



CHAPTER 30 LAWS OF N. J. 1967

APPROVED 4-24-67

SENATE, No. 400

# STATE OF NEW JERSEY

INTRODUCED MARCH 20, 1967

By Senator KEEGAN

Referred to Committee on Labor and Industrial Relations

AN ACT concerning unemployment compensation and temporary disability benefits, and amending sections 43:21-3, 43:21-4, 43:21-5, 43:21-7, 43:21-8 and 43:21-19 of the Revised Statutes, and sections 14, 15, and 16 of chapter 110 of the laws of 1948, amending section 1 of chapter 81 of the laws of 1944, supplementing Title 43 of the Revised Statutes and repealing chapter 177 of the laws of 1950.

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

3 1. Section 43:21-3 of the Revised Statutes is amended to read as  
4 follows:

5 43:21-3. (a) Payment of benefits. All benefits shall be promptly  
6 paid from the fund through local employment offices in accordance  
7 with such regulations as may be prescribed hereunder.

8 (b) Weekly benefits for unemployment.

9 **[(1)** With respect to an individual's benefit year commencing  
10 on or after January 1, 1953, and prior to July 1, 1961, such in-  
11 dividual, if eligible and unemployed (as defined in subsection (m)  
12 of section 43:21-19 of the Revised Statutes), shall be paid an  
13 amount (except as to final payment) equal to his weekly benefit rate  
14 with respect to any week in which he has earned no remuneration  
15 or remuneration equal to less than  $\frac{1}{2}$  said rate, or shall be paid an  
16 amount equal to  $\frac{1}{2}$  his weekly benefit rate with respect to any week  
17 in which he has earned remuneration equal to or more than  $\frac{1}{2}$  said  
18 rate but less than said rate.

19 **(2)]** With respect to an individual's benefit year commencing on  
20 or after July 1, 1961, such individual, if eligible and unemployed  
21 (as defined in subsection (m) of section 43:21-19 of the Revised  
22 Statutes), shall be paid an amount (except as to final payment)  
23 equal to his weekly benefit rate less any remuneration paid or  
24 payable to him for such week in excess of 20% of his weekly benefit

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

1 rate (fractional part of a dollar omitted) or \$5.00, whichever is the  
2 greater; provided that such amount shall be computed to the next  
3 higher multiple of \$1.00 if not already a multiple thereof.

4 (c) Weekly benefit rate.

5 (1) [With respect to an individual whose benefit year com-  
6 mences on or after October 1, 1955, and prior to July 1, 1961, and  
7 whose average weekly wage does not exceed \$45.00, his weekly  
8 benefit rate under each benefit determination shall be  $\frac{2}{3}$  of his  
9 average weekly wage; provided, that such rate shall be computed to  
10 the next higher multiple of \$1.00 if not already a multiple thereof,  
11 and shall not be more than \$30.00 nor less than \$10.00.

12 (2) With respect to an individual whose benefit year com-  
13 mences on or after October 1, 1955, and prior to July 1, 1961, and  
14 whose average weekly wage exceeds \$45.00, his weekly benefit rate  
15 under each benefit determination shall be \$30.00 plus  $\frac{2}{3}$  of the  
16 amount by which his average weekly wage exceeds \$45.00; pro-  
17 vided, that such rate shall be computed to the next higher multiple  
18 of \$1.00 if not already a multiple thereof, and shall not be more  
19 than \$35.00.

20 (3) [With respect to an individual whose benefit year commences  
21 on [and] or after July 1, 1961, and prior to January 1, 1968 his  
22 weekly benefit rate under each benefit determination shall be an  
23 amount equal to the weekly benefit rate set forth in Column B of  
24 the table in this paragraph on the line in which in Column A there  
25 appears his average weekly wage:

26	COLUMN A	COLUMN B
27	AVERAGE WEEKLY WAGE	WEEKLY BENEFIT RATE
28	\$18.00 or less .....	\$10.00
29	18.01 but not more than \$19.50.....	11.00
30	19.51 but not more than 21.00.....	12.00
31	21.01 but not more than 22.50.....	13.00
32	22.51 but not more than 24.00.....	14.00
33	24.01 but not more than 25.50.....	15.00
34	25.51 but not more than 27.00.....	16.00
35	27.01 but not more than 28.50.....	17.00
36	28.51 but not more than 30.00.....	18.00
37	30.01 but not more than 31.50.....	19.00
38	31.51 but not more than 33.00.....	20.00
39	33.01 but not more than 34.50.....	21.00
40	34.51 but not more than 36.00.....	22.00
41	36.01 but not more than 37.50.....	23.00
42	37.51 but not more than 39.00.....	24.00
43	39.01 but not more than 40.50.....	25.00

1	COLUMN A	COLUMN B
2	AVERAGE WEEKLY WAGE	WEEKLY BENEFIT RATE
3	\$40.01 but not more than \$42.00	\$26.00
4	42.01 but not more than 43.50	27.00
5	43.51 but not more than 45.00	28.00
6	45.01 but not more than 47.50	29.00
7	47.51 but not more than 50.00	30.00
8	50.01 but not more than 52.50	31.00
9	52.51 but not more than 55.00	32.00
10	55.01 but not more than 57.50	33.00
11	57.51 but not more than 60.00	34.00
12	60.01 but not more than 63.00	35.00
13	63.01 but not more than 66.00	36.00
14	66.01 but not more than 69.00	37.00
15	69.01 but not more than 73.50	38.00
16	73.51 but not more than 76.00	39.00
17	76.01 but not more than 79.00	40.00
18	79.01 but not more than 82.00	41.00
19	82.01 but not more than 84.00	42.00
20	84.01 but not more than 86.00	43.00
21	86.01 but not more than 88.00	44.00
22	88.01 but not more than 90.00	45.00
23	90.01 but not more than 92.00	46.00
24	92.01 but not more than 94.00	47.00
25	94.01 but not more than 96.00	48.00
26	96.01 but not more than 98.00	49.00
27	98.01 or more	50.00

28 (2) *With respect to an individual whose benefit year commences*  
 29 *in any calendar year after December 31, 1967, his weekly benefit*  
 30 *rate under each determination shall be 2/3 of the aver-*  
 31 *age weekly wage, subject to a maximum of 50% of the State-wide*  
 32 *average weekly remuneration paid to workers by employers subject*  
 33 *to this chapter (R. S. 43:21-1 et seq.), as determined and promul-*  
 34 *gated by the Commissioner of Labor and Industry, and to*  
 35 *a minimum of \$10.00; provided, however, that such individual's*  
 36 *weekly benefit rate shall be computed to the next higher multiple of*  
 37 *\$1.00 if not already a multiple thereof. For the purposes of this*  
 38 *paragraph, the "State-wide average weekly remuneration paid to*  
 39 *workers by employers" shall be computed and determined by the*  
 40 *Commissioner of Labor and Industry on or before September 1*  
 41 *of each year on the basis of 1/52 of the total remuneration reported*  
 42 *for the preceding calendar year by employers subject to this chap-*  
 43 *ter, divided by the average of the number of workers reported by*  
 44 *such employers, and shall be effective as to benefit determinations*  
 44A *in the calendar year following such computation and determination.*

1 (d) Maximum total benefits.

2 (1) With respect to an individual to whom benefits shall be pay-  
3 able for benefit years [commencing on or after July 1, 1961] prior  
4 to January 1, 1968, as provided in this section[ ]:

5 (1) Such] *such* individual shall be entitled to receive, under each  
6 successive benefit determination relating to each of his base year  
7 employers, a total amount of benefits equal to  $\frac{3}{4}$  of his base weeks  
8 from the employer in question multiplied by his weekly benefit rate;  
9 but the amount of benefits thus resulting under any such determina-  
10 tion made with respect to an employer, shall be adjusted to the  
11 next higher multiple of \$1.00 if not already a multiple thereof.

12 *With respect to an individual to whom benefits shall be payable*  
13 *for benefit years commencing on or after January 1, 1968 as pro-*  
14 *vided in this section, such individual shall be entitled to receive,*  
15 *under each successive benefit determination relating to each of his*  
16 *base year employers, a total amount of benefits equal to 1/3 of his*  
17 *total wages in his base year or 3/4 of his base weeks from the em-*  
18 *ployer in question multiplied by his weekly benefit rate, whichever*  
19 *is the higher; but the amount of benefits thus resulting under any*  
20 *such determination made with respect to an employer shall be*  
21 *adjusted to the next higher multiple of \$1.00 if not already a*  
22 *multiple thereof.*

23 (2) No such individual shall be entitled to receive benefits under  
24 this chapter (R. S. 43:21-1 et seq.) [for more than 26 weeks] in  
25 excess of 26 times his weekly benefit rate in any benefit year under  
26 either of subsections (c) and (f) of section 43:21-4 of this chapter  
27 (R. S. 43:21-1 et seq.). In the event that any individual qualifies  
28 for benefits under both of said subsections during any benefit year,  
29 the maximum total amount of benefits payable under said sub-  
30 sections combined to such individual during the benefit year shall  
31 be  $1\frac{1}{2}$  times the maximum amount of benefits payable under one of  
32 said subsections.

33 (3) The maximum total benefits of any individual shall be  
34 reduced by an amount equal to 17 times his weekly benefit rate upon  
35 the discovery by the division that such individual illegally received  
36 any sum as benefits contrary to the provisions of this chapter as the  
37 result of any false or fraudulent representation; provided, how-  
38 ever, that such reduction shall apply only to a benefit year in  
39 existence at the time of the discovery and to a benefit year estab-  
40 lished within 1 year from the time of such discovery.

41 2. Section 43:21-4 of the Revised Statutes is amended to read  
42 as follows:

43 43:21-4. An unemployed individual shall be eligible to receive  
44 benefits with respect to any week only if it appears that:

1 (a) He has registered for work at, and thereafter continued to  
2 report at, an employment office in accordance with such regulations  
3 as the division may prescribe, except that the division may, by  
4 regulation, waive or alter either or both of the requirements of this  
5 subsection as to individuals attached to regular jobs, and as to  
6 such other types of cases or situations with respect to which the  
7 division finds that compliance with such requirements would be  
8 oppressive, or would be inconsistent with the purpose of this act;  
9 provided, that no such regulation shall conflict with subsection (a)  
10 of section 43:21-3 of the Revised Statutes.

11 (b) He has made a claim for benefits in accordance with the  
12 provisions of subsection (a) of section 43:21-6 of the Revised  
13 Statutes.

14 (c) He is able to work, *and* is available for work, and has demon-  
15 strated that he is actively seeking work, except as hereinafter  
16 provided in this subsection or in subsection (f) of this section:

17 (1) No woman shall be deemed to be able or available for  
18 work during the 4 weeks immediately before the expected birth  
19 of her child or the 4 weeks immediately following the birth  
20 of her child, in either of which cases the division may require  
21 the production of a doctor's certificate to establish such dates;

22 (2) The director may, in his discretion, modify the require-  
23 ment of actively seeking work if, in his judgment, such modi-  
24 fication of this requirement is warranted by economic condi-  
25 tions[:]. [but no]

26 No individual, who is otherwise eligible, shall be deemed in-  
27 eligible, or unavailable for work, because he is on vacation, without  
28 pay, during said week, if said vacation is not the result of his own  
29 action as distinguished from any collective action of a collective  
30 bargaining agent or other action beyond his individual control; nor  
31 subject to such limitations and conditions as the division may pre-  
32 scribe, shall any *otherwise eligible* individual [be deemed in-  
33 eligible by reason of unavailability for work, failure to accept work,  
34 or refusal to accept work, when the unavailability, failure or re-  
35 fusal is] *who is attending a training program which has been*  
36 *approved for him by the division to enhance his employment oppor-*  
37 *tunities be deemed unavailable for work or ineligible* because he is  
38 attending [a] *such* training program, [with the approval of the  
39 division, to enhance his employment opportunities] *or because he*  
40 *failed or refused to accept work while attending such program.*

41 (d) He has been totally or partially unemployed for a waiting  
42 period of 1 week in the benefit year which includes that week. When  
43 benefits become payable with respect to the third consecutive week

1 next following the waiting period, he shall be eligible to receive  
2 benefits as appropriate with respect to the waiting period. No week  
3 shall be counted as a week of unemployment for the purposes of  
4 this subsection:

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

9 (2) if it has constituted a waiting period week under  
10 Temporary Disability Benefits Law;

11 (3) unless the individual fulfills the requirements of sub-  
12 sections (a) and (c) of this section;

13 (4) [it has constituted a week] with respect [to which it is  
14 found that his unemployment was due to a stoppage of work  
15 which exists because of a labor dispute,] *thereto, claimant was*  
16 *disqualified for benefits* in accordance with the provisions of  
17 subsection (d) of section 43:21-5 of the Revised Statutes.

18 (e) With respect to a base year as defined in subsection (c) of  
19 section 43:21-19 of the Revised Statutes he has established at least  
20 17 base weeks as defined in subsection (t) (1) of section 43:21-19  
21 of the Revised Statutes, *or, in the alternative, has earned*  
22 *\$1,350.00 or more in his base year.*

23 (f) (1) He has suffered any accident or sickness not compensable  
24 under the Workmen's Compensation Law (Title 34 of the Revised  
25 Statutes) and resulting in his total disability to perform any work  
26 for remuneration, and would be eligible to receive benefits under  
27 this chapter (R. S. 43:21-1 et seq.) (without regard to the maximum  
28 amount of benefits payable during any benefit year) except for his  
29 inability to work and has furnished notice and proof of claim to the  
30 division, in accordance with its rules and regulations, and payment  
31 is not precluded by the provisions of section 43:21-3 (d) of the  
32 Revised Statutes; provided, however, that no benefits shall be  
33 payable under this subsection to any individual:

34 (A) for any period during which such individual is not under  
35 the care of a legally licensed physician, dentist or chiropodist;

36 (B) for any period of disability due to pregnancy or result-  
37 ing childbirth, miscarriage, or abortion, except for disability  
38 existing during the 4 weeks immediately before the expected  
39 birth of child, and the 4 weeks following the termination of the  
40 pregnancy;

41 (C) for any period of disability due to willfully or inten-  
42 tionally self-inflicted injury, or to injuries sustained in the  
43 perpetration by the individual of a high misdemeanor;

1 (D) for any week with respect to which or a part of which  
2 he has received or is seeking benefits under any unemployment  
3 compensation or disability benefit law of any other State or  
4 of the United States; provided, that if the appropriate agency  
5 of such other State or of the United States finally determines  
6 that he is not entitled to such benefits, this disqualification shall  
7 not apply;

8 **[(E)]** for the 2 weeks immediately following detachment from  
9 any maritime services performed under shipping articles; **]**

10 **[(F)]** (E) for any week with respect to which or part of  
11 which he has received or is seeking disability benefits under  
12 the Temporary Disability Benefits Law;

13 **[(G)]** (F) for any period of disability commencing while  
14 such individual is a "covered individual" as defined in subsec-  
15 tion 3 (b) of the Temporary Disability Benefits Law (chap-  
16 ter 110, P. L. 1948).

17 (2) Benefit payments under this subsection shall be charged to  
18 and paid from the State Disability Benefits Fund established by the  
19 Temporary Disability Benefits Law, and shall not be charged to any  
20 employer account in computing any employer's experience rate for  
21 contributions payable under this chapter.

22 (g) Notwithstanding any other provision of this chapter, the  
23 director may, to the extent that he deems efficient and economical  
24 provide for consolidated administration by one or more representa-  
25 tives or deputies of claims made pursuant to subsection (f) of this  
26 section with those made pursuant to article III (State plan) of the  
27 Temporary Disability Benefits Law.

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

30 43:21-5. An individual shall be disqualified for benefits:

31 (a) For the week in which he has left work voluntarily without  
32 good cause attributable to such work, and for each week thereafter  
33 until he has earned in employment (which may be with an employ-  
34 ing unit having in employment one or more individuals) at least 4  
35 times his weekly benefit rate, as determined in each case; provided,  
36 however, that no disqualification shall be applicable to a woman  
37 who left or was separated from her work solely by reason of her  
38 pregnancy.

39 (b) For the week in which he has been *finally* discharged for  
40 misconduct connected with his work, and for the 5 weeks which  
41 immediately follow such week (in addition to the waiting period),  
42 as determined in each case. *In the event such discharge should be*  
43 *rescinded by the employer voluntarily or as a result of mediation*

1 *or arbitration this subsection (b) shall not apply, provided, how-*  
2 *ever, an individual who is restored to employment with back pay*  
3 *shall return any benefits received under this chapter for any week*  
4 *of unemployment for which he is subsequently compensated by his*  
5 *employer.*

6 (c) If it is found that he has failed, without good cause, either  
7 to apply for available, suitable work when so directed by the em-  
8 ployment office or the director or to accept suitable work when  
9 offered him, or to return to his customary self-employment (if any)  
10 when so directed by the director. Such disqualification shall con-  
11 tinue for the week in which such failure occurred and for the 3  
12 weeks which immediately follow such week (in addition to the  
13 waiting period), as determined:

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

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

33 (d) **【For any week with respect to which】** *If it is found that his*  
34 *unemployment is due to a stoppage of work commencing on or after*  
35 *January 1, 1968 which exists because of a labor dispute (other than*  
36 *a lockout) at the factory, establishment or other premises at which*  
37 *he is or was last employed and such disqualification shall continue*  
38 *only for the first 42 days thereof (in addition to the waiting period).*  
39 *Benefits paid after said period of disqualification shall only be paid*  
40 *out of, and to the extent of, worker contributions to the Unem-*  
41 *ployment Trust Fund made during the calendar year preceding the*  
42 *calendar year in which benefits are claimed; provided, however,*  
43 *that no benefits shall be paid under this subsection where the*

1 worker or workers unemployed by reason of such labor dispute, or  
2 their representatives, have refused to voluntarily arbitrate the  
3 dispute or, in the alternative, have refused the services of a media-  
4 tion agency of this State or the Federal Government to mediate  
5 the dispute, and further provided that no benefits shall be paid  
6 under this subsection for any week of unemployment unless the  
7 Commissioner of Labor and Industry certifies that, during the  
8 week in question, representatives of the worker or workers claiming  
9 benefits, either were bargaining in good faith or were prepared to  
10 bargain in good faith to resolve the dispute. No disqualification  
11 under this subsection shall [not] apply if it is shown that:

12 (1) He is not participating in or financing or directly in-  
13 terested in the labor dispute which caused the stoppage of  
14 work; and

15 (2) He does not belong to a grade or class of workers of  
16 which, immediately before the commencement of the stoppage,  
17 there were members employed at the premises at which the  
18 stoppage occurs, any of whom are participating in or financing  
19 or directly interested in the dispute; provided that in any case  
20 in which (1) or (2) above applies separate branches of work  
21 which are commonly conducted as separate businesses in  
22 separate premises are conducted in separate departments of  
23 the same premises, each such department shall, for the pur-  
24 poses of this subsection, be deemed to be a separate factory,  
25 establishment, or other premises;

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

28 (f) For any week with respect to which or a part of which he has  
29 received or is seeking unemployment benefits under an unemploy-  
30 ment compensation law of any other State or of the United States;  
31 provided, that if the appropriate agency of such other State or of  
32 the United States finally determines that he is not entitled to such  
33 unemployment benefits, this disqualification shall not apply.

34 (g) [For the 2 weeks immediately following detachment from  
35 any maritime services performed under shipping articles.

36 (h)] (1) For a period of 17 weeks from the date of the discovery  
37 by the division of the illegal receipt of benefits contrary to the  
38 provisions of this chapter as the result of any false or fraudulent  
39 representation and his maximum total benefits shall be reduced by  
40 an amount equal to 17 times his weekly benefit rate in the benefit  
41 year in existence at the time of the discovery and in a benefit year  
42 established within 1 year thereafter, but the maximum reduction  
43 shall not exceed 17 times the weekly benefit rate; provided, that

1 any such disqualification may be appealed in the same manner as  
2 any other disqualification imposed hereunder; and, provided  
3 further, that a conviction in the courts of this State arising out of  
4 the illegal receipt of such benefits in any proceeding instituted  
5 against him, under the provisions of this chapter or any other law  
6 of this State, shall be conclusive upon the appeals tribunal and the  
7 board of review.

8 (2) A disqualification under this subsection shall not preclude  
9 the prosecution of any civil, criminal or administrative action or  
10 proceeding to enforce other provisions of this chapter for the  
11 assessment and collection of penalties or the refund of any amounts  
12 collected as benefits under the provisions of section 43:21-16 of the  
13 Revised Statutes, or to enforce any other law where an individual  
14 obtains or attempts to obtain by theft or robbery or false state-  
15 ments or representations any money from any fund created or  
16 established under this chapter or any negotiable or nonnegotiable  
17 instrument for the payment of money from such funds, or to  
18 recover money erroneously or illegally obtained by an individual  
19 from any fund created or established under this chapter.

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

22 43:21-7. (a) Payment.

23 (1) Contributions shall accrue and become payable by each em-  
24 ployer for each calendar year in which he is subject to this chapter  
25 (R. S. 43:21-1 et seq.), with respect to having individuals in his  
26 employ during such calendar year at the rates and on the basis  
27 hereinafter set forth. Such contributions shall become due and be  
28 paid by each employer to the Division of Employment Security for  
29 the fund in accordance with such regulations as may be prescribed,  
30 and shall not be deducted, in whole or in part, from the remunera-  
31 tion of individuals in his employ.

32 (2) In the payment of any contributions, a fractional part of a  
33 cent shall be disregarded unless it amounts to  $\frac{1}{2}$  cent or more, in  
34 which case it shall be increased to \$0.01.

35 (b) Rate of contributions. Each employer shall pay the follow-  
36 ing contributions:

37 (1) For the calendar year 1947, and each calendar year there-  
38 after,  $2\frac{7}{10}\%$  of wages paid by him during each such calendar year,  
39 except as otherwise prescribed by subsection (c) of this section.

40 (2) The "wages" of any individual, with respect to any one  
41 employer as the term is used in this subsection (b) and in subsec-  
42 tions (c), (d) and (e) of this section 7, shall include the first  
43 \$3,000.00 paid during each calendar year [commencing on or after

1 January 1, 1947] prior to January 1, 1968 and the first \$3,600.00  
2 paid during each calendar year commencing on or after January  
3 1, 1968, for services performed either within or without this State;  
4 provided, that no contribution shall be required by this State with  
5 respect to services performed in another State if such other State  
6 imposes contribution liability with respect thereto. If an em-  
7 ployer (hereinafter referred to as successor employer) during any  
8 calendar year acquires substantially all the property used in a trade  
9 or business of another employer (hereinafter referred to as a  
10 predecessor), or used in a separate unit of trade or business of a  
11 predecessor, and immediately after the acquisition employs in his  
12 trade or business an individual who immediately prior to the  
13 acquisition was employed in the trade or business of such prede-  
14 cessor, then, for the purpose of determining whether the successor  
15 employer has paid wages with respect to employment equal to  
16 \$3,000.00 to such individual during [such] any calendar year prior  
17 to January 1, 1968, or equal to \$3,600.00 during any calendar year  
18 commencing on or after January 1, 1968, any wages paid to such  
19 individual by such predecessor during such calendar year and prior  
20 to such acquisition shall be considered as having been paid by such  
21 successor employer.

22 (c) Future rates based on benefit experience:

23 (1) a separate account for each employer shall be maintained  
24 and this shall be credited with all the contributions which he has  
25 paid on his own behalf on or before January 31 of any calendar  
26 year with respect to employment occurring in preceding calendar  
27 years; provided, however, that if January 31 of any calendar year  
28 falls on a Saturday or Sunday, an employer's account shall be  
29 credited as of January 31 of such calendar year with all the con-  
30 tributions which he has paid on or before the next succeeding day  
31 which is not a Saturday or Sunday. But nothing in this chapter  
32 (R. S. 43:21-1 et seq.) shall be construed to grant any employer or  
33 individuals in his service prior claims or rights to the amounts  
34 paid by him into the fund either on his own behalf or on behalf of  
35 such individuals. Benefits paid with respect to benefit years com-  
36 mencing on and after January 1, 1953, to any individual on or before  
37 December 31 of any calendar year with respect to unemployment in  
38 such calendar year and in preceding calendar years shall be charged  
39 against the account or accounts of the employer or employers in  
40 whose employment such individual established base weeks con-  
41 stituting the basis of such benefits. Benefits paid under a given  
42 benefit determination shall be charged against the account of the  
43 employer to whom such determination relates. When each benefit

1 payment is made the division shall promptly send either a copy of  
2 the benefit check or other form of notification to the employer  
3 against whose account the benefits are to be charged. Such copy or  
4 notification shall identify the employer against whose account the  
5 amount of such payment is being charged, shall show at least the  
6 name and social security account number of the claimant and shall  
7 specify the period of unemployment to which said check applies.  
8 If the total amount of benefits paid to a claimant and charged to  
9 the account of the appropriate employer exceeds 50% of the total  
10 base-year base week wages paid to the claimant by that employer,  
11 then such employer may apply to the division to have canceled from  
12 his account such excess benefit charges as specified above. Any  
13 such application for the cancellation of excess charges shall be sub-  
14 mitted by the employer within 6 months from the date of the benefit  
15 check, payment of which creates such charges. In no event will the  
16 erasure of such charges affect a contribution rate already assigned  
17 to the employer with respect to any fiscal year commencing prior  
18 to the date the application is received by the division.

19 The division shall furnish to each employer an annual summary  
20 statement of benefits charged to his account.

21 (2) The Division of Employment Security may prescribe regu-  
22 lations for the establishment, maintenance, and dissolution of joint  
23 accounts by 2 or more employers, and shall, in accordance with such  
24 regulations and upon application by 2 or more employers to  
25 establish such an account, or to merge their several individual  
26 accounts in a joint account, maintain such joint account as if it con-  
27 stituted a single employer's account.

28 (3) Each employer's rate shall be  $2\frac{8}{10}\%$ , except as otherwise  
29 provided in the following provisions: No employer's rate shall be  
30 other than  $2\frac{8}{10}\%$  unless and until there shall have been 3 calendar  
31 years throughout which any individual in his employ could have  
32 received benefits if eligible. No employer's rate shall be lower  
33 than  $2\frac{7}{10}\%$  unless assignment of such lower rate is consistent with  
34 the conditions applicable to additional credit allowance for such  
35 year under section **[1602 (a) (1)] 3303 (a) (1)** of the Internal  
36 Revenue Code (U. S. Code Title 26, section **[1602 (a) (1)] 3303 (a)**  
37 **(1)**), any other provision of this section to the contrary notwith-  
38 standing.

39 (4) (A) Each employer's rate for the 12 months commencing  
40 July 1 of any calendar year shall be determined on the basis of his  
41 record up to the beginning of such calendar year. If, at the begin-  
42 ning of such calendar year, the total of all his contributions, paid  
43 on his own behalf, for all past years exceeds the total benefits

1 charged to his account for all such years, his contribution rate  
2 shall be:

3 (1)  $2\frac{5}{10}\%$ , if such excess equals or exceeds 4%, but less  
4 than 5% of his average annual payroll (as defined in para-  
5 graph (2), subsection (a) of section 43:21-19 of this Title);

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

8 (3)  $1\frac{1}{10}\%$ , if such excess equals or exceeds 6%, but is less  
9 than 7%, of his average annual payroll;

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

12 (5)  $1\frac{3}{10}\%$ , if such excess equals or exceeds 8%, but is less  
13 than 9%, of his average annual payroll;

14 (6) 1%, if such excess equals or exceeds 9%, but is less than  
15 10%, of his average annual payroll;

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

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

20 (B) If the total of an employer's contributions, paid on his own  
21 behalf, for all past periods for the purposes of this paragraph (4),  
22 is less than the total benefits charged against his account during  
23 the same period, his rate shall be  $3\frac{1}{10}\%$ ; provided, however, if the  
24 total of the contributions of such an employer for the past 120 con-  
25 secutive calendar months is more than the total benefits charged  
26 against his account during the same period, his rate shall be  $2\frac{8}{10}\%$ .

27 (C) The contribution rates prescribed by subparagraphs (A)  
28 and (B) of this paragraph (4) shall be increased or decreased in  
29 accordance with the provisions of paragraph (5) of this subsection  
30 (c).

31 (5) (A) If on March 31 of any calendar year the balance in the  
32 Unemployment Trust Fund equals or exceeds 4% but is less than  
33 7% of the total taxable wages reported to the division as of that  
34 date in respect to employment during the preceding calendar year,  
35 the contribution rate, effective July 1 following, of each employer  
36 eligible for a contribution rate calculation based upon benefit  
37 experience, shall be increased by  $\frac{3}{10}$  of 1% over the contribution  
38 rate otherwise established under the provisions of paragraphs (3)  
39 or (4) of this subsection. If on March 31 of any calendar year the  
40 balance of the Unemployment Trust Fund is less than 4% of the  
41 total taxable wages reported to the Division of Employment  
42 Security as of that date in respect to employment during the pre-  
43 ceding calendar year, the contribution rate, effective July 1 follow-

1 ing, of each employer eligible for a contribution rate calculation  
2 based upon benefit experience, shall be increased by  $\frac{1}{10}$  of 1% over  
3 the contribution rate otherwise established under the provisions of  
4 paragraphs (3) or (4) of this subsection; provided, that if on such  
5 March 31, such balance is less than  $2\frac{1}{2}\%$  of such total taxable  
6 wages, the contribution rate so effective, of any employer, shall be  
7 not less than  $2\frac{3}{10}\%$ ; provided further, that the contribution rate  
8 of any employer increased pursuant to the provisions of this sub-  
9 paragraph, when so increased, shall not exceed  $4\frac{3}{10}\%$ .

10 (B) If on March 31 of any calendar year the balance in the Un-  
11 employment Trust Fund equals or exceeds 10% but is less than  
12  $12\frac{1}{2}\%$  of the total taxable wages reported to the Division of Em-  
13 ployment Security as of that date in respect to employment during  
14 the preceding calendar year, the contribution rate, effective July 1  
15 following, of each employer eligible for a contribution rate calcula-  
16 tion based upon benefit experience, shall be reduced by  $\frac{3}{10}$  of 1%  
17 under the contribution rate otherwise established under the pro-  
18 visions of paragraphs (3) and (4) of this subsection; provided, that  
19 in no event shall the contribution rate of any employer be reduced  
20 to less than  $\frac{1}{10}$  of 1%. If on March 31 of any calendar year the  
21 balance in the Unemployment Trust Fund equals or exceeds  $12\frac{1}{2}\%$   
22 of the total taxable wages reported to the division as of that date in  
23 respect to employment during the preceding calendar year, the  
24 contribution rate, effective July 1 following, of each employer  
25 eligible for a contribution rate calculation based upon benefit  
26 experience, shall be reduced by  $\frac{6}{10}$  of 1% if his account for all past  
27 periods reflects an excess of contributions paid over total benefits  
28 charged of 3% or more of his average annual payroll, otherwise by  
29  $\frac{3}{10}$  of 1% under the contribution rate otherwise established under  
30 the provisions of paragraphs (3) and (4) of this subsection; pro-  
31 vided, that in no event shall the contribution rate of any employer  
32 be reduced to less than  $\frac{1}{10}$  of 1%.

33 (6) Additional contributions.

34 Notwithstanding any other provision of law, any employer who  
35 has been assigned a contribution rate pursuant to subsection (c)  
36 of this section for the year commencing July 1, 1948, and for any  
37 year commencing July 1 thereafter, may voluntarily make payment  
38 of additional contributions, and upon such payment shall receive  
39 a recomputation of the experience rate applicable to such employer  
40 including in the calculation the additional contribution so made.  
41 Any such additional contribution shall be made during the 30-day  
42 period following the date of the mailing to the employer of the  
43 notice of his contribution rate as prescribed in this section, unless,

1 for good cause, the time for payment has been extended by the  
2 director for not to exceed an additional 60 days; provided, that in  
3 no event may such payments which are made later than 120 days  
4 after the beginning of the year for which such rates are effective be  
5 considered in determining the experience rate for the year in which  
6 the payment is made. Any employer receiving any extended period  
7 of time within which to make such additional payment and failing  
8 to make such payment timely shall pay, in addition to the required  
9 amount of additional payment, a penalty of 5% thereof or \$5.00,  
10 whichever is greater; not to exceed \$50.00. Any adjustment under  
11 this subsection shall be made only in the form of credits against  
12 accrued or future contributions.

13 (7) Transfers.

14 (A) Upon the transfer of the organization, trade or business, or  
15 substantially all the assets of an employer to a successor in interest,  
16 whether by merger, consolidation, sale, transfer, descent or other-  
17 wise, the Division of Employment Security shall transfer the em-  
18 ployment experience of the predecessor employer to the successor  
19 in interest, including credit for past years, contributions paid,  
20 annual payrolls, benefit charges, et cetera, applicable to such  
21 predecessor employer, pursuant to regulations adopted by the  
22 division, if the division finds that the employment experience of the  
23 predecessor employer with respect to the organization, trade, assets  
24 or business, which has been transferred, may be considered in-  
25 dicative of the future employment experience of the successor in  
26 interest. Unless the predecessor employer was owned or controlled  
27 (by legally enforceable means or otherwise), directly or indirectly,  
28 by the successor in interest, or the predecessor employer and the  
29 successor in interest were owned or controlled (by legally en-  
30 forcible means or otherwise), directly or indirectly, by  
31 the same interest or interests, the transfer of the em-  
32 ployment experience of the predecessor shall not be effective  
33 if such successor in interest, within 4 months of the  
34 date of such transfer of the organization, trade, assets  
35 or business, or thereafter upon good cause shown, files  
36 a written notice with the division protesting the trans-  
37 fer of the employment experience of the predecessor  
38 employer.

39 (B) An employer, who transfers part of his or its organ-  
40 ization, trade, assets or business to a successor in interest,  
41 whether by merger, consolidation, sale, transfer, descent or

1 otherwise, may jointly make application with such suc-  
2 cessor in interest for transfer of that portion of the  
3 employment experience of the predecessor employer relat-  
4 ing to the portion of the organization, trade, assets,  
5 or business transferred to the successor in interest, in-  
6 cluding credit for past years, contributions paid, annual  
7 payrolls, benefit charges, et cetera, applicable to such  
8 predecessor employer. The division of Employment Security  
9 may allow such transfer of employment experience pur-  
10 suant to regulations adopted by the division, only if  
11 it finds that the employment experience of the prede-  
12 cessor employer with respect to the portion of the or-  
13 ganization, trade, assets or business which has been  
14 transferred may be considered indicative of the future  
15 employment experience of the successor in interest.  
16 Credit shall be given to the successor in interest  
17 only for the years during which contributions were  
18 paid by the predecessor employer with respect to that  
19 part of the organization, trade, assets or business  
20 transferred.

21 (C) A transfer of the employment experience in whole  
22 or in part having become final, the predecessor employer  
23 thereafter shall not be entitled to consideration for an  
24 adjusted rate based upon his or its experience or the  
25 part thereof, as the case may be, which has thus been  
26 transferred. A successor in interest to whom employment  
27 experience or a part thereof is transferred pursuant  
28 to this subsection shall, as of the date of the transfer  
29 of the organization, trade, assets or business, or part  
30 thereof, immediately become an employer if not there-  
31 tofore an employer subject to this chapter (R. S. 43:21-1  
32 et seq.).

33 (d) (1) Contribution of workers; transfers to temporary dis-  
34 ability benefit fund.

35 Each worker shall contribute to the fund  $\frac{3}{4}$  of 1% of his wages  
36 paid by an employer with respect to his employment which occurs  
37 on and after January 1, 1953, and after such employer has satisfied  
38 the conditions set forth in subsection (h) of section 43:21-19 of this  
39 Title with respect to becoming an employer; provided, however,  
40 that such contribution shall be at the rate of  $\frac{1}{4}$  of 1% of wages  
41 paid with respect to employment while the worker is covered by an  
42 approved private plan under the Temporary Disability Benefits  
43 Law or while the worker is exempt from the provisions of the

1 Temporary Disability Benefits Law under section 7 of that law.  
2 Each employer shall, notwithstanding any provisions of law in  
3 this State to the contrary, withhold in trust the amount of his  
4 workers' contributions from their wages at the time such wages  
5 are paid, shall show such deduction on his payroll records, shall  
6 furnish such evidence thereof to his workers as the division may  
7 prescribe, and shall transmit all such contributions, in addition  
8 to his own contributions, to the office of the Division of Employ-  
9 ment Security in such manner and at such times as may be pre-  
10 scribed. If any employer fails to deduct the contributions of any of  
11 his workers at the time their wages are paid, or fails to make a de-  
12 duction therefor at the time wages are paid for the next succeeding  
13 payroll period, he alone shall thereafter be liable for such con-  
14 tributions, and for the purpose of section 43:21-14 of this Title,  
15 such contributions shall be treated as employer's contributions  
16 required from him. As used in this chapter (R. S. 43:21-1 et seq.),  
17 except when the context clearly requires otherwise, the term "con-  
18 tributions" shall include the contributions of workers pursuant  
19 to this section.

20 (2) (A) There shall be deposited in and credited to the State  
21 Disability Benefits Fund, as established by law,  $\frac{3}{4}$  of all worker  
22 contributions, received by the Division of Employment Security  
23 with respect to wages paid prior to January 1, 1953, and upon  
24 which the rate of contributions is 1%.

25 (B) There shall be deposited in and credited to the State Dis-  
26 ability Benefits Fund, as established by law,  $\frac{2}{3}$  of all worker con-  
27 tributions, received by the Division of Employment Security  
28 pursuant to paragraph (1) above after December 31, 1952, with  
29 respect to wages paid on and after January 1, 1953, and upon  
30 which the rate of contributions is  $\frac{3}{4}$  of 1%.

31 (3) If an employee receives wages from more than one employer  
32 during any calendar year [commencing with the calendar year  
33 1953], and either the sum of his contributions deposited in and  
34 credited to the State Disability Benefits Fund (in accordance with  
35 subparagraph (B) of paragraph (2) of this subsection) plus the  
36 amount of his contributions, if any, required towards the cost of  
37 benefits under one or more approved private plans under the pro-  
38 visions of section 9 of the Temporary Disability Benefits Law and  
39 deducted from his wages, or the sum of such latter contributions  
40 if the employee is covered during such calendar year, only by 2  
41 or more private plans, exceeds \$15.00 in any calendar year [com-  
42 mencing on and after January 1, 1953] *prior to January 1, 1968,*  
43 *or \$18.00 in any calendar year commencing on or after January 1,*

1 1968, the employee shall be entitled to a refund of the excess if he  
2 makes claim to the Division of Employment Security within 2  
3 years after the end of the calendar year in which the wages are  
4 received with respect to which the refund is claimed and establishes  
5 his right to such refund. Such refund shall be made by the Division  
6 of Employment Security from the State Disability Benefits Fund.  
7 No interest shall be allowed or paid with respect to any such  
8 refund. The division shall, in accordance with prescribed regula-  
9 tions, determine the portion of the aggregate amount of such re-  
10 funds made during any calendar year which is applicable to private  
11 plans for which deductions were made under section 9 of the  
12 "Temporary Disability Benefits Law," such determination to be  
13 based upon the ratio of the amount of such wages exempt from  
14 contributions to such fund as provided in subparagraph (B) of  
15 paragraph (1) of this subsection with respect to coverage under  
16 private plans to the total wages so exempt plus the amount of  
17 such wages subject to contributions to the disability benefits fund  
18 as provided in subparagraph (B) of paragraph (2) of this sub-  
19 section. The division shall, in accordance with prescribed regula-  
20 tions, prorate the amount so determined among the applicable  
21 private plans in the proportion that the wages covered by each  
22 plan bears to the total private plan wages involved in such refunds,  
23 and shall assess against and recover from the employer, or the  
24 insurer if the insurer has indemnified the employer with respect  
25 thereto, the amount so prorated. The provisions of Revised Stat-  
26 utes, section 43:21-14, with respect to collection of employer con-  
27 tributions shall apply to such assessments. The amounts so  
28 recovered by the division shall be paid into the State Disability  
29 Benefits Fund.

30 (4) If an individual does not receive any wages from the em-  
31 ploying unit which for the purposes of this chapter (R. S. 43:21-1  
32 et seq.) is treated as his employer, or receives his wages from  
33 some other employing unit, such employer shall nevertheless be  
34 liable for such individual's contributions in the first instance; and  
35 after payment thereof such employer may deduct the amount of  
36 such contributions from any sums payable by him to such employ-  
37 ing unit, or may recover the amount of such contributions from  
38 such employing unit, or, in the absence of such an employing unit,  
39 from such individual, in a civil action; provided, proceedings  
40 therefor are instituted within 3 months after the date on which  
41 such contributions are payable. General rules shall be prescribed  
42 whereby such an employing unit may recover the amount of such  
43 contributions from such individuals in the same manner as if it

1 were the employer.

2 (5) Every employer who has elected to become an employer  
3 subject to this chapter (R. S. 43:21-1 et seq.), or to cease to be  
4 an employer subject to this chapter (R. S. 43:21-1 et seq.), pur-  
5 suant to the provisions of section 43:21-8 of this Title, shall post  
6 and maintain printed notices of such election on his premises, of  
7 such design, in such numbers, and at such places as the director  
8 may determine to be necessary to give notice thereof to persons  
9 in his service.

10 (6) Contributions by workers, payable to the Division of Em-  
11 ployment Security as herein provided, shall be exempt from  
12 garnishment, attachment, execution, or any other remedy for the  
13 collection of debts.

14 (e) Contributions by employers to State Disability Benefits  
15 Fund.

16 (1) Except as hereinafter provided, each employer shall, in  
17 addition to the contributions required by subsections (a), (b),  
18 and (c) of this section, contribute  $\frac{1}{4}$  of 1% of the wages paid by  
19 such employer to workers with respect to employment after  
20 January 1, 1949. Such contributions shall become due and be paid  
21 by each employer to the Division of Employment Security for  
22 the State Disability Benefits Fund as established by law, in ac-  
23 cordance with such regulations as may be prescribed, and shall  
24 not be deducted, in whole or in part, from the remuneration of  
25 individuals in his employ. In the payment of any contributions, a  
26 fractional part of a cent shall be disregarded unless it amounts  
27 to  $\frac{1}{2}$  cent or more, in which case it shall be increased to \$0.01.

28 (2) During the continuance of coverage of a worker by an ap-  
29 proved private plan of disability benefits under the Temporary  
30 Disability Benefits Law, the employer shall be exempt from the  
31 contribution required by subparagraph (1) above with respect  
32 to wages paid to such worker.

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

36 (B) A separate disability benefits account shall be maintained  
37 for each employer required to contribute to the State Disability  
38 Benefits Fund and such account shall be credited with contribu-  
39 tions deposited in and credited to such fund with respect to em-  
40 ployment occurring on and after January 1, 1949. Each employer's  
41 account shall be credited with all contributions paid on or before  
42 January 31 of any calendar year on his own behalf and on behalf  
43 of individuals in his service with respect to employment occurring

1 in preceding calendar years; provided, however, that if January  
2 31, of any calendar year falls on a Saturday or Sunday an em-  
3 ployer's account shall be credited as of January 31 of such calendar  
4 year with all the contributions which he has paid on or before  
5 the next succeeding day which is not a Saturday or Sunday. But  
6 nothing in this act shall be construed to grant any employer or  
7 individuals in his service prior claims or rights to the amounts  
8 paid by him to the fund either on his own behalf or on behalf of  
9 such individuals. Benefits paid to any covered individual in ac-  
10 cordance with Article III of the Temporary Disability Benefits  
11 Law on or before December 31 of any calendar year with respect  
12 to disability in such calendar year and in preceding calendar  
13 years shall be charged against the account of the employer by  
14 whom such individual was employed at the commencement of such  
15 disability or by whom he was last employed if out of employment.

16 (C) The division may prescribe regulations for the establish-  
17 ment, maintenance, and dissolution of joint accounts by 2 or more  
18 employers, and shall, in accordance with such regulations and upon  
19 application by 2 or more employers to establish such an account,  
20 or to merge their several individual accounts in a joint account,  
21 maintain such joint account as if it constituted a single employer's  
22 account.

23 (D) Prior to July 1 of each calendar year, the Division of Em-  
24 ployment Security shall make a preliminary determination of the  
25 rate of contribution for the 12 months commencing on such July  
26 1 for each employer subject to the contribution requirements of  
27 this subsection (e).

28 (1) Such preliminary rate shall be  $\frac{1}{4}$  of 1% unless on the pre-  
29 ceding January 31 of such year such employer shall have been a  
30 covered employer who has paid contributions to the State Dis-  
31 ability Benefits Fund with respect to employment in the 3 calendar  
32 years immediately preceding such year.

33 (2) If the minimum requirements in (1) above have been ful-  
34 filled and the credited contributions exceed the benefits charged  
35 by more than \$500.00, such preliminary rate shall be as follows:

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

39 (ii)  $\frac{15}{100}$  of 1% if such excess over \$500.00 equals or exceeds  
40  $1\frac{1}{4}$ % but is less than  $1\frac{1}{2}$ % of his average annual payroll;

41 (iii)  $\frac{1}{10}$  of 1% if such excess over \$500.00 equals or exceeds  
42  $1\frac{1}{2}$ % of his average annual payroll.

43 (3) if the minimum requirements in (1) above have been fulfilled

1 and the contributions credited exceed the benefits charged but by  
2 not more than \$500.00 plus 1% of his average annual payroll, or  
3 if the benefits charged exceed the contributions credited but by  
4 not more than \$500.00, the preliminary rate shall be  $\frac{1}{4}$  of 1%.

5 (4) If the minimum requirements in (1) above have been fulfilled  
6 and the benefits charged exceed the contributions credited by more  
7 than \$500.00, such preliminary rate shall be as follows:

8 (i)  $\frac{35}{100}$  of 1% if such excess over \$500.00 is less than  $\frac{1}{4}$   
9 of 1% of his average annual payroll;

10 (ii)  $\frac{45}{100}$  of 1% if such excess over \$500.00 equals or exceeds  
11  $\frac{1}{4}$  of 1% but is less than  $\frac{1}{2}$  of 1% of his average annual  
12 payroll;

13 (iii)  $\frac{55}{100}$  of 1% if such excess over \$500.00 equals or exceeds  
14  $\frac{1}{2}$  of 1% but less than  $\frac{3}{4}$  of 1% of his average annual payroll;

15 (iv)  $\frac{65}{100}$  of 1% if such excess over \$500.00 equals or exceeds  
16  $\frac{3}{4}$  of 1% but is less than 1% of his average annual payroll;

17 (v)  $\frac{75}{100}$  of 1% if such excess over \$500.00 equals or exceeds  
18 1% of his average annual payroll.

19 (5) Determination of the preliminary rate as specified in (2),  
20 (3) and (4) above shall be subject, however, to the condition that  
21 it shall in no event be decreased by more than  $\frac{1}{10}$  of 1% of wages  
22 or increased by more than  $\frac{2}{10}$  of 1% of wages from the preliminary  
23 rate determined for the preceding year in accordance with (1),  
24 (2), (3) or (4), whichever shall have been applicable.

25 (E) (1) Prior to July 1 of each calendar year the Division of  
26 Employment Security shall determine the amount of the State  
27 Disability Benefits Fund as of December 31 of the preceding  
28 calendar year increased by the contributions paid thereto during  
29 January of the current calendar year with respect to employment  
30 occurring in preceding calendar years. If such amount exceeds  
31 the total of the amounts withdrawn from the unemployment trust  
32 fund pursuant to section 23 of the Temporary Disability Benefits  
33 Law plus the amount at the end of such preceding calendar year  
34 of the unemployment disability account (as defined in section 22  
35 of said law), such excess shall be expressed as a percentage of the  
36 wages on which contributions were paid to the State Disability  
37 Benefits Fund on or before January 31 with respect to employ-  
38 ment in the preceding calendar year.

39 (2) The Division of Employment Security shall then make a final  
40 determination of the rates of contribution for the 12 months com-  
41 mencing July 1 of such year for employers whose preliminary rates  
42 are determined as provided in (D) hereof, as follows:

43 (i) If the percentage determined in accordance with para-

1 graph (1) of this subsection equals or exceeds  $1\frac{1}{4}\%$  the final  
2 employer rates shall be the preliminary rates determined as  
3 provided in (D) hereof, except that if the employer's pre-  
4 liminary rate is determined as provided in (D) (2) or (D) (3)  
5 hereof, the final employer rate shall be the preliminary em-  
6 ployer rate decreased by such percentage of excess taken to  
7 the nearest  $\frac{5}{100}$  of 1%, but in no case shall such final rate be  
8 less than  $\frac{1}{10}$  of 1%.

9 (ii) If the percentage determined in accordance with para-  
10 graph (1) of this subsection equals or exceeds  $\frac{3}{4}$  of 1% and  
11 is less than  $1\frac{1}{4}$  of 1%, the final employer rates shall be the  
12 preliminary employer rates.

13 (iii) If the percentage determined in accordance with para-  
14 graph (1) of this subsection is less than  $\frac{3}{4}$  of 1%, the final  
15 employer rates shall be the preliminary employer rates deter-  
16 mined as provided in (D) hereof increased by the difference  
17 between  $\frac{3}{4}$  of 1% and such percentage taken to the nearest  
18  $\frac{5}{100}$  of 1%; provided, however, that no such final rate shall  
19 be more than  $\frac{1}{4}$  of 1% in the case of an employer whose pre-  
20 liminary rate is determined as provided in (D) (2) hereof,  
21 more than  $\frac{1}{2}$  of 1% in the case of an employer whose pre-  
22 liminary rate is determined as provided in (D) (1) and (D) (3)  
23 hereof, nor more than  $\frac{3}{4}$  of 1% in the case of an employer  
24 whose preliminary rate is determined as provided in (D) (4)  
25 hereof.

26 (iv) If the amount of the State Disability Benefits Fund  
27 determined as provided in paragraph (1) of this subsection  
28 is equal to or less than the total of the amounts withdrawn  
29 from the unemployment trust fund pursuant to section 23 of  
30 the Temporary Disability Benefits Law plus the amount at  
31 the end of the preceding calendar year of the unemployment  
32 disability account, then the final rate shall be  $\frac{3}{4}$  of 1% for  
33 all employers.

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

36 43:21-8. (a) Any employing unit which is or becomes an em-  
37 ployer subject to this chapter (R. S. 43:21-1 et seq.) within any  
38 calendar year shall be subject to this chapter (R. S. 43:21-1 et seq.)  
39 during the whole of such calendar year.

40 (b) Except as otherwise provided in subsection (c) of this  
41 section, an employing unit shall cease to be an employer subject to  
42 this chapter (R. S. 43:21-1 et seq.) only as of January 1 of any  
43 calendar year, if

1 (1) The employing unit files with the Division of Employment  
2 Security prior to February 1 of such year, a written application  
3 for termination of coverage, and the division finds that there were  
4 no 20 different days, each day being in a different week within the  
5 preceding calendar year, within which such employing unit em-  
6 ployed 4 or more individuals in employment subject to this chapter  
7 (R. S. 43:21-1 et seq.) or

8 (2) The division finds that during the 2 calendar years pre-  
9 ceding such January 1, there was no day on which such employing  
10 unit employed one or more individuals in employment subject to  
11 this chapter (R. S. 43:21-1 et seq.).

12 For the purpose of this subsection, the employing units men-  
13 tioned in section 43:21-19 (h) (2) **[or]**, (3) *or* (4) of the Revised  
14 Statutes shall be treated as a single employing unit.

15 (c) (1) An employing unit, not otherwise subject to this chapter  
16 (R. S. 43:21-1 et seq.), which files with the division its written  
17 election to become an employer subject hereto for *not* less than  
18 2 calendar years shall **[with the written approval of such election**  
19 **by the division]** become an employer subject hereto, to the same  
20 extent as all other employers, as of the date of *filing of such election*  
21 *or as of an earlier date if approved by the division* **[stated in such**  
22 **approval; provided, that the division shall not approve such elec-**  
23 **tion by such employing unit to become an employer subject hereto**  
24 **if written objections on the part of a substantial proportion of**  
25 **the individuals in the employ of such unit are presented to the**  
26 **division within 10 days following the filing of such election]**, and  
27 shall cease to be subject to this chapter (R. S. 43:21-1 et seq.) as  
28 of January 1 of any calendar year subsequent to such period of  
29 election, only, if, **[(a)]** prior to February 1, of such calendar year,  
30 such employing unit has filed with the division a written notice  
31 to that effect**[,]** and it meets the conditions for termination of  
32 coverage set forth in subsection (b) hereof.

33 (2) **[Any]** *If an* employing unit for which services *are performed*  
34 *that do not constitute employment as defined in this chapter* (R. S.  
35 43:21-1 et seq.) **[are performed, may file]** *files* with the division  
36 **[a]** *its* written **[notice]** *election* that all such services performed  
37 by individuals in its employ in one or more distinct establishments  
38 or places of business shall be deemed to constitute employment  
39 for all purposes of this chapter (R. S. 43:21-1 et seq.) for not  
40 less than 2 calendar years**[,]** provided written objections on the  
41 part of a substantial proportion of such individuals affected are  
42 not presented to the division within 10 days following the filing  
43 of such election. Upon the written approval of such election by

1 the division,] such services shall be deemed to constitute employ-  
2 ment subject to this chapter (R. S. 43:21-1 et seq.) [from and  
3 after] *as of the date [stated in such approval such services shall*  
4 *be deemed employment] of the filing of such election, or as of an*  
5 *earlier date if approved by the division, and shall cease to be*  
6 subject to this chapter (R. S. 43:21-1 et seq.) as of January 1 of  
7 any calendar year subsequent to such period of election, only, if,  
8 (A) prior to February 1 of such calendar year, such employing  
9 unit has filed with the division a written notice to that effect, or  
10 (B) the division finds that during the 2 calendar years preceding  
11 such January 1, there was no day on which such services were per-  
12 formed for the employing unit.

13 6. Section 1 of chapter 81 of the laws of 1944 (C. 43:21-14.1)  
14 is amended to read as follows:

15 1. Any employee who is paid wages by 2 or more employers  
16 aggregating more than \$3,000.00 during [the year 1947, or] *any*  
17 *calendar year prior to January 1, 1968, or \$3,600.00 during any*  
18 *calendar year [thereafter] commencing on or after January 1,*  
19 *1968 shall be entitled to a refund of [any] the amount of contribu-*  
20 *tions deducted from such wages and paid to the [commission]*  
21 *Division of Employment Security in excess of the contributions*  
22 *required on \$3,000.00 of such wages paid during any calendar year*  
23 *prior to January 1, 1968 or \$3,600.00 during any calendar year*  
24 *commencing on or after January 1, 1968[. Refund under this act*  
25 *may be made in accordance with the provisions of law applicable*  
26 *in the case of erroneous or illegal collection of the contributions];*  
27 *except that no such refund shall be made unless the employee*  
28 *makes a claim, establishing his right thereto, within 2 years after*  
29 *the calendar year in which the wages are paid with respect to*  
30 *which refund of contribution is claimed. No interest shall be*  
31 *allowed or paid with respect to any such refund.*

32 7. Section 43:21-19 of the Revised Statutes is amended to read  
33 as follows:

34 43:21-19. As used in this chapter (R. S. 43:21-1 et seq.), unless  
35 the context clearly requires otherwise:

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

39 (2) "Average annual payroll" means the average of the annual  
40 payrolls of any employer for the last 3 or 5 preceding calendar  
41 years, whichever average is higher, except that any year or years  
42 throughout which an employer has had no "annual payroll" be-  
43 cause of military service shall be deleted from the reckoning;

1 the "average annual payroll" in such case is to be determined on  
2 the basis of the prior 3 or 5 calendar years in each of which the  
3 employer has an "annual payroll" in the operation of his busi-  
4 ness, if the employer resumes his business within 12 months after  
5 separation, discharge or release from such service, under con-  
6 ditions other than dishonorable, and makes application to have  
7 his "average annual payroll" determined on the basis of such  
8 deletion within 12 months after he resumes his business; provided,  
9 however, that "average annual payroll" solely for the purposes  
10 of paragraph (3) of subsection (e) of section 43:21-7 of this Title  
11 means the average of the annual payrolls of any employee on  
12 which he paid contributions to the State disability benefits fund,  
13 for the last 3 or 5 preceding calendar years, whichever average is  
14 higher; provided further, that only those wages be included on  
15 which employer contributions have been paid on or before January  
16 31 (or the next succeeding day if such January 31 is a Saturday  
17 or Sunday) immediately preceding the beginning of the 12 months'  
18 period for which the employer's contribution rate is computed.

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

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

26 (d) "Benefit year" with respect to any individual means the  
27 364 consecutive calendar days beginning with the day on, or as of,  
28 which he first files a valid claim for benefits, and thereafter begin-  
29 ning with the day on, or as of, which the individual next files a  
30 valid claim for benefits after the termination of his last preceding  
31 benefit year. Any claim for benefits made in accordance with sub-  
32 section (a) of section 43:21-6 of this Title shall be deemed to be a  
33 "valid claim" for the purpose of this subsection if (1) no re-  
34 munerated was paid or is payable for the day on which, or as of  
35 which he files a claim for benefits, and no work is available to him  
36 with his current employing unit on such day, or, he is unemployed  
37 for the week in which, or as of which, he files a claim for benefits;  
38 and (2) he has fulfilled the conditions imposed by subsection (e)  
39 of section 43:21-4 of this Title.

40 (e) "Division" means the Division of Employment Security  
41 of the Department of Labor and Industry established by chapter  
42 446, P. L. 1948, and any transaction or exercise of authority by  
43 the director of the division thereunder, or under this chapter

1 (R. S. 43:21-1 et seq.), shall be deemed to be performed by the  
2 division.

3 (f) "Contributions" means the money payments to the State  
4 unemployment compensation fund required by this chapter (R. S.  
5 43:21-1 et seq.).

6 (g) "Employing unit" means any individual or type of organi-  
7 zation, including any partnership, association, trust, estate, joint-  
8 stock company, insurance company or corporation, whether domes-  
9 tic or foreign, or the receiver, trustee in bankruptcy, trustee or  
10 successor thereof, or the legal representative of a deceased person,  
11 which has or subsequent to January 1, 1936, had in its employ one  
12 or more individuals performing services for it within this State.  
13 All individuals performing services within this State for any em-  
14 ploying unit which maintains 2 or more separate establishments  
15 within this State shall be deemed to be employed by a single  
16 employing unit for all the purposes of this chapter (R. S. 43:21-1  
17 et seq.). Whenever any employing unit contracts with or has  
18 under it any contractor or subcontractor for any employment which  
19 is part of its usual trade, occupation, profession, or business,  
20 unless the employing unit as well as each such contractor or sub-  
21 contractor is an employer by reason of subsection (c) of section  
22 43:21-8 of this Title or subsection (h) of this section, the employ-  
23 ing unit shall for all the purposes of this chapter be deemed to  
24 employ each individual in the employ of each such contractor or  
25 subcontractor for each day during which such individual is engaged  
26 in performing such employment; except that each such contractor  
27 or subcontractor who is an employer by reason of subsection (c)  
28 of section 43:21-8 of this Title or subsection (h) of this section,  
29 shall alone be liable for the contributions measured by wages  
30 payable to individuals in his employ, and except that any employ-  
31 ing unit who shall become liable for and pay contributions with  
32 respect to individuals in the employ of any such contractor or  
33 subcontractor who is not an employer by reason of subsection (c)  
34 of section 43:21-8 of this Title or subsection (h) of this section,  
35 may recover the same from such contractor or subcontractor. Each  
36 individual employed to perform or to assist in performing the  
37 work of any agent or employee of an employing unit shall be  
38 deemed to be employed by such employing unit for all the purposes  
39 of this chapter (R. S. 43:21-1 et seq.), whether such individual  
40 was hired or paid directly by such employing unit or by such agent  
41 or employee; provided, the employing unit has actual or construc-  
42 tive knowledge of the work.

43 (h) "Employer" means:

1 (1) Any employing unit which for some portion of a day, but not  
2 necessarily simultaneously, in each of 20 different weeks, whether  
3 or not such weeks are or were consecutive, within either the current  
4 or the preceding calendar year has or had in employment 4 or more  
5 individuals (irrespective of whether the same individuals are or  
6 were employed in such day);

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

12 (3) Any employing unit which acquired the organization, trade  
13 or business, or substantially all the assets thereof, of another em-  
14 ploying unit and which, if treated as a single unit with such other  
15 employing unit, would be an employer under paragraph (1) of this  
16 subsection;

17 (4) Any employing unit which together with one or more other  
18 employing units is owned or controlled (by legally enforceable  
19 means or otherwise), directly or indirectly by the same interests,  
20 or which owns or controls one or more other employing units (by  
21 legally enforceable means or otherwise), and which, if treated as a  
22 single unit with such other employing unit or interest, would be  
23 an employer under paragraph (1) of this subsection;

24 (5) Any employing unit which, having become an employer  
25 under paragraphs (1), (2), (3) or (4) has not, under section 43:21-8  
26 of this chapter (R. S. 43:21-1 et seq.) ceased to be an employer  
27 subject to this chapter (R. S. 43:21-1 et seq.); or

28 (6) For the effective period of its election pursuant to subsection  
29 (c) of section 43:21-8 of this chapter (R. S. 43:21-1 et seq.) any  
30 other employing unit which has elected to become fully subject to  
31 this chapter (R. S. 43:21-1 et seq.).

32 (i) (1) "Employment" means service, including service in inter-  
33 state commerce performed for remuneration or under any contract  
34 of hire, written or oral, express or implied.

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

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

38 (B) The service is not localized in any State but some of  
39 the service is performed in this State, and (i) the base of  
40 operations, or, if there is no base of operations, then the place  
41 from which such service is directed or controlled, is in this  
42 State; or (ii) the base of operations or place from which such  
43 service is directed or controlled is not in any State in which

1       some part of the service is performed, but the individual's  
2       residence is in this State.

3       (3) Services performed within this State but not covered under  
4       paragraph (2) of this subsection shall be deemed to be employ-  
5       ment subject to this chapter (R. S. 43:21-1 et seq.) if contributions  
6       are not required and paid with respect to such services under an  
7       unemployment compensation law of any other State or of the  
8       Federal Government.

9       (4) Services not covered under paragraph (2) of this subsection,  
10      and performed entirely without this State, with respect to no part  
11      of which contributions are required and paid under an unemploy-  
12      ment compensation law of any other State or of the Federal Gov-  
13      ernment, shall be deemed to be employment subject to this chapter  
14      (R. S. 43:21-1 et seq.) if the individual performing such services  
15      is a resident of this State and [the division approves the election  
16      of] the employing unit for whom such services are performed  
17      *files with the division an election* that the entire service of such  
18      individual shall be deemed to be employment subject to this chap-  
19      ter (R. S. 43:21-1 et seq.). [; provided, written objections on the  
20      part of a substantial proportion of such individuals affected are  
21      not presented to the division within 10 days following the filing of  
22      such election.]

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

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

25          (B) the service is performed both within and without such  
26      State, but the service performed without such State is in-  
27      cidental to the individual's service within the State, for ex-  
28      ample, is temporary or transitory in nature or consists of  
29      isolated transactions.

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

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

37          (B) such service is either outside the usual course of the  
38      business for which such service is performed, or that such  
39      service is performed outside of all the places of business of  
40      the enterprise for which such service is performed; and

41          (C) such individual is customarily engaged in an independ-  
42      ently established trade, occupation, profession or business.

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

1 (A) Agricultural labor;

2 (B) Domestic service in a private home;

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

6 (D) Service performed in the employ of this State or of  
7 any political subdivision thereof or of any instrumentality of  
8 this State or its political subdivisions;

9 (E) Service performed in the employ of any other State  
10 or its political subdivisions, or of the United States Govern-  
11 ment, or of an instrumentality of any other State or States  
12 or their political subdivisions or of the United States;

13 (F) Services performed in the employ of a corporation,  
14 community chest, fund, or foundation, organized and operated  
15 exclusively for religious, charitable, scientific, literary, hos-  
16 pital, benevolent, philanthropic, or educational purposes, or  
17 for the prevention of cruelty to children or animals, no part  
18 of the net earnings of which inures to the benefit of any private  
19 shareholder or individual;

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

27 (H) Services performed as an officer or other employee  
28 of any building and loan association of this State, except  
29 where such services constitute the principal employment of  
30 the individual; services performed as an officer or other em-  
31 ployee of any building and loan association where such as-  
32 sociation is a member of the Federal Home Loan Bank System;  
33 services performed as an officer or other employee of any  
34 bank which is a member of the Federal Reserve System;  
35 services performed by a director or member of a committee  
36 of a savings and loan association incorporated or organized  
37 under the laws of this State or of the United States;

38 (I) Service with respect to which unemployment insurance  
39 is payable under an unemployment insurance program estab-  
40 lished by an Act of Congress;

41 (J) Service [heretofore or hereafter] performed by agents  
42 of mutual fund brokers or dealers in the sale of mutual funds or  
43 other securities, by agents of insurance companies, exclusive of

1 industrial agents, or by agents of investment companies, if the  
2 compensation to such agents for such services is wholly on a  
3 commission basis;

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

6 (L) Services performed in the employ of any veterans'  
7 organization chartered by Act of Congress or of any auxiliary  
8 thereof, no part of the net earnings of which organization, or  
9 auxiliary thereof, inures to the benefit of any private share-  
10 holder or individual;

11 (M) Service [heretofore or hereafter] performed for or in  
12 behalf of the owner or operator of any theatre, ballroom,  
13 amusement hall or other place of entertainment, not in excess  
14 of 10 weeks in any calendar year for the same owner or oper-  
15 ator, by any leader or musician of a band or orchestra, com-  
16 monly called a "name band," entertainer, vaudeville artist,  
17 actor, actress, singer or other entertainer;

18 (N) Services performed by an individual for a labor union  
19 organization, known and recognized as a union local, as a  
20 member of a committee or committees reimbursed by the union  
21 local for time lost from regular employment, or as a part-time  
22 officer of a union local and the remuneration for such services  
23 is less than \$250.00 in a calendar year.

24 (O) Services [heretofore or hereafter] performed in the  
25 sale or distribution of merchandise by home-to-home sales-  
26 persons or in-the-home demonstrators whose remuneration  
27 consists wholly of commissions or commissions and bonuses.

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

31 (k) "Fund" means the unemployment compensation fund estab-  
32 lished by this chapter (R. S. 43:21-1 et seq.), to which all contribu-  
33 tions required and from which all benefits provided under this  
34 chapter (R. S. 43:21-1 et seq.) shall be paid.

35 (l) "State" includes, in addition to the States of the United  
36 States of America, the District of Columbia, the Virgin Islands and  
37 Puerto Rico.

38 (m) Unemployment.

39 (1) An individual shall be deemed "unemployed" for any week  
40 during which he is not engaged in full-time work and with respect  
41 to which his remuneration is less than his weekly benefit rate, in-  
42 cluding any week during which he is on vacation without pay;  
43 provided, such vacation is not the result of the individual's volun-  
44 tary action.

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

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

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

13 (o) "Wages" means remuneration paid subsequent to Decem-  
14 ber 31, 1946, by employers for employment; provided, however, that  
15 for eligibility and benefit purposes wages earned but not paid when  
16 the amount thereof has been calculated and is due as determined  
17 by the established and customary practices of the employer shall be  
18 construed as having been paid when earned.

19 (p) "Remuneration" means all compensation for personal  
20 services, including commissions and bonuses and the cash value of  
21 all compensation in any medium other than cash.

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

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

27 (s) "Investment company" means any company as defined in  
28 paragraph 1-a of chapter 322 of the laws of 1938, entitled "An act  
29 concerning investment companies, and supplementing Title 17 of  
30 the Revised Statutes by adding thereto a new chapter entitled  
31 'investment companies.' "

32 (t) "Base week" means any calendar week of an individual's  
33 base year during which he earned in employment from an employer  
34 remuneration equal to not less than \$15.00; provided, if in any  
35 calendar week, an individual is in employment with more than one  
36 employer, he may in such calendar week establish a base week with  
37 respect to each such employer from whom the individual earns  
38 remuneration equal to not less than \$15.00 during such week.

39 (u) "Average weekly wage" means the amount derived by divid-  
40 ing an individual's total wages received during his base year base  
41 weeks (as defined in subsection (t) of this section) from that most  
42 recent base year employer with whom he had established at least 17  
43 base weeks, by the number of base weeks in which such wages were

1 earned. In the event that such claimant had no employer in his  
2 base year with whom he had established at least 17 base weeks,  
3 then such individual's average weekly wage shall be computed as if  
4 all of his base week wages were received from one employer and as  
5 if all his base weeks of employment had been performed in the em-  
6 ploy of one employer.

7 If on application of a claimant it is determined that he has been  
8 employed during at least the 4 weeks immediately preceding his  
9 separation from employment by an employer on a substantially  
10 reduced schedule of weekly hours due to lack of work, all weeks of  
11 substantially reduced schedule within the base period and his wages  
12 therefor shall be disregarded in computing his average weekly  
13 wage.

14 (v) "Initial determination" means, subject to the provisions of  
15 R. S. 43:21-6 (b) (2) and (3), a determination of benefit rights as  
16 measured by an eligible individual's base year employment with a  
17 single employer covering all periods of employment with that em-  
18 ployer during the base year. Subject to the provisions of R. S.  
19 43:21-3 (d) (3) if an individual has been in employment in his base  
20 year with more than one employer, no benefits shall be paid to that  
21 individual under any successive initial determination until his bene-  
22 fit rights have been exhausted under the next preceding initial  
23 determination.

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

27 (x) "Most recent base year employer" means that employer with  
28 whom the individual most recently, in point of time, performed  
29 services in employment in the base year.

30 8. Section 14 of the "Temporary Disability Benefits Law" (P. L.  
31 1948, c. 110), (C. 43:21-38) is amended to read as follows:

32 14. Duration of benefits.

33 [(a) With respect to periods of disability commencing prior to  
34 January 1, 1953, disability benefits shall be payable with respect to  
35 disability which commences while a person is a covered individual  
36 under this act, and shall be payable with respect to the eighth con-  
37 secutive day of such disability and each day thereafter that such  
38 disability continues, but not in excess of the individual's maximum  
39 benefits. The maximum total benefits payable to any eligible in-  
40 dividual in any 12-month period shall be either 26 times his weekly  
41 benefit amount or  $\frac{1}{3}$  of his total wages in the first 4 of the last 5  
42 completed calendar quarters immediately preceding the commence-  
43 ment of the current period of disability, computed to the next

1 highest multiple of \$1.00, if not already a multiple thereof, which-  
 2 ever produces the lesser maximum payment; provided, that in no  
 3 event shall such maximum total benefits be less than 10 times his  
 4 weekly benefit amount.】

5 【(b)】 With respect to periods of disability commencing on or  
 6 after January 1, 1953, disability benefits, *not, in excess of an in-*  
 7 *dividual's maximum benefits*, shall be payable with respect to dis-  
 8 ability which commences while a person is a covered individual  
 9 under 【this act】 *the Temporary Disability Law*, and shall be pay-  
 10 able with respect to the eighth consecutive day of such disability  
 11 and each day thereafter that such *period of disability* continues【,  
 12 but not in excess of the individual's maximum benefits】; *and if*  
 13 *benefits shall be payable for 3 consecutive weeks with respect to any*  
 14 *period of disability commencing on or after January 1, 1968, then*  
 15 *benefits shall also be payable with respect to the first 7 days thereof.*  
 16 The maximum total benefits payable to any eligible individual 【in】  
 17 for any 【12-month】 *period of disability commencing on or after*  
 18 *January 1, 1968*, shall be either 26 times his weekly benefit amount  
 19 【or an amount equal to  $\frac{3}{4}$  of the individual's base weeks occurring  
 20 in the 52 consecutive calendar weeks immediately preceding the  
 21 calendar week in which the period of disability commenced, multi-  
 22 plied by the individual's weekly benefit amount,】 *or 1/3 of his total*  
 23 *wages in his base year*, whichever is the lesser; provided, that such  
 24 maximum amount shall be computed in the next higher multiple of  
 25 \$1.00 if not already a multiple thereof.

26 9. Section 15 of the "Temporary Disability Benefits Law" (P. L.  
 27 1948, c. 110) (C. 43:21-39) is amended to read as follows:

28 15. Limitation of benefits. Notwithstanding any other provision  
 29 of 【this act】 *the Temporary Disability Benefits Law*, no benefits  
 30 shall be payable under the State Plan to any person:

31 (a) for the first 7 consecutive days of each period of disability【,  
 32 or】 *except that if benefits shall be payable for 3 consecutive weeks*  
 33 *with respect to any period of disability commencing on or after*  
 34 *January 1, 1968, then benefits shall also be payable with respect to*  
 35 *the first 7 days thereof;*

36 (b) for more than 26 weeks with respect to any one period of  
 37 disability【, or】;

38 (c) for any period of disability which did not commence while the  
 39 claimant was a covered individual;

40 (d) 【(b)】 for any period during which the claimant is not under  
 41 the care of a legally licensed physician, *dentist, chiropodist or*  
 42 *chiropractor, who, when requested by the division, shall certify*  
 43 *within the scope of his practice, the disability of the claimant, the*

1 *probable duration thereof, and the medical facts within his knowl-*  
2 *edge;*

3 (e) [(e)] for any period of disability due to pregnancy or result-  
4 ing childbirth, miscarriage, or abortion, except for disability exist-  
5 ing during the 4 weeks immediately before the expected birth of  
6 child, and the 4 weeks following the termination of the pregnancy;

7 (f) [(d)] for any period of disability due to willfully and in-  
8 tentiously self-inflicted injury, or to injury sustained in the per-  
9 petration by the claimant of a high misdemeanor;

10 (g) [(e)] for any period during which the claimant performs any  
11 work for remuneration or profit;

12 (h) [(f)] in a weekly amount which together with any remunera-  
13 tion he continues to receive from his employer would exceed his  
14 regular weekly wages immediately prior to disability;

15 (i) [(g)] for any period during which a covered individual would  
16 be disqualified for unemployment compensation benefits under  
17 subsection (d) of section 43:21-5 of the Revised Statutes unless the  
18 disability commenced prior to such disqualification;

19 [(h) for any period of disability commencing prior to January  
20 1, 1949;] and there shall be no other cause of disqualification or  
21 ineligibility to receive disability benefits hereunder except as may  
22 be specifically provided in this act.

23 10. Section 16 of the "Temporary Disability Benefits Law"  
24 (P. L. 1948, c. 110 (C. 43:21-40) is amended to read as follows:

25 16. [(a) With respect to periods of disability commencing prior  
26 to July 1, 1961:

27 (1) The weekly benefit amount of an individual whose average  
28 weekly wage does not exceed \$45.00 shall be determined as  $\frac{2}{3}$  of his  
29 average weekly wage; provided, that such amount shall be com-  
30 puted to the next higher multiple of \$1.00 if not already a multiple  
31 thereof, and shall not be more than \$30.00 nor less than \$10.00.

32 (2) The weekly benefit amount of an individual whose average  
33 weekly wage exceeds \$45.00 shall be determined as \$30.00 plus  $\frac{2}{3}$   
34 of the amount by which his average weekly wage exceeds \$45.00;  
35 provided that such rate shall be computed to the next higher multi-  
36 ple of \$1.00 if not already a multiple thereof, and, shall not be  
37 more than \$35.00. The amount of the benefits for each day of the  
38 disability for which benefits are payable shall be  $\frac{1}{7}$  of the corre-  
39 sponding weekly benefit amount; provided, that the total benefits  
40 for a fractional part of a week shall be computed in the next higher  
41 multiple of \$1.00 if not already a multiple thereof.

42 (b) [(b)] With respect to periods of disability commencing on or after  
43 July 1, 1961, an individual's weekly benefit amount shall be deter-

1 mined and computed by the division on the same basis as the weekly  
2 benefit rate is determined and computed pursuant to section  
3 43:21-3 (e) [(3)] of the Revised Statutes. The amount of benefits  
4 for each day of disability for which benefits are payable shall be  $\frac{1}{4}$   
5 of the corresponding weekly benefit amount; provided, that the  
6 total benefits for a fractional part of a week shall be computed to  
7 the next higher multiple of \$1.00 if not already a multiple thereof.

8 11. Chapter 177 of the laws of 1950 is hereby repealed.

9 12. Notwithstanding any other provision of the act of which this  
10 section 12 is a supplement the term employer as defined in section  
11 43:21-19 (h) of the Revised Statutes and used in the Unemploy-  
12 ment Compensation Law shall be redefined to mean any employing  
13 unit which has in employment one or more individuals defined as  
14 employees under the Unemployment Compensation Law and which  
15 has paid remuneration for employment during any calendar year  
16 beginning January 1, 1969 in the amount of \$1,000.00 or more.

17 13. This act shall take effect on January 1, 1968 provided that  
18 the Commissioner of Labor and Industry may take such adminis-  
19 trative action prior to January 1, 1968 as is necessary to implement  
20 the provisions of this act on January 1, 1968; and further provided  
21 that section 12 of this act shall not take effect until January 1, 1969.