such determination, shall be appealable in
153 the same manner and under the same limitations as is provided in the
153A case of initial determinations.

154 (c) Appeals. Unless such appeal is withdrawn, an appeal tribunal, after
 155 affording the parties reasonable opportunity for fair hearing, shall affirm or
 156 modify the findings of fact and the determination. The parties shall be duly
 157 notified of such tribunal's decision, together with its reasons therefor, which
 158 shall be deemed to be the final decision of the board of review, unless within
 159 ten days after the date of notification or mailing of such decision, further ap-
 160 peal is initiated pursuant to subsection (c) of this section.

161 (d) Appeal tribunals. To hear and decide disputed benefit claims, includ-
 162 ing appeals from determinations with respect to demands for refunds of bene-
 163 fits under section 43:21-16 (d) of this chapter (R. S. 43:21-1 et seq.), the di-
 164 rector with the approval of the Commissioner of Labor and Industry shall es-
 165 tablish one or more impartial appeal tribunals consisting in each case of either
 166 a salaried examiner or a body, consisting of three members, one of whom shall
 167 be a salaried examiner, who shall serve as chairman, one of whom shall be a
 168 representative of employers and the other of whom shall be a representative
 169 of employees; each of the latter two members shall serve at the pleasure of
 170 the commissioner and be paid a fee of not more than twenty dollars (\$20.00)
 171 per day of active service on such tribunal plus necessary expenses. No per-
 172 son shall participate on behalf of the division in any case in which he is an
 173 interested party. The director may designate alternates to serve in the ab-
 174 sence or disqualification of any member of an appeal tribunal. The chairman
 175 shall act alone in the absence or disqualification of any other member and
 176 his alternates. In no case shall the hearings proceed unless the chairman of
 177 the appeal tribunal is present.

178 (e) Board of review. The board of review may on its own motion affirm,
 179 modify, or set aside any decision of an appeal tribunal on the basis of the
 180 evidence previously submitted in such case, or direct the taking of additional
 181 evidence, or may permit any of the parties to such decision to initiate further
 182 appeals before it. The board of review shall permit such further appeal by any
 183 of the parties interested in a decision of an appeal tribunal which is not unani-
 184 mous and from any determination which has been overruled or modified by

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288 tion from employment by an employer on a substantially reduced schedule
289 of weekly hours due to lack of work, all weeks of substantially reduced
290 schedule within the base period and his wages therefor shall be disregarded in
291 computing his average weekly wage.

1 9. This act shall take effect January first, one thousand nine hundred and
2 fifty-three, except that the change in maximum weekly benefit amount as pro-
3 vided in section 43:21-3 (c) (1) of the Revised Statutes as amended herein
4 shall apply with respect to benefit years beginning on and after July first, one
5 thousand nine hundred and fifty-two.

STATEMENT

The purpose of this bill is to accomplish the recommendations of the commission appointed under 1951 Special Session Assembly Concurrent Resolution No. 1 for the purpose of studying New Jersey's employment security statutes.

This bill proposes the first comprehensive revision of the New Jersey Unemployment Compensation Law since its adoption in 1936. It is designed to accomplish the objectives long sought by those interested in establishing and developing New Jersey's employment security system as a social insurance program equitable to the economic interests of 1,900,000 covered workers and 45,000 subject employers.

Four objectives of the study commission are accomplished in this bill. They are:

1. Establishment of an adequate and equitable schedule of benefit payments for both unemployment and disability insurance purposes.

2. Simplification of the benefit formula to more properly reflect earning capacity and the use of the most recent earnings of claimants for the purpose of calculating the benefit rate.

3. Revision of wage reporting requirements so as to effect an improvement in controls over benefit payments, thus reducing improper claims and accelerating the re-employment of claimants.

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4. Prompt payment of benefits.

Under this bill and another measure covering the Temporary Disability Benefits Law, the maximum weekly benefit rate is fixed for initial claims filed on and after July 1, 1952, at \$30.00, an increase of \$4.00 over the present \$26.00 rate. The minimum weekly benefit rate continues at \$10.00. Maximum duration of benefits continues at 26 weeks while the minimum is increased from 10 to 12½ weeks. It is proposed to make retroactive payments to claimants who have suffered another week of unemployment, for the waiting week. A system of establishing duration of three weeks of benefits for each four weeks of employment in the preceding 52 weeks is used. The wage base for the calculation of entitlement to benefits has been considerably broadened. The bill provides that 66⅔ per cent of the average weekly wage of the claimant shall be used for the purpose of determining the weekly benefit rate. Under the present complicated formula in the New Jersey unemployment and disability insurance laws, the actual replacement is approximately 59 per cent.

Further decentralization of unemployment compensation operations will be required. The new system provides that employers furnish, upon request, current wage data to the Division of Employment Security, Department of Labor and Industry, when the agency receives a claim for benefits. This will eliminate the extensive and cumbersome wage recording system now used in this State for unemployment and disability insurance purposes and, at the same time, is designed to speed up the determination of a claimant's eligibility. Employers will be requested to provide both wage data and information as to the conditions of separation from employment at the one time. There are provisions so that the claimant's affidavit, to the best of his knowledge, as to wages received and time worked will be accepted by the Division of Employment Security and benefits paid on that statement in cases where employers fail to provide the requested information within a seven-day period. Employers will currently receive a copy of the benefit check so that they may have prompt knowledge of the unemployment status of their former worker at all times. Under the present system, months elapse before an employer receives knowledge of the actual payment of

benefits to a separated employee. Benefits under this bill will be first charged against the last base year employer, who is the employer separating the worker. Subsequent charges will be made against the accounts of preceding employers in the base year.

Other changes include the qualifying requirement that in order to be eligible for benefits a claimant must have 17 weeks of employment at the rate of \$15.00 weekly during the 52 weeks immediately preceding the filing of his claim. Once the rate is established, employment with preceding employers will be used for the purpose of obtaining maximum duration for claimants. The fraud provisions of the law have been strengthened and employers who fail to provide wage information upon request will be subject to a \$5.00 penalty for each report they fail to submit.

This bill represents a constructive revision of the Unemployment Compensation Law of New Jersey.

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SENATE COMMITTEE AMENDMENTS TO

ASSEMBLY, No. 264

[OFFICIAL COPY REPRINT]

STATE OF NEW JERSEY

ADOPTED JUNE 9, 1955

Amend page 1, title, amend to read as follows:

“AN ACT concerning unemployment compensation, and amending sections 43:21-3, 43:21-6 and 43:21-19 of the Revised Statutes.”

Amend page 1, section 1, line 3, after “shall be”, insert “promptly”.

Amend page 1, section 1, lines 4 and 5, after “through”, insert “local”, and after “offices”, delete “, or such other agencies as may be designated”.

Amend page 2, section 1, lines 29 through 34, delete entire lines and substitute the following:

“(1) With respect to an individual whose average weekly wage (as defined in subsection (u) of section 43:21-19 of this Title) does not exceed \$45.00, his weekly benefit rate under each benefit determination shall be $\frac{2}{3}$ of his average weekly wage; provided, that such rate shall be computed to the next highest multiple of \$1.00 if not already a multiple thereof, and shall not be more than \$30.00 nor less than \$10.00.

(2) With respect to an individual whose average weekly wage (as defined in subsection (u) of section 43:21-19 of this Title) exceeds \$45.00, his weekly benefit rate under each benefit determination shall be \$30.00 plus $\frac{1}{3}$ of the amount by which his average weekly wage exceeds \$45.00; provided, that such rate shall be computed to the next highest multiple of \$1.00 if not already a multiple thereof, and shall not be more than \$35.00.”

Amend page 3, section 1, line 52, delete “(A)”, substitute “(1)”.

Amend page 3, section 1, line 59, delete “(B)”, substitute “(2)”.

Amend page 3, section 1, lines 67 and 68, after “in”, delete “paragraph (2) of”.

Amend page 3, section 1, line 70, delete "(C)", substitute "(3)".

Amend page 3, section 2, line 1, delete entire line and substitute the following:

2. Section 43:21-6 of the Revised Statutes is amended to read as follows:

43:21-6. (a) Filing. Claims for benefits shall be made in accordance with such regulations as the Director of the Division of Employment Security of the Department of Labor and Industry of the State of New Jersey may approve. Each employer shall post and maintain on his premises printed notices of his subject status, of such design, in such numbers, and at such places as the director of the division may determine to be necessary to give notice thereof to persons in the employer's service. Each employer shall give to each individual at the time he becomes unemployed a printed copy of benefit instructions. Both the aforesaid notices and instructions shall be supplied by the division to employers without cost to them.

(b) (1) Procedure for making determinations with respect to benefit years commencing prior to January 1, 1953. (A) Initial determinations. The director of the division shall designate a representative or representatives to promptly examine the claims and to determine which claims do and which claims do not meet the requirements of section 4 (e); and as to those claims meeting the requirements of section 4 (e) to further determine the weekly benefit rates and the maximum total benefits payable. Each claimant shall promptly be notified of the determination of his claim.

(B) Weekly determinations. The director of the division shall assign a representative or representatives to each local claims office for the purpose of making weekly determinations (except those under subsections 4 (f) and 5 (d) in the course of the benefit year, in accordance with the initial determination of a valid claim. Whenever a determination of eligibility shall be made with respect to the first week of the benefit year for which benefits are claimed, the claimant, the last employing unit and all employers in the base year shall be promptly notified of such determination. Whenever a determination of ineligibility or disqualification shall be made with respect to any week of the benefit year, the claimant shall be promptly notified of such determination.

(C) Any claimant or any interested entity or person may file an appeal from any determination under paragraphs (1) and (2) of this subsection within 5 calendar days after the delivery of notification, or within 7 calendar days after the mailing of notification, of such determination. Unless such an appeal is filed such determination shall be final and benefits shall be paid or denied in accordance therewith. If an appeal is duly filed, benefits with respect to the period covered by the appeal shall be payable only after a determination of entitlement by the appellate tribunal; benefits payable for periods pending an appeal and not in dispute shall be paid as such benefits accrue; provided, that insofar as any such appeal is or may be an appeal from a determination to the effect that the claimant is disqualified under the provisions of section 43:21-5 of the Revised Statutes or any amendments thereof or supplements thereto, benefits pending determination of the appeal shall be withheld only for the period of disqualification as provided for in said section, and notwithstanding such appeal the benefits otherwise provided by this act shall be paid for the period subsequent to such period of disqualification; and provided, also, that if there are 2 determinations of entitlement, benefits for the period covered by such determination shall be paid regardless of any appeal which may thereafter be taken, but no employer's account shall be charged with benefits so paid if the decision is finally reversed.

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

A representative or representatives designated by the director of the division and hereinafter referred to as a "deputy" shall promptly examine the claim, and shall notify the most recent employing unit and, successively as necessary, each employer in inverse chronological order during the base year. Such notification shall require said employing unit and employer to furnish such information to the deputy as may be necessary to determine the claimant's eligibility and his benefit rights with respect to the employer in question, and such notification shall also provide the most recent chargeable employer in the base year with the name and address of the most recent employing unit of the claimant.

In his discretion, the director may appoint special deputies to make initial or subsequent determinations under subsections 4 (f) and 5 (d) of this chapter.

If any employer or employing unit fails to respond to the request for information within 7 days after the mailing of such request, the deputy shall rely entirely on information from other sources, including an affidavit to the best of the knowledge and belief of the claimant with respect to his wages and time worked. Except in the event of fraud, if it is determined that any information in such affidavit is erroneous, no penalty shall be imposed on the claimant.

The deputy shall promptly make an initial determination based upon the available information. The initial determination shall show the weekly benefit amount payable, the maximum duration of benefits with respect to the employer to whom the determination relates, and also shall show whether the claimant is ineligible or disqualified for benefits under the initial determination. The claimant and the employer whose account may be charged for benefits payable pursuant to said determination shall be promptly notified thereof.

Whenever an initial determination is based upon information other than that supplied by an employer because such employer failed to respond to the deputy's request for information, such initial determination and any subsequent determination thereunder shall be incontestable by the noncomplying employer, as to any charges to his employer's account because of benefits paid prior to the close of the calendar week following the receipt of his reply. Such initial determination shall be altered if necessary upon receipt of information from the employer, and any benefits paid or payable with respect to weeks occurring subsequent to the close of the calendar week following the receipt of the employer's reply shall be paid in accordance with such altered initial determination.

The deputy shall issue a separate initial benefit determination with respect to each of the claimant's base year employers, starting with the most recent employer and continuing as necessary in the inverse chronological order of the claimant's last date of employment with each such employer. If an appeal is taken from an initial determination as hereinafter provided by any employer

other than the first chargeable base-year employer, then such appeal shall be limited in scope to include only 1 or more of the following matters:

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

(B) fraud in connection with the claim pursuant to which the initial determination is issued; or

(C) the refusal of suitable work offered by the chargeable employer filing the appeal.

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

Unless the claimant or any interested party within 7 calendar days after delivery of notification of an initial determination or within 10 calendar days after such notification was mailed to his or their last-known address and addresses, files an appeal from such decision, such decision shall be final and benefits shall be paid or denied in accordance therewith, except for such determinations as may be altered in benefit amounts or duration as provided in this paragraph. If an appeal is duly filed, benefits with respect to the period covered by the appeal shall be payable only after a determination of entitlement by the appellate tribunal; benefits payable for periods pending an appeal and not in dispute shall be paid as such benefits accrue; provided, that insofar as any such appeal is or may be an appeal from a determination to the effect that the claimant is disqualified under the provisions of section 43:21-5 of the Revised Statutes or any amendments thereof or supplements thereto, benefits pending determination of the appeal shall be withheld only for the period of disqualification as provided for in said section, and notwithstanding such appeal the benefits otherwise provided by this act shall be paid for the period subsequent to such period of disqualification; and provided, also, that if there are 2 determinations of entitlement, benefits for the period covered by such determinations shall be paid regardless of any appeal

which may thereafter be taken, but no employer's account shall be charged with benefits so paid if the decision is finally reversed.

(3) Procedure for making initial determinations in certain cases of concurrent employment, with respect to benefit years commencing on or after January 1, 1953.

Notwithstanding any other provisions of this Title, if an individual shows to the satisfaction of the deputy that there were at least 13 weeks in his base period in each of which he earned wages from 2 or more employers totaling \$15.00 or more but in each of which there was no single employer from whom he earned as much as \$15.00, then such individual's claim shall be determined in accordance with the special provisions of this paragraph. In such case, the deputy shall determine the individual's eligibility for benefits, his average weekly wage, weekly benefit rate and maximum total benefits as if all his base year employers were a single employer. Such determination shall apportion the liability for benefit charges thereunder to the individual's several base year employers so that each employer's maximum liability for charges thereunder bears approximately the same relation to the maximum total benefits allowed as the wages earned by the individual from each employer during the base year bears to his total wages earned from all employers during the base year. Such initial determination shall also specify the individual's last date of employment within the base year with respect to each base year employer, and such employers shall be charged for benefits paid under said initial determination in the inverse chronological order of such last dates of employment.

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

STATE OF NEW JERSEY
Executive Department

August 8, 1955

ASSEMBLY BILL NO. 264

To the General Assembly:

Pursuant to Article V, Section I, paragraph 14 (b) of the Constitution, I am returning herewith for reconsideration and with my objections Assembly Bill No. 264.

Assembly Bill No. 264 amends the unemployment compensation law so as to provide for an increase in the maximum rate of weekly benefits from \$30.00 to \$35.00 per week effective as to claims made on or after October 1, 1955. I heartily approve of the objective of this bill although I regret the use of the fraction $\frac{2}{5}$ instead of $\frac{2}{3}$ in determining the benefit to be paid in excess of \$30.00.

When this bill was under consideration by the Legislature, it was pointed out that if the new rate were made applicable to existing claims, there would be a serious administrative problem because in those cases in which the maximum benefit was payable under existing law, the employer's report was not required to state the actual earnings of the employee concerned. With the increase in the maximum benefit payable, this further information would be essential to determine which employees are entitled to have their rate increased to the new maximum. In order to obviate this serious practical problem, amendments were made to the bill to incorporate the October date mentioned above. The amendments, however, in accomplishing that purpose, operate to create other difficulties. As the bill now stands, it provides that the act shall take effect October 1, 1955 "and shall apply only with respect to benefit years beginning on and after October 1, 1955". The bill, in its present form, would, if approved, eliminate provisions for the continued payment with respect to claims which ante-date October 1, 1955 and eliminate rights of review with respect to such prior claimants, with perhaps a resultant conflict with the requirements of federal law. It is estimated that there are about 65,000 persons whose benefit years will extend beyond the effective date provided

STATE OF NEW JERSEY
Executive Department

Assembly Bill No. 264

-2-

in this bill.

Accordingly, I am returning herewith Assembly Bill No. 264 for reconsideration and with the recommendation that it be amended as follows:

On page 2, section 1, line 22, after the words "Weekly benefit rate." insert new paragraph reading as follows:

"(1) With respect to an individual whose benefit year commences prior to October 1, 1955, his weekly benefit rate under each benefit determination shall be $\frac{2}{3}$ of his average weekly wage; provided, that such rate shall be computed to the next highest multiple of \$1.00 if not already a multiple thereof, and shall not be more than \$30.00 nor less than \$10.00."

On page 2, section 1, line 34A, delete "(1)" and insert in lieu thereof "(2)".

On page 2, section 1, line 34A, after the word "individual" insert the words "whose benefit year commences on or after October 1, 1955, and".

On page 2, section 1, lines 34A and 34B, delete the words "(as defined in subsection (u) of section 43:21-19 of this Title)".

On page 2, section 1, line 34G, delete "(2)" and insert in lieu thereof "(3)".

On page 2, section 1, line 34G, after the word "individual" insert the words "whose benefit year commences on or after October 1, 1955, and".

On page 2, section 1, lines 34G and 34H, delete the words "(as defined in subsection (u) of section 43:21-19 of this Title)".

On page 21, section 4, lines 288 and 289, delete the words "October 1, 1955, and shall apply only with respect to benefit years beginning on and after October 1, 1955" and insert in lieu thereof the word "immediately".

Respectfully,

ROBERT B. MEYNER

GOVERNOR

(SEAL)

Attest:

ROBERT J. BURKHARDT

Secretary to the Governor

1 4. Section 43:21-6 of the Revised Statutes is amended to read as follows:

2 43:21-6. Claims for Benefits.

3 (a) Filing. Claims for benefits shall be made in accordance with such
4 regulations as the Director of the Division of Employment Security of the
5 Department of Labor and Industry of the State of New Jersey may approve.
6 Each employer shall post and maintain on his premises printed notices of
7 his subject status, of such design, in such numbers, and at such places as the
8 director of the division may determine to be necessary to give notice thereof
9 to persons in the employer's service. Each employer shall give to each indi-
10 vidual at the time he becomes unemployed a printed copy of benefit instruc-
11 tions. Both the aforesaid notices and instructions shall be supplied by the
12 division to employers without cost to them.

13 (b) (1) [Procedure for making determinations with respect to benefit
14 years commencing prior to January 1, 1953.

15 (A) Initial determinations. The director of the division shall designate
16 a representative or representatives to promptly examine the claims and to de-
17 termine which claims do and which claims do not meet the requirements of
18 section 4(e); and as to those claims meeting the requirements of section 4(e)
19 to further determine the weekly benefit rates and the maximum total benefits
20 payable. Each claimant shall promptly be notified of the determination of
21 his claim.

22 (B) Weekly determinations. The director of the division shall assign a
23 representative or representatives to each local claims office for the purpose of
24 making weekly determinations (except those under subsections 4(f) and 5(d)
25 in the course of the benefit year, in accordance with the initial determination
26 of a valid claim. Whenever a determination of eligibility shall be made with
27 respect to the first week of the benefit year for which benefits are claimed, the
28 claimant, the last employing unit and all employers in the base year shall be
29 promptly notified of such determination. Whenever a determination of ineli-
30 gibility or disqualification shall be made with respect to any week of the bene-
31 fit year, the claimant shall be promptly notified of such determination.

32 (C) Any claimant or any interested entity or person may file an appeal
33 from any determination under paragraphs (1) and (2) of this subsection
34 within 5 calendar days after the delivery of notification, or within 7 calendar
35 days after the mailing of notification, of such determination. Unless such
36 an appeal is filed such determination shall be final and benefits shall be paid
37 or denied in accordance therewith. If an appeal is duly filed, benefits with
38 respect to the period covered by the appeal shall be payable only after a
39 determination of entitlement by the appellate tribunal; benefits payable for
40 periods pending an appeal and not in dispute shall be paid as such benefits
41 accrue; provided, that insofar as any such appeal is or may be an appeal
42 from a determination to the effect that the claimant is disqualified under the
43 provisions of section 43:21-5 of the Revised Statutes or any amendments
44 thereof or supplements thereto, benefits pending determination of the appeal
45 shall be withheld only for the period of disqualification as provided for in
46 said section, and notwithstanding such appeal the benefits otherwise provided
47 by this act shall be paid for the period subsequent to such period of disquali-
48 fication; and provided, also that if there are 2 determinations of entitlement,
49 benefits for the period covered by such determination shall be paid regardless
50 of any appeal which may thereafter be taken, but no employer's account shall
51 be charged with benefits so paid if the decision is finally reversed.

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

54 A representative or representatives designated by the director of the
55 division and hereafter referred to as a "deputy" shall promptly examine
56 the claim, and shall notify the most recent employing unit and, successively
57 as necessary, each employer in inverse chronological order during the base
58 year. Such notification shall require said employing unit and employer to
59 furnish such information to the deputy as may be necessary to determine
60 the claimant's eligibility and his benefit rights with respect to the employer
61 in question, and such notification shall also provide the most recent charge-
62 able employer in the base year with the name and address of the most recent
63 employing unit of the claimant.

64 In his discretion, the director may appoint special deputies to make initial
65 or subsequent determinations under subsections 4(f) and 5(d) of this chapter.

66 If any employer or employing unit fails to respond to the request for
67 information within 7 days after the mailing of such request, the deputy shall
68 rely entirely on information from other sources, including an affidavit to the
69 best of the knowledge and belief of the claimant with respect to his wages and
70 time worked. Except in the event of fraud, if it is determined that any in-
71 formation in such affidavit is erroneous, no penalty shall be imposed on the
72 claimant.

73 The deputy shall promptly make an initial determination based upon
74 the available information. The initial determination shall show the weekly
75 benefit amount payable, the maximum duration of benefits with respect to the
76 employer to whom the determination relates, and also shall show whether
77 the claimant is ineligible or disqualified for benefits under the initial determi-
78 nation. The claimant and the employer whose account may be charged for
79 benefits payable pursuant to said determination shall be promptly notified
80 thereof.

81 Whenever an initial determination is based upon information other than
82 that supplied by an employer because such employer failed to respond to the
83 deputy's request for information, such initial determination and any subse-
84 quent determination thereunder shall be incontestable by the noncomplying
85 employer, as to any charges to his employer's account because of benefits
86 paid prior to the close of the calendar week following the receipt of his re-
87 ply. Such initial determination shall be altered if necessary upon receipt of
88 information from the employer, and any benefits paid or payable with respect
89 to weeks occurring subsequent to the close of the calendar week following the
90 receipt of the employer's reply shall be paid in accordance with such altered
91 initial determination.

92 The deputy shall issue a separate initial benefit determination with re-
93 spect to each of the claimant's base year employers, starting with the most
94 recent employer and continuing as necessary in the inverse chronological

95 order of the claimant's last date of employment with each such employer.
96 If an appeal is taken from an initial determination as hereinafter provided
97 by any employer other than the first chargeable base-year employer, then
98 such appeal shall be limited in scope to include only 1 or more of the following
99 matters:

100 (A) the correctness of the benefit payments authorized to be made
101 under the determination;

102 (B) fraud in connection with the claim pursuant to which the initial
103 determination is issued; or

104 (C) the refusal of suitable work offered by the chargeable employer
105 filing the appeal.

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

110 Unless the claimant or any interested party within 7 calendar days after
111 delivery of notification of an initial determination or within 10 calendar days
112 after such notification was mailed to his or their last-known address and
113 addresses, files an appeal from such decision, such decision shall be final
114 and benefits shall be paid or denied in accordance therewith, except for such
115 determinations as may be altered in benefit amounts or duration as pro-
116 vided in this paragraph. If an appeal is duly filed, benefits with respect to
117 the period covered by the appeal shall be payable only after a determina-
118 tion of entitlement by the appellate tribunal; benefits payable for periods
119 pending an appeal and not in dispute shall be paid as such benefits accrue;
120 provided, that insofar as any such appeal is or may be an appeal from a
121 determination to the effect that the claimant is disqualified under the pro-
122 visions of section 43:21-5 of the Revised Statutes or any amendments thereof
123 or supplements thereto, benefits pending determination of the appeal shall be
124 withheld only for the period of disqualification as provided for in said
125 section, and notwithstanding such appeal the benefits otherwise provided by

126 this act shall be paid for the period subsequent to such period of disqualifica-
127 tion; and provided, also, that if there are 2 determinations of entitlement,
128 benefits for the period covered by such determinations shall be paid regard-
129 less of any appeal which may thereafter be taken, but no employer's account
130 shall be charged with benefits so paid if the decision is finally reversed.

131 (2) [(3)] Procedure for making initial determinations in certain cases
132 of concurrent employment, with respect to benefit years commencing on or
133 after January 1, 1953.

134 Notwithstanding any other provisions of this Title, if an individual shows
135 to the satisfaction of the deputy that there were at least 13 weeks in his base
136 period in each of which he earned wages from 2 or more employers totaling
137 \$15.00 or more but in each of which there was no single employer from
138 whom he earned as much as \$15.00, then such individual's claim shall be
139 determined in accordance with the special provisions of this paragraph. In
140 such case, the deputy shall determine the individual's eligibility for benefits,
141 his average weekly wage, weekly benefit rate and maximum total benefits as
142 if all his base year employers were a single employer. Such determination
143 shall apportion the liability for benefit charges thereunder to the individual's
144 several base year employers so that each employer's maximum liability for
145 charges thereunder bears approximately the same relation to the maximum
146 total benefits allowed as the wages earned by the individual from each em-
147 ployer during the base year bears to his total wages earned from all em-
148 ployers during the base year. Such initial determination shall also specify
149 the individual's last date of employment within the base year with respect
150 to each base year employer, and such employers shall be charged for bene-
151 fits paid under said initial determination in the inverse chronological order
152 of such last dates of employment.

153-175 (3) [(4)] Procedure for making subsequent determinations with respect
176 to benefit years commencing on or after January 1, 1953. The deputy shall
177 make determinations with respect to claims for benefits thereafter in the
178 course of the benefit year in accordance with any initial determination allow-

179 ing benefits, and under which benefits have not been exhausted, and each
180 notification of a benefit payment shall be a notification of an affirmative sub-
181 sequent determination. The allowance of benefits by the deputy on any such
182 determination, or the denial of benefits by the deputy on any such deter-
183 mination, shall be appealable in the same manner and under the same limi-
184 tations as is provided in the case of initial determinations.

185 (c) Appeals. Unless such appeal is withdrawn, an appeal tribunal, after
186 affording the parties reasonable opportunity for fair hearing, shall affirm or
187 modify the findings of fact and the determination. The parties shall be duly
188 notified of such tribunal's decision, together with its reasons therefor, which
189 shall be deemed to be the final decision of the board of review, unless within
190 10 days after the date of notification or mailing of such decision, further
191 appeal is initiated pursuant to subsection (e) of this section.

192 (d) Appeal tribunals. To hear and decide disputed benefit claims, includ-
193 ing appeals from determinations with respect to demands for refunds of
194 benefits under section 43:21-16 (d) of this chapter (R. S. 43:21-1 et seq.),
195 the director with the approval of the Commissioner of Labor and Industry
196 shall establish 1 or more impartial appeal tribunals consisting in each case
197 of either a salaried examiner or a body, consisting of 3 members, 1 of whom
198 shall be a salaried examiner, who shall serve as chairman, 1 of whom shall be
199 a representative of employers and the other of whom shall be a representative
200 of employees; each of the latter 2 members shall serve at the pleasure of the
201 commissioner and be paid a fee of not more than \$20.00 per day of active
202 service on such tribunal plus necessary expenses. No person shall partici-
203 pate on behalf of the division in any case in which he is an interested party.
204 The director may designate alternates to serve in the absence or disqualifica-
205 tion of any member of an appeal tribunal. The chairman shall act alone in
206 the absence or disqualification of any other member and his alternates. In
207 no case shall the hearings proceed unless the chairman of the appeal tribunal
208 is present.

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

222 (f) Procedure. The manner in which disputed benefit claims, and ap-
223 peals from determinations with respect to (1) claims for benefits and (2)
224 demands for refunds of benefits under section 43:21-16 (d) of this chapter
225 (R. S. 43:21-1 et seq.) shall be presented, the reports thereon required from
226 the claimant and from employers, and the conduct of hearings and appeals
227 shall be in accordance with rules prescribed by the board of review for de-
228 termining the rights of the parties, whether or not such rules conform to
229 common law or statutory rules of evidence and other technical rules of pro-
230 cedure. A full and complete record shall be kept of all proceedings in connec-
231 tion with a disputed claim. All testimony at any hearing upon a disputed
232 claim shall be recorded, but need not be transcribed unless the disputed claim
233 is further appealed.

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

238 (h) Court review. Any decision of the board of review shall become
239 final as to any party upon the mailing of a copy thereof to such party or to

240 his attorney, or upon the mailing of a copy thereof to such party at his last-
 241 known address. The Division of Employment Security and any party to a
 242 proceeding before the board of review may secure judicial review of the
 243 final decision of the board of review. Any party not joining in the appeal
 244 shall be made a defendant; the board of review shall be deemed to be a party
 245 to any judicial action involving the review of, or appeal from, any of its
 246 decisions, and may be represented in any such judicial action by any quali-
 247 fied attorney who may be a regular salaried employee of the board of
 248 review or has been designated by it for that purpose, or, at the board of
 249 review's request, by the Attorney General.

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

1 5. Section 43:21-7 of the Revised Statutes is amended to read as follows:

2 43:21-7. Contributions.

3 (a) Payment

4 (1) Contributions shall accrue and become payable by each employer for
 5 each calendar year in which he is subject to this chapter (R. S. 43:21-1 et
 6 seq.), with respect to having individuals in his employ during such calendar
 7 year at the rates and on the basis hereinafter set forth. Such contributions
 8 shall become due and be paid by each employer to the Division of Employ-
 9 ment Security for the fund in accordance with such regulations as may be
 10 prescribed, and shall not be deducted, in whole or in part, from the remun-
 11 eration of individuals in his employ.