

STATE OF NEW JERSEY

INTRODUCED JANUARY 29, 1945

By Mr. SHOLL

Referred to Committee on Judiciary

AN ACT concerning unemployment compensation, and amending sections 43:21-8,
43:21-19 and 43:21-21 of the Revised Statutes.

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

1 1. Section 43:21-8 of the Revised Statutes is amended to read as follows:

2 43:21-8. (a) Any employing unit which is or becomes an employer sub-
3 ject to this chapter within any calendar year shall be subject to this chapter
4 during the whole of such calendar year.

5 (b) Except as otherwise provided in subsection (c) of this section, an
6 employing unit shall cease to be an employer subject to this chapter only
7 as of the first day of January of any calendar year, if it files with the com-
8 mission, prior to the fifth day of January of such year, a written application
9 for termination of coverage, and the commission finds that there were no
10 twenty different days, each day being in a different week within the preceding
11 calendar year, within which such employing unit employed ~~eight~~ four or
12 more individuals in employment subject to this chapter. For the purpose of
13 this subsection, the two or more employing units mentioned in paragraph
14 (2) or (3) or (4) of subsection (h) of section 43:21-19 of this Title shall
15 be treated as a single employing unit.

16 (c) (1) An employing unit, not otherwise subject to this chapter, which
17 files with the commission its written election to become an employer subject

18 hereto for not less than two calendar years, shall, with the written approval
19 of such election by the commission, become an employer subject hereto to
20 the same extent as all other employers, as of the date stated in such ap-
21 proval; *provided*, that the commission shall not approve such election by such
22 employing unit to become an employer subject hereto if written objections
23 on the part of a substantial proportion of the individuals in the employ of
24 such employing unit are presented to the commission within ten days fol-
25 lowing the filing of such election, and shall cease to be subject hereto as
26 of January first of any calendar year subsequent to such two calendar years,
27 only if at least thirty days prior to such first day of January, it has filed
28-30 with the commission a written notice to that effect.

31 (2) Any employing unit for which services that do not constitute em-
32 ployment as defined in this chapter are performed, may file with the com-
33 mission a written election that all such services performed by individuals
34 in its employ in one or more distinct establishments or places of busi-
35 ness shall be deemed to constitute employment for all the purposes of this
36 chapter for not less than two calendar years; *provided*, written objections
37 on the part of a substantial proportion of such individuals affected are not
38 presented to the commission within ten days following the filing of such elec-
39 tion. Upon the written approval of such election by the commission, such
40 services shall be deemed to constitute employment subject to this chapter
41 from and after the date stated in such approval. Such services shall cease
42 to be deemed employment subject hereto as of January first of any calendar
43 year subsequent to such two calendar years, only if, at least thirty days prior
44 to the such first day of January, such employing unit has filed with the com-
45 mission a written notice to that effect.

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

3 43:21-19. As used in this chapter, unless the context clearly requires
4 otherwise:

5 (a) (1) "Annual payroll" means the total amount of wages payable by
6 an employer (regardless of the time of payment) for employment during
7 a calendar year.

8 (2) "Average annual payroll" means the average of the annual payrolls
 9 of any employer for the last three or five preceding calendar years, which-
 10 ever average is higher; *provided, however*, that only those wages be included
 11 on which employer contributions have been paid on or before January thirty-
 12 first of the calendar year for which the employer's contribution rate is com-
 13 puted.

14 (b) "Benefits" means the money payments payable to an individual, as
 15 provided in this chapter, with respect to his unemployment.

16 (c) The term "base year" means the first four of the last five completed
 17 calendar quarters immediately preceding the first day of an individual's bene-
 18 fit year; *provided*, that no calendar quarter shall comprise a part of more
 19 than one base year.

20 (d) "Benefit year" with respect to any individual means the three hun-
 21 dred sixty-four consecutive calendar days beginning with the day on, or as
 22 of, which he first files a valid claim for benefits, and thereafter beginning
 23 with the day on, or as of, which the individual next files a valid claim for
 24 benefits after the termination of his last preceding benefit year. Any claim
 25 for benefits made in accordance with subsection (a) of section 43:21-6 of
 26 this Title shall be deemed to be a "valid claim" for the purpose of this sub-
 27 section if the individual has fulfilled the condition imposed by subsection (e)
 28 of section 43:21-4 of this Title.

28½ (e) "Commission" means the Unemployment Compensation Commission
 29 established by section 43:21-10 of this Title, and for purposes of this chap-
 30 ter any transaction or exercise of authority by the executive director shall be
 31 deemed to be performed by the commission.

32 (f) "Contributions" means the money payments to the State Unemploy-
 33 ment Compensation Fund required by this chapter.

34 (g) "Employing unit" means any individual or type of organization,
 35 including any partnership, association, trust, estate, joint-stock company, in-
 36 surance company or corporation, whether domestic or foreign, or the re-
 37 ceiver, trustee in bankruptcy, trustee or successor thereof, or the legal rep-
 38 resentative of a deceased person, which has or subsequent to January first,

39 one thousand nine hundred and thirty-six, had in its employ one or more
 40 individuals performing services for it within this State. All individuals per-
 41 forming services within this State for any employing unit which maintains
 42 two or more separate establishments within this State shall be deemed to be
 43 employed by a single employing unit for all the purposes of this chapter
 44 Whenever any employing unit contracts with or has under it any contractor
 45 or subcontractor for any employment which is part of its usual trade, occupa-
 46 tion, profession, or business, unless the employing unit as well as each such
 47 contractor or subcontractor is an employer by reason of subsection (c) of sec-
 48 tion 43:21-8 of this Title or subsection (h) of this section, the employing
 49 unit shall for all the purposes of this chapter be deemed to employ each
 50 individual in the employ of each such contractor or subcontractor for each
 51 day during which such individual is engaged in performing such employ-
 52 ment; except that each such contractor or subcontractor who is an employer
 53 by reason of subsection (c) of section 43:21-8 of this Title or subsection (h)
 54 of this section, shall alone be liable for the contributions measured by wages
 55 payable to individuals in his employ, and except that any employing unit who
 56 shall become liable for and pay contributions with respect to individuals in
 57 the employ of any such contractor or subcontractor who is not an employer
 58 by reason of subsection (c) of section 43:21-8 of this Title or subsection (h)
 59 of this section, may recover the same from such contractor or subcontractor.
 60 Each individual employed to perform or to assist in performing the work of
 61 any agent or employee of an employing unit shall be deemed to be employed
 62 by such employing unit for all the purposes of this chapter, whether such
 63 individual was hired or paid directly by such employing unit or by such agent
 64 or employee; *provided*, the employing unit had actual or constructive knowl-
 65 edge of the work.

66 (h) "Employer" means:

67 (1) Any employing unit which for some portion of a day, but not neces-
 68 sarily simultaneously, in each of twenty different weeks, whether or not such
 69 weeks are or were consecutive, within either the current or the preceding

70 calendar year, has or had in employment ~~[eight]~~ four or more individuals
71 (irrespective of whether the same individuals are or were employed in each
72 such day);

73 (2) Any employing unit which acquired the organization, trade or busi-
74 ness, or substantially all the assets thereof, of another which at the time of
75 such acquisition was an employer subject to this chapter;

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

80 (4) Any employing unit which together with one or more other employ-
81 ing units, is owned or controlled (by legally enforceable means or otherwise),
82 directly or indirectly by the same interests, or which owns or controls one
83 or more other employing units (by legally enforceable means or otherwise),
84 and which, if treated as a single unit with such other employing unit or inter-
85 ests, would be an employer under paragraph (1) of this subsection;

86 (5) Any employing unit which, having become an employer under para-
87 graphs (1), (2), (3) or (4), has not, under section 43:21-8 of this Title, ceased
88 to be an employer subject to this chapter; or

89 (6) For the effective period of its election pursuant to subsection (e) of
90 section 43:21-8 of this Title any other employing unit which has elected to
91 become fully subject to this chapter.

92 (i) (1) "Employment" means service, including service in interstate
93 commerce performed for remuneration or under any contract of hire, written
94 or oral, expressed or implied.

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

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

98 (B) The service is not localized in any State but some of the service
99 is performed in this State, and (i) the base of operation, or, if there
100 is no base of operations, then the place from which such service is di-
101 rected or controlled, is in this State; or (ii) the base of operations or

102 place from which such service is directed or controlled is not in any
103 State in which some part of the service is performed, but the indi-
104 vidual's residence is in this State.

105 (3) Services performed within this State but not covered under para-
106 graph (2) of this subsection shall be deemed to be employment subject to
107 this chapter if contributions are not required and paid with respect to such
108 services under an unemployment compensation law of any other State or of
109 the Federal government.

110 (4) Services not covered under paragraph (2) of this subsection, and
111 performed entirely without this State, with respect to no part of which con-
112 tributions are required and paid under an unemployment compensation law
113 of any other State or of the Federal government, shall be deemed to be em-
114 ployment subject to this chapter if the individual performing such services
115 is a resident of this State and the commission approves the election of the
116 employing unit for whom such services are performed that the entire service
117 of such individual shall be deemed to be employment subject to this chap-
118 ter; *provided*, written objections on the part of a substantial proportion of
119 such individuals affected are not presented to the commission within ten days
120 following the filing of such election.

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

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

123 (B) the service is performed both within and without such State, but
124 the service performed without such State is incidental to the individual's
125 service within the State, for example, is temporary or transitory in
126 nature or consists of isolated transactions.

127 (6) Services performed by an individual for remuneration shall be
128 deemed to be employment subject to this chapter unless and until it is shown
129 to the satisfaction of the commission that

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

133 (B) such service is either outside the usual course of the business
134 for which such service is performed, or that such service is performed
135 outside of all the places of business of the enterprise for which such
136 service is performed; and

137 (C) such individual is customarily engaged in an independently
138 established trade, occupation, profession or business.

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

140 (A) Agricultural labor;

141 (B) Domestic service in a private home;

142 [(C) Service performed as an officer or member of the crew of a
143 vessel on the navigable waters of the United States;]

144 [(D)] (C) Service performed by an individual in the employ of his
145 son, daughter or spouse, and service performed by a child under the age
146 of twenty-one in the employ of his father or mother;

147 [(E)] (D) Service performed in the employ of this State or of any
148 political subdivision thereof or of any instrumentality of this State or its
149 political subdivisions;

150 [(F)] (E) Service performed in the employ of any other State or
151 its political subdivisions, or of the United States government, or if an
152 instrumentality of any other State or States or their political subdivi-
153 sions or of the United States;

154 [(G)] (F) Services performed in the employ of a corporation, com-
155 munity chest, fund, or foundation, organized and operated exclusively
156 for religious, charitable, scientific, literary, hospital, benevolent, phil-
157 anthropic, or educational purposes, or for the prevention of cruelty to
158 children or animals, no part of the net earnings of which inures to the
159 benefit of any private shareholder or individual;

160 [(H)] (G) Services performed in the employ of fraternal benefi-
161 ciary societies, orders, or associations operating under the lodge system
162 or for the exclusive benefit of the members of a fraternity itself operat-
163 ing under the lodge system and providing for the payment of life, sick,

164 accident or other benefits to the members of such society, order, or as-
165 sociation, or their dependents;

166 [(I)] (H) Services performed as an officer or other employee of any
167 building and loan association of this State, except where such services
168 constitute the principal employment of the individual; services performed
169 as an officer or other employee of any building and loan association
170 where such association is a member of the Federal Home Loan Bank
171 System; services performed as an officer or other employee of any bank
172 which is a member of the Federal Reserve System;

173 [(J)] (I) Service, performed after June thirtieth, one thousand
174 nine hundred and thirty-nine, with respect to which unemployment com-
175 pensation is payable under the Railroad Unemployment Insurance Act
176 (52 Stat. 1094).

177 [(K)] (J) Service performed by agents of insurance companies, ex-
178 clusive of industrial life insurance agents, or by agents of investment
179 companies, who are compensated wholly on a commission basis.

180 (j) "Employment office" means a free public employment office, or
181 branch thereof operated by this State or maintained as a part of a State
182 controlled system of public employment offices.

183 (k) "Fund" means the unemployment compensation fund established by
184 this chapter, to which all contributions required and from which all benefits
185 provided under this chapter shall be paid.

186 (1) "State" includes, in addition to the States of the United States of
187 America, Alaska, Hawaii, and the District of Columbia.

188 (m) Unemployment.

189 (1) An individual shall be deemed "unemployed" for any week during
190 which he is not engaged in full-time work and with respect to which his
191 remuneration is less than his weekly benefit rate.

192 (2) The term remuneration, as used in this subsection, shall include only
193 that part of the same which exceeds three dollars (\$3.00) for any one (1)
194 week.

195 (3) An individual's week of unemployment shall be deemed to com-
196 mence only after his registration at an employment office, except as the com-
197 mission may by regulation otherwise prescribe.

198 (n) "Unemployment compensation administration fund" means the un-
199 employment compensation administration fund established by this chapter,
200 from which administrative expenses under this chapter shall be paid.

201 (o) "Wages" means remuneration payable by employers for employ-
202 ment.

203 (p) "Remuneration" means all compensation payable for personal serv-
204 ices, including commissions and bonuses and the cash value of all compensa-
205 tion payable in any medium other than cash.

206 (q) "Week" means such period or periods of seven consecutive calendar
207 days ending at midnight, as the commission may by regulation prescribe.

208 (r) "Calendar quarter" means the period of three consecutive months
209 ending on March thirty-first, June thirtieth, September thirtieth, or De-
210 cember thirty-first, excluding, however, any calendar quarter or portion
211 thereof which occurs prior to January first, one thousand nine hundred and
212 thirty-seven, or the equivalent thereof as the commission may by regula-
213 tion prescribe.

214 (s) "Investment company" means any company as defined in paragraph
215 1. a of chapter three hundred twenty-two of the laws of one thousand nine
216 hundred and thirty-eight, entitled "An act concerning investment companies,
217 and supplementing Title 17 of the Revised Statutes by adding thereto a new
218 chapter entitled 'investment companies.'"

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

3 43:21-21. (a) The commission is hereby authorized to enter into ar-
4 rangements with the appropriate agencies of other States of the Federal
5 Government whereby potential rights to benefits accumulated under the un-
6 employment compensation laws of several States or under such a law of the
7 Federal Government, or both, may constitute the basis for the payment of
8 benefits through a single appropriate agency under terms which the commis-

9 sion finds will be fair and reasonable as to all affected interests and will not
10 result in any substantial loss to the fund.

11 (b) The commission is also authorized to enter into arrangements with
12 the appropriate agencies of other States or of the Federal Government (1)
13 whereby wages or services, upon the basis of which an individual may be
14 come entitled to benefits under the unemployment compensation law of an
15 other State or of the Federal Government, shall be deemed to be wages for
16 employment by employers for the purposes of this chapter; *provided*, such
17 other State agency or agency of the Federal Government has agreed to re-
18 imburse the fund for such portion of benefits paid under this chapter, upon
19 the basis of such wages or services as the commission finds will be fair and
20 reasonable as to all affected interests; and (2) whereby the commission will
21 reimburse other State or Federal agencies charged with the administration
22 of unemployment compensation laws with such reasonable portion of benefits,
23 paid under the law of any such other States or of the Federal Government
24 upon the basis of employment or wages for employment by employers, as the
25 commission finds will be fair and reasonable as to all affected interests. Re-
26 imbursements so payable shall be deemed to be benefits for the purposes of
27 this chapter, but no reimbursement so payable shall be charged against any
28 employer's account for the purposes of section 43:21-7 of this chapter. The
29 commission is hereby authorized to make to other State or Federal agencies
30 and receive from such other State or Federal agencies reimbursements from
31 or to the fund, in accordance with arrangements pursuant to this section.

32 (c) The commission is also authorized to enter into reciprocal agree-
33 ments with the appropriate agencies of other States covering services on
34 vessels engaged in interstate or foreign commerce whereby such services per-
35 formed for a single employer, under any contract of hire, partly within and
36 partly without this State, shall be deemed to be performed in their entirety
37 either within or without this State.

1 This act shall take effect immediately.

STATEMENT

The purpose of this bill is to extend unemployment compensation coverage to employers of four or more, and to remove the present exemption of employment on a vessel at sea, in accordance with recommendations contained in the Governor's First Annual Message (January 9, 1945).

[SECOND OFFICIAL COPY REPRINT]

SENATE, No. 79

STATE OF NEW JERSEY

INTRODUCED JANUARY 29, 1945

By Mr. SHOLL.

Referred to Committee on Judiciary

AN ACT concerning unemployment compensation, and amending sections 43:21-5,
43:21-8, 43:21-19 and 43:21-21 of the Revised Statutes.

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

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

2 43:21-5. An individual shall be disqualified for benefits:

3 (a) For the week in which he has left work voluntarily without good
4 cause, and for the three weeks which immediately follow such week (in addi-
5 tion to the waiting period), as determined in each case.

6 (b) For the week in which he has been discharged for misconduct con-
7 nected with his work, and for the three weeks which immediately follow such
8 week (in addition to the waiting period), as determined in each case.

9 (c) If it is found that he has failed, without good cause, either to apply
10 for available, suitable work when so directed by the employment office or
11 the executive director or to accept suitable work when offered him, or to
12 return to his customary self-employment (if any) when so directed by the
13 executive director. Such disqualification shall continue for the week in which
14 such failure occurred and for the three weeks which immediately follow such
15 week (in addition to the waiting period), as determined:

16 (1) In determining whether or not any work is suitable for an indi-
17 vidual, consideration shall be given to the degree of risk involved to his

18 health, safety and morale, his physical fitness and prior training, his
19 experience and prior earnings, his length of unemployment and prospects
20 for securing local work in his customary occupation, and the distance of
21 the available work from his residence.

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

32 (d) For any week with respect to which it is found that his total unem-
33 ployment is due to a stoppage of work which exists because of a labor dis-
34 pute at the factory, establishment, or other premises at which he is or was
35 last employed; *provided*, that this subsection shall not apply if it is shown
36 to the satisfaction of the board of review that:

37 (1) He is not participating in or financing or directly interested in
38 the labor dispute which caused the stoppage of work; and

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

49 (e) For any week with respect to which he is receiving or has received
50 remuneration in the form of:

51 (1) Remuneration in lieu of notice;

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

55 (3) Old age benefits under Title 2 of the social security act, as
56 amended, or similar payments under any Act of Congress; *provided*,
57 that if such remuneration is less than the benefits which would other-
58 wise be due under this chapter, he shall be entitled to receive for such
59 week, if otherwise eligible, benefits reduced by the amount of such
60 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
64 if the appropriate agency of such other State or of the United States finally
65 determines that he is not entitled to such unemployment benefits, this dis-
66 qualification shall not apply.

67 (g) For the two weeks immediately following detachment from any
68 maritime services performed under shipping articles.

1 2. Section 43:21-8 of the Revised Statutes is amended to read as follows:

2 43:21-8. (a) Any employing unit which is or becomes an employer sub-
3 ject to this chapter within any calendar year shall be subject to this chapter
4 during the whole of such calendar year.

5 (b) Except as otherwise provided in subsection (c) of this section, an
6 employing unit shall cease to be an employer subject to this chapter only
7 as of the first day of January of any calendar year, if it files with the com-
8 mission, prior to the first day of February of such year, a written application
9 for termination of coverage, and the commission finds that there were no
10 twenty different days, each day being in a different week within the pre-
11 ceding calendar year, within which such employing unit employed four or
12 more individuals in employment subject to this chapter. For the purpose of

13 this subsection, the two or more employing units mentioned in paragraph
14 (2) or (3) or (4) of subsection (h) of section 43:21-19 of this Title shall
15 be treated as a single employing unit.

16 (c) (1) An employing unit, not otherwise subject to this chapter, which
17 files with the commission its written election to become an employer subject
18 hereto for not less than two calendar years, shall, with the written approval
19 of such election by the commission, become an employer subject hereto to
20 the same extent as all other employers, as of the date stated in such ap-
21 proval; *provided*, that the commission shall not approve such election by such
22 employing unit to become an employer subject hereto if written objections
23 on the part of a substantial proportion of the individuals in the employ of
24 such employing unit are presented to the commission within ten days fol-
25 lowing the filing of such election, and shall cease to be subject hereto as
26 of January first of any calendar year subsequent to such two calendar years,
27 only if at least thirty days prior to such first day of January, it has filed
28-30 with the commission a written notice to that effect.

31 (2) Any employing unit for which services that do not constitute em-
32 ployment as defined in this chapter are performed, may file with the com-
33 mission a written election that all such services performed by individuals
34 in its employ in one or more distinct establishments or places of busi-
35 ness shall be deemed to constitute employment for all the purposes of this
36 chapter for not less than two calendar years; *provided*, written objections
37 on the part of a substantial proportion of such individuals affected are not
38 presented to the commission within ten days following the filing of such elec-
39 tion. Upon the written approval of such election by the commission, such
40 services shall be deemed to constitute employment subject to this chapter
41 from and after the date stated in such approval. Such services shall cease
42 to be deemed employment subject hereto as of January first of any calendar
43 year subsequent to such two calendar years, only if, at least thirty days prior
44 to the such first day of January, such employing unit has filed with the com-
45 mission a written notice to that effect.

28/ 2 3 3

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

3 43:21-19. As used in this chapter, unless the context clearly requires
4 otherwise:

5 (a) (1) "Annual payroll" means the total amount of wages payable by
6 an employer (regardless of the time of payment) for employment during
7 a calendar year.

8 (2) "Average annual payroll" means the average of the annual payrolls
9 of any employer for the last three or five preceding calendar years, which-
10 ever average is higher; *provided, however*, that only those wages be included
11 on which employer contributions have been paid on or before January thirty-
12 first of the calendar year for which the employer's contribution rate is com-
13 puted.

14 (b) "Benefits" means the money payments payable to an individual, as
15 provided in this chapter, with respect to his unemployment.

16 (c) The term "base year" means the first four of the last five completed
17 calendar quarters immediately preceding the first day of an individual's bene-
18 fit year; *provided*, that no calendar quarter shall comprise a part of more
19 than one base year.

20 (d) "Benefit year" with respect to any individual means the three hun-
21 dred sixty-four consecutive calendar days beginning with the day on, or as
22 of, which he first files a valid claim for benefits, and thereafter beginning
23 with the day on, or as of, which the individual next files a valid claim for
24 benefits after the termination of his last preceding benefit year. Any claim
25 for benefits made in accordance with subsection (a) of section 43:21-6 of
26 this Title shall be deemed to be a "valid claim" for the purpose of this sub-
27 section if the individual has fulfilled the condition imposed by subsection (e)
28 of section 43:21-4 of this Title.

28½ (e) "Commission" means the Unemployment Compensation Commission
29 established by section 43:21-10 of this Title, and for purposes of this chap-
30 ter any transaction or exercise of authority by the executive director shall be
31 deemed to be performed by the commission.

32 (f) "Contributions" means the money payments to the State Unemploy-
33 ment Compensation Fund required by this chapter.

34 (g) "Employing unit" means any individual or type of organization,
35 including any partnership, association, trust, estate, joint-stock company, in-
36 surance company or corporation, whether domestic or foreign, or the re-
37 ceiver, trustee in bankruptcy, trustee or successor thereof, or the legal rep-
38 resentative of a deceased person, which has or subsequent to January first,
39 one thousand nine hundred and thirty-six, had in its employ one or more
40 individuals performing services for it within this State. All individuals per-
41 forming services within this State for any employing unit which maintains
42 two or more separate establishments within this State shall be deemed to be
43 employed by a single employing unit for all the purposes of this chapter
44 Whenever any employing unit contracts with or has under it any contractor
45 or subcontractor for any employment which is part of its usual trade, occupa-
46 tion, profession, or business, unless the employing unit as well as each such
47 contractor or subcontractor is an employer by reason of subsection (c) of sec-
48 tion 43:21-8 of this Title or subsection (h) of this section, the employing
49 unit shall for all the purposes of this chapter be deemed to employ each
50 individual in the employ of each such contractor or subcontractor for each
51 day during which such individual is engaged in performing such employ-
52 ment; except that each such contractor or subcontractor who is an employer
53 by reason of subsection (c) of section 43:21-8 of this Title or subsection (h)
54 of this section, shall alone be liable for the contributions measured by wages
55 payable to individuals in his employ, and except that any employing unit who
56 shall become liable for and pay contributions with respect to individuals in
57 the employ of any such contractor or subcontractor who is not an employer
58 by reason of subsection (c) of section 43:21-8 of this Title or subsection (h)
59 of this section, may recover the same from such contractor or subcontractor.
60 Each individual employed to perform or to assist in performing the work of
61 any agent or employee of an employing unit shall be deemed to be employed
62 by such employing unit for all the purposes of this chapter, whether such
63 individual was hired or paid directly by such employing unit or by such agent

64 or employee; *provided*, the employing unit had actual or constructive knowl-
65 edge of the work.

66 (h) "Employer" means:

67 (1) Any employing unit which for some portion of a day, but not neces-
68 sarily simultaneously, in each of twenty different weeks, whether or not such
69 weeks are or were consecutive, within either the current or the preceding
70 calendar year, has or had in employment four or more individuals (irre-
71 spective of whether the same individuals are or were employed in each
72 such day);

73 (2) Any employing unit which acquired the organization, trade or busi-
74 ness, or substantially all the assets thereof, of another which at the time of
75 such acquisition was an employer subject to this chapter;

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

80 (4) Any employing unit which together with one or more other employ-
81 ing units, is owned or controlled (by legally enforceable means or otherwise),
82 directly or indirectly by the same interests, or which owns or controls one
83 or more other employing units (by legally enforceable means or otherwise),
84 and which, if treated as a single unit with such other employing unit or inter-
85 ests, would be an employer under paragraph (1) of this subsection;

86 (5) Any employing unit which, having become an employer under para-
87 graphs (1), (2), (3) or (4), has not, under section 43:21-8 of this Title, ceased
88 to be an employer subject to this chapter; or

89 (6) For the effective period of its election pursuant to subsection (e) of
90 section 43:21-8 of this Title any other employing unit which has elected to
91 become fully subject to this chapter.

92 (i) (1) "Employment" means service, including service in interstate
93 commerce performed for remuneration or under any contract of hire, written
94 or oral, expressed or implied.

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

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

98 (B) The service is not localized in any State but some of the service
99 is performed in this State, and (i) the base of operation, or, if there
100 is no base of operations, then the place from which such service is di-
101 rected or controlled, is in this State; or (ii) the base of operations or
102 place from which such service is directed or controlled is not in any
103 State in which some part of the service is performed, but the indi-
104 vidual's residence is in this State.

105 (3) Services performed within this State but not covered under para-
106 graph (2) of this subsection shall be deemed to be employment subject to
107 this chapter if contributions are not required and paid with respect to such
108 services under an unemployment compensation law of any other State or of
109 the Federal Government.

110 (4) Services not covered under paragraph (2) of this subsection, and
111 performed entirely without this State, with respect to no part of which con-
112 tributions are required and paid under an unemployment compensation law
113 of any other State or of the Federal Government, shall be deemed to be em-
114 ployment subject to this chapter if the individual performing such services
115 is a resident of this State and the commission approves the election of the
116 employing unit for whom such services are performed that the entire service
117 of such individual shall be deemed to be employment subject to this chap-
118 ter; *provided*, written objections on the part of a substantial proportion of
119 such individuals affected are not presented to the commission within ten days
120 following the filing of such election.

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

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

123 (B) the service is performed both within and without such State, but
124 the service performed without such State is incidental to the individual's
125 service within the State, for example, is temporary or transitory in
126 nature or consists of isolated transactions.

127 (6) Services performed by an individual for remuneration shall be
128 deemed to be employment subject to this chapter unless and until it is shown
129 to the satisfaction of the commission that

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

133 (B) such service is either outside the usual course of the business
134 for which such service is performed, or that such service is performed
135 outside of all the places of business of the enterprise for which such
136 service is performed; and

137 (C) such individual is customarily engaged in an independently
138 established trade, occupation, profession or business.

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

140 (A) Agricultural labor;

141 (B) Domestic service in a private home;

142-144 (C) Service performed by an individual in the employ of his
145 son, daughter or spouse, and service performed by a child under the age
146 of twenty-one in the employ of his father or mother;

147 (D) Service performed in the employ of this State or of any
148 political subdivision thereof or of any instrumentality of this State or its
149 political subdivisions;

150 (E) Service performed in the employ of any other State or
151 its political subdivisions, or of the United States Government, or if an
152 instrumentality of any other State or States or their political subdivi-
153 sions or of the United States;

154 (F) Services performed in the employ of a corporation, com-
155 munity chest, fund, or foundation, organized and operated exclusively
156 for religious, charitable, scientific, literary, hospital, benevolent, phil-
157 anthropic, or educational purposes, or for the prevention of cruelty to
158 children or animals, no part of the net earnings of which inures to the
159 benefit of any private shareholder or individual;

- 160 (G) Services performed in the employ of fraternal beneficiary 192
 161 societies, orders, or associations operating under the lodge system 193 the
 162 or for the exclusive benefit of the members of a fraternity itself operat- 194 we
 163 ing under the lodge system and providing for the payment of life, sick, 195
 164 accident or other benefits to the members of such society, order, or as- 196 me
 165 sociation, or their dependents; 197 mi
- 166 (H) Services performed as an officer or other employee of any 198
 167 building and loan association of this State, except where such services 199 en
 168 constitute the principal employment of the individual; services performed 200 fr
 169 as an officer or other employee of any building and loan association 201
 170 where such association is a member of the Federal Home Loan Bank 202 m
 171 System; services performed as an officer or other employee of any bank 203
 172 which is a member of the Federal Reserve System; 204 ic
- 173 (I) Service, performed after June thirtieth, one thousand nine 205 ti
 174 hundred and thirty-nine, with respect to which unemployment com- 206
 175 pensation is payable under the Railroad Unemployment Insurance Act 207 di
 176 (52 Stat. 1094). 208
- 177 (J) Service performed by agents of insurance companies, exclu- 209 er
 178 sive of industrial life insurance agents, or by agents of investment 210 ce
 179 companies, who are compensated wholly on a commission basis. 211 th
- 180 (j) "Employment office" means a free public employment office, or 212 th
 181 branch thereof operated by this State or maintained as a part of a State 213 ti
 182 controlled system of public employment offices. 214
- 183 (k) "Fund" means the unemployment compensation fund established by 215 1.
 184 this chapter, to which all contributions required and from which all benefits 216 ht
 185 provided under this chapter shall be paid. 217 an
- 186 (l) "State" includes, in addition to the States of the United States of 218 cl
 187 America, Alaska, Hawaii, and the District of Columbia. 1
- 188 (m) Unemployment. 2 lo
- 189 (1) An individual shall be deemed "unemployed" for any week during 3
 190 which he is not engaged in full-time work and with respect to which his 4 ra
 191 remuneration is less than his weekly benefit rate.

192 (2) The term remuneration, as used in this subsection, shall include only
 193 that part of the same which exceeds three dollars (\$3.00) for any one (1)
 194 week.

195 (3) An individual's week of unemployment shall be deemed to com-
 196 mence only after his registration at an employment office, except as the com-
 197 mission may by regulation otherwise prescribe.

198 (n) "Unemployment compensation administration fund" means the un-
 199 employment compensation administration fund established by this chapter,
 200 from which administrative expenses under this chapter shall be paid.

201 (o) "Wages" means remuneration payable by employers for employ-
 202 ment.

203 (p) "Remuneration" means all compensation payable for personal serv-
 204 ices, including commissions and bonuses and the cash value of all compensa-
 205 tion payable in any medium other than cash.

206 (q) "Week" means such period or periods of seven consecutive calendar
 207 days ending at midnight, as the commission may by regulation prescribe.

208 (r) "Calendar quarter" means the period of three consecutive months
 209 ending on March thirty-first, June thirtieth, September thirtieth, or De-
 210 cember thirty-first, excluding, however, any calendar quarter or portion
 211 thereof which occurs prior to January first, one thousand nine hundred and
 212 thirty-seven, or the equivalent thereof as the commission may by regula-
 213 tion prescribe.

214 (s) "Investment company" means any company as defined in paragraph
 215 1. a of chapter three hundred twenty-two of the laws of one thousand nine
 216 hundred and thirty-eight, entitled "An act concerning investment companies,
 217 and supplementing Title 17 of the Revised Statutes by adding thereto a new
 218 chapter entitled 'investment companies.'"

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

3 43:21-21. (a) The commission is hereby authorized to enter into ar-
 4 rangements with the appropriate agencies of other States or the Federal

5 Government whereby potential rights to benefits accumulated under the un-
6 employment compensation laws of several States or under such a law of the
7 Federal Government, or both, may constitute the basis for the payment of
8 benefits through a single appropriate agency under terms which the commis-
9 sion finds will be fair and reasonable as to all affected interests and will not
10 result in any substantial loss to the fund.

11 (b) The commission is also authorized to enter into arrangements with
12 the appropriate agencies of other States or of the Federal Government (1)
13 whereby wages or services, upon the basis of which an individual may be-
14 come entitled to benefits under the unemployment compensation law of an-
15 other State or of the Federal Government, shall be deemed to be wages for
16 employment by employers for the purposes of this chapter; *provided*, such
17 other State agency or agency of the Federal Government has agreed to re-
18 imburse the fund for such portion of benefits paid under this chapter, upon
19 the basis of such wages or services as the commission finds will be fair and
20 reasonable as to all affected interests; and (2) whereby the commission will
21 reimburse other State or Federal agencies charged with the administration
22 of unemployment compensation laws with such reasonable portion of benefits,
23 paid under the law of any such other States or of the Federal Government
24 upon the basis of employment or wages for employment by employers, as the
25 commission finds will be fair and reasonable as to all affected interests. Re-
26 imbursements so payable shall be deemed to be benefits for the purposes of
27 this chapter, but no reimbursement so payable shall be charged against any
28 employer's account for the purposes of section 43:21-7 of this chapter. The
29 commission is hereby authorized to make to other State or Federal agencies
30 and receive from such other State or Federal agencies reimbursements from
31 or to the fund, in accordance with arrangements pursuant to this section.

32 (c) The commission is also authorized to enter into reciprocal agree-
33 ments with the appropriate agencies of other States covering services on
34 vessels engaged in interstate or foreign commerce whereby such services per-

35 formed for a single employer, under any contract of hire, partly within and
36 partly without this State, shall be deemed to be performed in their entirety
37 either within or without this State.

1 5. This act shall take effect on the first day of January, one thousand
2 nine hundred and forty-six.