

ASSEMBLY, No. 417

STATE OF NEW JERSEY

INTRODUCED FEBRUARY 13, 1962

By Assemblymen BRADY and KIJEWski

Referred to Committee on Labor and Industrial Relations

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

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

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

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

6 (b) Weekly benefits for unemployment.

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

16 (2) With respect to an individual's benefit year commencing on or  
17 after July 1, 1961, such individual, if eligible and unemployed (as defined

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

18 in subsection (m) of section 43:21-19 of the Revised Statutes), shall be  
19 paid an amount (except as to final payment) equal to his weekly benefit  
20 rate less any remuneration paid or payable to him for such week in  
21 excess of 20% of his weekly benefit rate (fractional part of a dollar  
22 omitted) or \$5.00, whichever is the greater; provided that such amount  
23 shall be computed to the next higher multiple of \$1.00 if not already a  
24 multiple thereof.

25 (c) Weekly benefit rate.

26 (1) With respect to an individual whose benefit year commences  
27 on or after October 1, 1955, and prior to July 1, 1961, and whose aver-  
28 age weekly wage does not exceed \$45.00, his weekly benefit rate under  
29 each benefit determination shall be  $\frac{2}{3}$  of his average weekly wage; pro-  
30 vided, that such rate shall be computed to the next higher multiple of  
31 \$1.00 if not already a multiple thereof, and shall not be more than \$30.00  
32 nor less than \$10.00.

33 (2) With respect to an individual whose benefit year commences on  
34 or after October 1, 1955, and prior to July 1, 1961, and whose average  
35 weekly wage exceeds \$45.00, his weekly benefit rate under each benefit  
36 determination shall be \$30.00 plus  $\frac{2}{3}$  of the amount by which his average  
37 weekly wage exceeds \$45.00; provided, that such rate shall be computed  
38 to the next higher multiple of \$1.00 if not already a multiple thereof, and  
39 shall not be more than \$35.00.

40 (3) With respect to an individual whose benefit year commences  
41 on [and] or after July 1, 1961, his weekly benefit rate under each  
42 benefit determination shall be an amount equal to the weekly benefit  
43 rate set forth in Column B of the table in this paragraph on the line in  
44 which in Column A there appears his average weekly wage:

	Column A Average Weekly Wage	Column B Weekly Benefit Rate
45	\$18.00 or less .....	\$10.00
46	18.01 but not more than \$19.50.....	11.00
47	19.51 but not more than 21.00.....	12.00
48	21.01 but not more than 22.50.....	13.00
49	22.51 but not more than 24.00.....	14.00
50	24.01 but not more than 25.50.....	15.00
51	25.51 but not more than 27.00.....	16.00
52	27.01 but not more than 28.50.....	17.00
53	28.51 but not more than 30.00.....	18.00
54	30.01 but not more than 31.50.....	19.00
55	31.51 but not more than 33.00.....	20.00
56	33.01 but not more than 34.50.....	21.00
57	34.51 but not more than 36.00.....	22.00
58	36.01 but not more than 37.50.....	23.00
59	37.51 but not more than 39.00.....	24.00
60	39.01 but not more than 40.50.....	25.00
61	40.51 but not more than 42.00.....	26.00
62	42.01 but not more than 43.50.....	27.00
63	43.51 but not more than 45.00.....	28.00
64	45.01 but not more than 47.50.....	29.00
65	47.51 but not more than 50.00.....	30.00
66	50.01 but not more than 52.50.....	31.00
67	52.51 but not more than 55.00.....	32.00
68	55.01 but not more than 57.50.....	33.00
69	57.51 but not more than 60.00.....	34.00
70	60.01 but not more than 63.00.....	35.00
71	63.01 but not more than 66.00.....	36.00
72	66.01 but not more than 69.00.....	37.00
73	69.01 but not more than 73.50.....	38.00

	Column A Average Weekly Wage	Column B Weekly Benefit Rate
74	73.51 but not more than 76.00.....	39.00
75	76.01 but not more than 79.00.....	40.00
76	79.01 but not more than 82.00.....	41.00
77	82.01 but not more than 84.00.....	42.00
78	84.01 but not more than 86.00.....	43.00
79	86.01 but not more than 88.00.....	44.00
80	88.01 but not more than 90.00.....	45.00
81	90.01 but not more than 92.00.....	46.00
82	92.01 but not more than 94.00.....	47.00
83	94.01 but not more than 96.00.....	48.00
84	96.01 but not more than 98.00.....	49.00
85	98.01 or more .....	50.00

86 (d) Maximum total benefits.

87 With respect to an individual to whom benefits shall be payable for  
88 benefit years commencing on or after July 1, 1961 as provided in this section:

89 (1) Such individual shall be entitled to receive, under each succes-  
90 sive benefit determination relating to each of his base year employers,  
91 a total amount of benefits equal to  $\frac{3}{4}$  of his base weeks from the employer  
92 in question multiplied by his weekly benefit rate; but [the amount of  
93 benefits thus resulting under any determination made with respect to an  
94 employer] *if the number produced by  $\frac{3}{4}$  of his base weeks is not al-*  
95 *ready a whole number, it shall be adjusted to the next [higher multiple of*  
96 *\$1.00 if not already a multiple thereof] lower whole number if less than*  
97  *$\frac{1}{2}$ , or to the next higher whole number if  $\frac{1}{2}$  or more.*

98 (2) No such individual shall be entitled to receive benefits under  
99 this chapter (R. S. 43:21-1 et seq.) [for more than 26 weeks] *in excess*  
100 *of 26 times his weekly benefit rate* in any benefit year under either of  
101 subsections (c) and (f) of section 43:21-4 of this chapter (R. S. 43:21-1  
102 et seq.). In the event that any individual qualifies for benefits under

103 both of said subsections during any benefit year, the maximum total  
104 amount of benefits payable under said subsections combined to such in-  
105 dividual during the benefit year shall be  $1\frac{1}{2}$  times the maximum amount  
106 of benefits payable under 1 of said subsections.

107 (3) The maximum total benefits of any individual shall be reduced  
108 by an amount equal to 17 times his weekly benefit rate upon the discovery  
109 by the division that such individual illegally received any sum as benefits  
110 contrary to the provisions of this chapter as the result of any false or  
111 fraudulent representation; provided, however, that such reduction shall  
112 apply only to a benefit year in existence at the time of the discovery and  
113 to a benefit year established within 1 year from the time of such discovery.

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

3 43:21-19. As used in this chapter (R. S. 43:21-1 et seq.), unless the con-  
4 text clearly requires otherwise:

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

7 (2) "Average annual payroll" means the average of the annual payrolls  
8 of any employer for the last 3 or 5 preceding calendar years, whichever  
9 average is higher, except that any year or years throughout which an em-  
10 ployer has had no "annual payroll" because of military service shall be de-  
11 leted from the reckoning; the "average annual payroll" in such case is to be  
12 determined on the basis of the prior 3 or 5 calendar years in each of  
13 which the employer had an "annual payroll" in the operation of his business,  
14 if the employer resumes his business within 12 months after separation,  
15 discharge or release from such service, under conditions other than dishonor-  
16 able, and makes application to have his "average annual payroll" determined  
17 on the basis of such deletion within 12 months after he resumes his business;  
18 provided, however, that "average annual payroll" solely for the purposes of  
19 paragraph (3) of subsection (e) of section 43:21-7 of this Title means the  
20 average of the annual payrolls of any employer, on which he paid contribu-

21 tions to the State disability benefits fund, for the last 3 or 5 preceding  
22 calendar years, whichever average is higher; provided further, that only those  
23 wages be included on which employer contributions have been paid on or  
24 before January 31 (or the next succeeding day if such January 31 is a Satur-  
25 day or Sunday) immediately preceding the beginning of the 12 months'  
26 period for which the employer's contribution rate is computed.

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

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

33 (d) "Benefit year" with respect to any individual means the 364 con-  
34 secutive calendar days beginning with the day on, or as of, which he first  
35 files a valid claim for benefits, and thereafter beginning with the day on, or  
36 as of, which the individual next files a valid claim for benefits after the  
37 termination of his last preceding benefit year. Any claim for benefits made  
38 in accordance with subsection (a) of section 43:21-6 of this Title shall be  
39 deemed to be a "valid claim" for the purpose of this subsection if (1) no  
40 remuneration was paid or is payable for the day on which, or as of which he  
41 files a claim for benefits, and no work is available to him with his current  
42 employing unit on such day, or, he is unemployed for the week in which,  
43 or as of which, he files a claim for benefits; and (2) he has fulfilled the condi-  
44 tions imposed by subsection (e) of section 43:21-4 of this Title.

45 (e) "Division" means the Division of Employment Security of the De-  
46 partment of Labor and Industry established by chapter 446, P. L. 1948, and  
47 any transaction or exercise of authority by the director of the division there-  
48 under, or under this chapter (R. S. 43:21-1 et seq.), shall be deemed to be  
49 performed by the division.

50 (f) "Contributions" means the money payments to the State unemploy-  
51 ment compensation fund required by this chapter (R. S. 43:21-1 et seq.).

52 (g) "Employing unit" means any individual or type of organization,  
53 including any partnership, association, trust, estate, joint-stock company,  
54 insurance company or corporation, whether domestic or foreign, or the  
55 receiver, trustee in bankruptcy, trustee or successor thereof, or the legal  
56 representative of a deceased person, which has or subsequent to January 1,  
57 1936, had in its employ 1 or more individuals performing services for it  
58 within this State. All individuals performing services within this State for  
59 any employing unit which maintains 2 or more separate establishments  
60 within this State shall be deemed to be employed by a single employing unit  
61 for all the purposes of this chapter (R. S. 43:21-1 et seq.). Whenever any  
62 employing unit contracts with or has under it any contractor or subcon-  
63 tractor for any employment which is part of its usual trade, occupation,  
64 profession, or business, unless the employing unit as well as each such con-  
65 tractor or subcontractor is an employer by reason of subsection (c) of section  
66 43:21-8 of this Title or subsection (h) of this section, the employing unit  
67 shall for all the purposes of this chapter be deemed to employ each individ-  
68 ual in the employ of each such contractor or subcontractor for each day  
69 during which such individual is engaged in performing such employment; ex-  
70 cept that each such contractor or subcontractor who is an employer by reason  
71 of subsection (c) of section 43:21-8 of this Title or subsection (h) of this  
72 section, shall alone be liable for the contributions measured by wages pay-  
73 able to individuals in his employ, and except that any employing unit who  
74 shall become liable for and pay contributions with respect to individuals in  
75 the employ of any such contractor or subcontractor who is not an employer  
76 by reason of subsection (c) of section 43:21-8 of this Title or subsection (h)  
77 of this section, may recover the same from such contractor or subcontractor.  
78 Each individual employed to perform or to assist in performing the work of  
79 any agent or employee of an employing unit shall be deemed to be employed  
80 by such employing unit for all the purposes of this chapter (R. S. 43:21-1 et  
81 seq.), whether such individual was hired or paid directly by such employing

82 unit or by such agent or employee; provided, the employing unit had  
83 actual or constructive knowledge of the work.

84 (h) "Employer" means:

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

90 (2) Any employing unit (whether or not an employing unit at the time  
91 of acquisition) which acquired the organization, trade or business, or sub-  
92 stantially all the assets thereof, of another which at the time of such acqui-  
93 sition was an employer subject to this chapter (R. S. 43:21-1 et seq.);

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

98 (4) *Any employing unit which together with 1 or more other employing*  
99 *units is owned or controlled (by legally enforceable means or otherwise),*  
100 *directly or indirectly by the same interests, or which owns or controls 1 or*  
101 *more other employing units (by legally enforceable means or otherwise), and*  
102 *which, if treated as a single unit with such other employing unit or interest,*  
103 *would be an employer under paragraph (1) of this subsection;*

104 [(4) Any employing unit which is an instrumentality of the United States  
105 (except such as are wholly or partially owned by the United States, or exempt  
106 from the tax imposed by section 3301 of the Federal Unemployment Tax Act  
107 (26 U. S. C. 3301), as amended, by virtue of any other provisions of law), and  
108 which for some portion of a day in each of 20 different weeks, whether or  
109 not such weeks are or were consecutive, within either the current or the pre-  
110 ceding calendar year, has or had in employment the number of individuals  
111 required to become an employer under paragraph (1) of this subsection, sub-  
112 ject, however, to section 5240 of the Revised Statutes of the United States

113 (12 U. S. C. 484), as amended and modified by subsection (c) of section 3305  
114 of said Federal Unemployment Tax Act as amended; if in any year, this  
115 State shall not be certified under section 3304 of said Federal Unemploy-  
116 ment Tax Act (26 U. S. C. 3304), as amended, any contributions, penalties  
117 and interest required under this chapter (R. S. 43:21-1 et seq.) from any  
118 such instrumentality of the United States, or its employees, with respect to  
119 such year shall be refunded without interest upon application not later than  
120 2 years after the calendar year in which the contributions, penalties and  
121 interest were paid to, or collected by, the division;]

122 (5) Any employing unit which, having become an employer under para-  
123 graphs (1), (2), (3) or (4) has not, under section 43:21-8 of this chapter  
124 (R. S. 43:21-1 et seq.) ceased to be an employer subject to this chapter  
125 (R. S. 43:21-1 et seq.); or

126 (6) For the effective period of its election pursuant to subsection (c)  
127 of section 43:21-8 of this chapter (R. S. 43:21-1 et seq.) any other employ-  
128 ing unit which has elected to become fully subject to this chapter (R. S.  
129 43:21-1 et seq.).

130 (i) (1) "Employment" means service, including service in interstate  
131 commerce performed for remuneration or under any contract of hire, written  
132 or oral, express or implied.

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

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

136 (B) The service is not localized in any State but some of the service  
137 is performed in this State, and (i) the base of operations, or, if there is  
138 no base of operations, then the place from which such service is directed  
139 or controlled, is in this State; or (ii) the base of operations or place  
140 from which such service is directed or controlled is not in any State in  
141 which some part of the service is performed, but the individual's resi-  
142 dence is in this State.

143 (3) Services performed within this State but not covered under para-  
144 graph (2) of this subsection shall be deemed to be employment subject to  
145 this chapter (R. S. 43:21-1 et seq.) if contributions are not required and  
146 paid with respect to such services under an unemployment compensation law  
147 of any other State or of the Federal Government.

148 (4) Services not covered under paragraph (2) of this subsection, and  
149 performed entirely without this State, with respect to no part of which con-  
150 tributions are required and paid under an unemployment compensation law  
151 of any other State or of the Federal Government, shall be deemed to be em-  
152 ployment subject to this chapter (R. S. 43:21-1 et seq.) if the individual  
153 performing such services is a resident of this State and the division approves  
154 the election of the employing unit for whom such services are performed  
155 that the entire service of such individual shall be deemed to be employment  
156 subject to this chapter (R. S. 43:21-1 et seq.); provided, written objections  
157 on the part of a substantial proportion of such individuals affected are not  
158 presented to the division within 10 days following the filing of such election.

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

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

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

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

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

171 (B) such service is either outside the usual course of the business for  
172 which such service is performed, or that such service is performed

173 outside of all the places of business of the enterprise for which such  
174 service is performed; and

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

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

178 (A) Agricultural labor;

179 (B) Domestic service in a private home;

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

183 (D) Service performed in the employ of this State or of any political  
184 subdivision thereof or of any instrumentality of this State or its political  
185 subdivisions;

186 (E) Service performed in the employ of any other State or its  
187 political subdivisions, or of the United States Government, or of an  
188 instrumentality of any other State or States or their political subdivi-  
189 sions or of the United States[, but this subparagraph shall not apply  
190 to an instrumentality of the United States which may become an employer  
191 under R. S. 43:21-19 (h) (5) hereof];

192 (F) Services performed in the employ of a corporation, community  
193 chest, fund, or foundation, organized and operated exclusively for reli-  
194 gious, charitable, scientific, literary, hospital, benevolent, philanthropic,  
195 or educational purposes, or for the prevention of cruelty to children or  
196 animals, no part of the net earnings of which inures to the benefit of any  
197 private shareholder or individual;

198 (G) Services performed in the employ of fraternal beneficiary  
199 societies, orders, or associations operating under the lodge system or for  
200 the exclusive benefit of the members of a fraternity itself operating under  
201 the lodge system and providing for the payment of life, sick, accident,  
202 or other benefits to the members of such society, order, or association,  
203 or their dependents;

204 (H) Services performed as an officer or other employee of any build-  
205 ing and loan association of this State, except where such services  
206 constitute the principal employment of the individual; services performed  
207 as an officer or other employee of any building and loan association  
208 where such association is a member of the Federal Home Loan Bank  
209 System; services performed as an officer or other employee of any bank  
210 which is a member of the Federal Reserve System;

211 (I) Service with respect to which unemployment insurance is pay-  
212 able under an unemployment insurance program established by an Act  
213 of Congress;

214 (J) Service performed by agents of insurance companies, exclusive  
215 of industrial insurance agents, or by agents of investment companies, who  
216 are compensated wholly on a commission basis;

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

219 (L) Services performed in the employ of any veterans' organization  
220 chartered by Act of Congress or of any auxiliary thereof, no part of the  
221 net earnings of which organization, or auxiliary thereof, inures to the  
222 benefit of any private shareholder or individual;

223 (M) Service heretofore or hereafter performed for or in behalf of  
224 the owner or operator of any theatre, ballroom, amusement hall or other  
225 place of entertainment, not in excess of 10 weeks in any calendar year for  
226 the same owner or operator, by any leader or musician of a band or  
227 orchestra, commonly called a "name band," entertainer, vaudeville  
228 artist, actor, actress, singer or other entertainer;

229 (N) Services performed by an individual for a labor union organiza-  
230 tion, known and recognized as a union local, as a member of a com-  
231 mittee or committees reimbursed by the union local for time lost from  
232 regular employment, or as a part-time officer of a union local and the  
233 remuneration for such services is less than \$250.00 in a calendar year.

234 (j) "Employment office" means a free public employment office, or

235 branch thereof operated by this State or maintained as a part of a State-  
236 controlled system of public employment offices.

237 (k) "Fund" means the unemployment compensation fund established  
238 by this chapter (R. S. 43:21-1 et seq.), to which all contributions required and  
239 from which all benefits provided under this chapter (R. S. 43:21-1 et seq.)  
240 shall be paid.

241 (l) "State" includes, in addition to the States of the United States of  
242 America, the District of Columbia.

243 (m) Unemployment.

244 (1) An individual shall be deemed "unemployed" for any week during  
245 which he is not engaged in full-time work and with respect to which his  
246 remuneration is less than his weekly benefit rate, including any week during  
247 which he is on vacation without pay; provided, such vacation is not the result  
248 of the individual's voluntary action.

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

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

257 (n) "Unemployment compensation administration fund" means the un-  
258 employment compensation administration fund established by this chapter  
259 (R. S. 43:21-1 et seq.), from which administrative expenses under this  
260 chapter (R. S. 43:21-1 et seq.) shall be paid.

261 (o) "Wages" means remuneration paid subsequent to December 31, 1946,  
262 by employers for employment; provided, however, that for eligibility and  
263 benefit purposes wages earned but not paid when the amount thereof has been  
264 calculated and is due as determined by the established and customary  
265 practices of the employer shall be construed as having been paid when earned.

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

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

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

273 (s) "Investment company" means any company as defined in paragraph  
274 1-a of chapter 322 of the laws of 1938, entitled "An act concerning invest-  
275 ment companies, and supplementing Title 17 of the Revised Statutes by  
276 adding thereto a new chapter entitled "investment companies."

277 (t) "Base week" means any calendar week of an individual's base year  
278 during which he earned in employment from an employer remuneration equal  
279 to not less than \$15.00; provided, if in any calendar week, an individual is  
280 in employment with more than 1 employer, he may in such calendar week  
281 establish a base week with respect to each such employer from whom the  
282 individual earns remuneration equal to not less than \$15.00 during such week.

283 (u) "Average weekly wage" means the amount derived by dividing an  
284 individual's total wages received during his base year base weeks (as defined  
285 in subsection (t) of this section) from that most recent base year employer  
286 with whom he had established at least 17 base weeks, by the number of base  
287 weeks in which such wages were earned. In the event that such claimant had  
288 no employer in his base year with whom he had established at least 17 base  
289 weeks, then such individual's average weekly wage shall be computed as if  
290 all of his base week wages were received from 1 employer and as if all his  
291 base weeks of employment had been performed in the employ of 1 employer.

292 If on application of a claimant it is determined that he has been employed  
293 during at least the 4 weeks immediately preceding his separation from em-  
294 ployment by an employer on a substantially reduced schedule of weekly hours  
295 due to lack of work, all weeks of substantially reduced schedule within the  
296 base period and his wages therefor shall be disregarded in computing his  
297 average weekly wage.

298 (v) "Initial determination" means, subject to the provisions of R. S.  
299 43:21-6 (b) (2) and (3), a determination of benefit rights as measured by an  
300 eligible individual's base year employment with a single employer covering  
301 all periods of employment with that employer during the base year. Subject  
302 to the provisions of R. S. 43:21-3 (d) (3) if an individual has been in employ-  
303 ment in his base year with more than 1 employer, no benefits shall be paid to  
304 that individual under any successive initial determination until his benefit  
305 rights have been exhausted under the next preceding initial determination.

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

309 (x) "Most recent base year employer" means that employer with whom  
310 the individual most recently, in point of time, performed services in employ-  
311 ment in the base year.

1 3. This act shall take effect immediately.

---

#### STATEMENT

The purpose of this bill is to permit unemployment compensation benefit determinations to be made on the basis of multiples of full weeks and to permit claimants who receive partial benefits to receive as much as 26 times their weekly benefit rates if otherwise eligible;

To repeal the extension of coverage to Federal instrumentalities by the new 19(h)(4) in c. 43, P. L. 1961. (This extension of coverage has been found to be ineffective because of the exception contained in 19(i)(7) and the lack of permission from the Federal Government to extend the disability program to Federal instrumentalities); and

To restore the former 19(h)(4) tacking provision within the framework of the Unemployment Compensation as basic coverage still extends to employers of 4 or more.

ASSEMBLY COMMITTEE AMENDMENT TO

ASSEMBLY, No. 417

---

STATE OF NEW JERSEY

---

ADOPTED APRIL 9, 1962

Amend page 6, section 2, line 30, by deleting "will" and inserting in lieu thereof "with".

[OFFICIAL COPY REPRINT]

ASSEMBLY, No. 417

STATE OF NEW JERSEY

INTRODUCED FEBRUARY 13, 1962

By Assemblymen BRADY and KIJEWski

Referred to Committee on Labor and Industrial Relations

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

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

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

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

6 (b) Weekly benefits for unemployment.

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

16 (2) With respect to an individual's benefit year commencing on or  
17 after July 1, 1961, such individual, if eligible and unemployed (as defined

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

18 in subsection (m) of section 43:21-19 of the Revised Statutes), shall be  
19 paid an amount (except as to final payment) equal to his weekly benefit  
20 rate less any remuneration paid or payable to him for such week in  
21 excess of 20% of his weekly benefit rate (fractional part of a dollar  
22 omitted) or \$5.00, whichever is the greater; provided that such amount  
23 shall be computed to the next higher multiple of \$1.00 if not already a  
24 multiple thereof.

25 (c) Weekly benefit rate.

26 (1) With respect to an individual whose benefit year commences  
27 on or after October 1, 1955, and prior to July 1, 1961, and whose aver-  
28 age weekly wage does not exceed \$45.00, his weekly benefit rate under  
29 each benefit determination shall be  $\frac{2}{3}$  of his average weekly wage; pro-  
30 vided, that such rate shall be computed to the next higher multiple of  
31 \$1.00 if not already a multiple thereof, and shall not be more than \$30.00  
32 nor less than \$10.00.

33 (2) With respect to an individual whose benefit year commences on  
34 or after October 1, 1955, and prior to July 1, 1961, and whose average  
35 weekly wage exceeds \$45.00, his weekly benefit rate under each benefit  
36 determination shall be \$30.00 plus  $\frac{2}{3}$  of the amount by which his average  
37 weekly wage exceeds \$45.00; provided, that such rate shall be computed  
38 to the next higher multiple of \$1.00 if not already a multiple thereof, and  
39 shall not be more than \$35.00.

40 (3) With respect to an individual whose benefit year commences  
41 on [and] or after July 1, 1961, his weekly benefit rate under each  
42 benefit determination shall be an amount equal to the weekly benefit  
43 rate set forth in Column B of the table in this paragraph on the line in  
44 which in Column A there appears his average weekly wage:

	Column A Average Weekly Wage	Column B Weekly Benefit Rate
45	\$18.00 or less .....	\$10.00
46	18.01 but not more than \$19.50.....	11.00
47	19.51 but not more than 21.00.....	12.00
48	21.01 but not more than 22.50.....	13.00
49	22.51 but not more than 24.00.....	14.00
50	24.01 but not more than 25.50.....	15.00
51	25.51 but not more than 27.00.....	16.00
52	27.01 but not more than 28.50.....	17.00
53	28.51 but not more than 30.00.....	18.00
54	30.01 but not more than 31.50.....	19.00
55	31.51 but not more than 33.00.....	20.00
56	33.01 but not more than 34.50.....	21.00
57	34.51 but not more than 36.00.....	22.00
58	36.01 but not more than 37.50.....	23.00
59	37.51 but not more than 39.00.....	24.00
60	39.01 but not more than 40.50.....	25.00
61	40.51 but not more than 42.00.....	26.00
62	42.01 but not more than 43.50.....	27.00
63	43.51 but not more than 45.00.....	28.00
64	45.01 but not more than 47.50.....	29.00
65	47.51 but not more than 50.00.....	30.00
66	50.01 but not more than 52.50.....	31.00
67	52.51 but not more than 55.00.....	32.00
68	55.01 but not more than 57.50.....	33.00
69	57.51 but not more than 60.00.....	34.00
70	60.01 but not more than 63.00.....	35.00
71	63.01 but not more than 66.00.....	36.00
72	66.01 but not more than 69.00.....	37.00
73	69.01 but not more than 73.50.....	38.00

	Column A Average Weekly Wage	Column B Weekly Benefit Rate
74	73.51 but not more than 76.00.....	39.00
75	76.01 but not more than 79.00.....	40.00
76	79.01 but not more than 82.00.....	41.00
77	82.01 but not more than 84.00.....	42.00
78	84.01 but not more than 86.00.....	43.00
79	86.01 but not more than 88.00.....	44.00
80	88.01 but not more than 90.00.....	45.00
81	90.01 but not more than 92.00.....	46.00
82	92.01 but not more than 94.00.....	47.00
83	94.01 but not more than 96.00.....	48.00
84	96.01 but not more than 98.00.....	49.00
85	98.01 or more .....	50.00

86 (d) Maximum total benefits.

87 With respect to an individual to whom benefits shall be payable for  
88 benefit years commencing on or after July 1, 1961 as provided in this section:

89 (1) Such individual shall be entitled to receive, under each succes-  
90 sive benefit determination relating to each of his base year employers,  
91 a total amount of benefits equal to  $\frac{3}{4}$  of his base weeks from the employer  
92 in question multiplied by his weekly benefit rate; but [the amount of  
93 benefits thus resulting under any determination made with respect to an  
94 employer] *if the number produced by  $\frac{3}{4}$  of his base weeks is not al-*  
95 *ready a whole number, it shall be adjusted to the next [higher multiple of*  
96 *\$1.00 if not already a multiple thereof] lower whole number if less than*  
97  *$\frac{1}{2}$ , or to the next higher whole number if  $\frac{1}{2}$  or more.*

98 (2) No such individual shall be entitled to receive benefits under  
99 this chapter (R. S. 43:21-1 et seq.) [for more than 26 weeks] *in excess*  
100 *of 26 times his weekly benefit rate in any benefit year under either of*  
101 *subsections (c) and (f) of section 43:21-4 of this chapter (R. S. 43:21-1*  
102 *et seq.). In the event that any individual qualifies for benefits under*

103 both of said subsections during any benefit year, the maximum total  
104 amount of benefits payable under said subsections combined to such in-  
105 dividual during the benefit year shall be  $1\frac{1}{2}$  times the maximum amount  
106 of benefits payable under 1 of said subsections.

107 (3) The maximum total benefits of any individual shall be reduced  
108 by an amount equal to 17 times his weekly benefit rate upon the discovery  
109 by the division that such individual illegally received any sum as benefits  
110 contrary to the provisions of this chapter as the result of any false or  
111 fraudulent representation; provided, however, that such reduction shall  
112 apply only to a benefit year in existence at the time of the discovery and  
113 to a benefit year established within 1 year from the time of such discovery.

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

3 43:21-19. As used in this chapter (R. S. 43:21-1 et seq.), unless the con-  
4 text clearly requires otherwise:

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

7 (2) "Average annual payroll" means the average of the annual payrolls  
8 of any employer for the last 3 or 5 preceding calendar years, whichever  
9 average is higher, except that any year or years throughout which an em-  
10 ployer has had no "annual payroll" because of military service shall be de-  
11 leted from the reckoning; the "average annual payroll" in such case is to be  
12 determined on the basis of the prior 3 or 5 calendar years in each of  
13 which the employer had an "annual payroll" in the operation of his business,  
14 if the employer resumes his business within 12 months after separation,  
15 discharge or release from such service, under conditions other than dishonor-  
16 able, and makes application to have his "average annual payroll" determined  
17 on the basis of such deletion within 12 months after he resumes his business;  
18 provided, however, that "average annual payroll" solely for the purposes of  
19 paragraph (3) of subsection (e) of section 43:21-7 of this Title means the  
20 average of the annual payrolls of any employer, on which he paid contribu-

21 tions to the State disability benefits fund, for the last 3 or 5 preceding  
22 calendar years, whichever average is higher; provided further, that only those  
23 wages be included on which employer contributions have been paid on or  
24 before January 31 (or the next succeeding day if such January 31 is a Satur-  
25 day or Sunday) immediately preceding the beginning of the 12 months'  
26 period for which the employer's contribution rate is computed.

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

30 (c) "Base year" [will] *with* respect to benefit years commencing on or  
31 after January 1, 1953, shall mean the 52 calendar weeks ending with the  
32 second week immediately preceding an individual's benefit year.

33 (d) "Benefit year" with respect to any individual means the 364 con-  
34 secutive calendar days beginning with the day on, or as of, which he first  
35 files a valid claim for benefits, and thereafter beginning with the day on, or  
36 as of, which the individual next files a valid claim for benefits after the  
37 termination of his last preceding benefit year. Any claim for benefits made  
38 in accordance with subsection (a) of section 43:21-6 of this Title shall be  
39 deemed to be a "valid claim" for the purpose of this subsection if (1) no  
40 remuneration was paid or is payable for the day on which, or as of which he  
41 files a claim for benefits, and no work is available to him with his current  
42 employing unit on such day, or, he is unemployed for the week in which,  
43 or as of which, he files a claim for benefits; and (2) he has fulfilled the condi-  
44 tions imposed by subsection (e) of section 43:21-4 of this Title.

45 (e) "Division" means the Division of Employment Security of the De-  
46 partment of Labor and Industry established by chapter 446, P. L. 1948, and  
47 any transaction or exercise of authority by the director of the division there-  
48 under, or under this chapter (R. S. 43:21-1 et seq.), shall be deemed to be  
49 performed by the division.

50 (f) "Contributions" means the money payments to the State unemploy-  
51 ment compensation fund required by this chapter (R. S. 43:21-1 et seq.).

52 (g) "Employing unit" means any individual or type of organization,  
53 including any partnership, association, trust, estate, joint-stock company,  
54 insurance company or corporation, whether domestic or foreign, or the  
55 receiver, trustee in bankruptcy, trustee or successor thereof, or the legal  
56 representative of a deceased person, which has or subsequent to January 1,  
57 1936, had in its employ 1 or more individuals performing services for it  
58 within this State. All individuals performing services within this State for  
59 any employing unit which maintains 2 or more separate establishments  
60 within this State shall be deemed to be employed by a single employing unit  
61 for all the purposes of this chapter (R. S. 43:21-1 et seq.). Whenever any  
62 employing unit contracts with or has under it any contractor or subcon-  
63 tractor for any employment which is part of its usual trade, occupation,  
64 profession, or business, unless the employing unit as well as each such con-  
65 tractor or subcontractor is an employer by reason of subsection (c) of section  
66 43:21-8 of this Title or subsection (h) of this section, the employing unit  
67 shall for all the purposes of this chapter be deemed to employ each individ-  
68 ual in the employ of each such contractor or subcontractor for each day  
69 during which such individual is engaged in performing such employment; ex-  
70 cept that each such contractor or subcontractor who is an employer by reason  
71 of subsection (c) of section 43:21-8 of this Title or subsection (h) of this  
72 section, shall alone be liable for the contributions measured by wages pay-  
73 able to individuals in his employ, and except that any employing unit who  
74 shall become liable for and pay contributions with respect to individuals in  
75 the employ of any such contractor or subcontractor who is not an employer  
76 by reason of subsection (c) of section 43:21-8 of this Title or subsection (h)  
77 of this section, may recover the same from such contractor or subcontractor.  
78 Each individual employed to perform or to assist in performing the work of  
79 any agent or employee of an employing unit shall be deemed to be employed  
80 by such employing unit for all the purposes of this chapter (R. S. 43:21-1 et  
81 seq.), whether such individual was hired or paid directly by such employing

82 unit or by such agent or employee; provided, the employing unit had  
83 actual or constructive knowledge of the work.

84 (h) "Employer" means:

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

90 (2) Any employing unit (whether or not an employing unit at the time  
91 of acquisition) which acquired the organization, trade or business, or sub-  
92 stantially all the assets thereof, of another which at the time of such acqui-  
93 sition was an employer subject to this chapter (R. S. 43:21-1 et seq.);

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

98 (4) *Any employing unit which together with 1 or more other employing*  
99 *units is owned or controlled (by legally enforceable means or otherwise),*  
100 *directly or indirectly by the same interests, or which owns or controls 1 or*  
101 *more other employing units (by legally enforceable means or otherwise), and*  
102 *which, if treated as a single unit with such other employing unit or interest,*  
103 *would be an employer under paragraph (1) of this subsection;*

104 [(4) Any employing unit which is an instrumentality of the United States  
105 (except such as are wholly or partially owned by the United States, or exempt  
106 from the tax imposed by section 3301 of the Federal Unemployment Tax Act  
107 (26 U. S. C. 3301), as amended, by virtue of any other provisions of law), and  
108 which for some portion of a day in each of 20 different weeks, whether or  
109 not such weeks are or were consecutive, within either the current or the pre-  
110 ceding calendar year, has or had in employment the number of individuals  
111 required to become an employer under paragraph (1) of this subsection, sub-  
112 ject, however, to section 5240 of the Revised Statutes of the United States

113 (12 U. S. C. 484), as amended and modified by subsection (c) of section 3305  
114 of said Federal Unemployment Tax Act as amended; if in any year, this  
115 State shall not be certified under section 3304 of said Federal Unemploy-  
116 ment Tax Act (26 U. S. C. 3304), as amended, any contributions, penalties  
117 and interest required under this chapter (R. S. 43:21-1 et seq.) from any  
118 such instrumentality of the United States, or its employees, with respect to  
119 such year shall be refunded without interest upon application not later than  
120 2 years after the calendar year in which the contributions, penalties and  
121 interest were paid to, or collected by, the division;]

122 (5) Any employing unit which, having become an employer under para-  
123 graphs (1), (2), (3) or (4) has not, under section 43:21-8 of this chapter  
124 (R. S. 43:21-1 et seq.) ceased to be an employer subject to this chapter  
125 (R. S. 43:21-1 et seq.); or

126 (6) For the effective period of its election pursuant to subsection (c)  
127 of section 43:21-8 of this chapter (R. S. 43:21-1 et seq.) any other employ-  
128 ing unit which has elected to become fully subject to this chapter (R. S.  
129 43:21-1 et seq.).

130 (i) (1) "Employment" means service, including service in interstate  
131 commerce performed for remuneration or under any contract of hire, written  
132 or oral, express or implied.

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

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

136 (B) The service is not localized in any State but some of the service  
137 is performed in this State, and (i) the base of operations, or, if there is  
138 no base of operations, then the place from which such service is directed  
139 or controlled, is in this State; or (ii) the base of operations or place  
140 from which such service is directed or controlled is not in any State in  
141 which some part of the service is performed, but the individual's resi-  
142 dence is in this State.

143 (3) Services performed within this State but not covered under para-  
144 graph (2) of this subsection shall be deemed to be employment subject to  
145 this chapter (R. S. 43:21-1 et seq.) if contributions are not required and  
146 paid with respect to such services under an unemployment compensation law  
147 of any other State or of the Federal Government.

148 (4) Services not covered under paragraph (2) of this subsection, and  
149 performed entirely without this State, with respect to no part of which con-  
150 tributions are required and paid under an unemployment compensation law  
151 of any other State or of the Federal Government, shall be deemed to be em-  
152 ployment subject to this chapter (R. S. 43:21-1 et seq.) if the individual  
153 performing such services is a resident of this State and the division approves  
154 the election of the employing unit for whom such services are performed  
155 that the entire service of such individual shall be deemed to be employment  
156 subject to this chapter (R. S. 43:21-1 et seq.); provided, written objections  
157 on the part of a substantial proportion of such individuals affected are not  
158 presented to the division within 10 days following the filing of such election.

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

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

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

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

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

171 (B) such service is either outside the usual course of the business for  
172 which such service is performed, or that such service is performed

173 outside of all the places of business of the enterprise for which such  
174 service is performed; and

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

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

178 (A) Agricultural labor;

179 (B) Domestic service in a private home;

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

183 (D) Service performed in the employ of this State or of any political  
184 subdivision thereof or of any instrumentality of this State or its political  
185 subdivisions;

186 (E) Service performed in the employ of any other State or its  
187 political subdivisions, or of the United States Government, or of an  
188 instrumentality of any other State or States or their political subdivi-  
189 sions or of the United States[, but this subparagraph shall not apply  
190 to an instrumentality of the United States which may become an employer  
191 under R. S. 43:21-19 (h) (5) hereof];

192 (F) Services performed in the employ of a corporation, community  
193 chest, fund, or foundation, organized and operated exclusively for reli-  
194 gious, charitable, scientific, literary, hospital, benevolent, philanthropic,  
195 or educational purposes, or for the prevention of cruelty to children or  
196 animals, no part of the net earnings of which inures to the benefit of any  
197 private shareholder or individual;

198 (G) Services performed in the employ of fraternal beneficiary  
199 societies, orders, or associations operating under the lodge system or for  
200 the exclusive benefit of the members of a fraternity itself operating under  
201 the lodge system and providing for the payment of life, sick, accident,  
202 or other benefits to the members of such society, order, or association,  
203 or their dependents;

204 (H) Services performed as an officer or other employee of any build-  
205 ing and loan association of this State, except where such services  
206 constitute the principal employment of the individual; services performed  
207 as an officer or other employee of any building and loan association  
208 where such association is a member of the Federal Home Loan Bank  
209 System; services performed as an officer or other employee of any bank  
210 which is a member of the Federal Reserve System;

211 (I) Service with respect to which unemployment insurance is pay-  
212 able under an unemployment insurance program established by an Act  
213 of Congress;

214 (J) Service performed by agents of insurance companies, exclusive  
215 of industrial insurance agents, or by agents of investment companies, who  
216 are compensated wholly on a commission basis;

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

219 (L) Services performed in the employ of any veterans' organization  
220 chartered by Act of Congress or of any auxiliary thereof, no part of the  
221 net earnings of which organization, or auxiliary thereof, inures to the  
222 benefit of any private shareholder or individual;

223 (M) Service heretofore or hereafter performed for or in behalf of  
224 the owner or operator of any theatre, ballroom, amusement hall or other  
225 place of entertainment, not in excess of 10 weeks in any calendar year for  
226 the same owner or operator, by any leader or musician of a band or  
227 orchestra, commonly called a "name band," entertainer, vaudeville  
228 artist, actor, actress, singer or other entertainer;

229 (N) Services performed by an individual for a labor union organiza-  
230 tion, known and recognized as a union local, as a member of a com-  
231 mittee or committees reimbursed by the union local for time lost from  
232 regular employment, or as a part-time officer of a union local and the  
233 remuneration for such services is less than \$250.00 in a calendar year.

234 (j) "Employment office" means a free public employment office, or

235 branch thereof operated by this State or maintained as a part of a State-  
236 controlled system of public employment offices.

237 (k) "Fund" means the unemployment compensation fund established  
238 by this chapter (R. S. 43:21-1 et seq.), to which all contributions required and  
239 from which all benefits provided under this chapter (R. S. 43:21-1 et seq.)  
240 shall be paid.

241 (l) "State" includes, in addition to the States of the United States of  
242 America, the District of Columbia.

243 (m) Unemployment.

244 (1) An individual shall be deemed "unemployed" for any week during  
245 which he is not engaged in full-time work and with respect to which his  
246 remuneration is less than his weekly benefit rate, including any week during  
247 which he is on vacation without pay; provided, such vacation is not the result  
248 of the individual's voluntary action.

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

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

257 (n) "Unemployment compensation administration fund" means the un-  
258 employment compensation administration fund established by this chapter  
259 (R. S. 43:21-1 et seq.), from which administrative expenses under this  
260 chapter (R. S. 43:21-1 et seq.) shall be paid.

261 (o) "Wages" means remuneration paid subsequent to December 31, 1946,  
262 by employers for employment; provided, however, that for eligibility and  
263 benefit purposes wages earned but not paid when the amount thereof has been  
264 calculated and is due as determined by the established and customary  
265 practices of the employer shall be construed as having been paid when earned.

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

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

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

273 (s) "Investment company" means any company as defined in paragraph  
274 1-a of chapter 322 of the laws of 1938, entitled "An act concerning invest-  
275 ment companies, and supplementing Title 17 of the Revised Statutes by  
276 adding thereto a new chapter entitled 'investment companies.' "

277 (t) "Base week" means any calendar week of an individual's base year  
278 during which he earned in employment from an employer remuneration equal  
279 to not less than \$15.00; provided, if in any calendar week, an individual is  
280 in employment with more than 1 employer, he may in such calendar week  
281 establish a base week with respect to each such employer from whom the  
282 individual earns remuneration equal to not less than \$15.00 during such week.

283 (u) "Average weekly wage" means the amount derived by dividing an  
284 individual's total wages received during his base year base weeks (as defined  
285 in subsection (t) of this section) from that most recent base year employer  
286 with whom he had established at least 17 base weeks, by the number of base  
287 weeks in which such wages were earned. In the event that such claimant had  
288 no employer in his base year with whom he had established at least 17 base  
289 weeks, then such individual's average weekly wage shall be computed as if  
290 all of his base week wages were received from 1 employer and as if all his  
291 base weeks of employment had been performed in the employ of 1 employer.

292 If on application of a claimant it is determined that he has been employed  
293 during at least the 4 weeks immediately preceding his separation from em-  
294 ployment by an employer on a substantially reduced schedule of weekly hours  
295 due to lack of work, all weeks of substantially reduced schedule within the  
296 base period and his wages therefor shall be disregarded in computing his  
297 average weekly wage.

298 (v) "Initial determination" means, subject to the provisions of R. S.  
299 43:21-6 (b) (2) and (3), a determination of benefit rights as measured by an  
300 eligible individual's base year employment with a single employer covering  
301 all periods of employment with that employer during the base year. Subject  
302 to the provisions of R. S. 43:21-3 (d) (3) if an individual has been in employ-  
303 ment in his base year with more than 1 employer, no benefits shall be paid to  
304 that individual under any successive initial determination until his benefit  
305 rights have been exhausted under the next preceding initial determination.

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

309 (x) "Most recent base year employer" means that employer with whom  
310 the individual most recently, in point of time, performed services in employ-  
311 ment in the base year.

1 3. This act shall take effect immediately.

ASSEMBLY AMENDMENT TO  
**ASSEMBLY, No. 417**

---

**STATE OF NEW JERSEY**

---

ADOPTED APRIL 16, 1962

Amend page 12, section 2, line 214, following "of" insert "mutual fund  
brokers-dealers or".

[SECOND OFFICIAL COPY REPRINT]

ASSEMBLY, No. 417

STATE OF NEW JERSEY

INTRODUCED FEBRUARY 13, 1962

By Assemblymen BRADY and KIJEWSKI

Referred to Committee on Labor and Industrial Relations

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

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

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

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

6 (b) Weekly benefits for unemployment.

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

16 (2) With respect to an individual's benefit year commencing on or  
17 after July 1, 1961, such individual, if eligible and unemployed (as defined

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

18 in subsection (m) of section 43:21-19 of the Revised Statutes), shall be  
19 paid an amount (except as to final payment) equal to his weekly benefit  
20 rate less any remuneration paid or payable to him for such week in  
21 excess of 20% of his weekly benefit rate (fractional part of a dollar  
22 omitted) or \$5.00, whichever is the greater; provided that such amount  
23 shall be computed to the next higher multiple of \$1.00 if not already a  
24 multiple thereof.

25 (c) Weekly benefit rate.

26 (1) With respect to an individual whose benefit year commences  
27 on or after October 1, 1955, and prior to July 1, 1961, and whose aver-  
28 age weekly wage does not exceed \$45.00, his weekly benefit rate under  
29 each benefit determination shall be  $\frac{2}{3}$  of his average weekly wage; pro-  
30 vided, that such rate shall be computed to the next higher multiple of  
31 \$1.00 if not already a multiple thereof, and shall not be more than \$30.00  
32 nor less than \$10.00.

33 (2) With respect to an individual whose benefit year commences on  
34 or after October 1, 1955, and prior to July 1, 1961, and whose average  
35 weekly wage exceeds \$45.00, his weekly benefit rate under each benefit  
36 determination shall be \$30.00 plus  $\frac{2}{3}$  of the amount by which his average  
37 weekly wage exceeds \$45.00; provided, that such rate shall be computed  
38 to the next higher multiple of \$1.00 if not already a multiple thereof, and  
39 shall not be more than \$35.00.

40 (3) With respect to an individual whose benefit year commences  
41 on [and] *or* after July 1, 1961, his weekly benefit rate under each  
42 benefit determination shall be an amount equal to the weekly benefit  
43 rate set forth in Column B of the table in this paragraph on the line in  
44 which in Column A there appears his average weekly wage:

	Column A Average Weekly Wage	Column B Weekly Benefit Rate
45	\$18.00 or less .....	\$10.00
46	18.01 but not more than \$19.50.....	11.00
47	19.51 but not more than 21.00.....	12.00
48	21.01 but not more than 22.50.....	13.00
49	22.51 but not more than 24.00.....	14.00
50	24.01 but not more than 25.50.....	15.00
51	25.51 but not more than 27.00.....	16.00
52	27.01 but not more than 28.50.....	17.00
53	28.51 but not more than 30.00.....	18.00
54	30.01 but not more than 31.50.....	19.00
55	31.51 but not more than 33.00.....	20.00
56	33.01 but not more than 34.50.....	21.00
57	34.51 but not more than 36.00.....	22.00
58	36.01 but not more than 37.50.....	23.00
59	37.51 but not more than 39.00.....	24.00
60	39.01 but not more than 40.50.....	25.00
61	40.51 but not more than 42.00.....	26.00
62	42.01 but not more than 43.50.....	27.00
63	43.51 but not more than 45.00.....	28.00
64	45.01 but not more than 47.50.....	29.00
65	47.51 but not more than 50.00.....	30.00
66	50.01 but not more than 52.50.....	31.00
67	52.51 but not more than 55.00.....	32.00
68	55.01 but not more than 57.50.....	33.00
69	57.51 but not more than 60.00.....	34.00
70	60.01 but not more than 63.00.....	35.00
71	63.01 but not more than 66.00.....	36.00
72	66.01 but not more than 69.00.....	37.00
73	69.01 but not more than 73.50.....	38.00

	Column A Average Weekly Wage	Column B Weekly Benefit Rate
74	73.51 but not more than 76.00.....	39.00
75	76.01 but not more than 79.00.....	40.00
76	79.01 but not more than 82.00.....	41.00
77	82.01 but not more than 84.00.....	42.00
78	84.01 but not more than 86.00.....	43.00
79	86.01 but not more than 88.00.....	44.00
80	88.01 but not more than 90.00.....	45.00
81	90.01 but not more than 92.00.....	46.00
82	92.01 but not more than 94.00.....	47.00
83	94.01 but not more than 96.00.....	48.00
84	96.01 but not more than 98.00.....	49.00
85	98.01 or more .....	50.00

86 (d) Maximum total benefits.

87 With respect to an individual to whom benefits shall be payable for  
88 benefit years commencing on or after July 1, 1961 as provided in this section:

89 (1) Such individual shall be entitled to receive, under each succes-  
90 sive benefit determination relating to each of his base year employers,  
91 a total amount of benefits equal to  $\frac{3}{4}$  of his base weeks from the employer  
92 in question multiplied by his weekly benefit rate; but [the amount of  
93 benefits thus resulting under any determination made with respect to an  
94 employer] *if the number produced by  $\frac{3}{4}$  of his base weeks is not al-*  
95 *ready a whole number, it shall be adjusted to the next [higher multiple of*  
96 *\$1.00 if not already a multiple thereof] lower whole number if less than*  
97  *$\frac{1}{2}$ , or to the next higher whole number if  $\frac{1}{2}$  or more.*

98 (2) No such individual shall be entitled to receive benefits under  
99 this chapter (R. S. 43:21-1 et seq.) [for more than 26 weeks] *in excess*  
100 *of 26 times his weekly benefit rate* in any benefit year under either of  
101 subsections (c) and (f) of section 43:21-4 of this chapter (R. S. 43:21-1  
102 et seq.). In the event that any individual qualifies for benefits under

103 both of said subsections during any benefit year, the maximum total  
104 amount of benefits payable under said subsections combined to such in-  
105 dividual during the benefit year shall be 1½ times the maximum amount  
106 of benefits payable under 1 of said subsections.

107 (3) The maximum total benefits of any individual shall be reduced  
108 by an amount equal to 17 times his weekly benefit rate upon the discovery  
109 by the division that such individual illegally received any sum as benefits  
110 contrary to the provisions of this chapter as the result of any false or  
111 fraudulent representation; provided, however, that such reduction shall  
112 apply only to a benefit year in existence at the time of the discovery and  
113 to a benefit year established within 1 year from the time of such discovery.

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

3 43:21-19. As used in this chapter (R. S. 43:21-1 et seq.), unless the con-  
4 text clearly requires otherwise:

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

7 (2) "Average annual payroll" means the average of the annual payrolls  
8 of any employer for the last 3 or 5 preceding calendar years, whichever  
9 average is higher, except that any year or years throughout which an em-  
10 ployer has had no "annual payroll" because of military service shall be de-  
11 leted from the reckoning; the "average annual payroll" in such case is to be  
12 determined on the basis of the prior 3 or 5 calendar years in each of  
13 which the employer had an "annual payroll" in the operation of his business,  
14 if the employer resumes his business within 12 months after separation,  
15 discharge or release from such service, under conditions other than dishonor-  
16 able, and makes application to have his "average annual payroll" determined  
17 on the basis of such deletion within 12 months after he resumes his business;  
18 provided, however, that "average annual payroll" solely for the purposes of  
19 paragraph (3) of subsection (e) of section 43:21-7 of this Title means the  
20 average of the annual payrolls of any employer, on which he paid contribu-

21 tions to the State disability benefits fund, for the last 3 or 5 preceding  
22 calendar years, whichever average is higher; provided further, that only those  
23 wages be included on which employer contributions have been paid on or  
24 before January 31 (or the next succeeding day if such January 31 is a Satur-  
25 day or Sunday) immediately preceding the beginning of the 12 months'  
26 period for which the employer's contribution rate is computed.

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

30 (c) "Base year" [will] *with* respect to benefit years commencing on or  
31 after January 1, 1953, shall mean the 52 calendar weeks ending with the  
32 second week immediately preceding an individual's benefit year.

33 (d) "Benefit year" with respect to any individual means the 364 con-  
34 secutive calendar days beginning with the day on, or as of, which he first  
35 files a valid claim for benefits, and thereafter beginning with the day on, or  
36 as of, which the individual next files a valid claim for benefits after the  
37 termination of his last preceding benefit year. Any claim for benefits made  
38 in accordance with subsection (a) of section 43:21-6 of this Title shall be  
39 deemed to be a "valid claim" for the purpose of this subsection if (1) no  
40 remuneration was paid or is payable for the day on which, or as of which he  
41 files a claim for benefits, and no work is available to him with his current  
42 employing unit on such day, or, he is unemployed for the week in which,  
43 or as of which, he files a claim for benefits; and (2) he has fulfilled the condi-  
44 tions imposed by subsection (e) of section 43:21-4 of this Title.

45 (e) "Division" means the Division of Employment Security of the De-  
46 partment of Labor and Industry established by chapter 446, P. L. 1948, and  
47 any transaction or exercise of authority by the director of the division there-  
48 under, or under this chapter (R. S. 43:21-1 et seq.), shall be deemed to be  
49 performed by the division.

50 (f) "Contributions" means the money payments to the State unemploy-  
51 ment compensation fund required by this chapter (R. S. 43:21-1 et seq.).

52 (g) "Employing unit" means any individual or type of organization,  
53 including any partnership, association, trust, estate, joint-stock company,  
54 insurance company or corporation, whether domestic or foreign, or the  
55 receiver, trustee in bankruptcy, trustee or successor thereof, or the legal  
56 representative of a deceased person, which has or subsequent to January 1,  
57 1936, had in its employ 1 or more individuals performing services for it  
58 within this State. All individuals performing services within this State for  
59 any employing unit which maintains 2 or more separate establishments  
60 within this State shall be deemed to be employed by a single employing unit  
61 for all the purposes of this chapter (R. S. 43:21-1 et seq.). Whenever any  
62 employing unit contracts with or has under it any contractor or subcon-  
63 tractor for any employment which is part of its usual trade, occupation,  
64 profession, or business, unless the employing unit as well as each such con-  
65 tractor or subcontractor is an employer by reason of subsection (c) of section  
66 43:21-8 of this Title or subsection (h) of this section, the employing unit  
67 shall for all the purposes of this chapter be deemed to employ each individ-  
68 ual in the employ of each such contractor or subcontractor for each day  
69 during which such individual is engaged in performing such employment; ex-  
70 cept that each such contractor or subcontractor who is an employer by reason  
71 of subsection (c) of section 43:21-8 of this Title or subsection (h) of this  
72 section, shall alone be liable for the contributions measured by wages pay-  
73 able to individuals in his employ, and except that any employing unit who  
74 shall become liable for and pay contributions with respect to individuals in  
75 the employ of any such contractor or subcontractor who is not an employer  
76 by reason of subsection (c) of section 43:21-8 of this Title or subsection (h)  
77 of this section, may recover the same from such contractor or subcontractor.  
78 Each individual employed to perform or to assist in performing the work of  
79 any agent or employee of an employing unit shall be deemed to be employed  
80 by such employing unit for all the purposes of this chapter (R. S. 43:21-1 et  
81 seq.), whether such individual was hired or paid directly by such employing

82 unit or by such agent or employee; provided, the employing unit had  
83 actual or constructive knowledge of the work.

84 (h) "Employer" means:

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

90 (2) Any employing unit (whether or not an employing unit at the time  
91 of acquisition) which acquired the organization, trade or business, or sub-  
92 stantially all the assets thereof, of another which at the time of such acqui-  
93 sition was an employer subject to this chapter (R. S. 43:21-1 et seq.);

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

98 (4) *Any employing unit which together with 1 or more other employing*  
99 *units is owned or controlled (by legally enforceable means or otherwise),*  
100 *directly or indirectly by the same interests, or which owns or controls 1 or*  
101 *more other employing units (by legally enforceable means or otherwise), and*  
102 *which, if treated as a single unit with such other employing unit or interest,*  
103 *would be an employer under paragraph (1) of this subsection;*

104 [(4) Any employing unit which is an instrumentality of the United States  
105 (except such as are wholly or partially owned by the United States, or exempt  
106 from the tax imposed by section 3301 of the Federal Unemployment Tax Act  
107 (26 U. S. C. 3301), as amended, by virtue of any other provisions of law), and  
108 which for some portion of a day in each of 20 different weeks, whether or  
109 not such weeks are or were consecutive, within either the current or the pre-  
110 ceding calendar year, has or had in employment the number of individuals  
111 required to become an employer under paragraph (1) of this subsection, sub-  
112 ject, however, to section 5240 of the Revised Statutes of the United States

113 (12 U. S. C. 484), as amended and modified by subsection (c) of section 3305  
114 of said Federal Unemployment Tax Act as amended; if in any year, this  
115 State shall not be certified under section 3304 of said Federal Unemploy-  
116 ment Tax Act (26 U. S. C. 3304), as amended, any contributions, penalties  
117 and interest required under this chapter (R. S. 43:21-1 et seq.) from any  
118 such instrumentality of the United States, or its employees, with respect to  
119 such year shall be refunded without interest upon application not later than  
120 2 years after the calendar year in which the contributions, penalties and  
121 interest were paid to, or collected by, the division;]

122 (5) Any employing unit which, having become an employer under para-  
123 graphs (1), (2), (3) or (4) has not, under section 43:21-8 of this chapter  
124 (R. S. 43:21-1 et seq.) ceased to be an employer subject to this chapter  
125 (R. S. 43:21-1 et seq.); or

126 (6) For the effective period of its election pursuant to subsection (c)  
127 of section 43:21-8 of this chapter (R. S. 43:21-1 et seq.) any other employ-  
128 ing unit which has elected to become fully subject to this chapter (R. S.  
129 43:21-1 et seq.).

130 (i) (1) "Employment" means service, including service in interstate  
131 commerce performed for remuneration or under any contract of hire, written  
132 or oral, express or implied.

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

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

136 (B) The service is not localized in any State but some of the service  
137 is performed in this State, and (i) the base of operations, or, if there is  
138 no base of operations, then the place from which such service is directed  
139 or controlled, is in this State; or (ii) the base of operations or place  
140 from which such service is directed or controlled is not in any State in  
141 which some part of the service is performed, but the individual's resi-  
142 dence is in this State.

143 (3) Services performed within this State but not covered under para-  
144 graph (2) of this subsection shall be deemed to be employment subject to  
145 this chapter (R. S. 43:21-1 et seq.) if contributions are not required and  
146 paid with respect to such services under an unemployment compensation law  
147 of any other State or of the Federal Government.

148 (4) Services not covered under paragraph (2) of this subsection, and  
149 performed entirely without this State, with respect to no part of which con-  
150 tributions are required and paid under an unemployment compensation law  
151 of any other State or of the Federal Government, shall be deemed to be em-  
152 ployment subject to this chapter (R. S. 43:21-1 et seq.) if the individual  
153 performing such services is a resident of this State and the division approves  
154 the election of the employing unit for whom such services are performed  
155 that the entire service of such individual shall be deemed to be employment  
156 subject to this chapter (R. S. 43:21-1 et seq.); provided, written objections  
157 on the part of a substantial proportion of such individuals affected are not  
158 presented to the division within 10 days following the filing of such election.

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

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

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

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

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

171 (B) such service is either outside the usual course of the business for  
172 which such service is performed, or that such service is performed

173 outside of all the places of business of the enterprise for which such  
174 service is performed; and

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

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

178 (A) Agricultural labor;

179 (B) Domestic service in a private home;

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

183 (D) Service performed in the employ of this State or of any political  
184 subdivision thereof or of any instrumentality of this State or its political  
185 subdivisions;

186 (E) Service performed in the employ of any other State or its  
187 political subdivisions, or of the United States Government, or of an  
188 instrumentality of any other State or States or their political subdivi-  
189 sions or of the United States[, but this subparagraph shall not apply  
190 to an instrumentality of the United States which may become an employer  
191 under R. S. 43:21-19 (h) (5) hereof];

192 (F) Services performed in the employ of a corporation, community  
193 chest, fund, or foundation, organized and operated exclusively for reli-  
194 gious, charitable, scientific, literary, hospital, benevolent, philanthropic,  
195 or educational purposes, or for the prevention of cruelty to children or  
196 animals, no part of the net earnings of which inures to the benefit of any  
197 private shareholder or individual;

198 (G) Services performed in the employ of fraternal beneficiary  
199 societies, orders, or associations operating under the lodge system or for  
200 the exclusive benefit of the members of a fraternity itself operating under  
201 the lodge system and providing for the payment of life, sick, accident,  
202 or other benefits to the members of such society, order, or association,  
203 or their dependents;

204 (H) Services performed as an officer or other employee of any build- 235  
 205 ing and loan association of this State, except where such services 236  
 206 constitute the principal employment of the individual; services performed 237  
 207 as an officer or other employee of any building and loan association 238  
 208 where such association is a member of the Federal Home Loan Bank 239  
 209 System; services performed as an officer or other employee of any bank 240  
 210 which is a member of the Federal Reserve System; 241

211 (I) Service with respect to which unemployment insurance is pay- 242  
 212 able under an unemployment insurance program established by an Act 243  
 213 of Congress; 244

214 (J) Service performed by agents of *mutual fund brokers-dealers or* 245  
 215 insurance companies, exclusive of industrial insurance agents, or by agents 246  
 216 of investment companies, who are compensated wholly on a commission 247  
 216A basis; 248

217 (K) Services performed by real estate salesmen or brokers who are 249  
 218 compensated wholly on a commission basis; 250

219 (L) Services performed in the employ of any veterans' organization 251  
 220 chartered by Act of Congress or of any auxiliary thereof, no part of the 252  
 221 net earnings of which organization, or auxiliary thereof, inures to the 253  
 222 benefit of any private shareholder or individual; 254

223 (M) Service heretofore or hereafter performed for or in behalf of 255  
 224 the owner or operator of any theatre, ballroom, amusement hall or other 256  
 225 place of entertainment, not in excess of 10 weeks in any calendar year for 257  
 226 the same owner or operator, by any leader or musician of a band or 258  
 227 orchestra, commonly called a "name band," entertainer, vaudeville 259  
 228 artist, actor, actress, singer or other entertainer; 260

229 (N) Services performed by an individual for a labor union organiza- 261  
 230 tion, known and recognized as a union local, as a member of a com- 262  
 231 mittee or committees reimbursed by the union local for time lost from 263  
 232 regular employment, or as a part-time officer of a union local and the 264  
 233 remuneration for such services is less than \$250.00 in a calendar year. 265

234 (j) "Employment office" means a free public employment office, or

235 branch thereof operated by this State or maintained as a part of a State-  
236 controlled system of public employment offices.

237 (k) "Fund" means the unemployment compensation fund established  
238 by this chapter (R. S. 43:21-1 et seq.), to which all contributions required and  
239 from which all benefits provided under this chapter (R. S. 43:21-1 et seq.)  
240 shall be paid.

241 (l) "State" includes, in addition to the States of the United States of  
242 America, the District of Columbia.

243 (m) Unemployment.

244 (1) An individual shall be deemed "unemployed" for any week during  
245 which he is not engaged in full-time work and with respect to which his  
246 remuneration is less than his weekly benefit rate, including any week during  
247 which he is on vacation without pay; provided, such vacation is not the result  
248 of the individual's voluntary action.

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

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

257 (n) "Unemployment compensation administration fund" means the un-  
258 employment compensation administration fund established by this chapter  
259 (R. S. 43:21-1 et seq.), from which administrative expenses under this  
260 chapter (R. S. 43:21-1 et seq.) shall be paid.

261 (o) "Wages" means remuneration paid subsequent to December 31, 1946,  
262 by employers for employment; provided, however, that for eligibility and  
263 benefit purposes wages earned but not paid when the amount thereof has been  
264 calculated and is due as determined by the established and customary  
265 practices of the employer shall be construed as having been paid when earned.

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

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

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

273 (s) "Investment company" means any company as defined in paragraph  
274 1-a of chapter 322 of the laws of 1938, entitled "An act concerning invest-  
275 ment companies, and supplementing Title 17 of the Revised Statutes by  
276 adding thereto a new chapter entitled 'investment companies.' "

277 (t) "Base week" means any calendar week of an individual's base year  
278 during which he earned in employment from an employer remuneration equal  
279 to not less than \$15.00; provided, if in any calendar week, an individual is  
280 in employment with more than 1 employer, he may in such calendar week  
281 establish a base week with respect to each such employer from whom the  
282 individual earns remuneration equal to not less than \$15.00 during such week.

283 (u) "Average weekly wage" means the amount derived by dividing an  
284 individual's total wages received during his base year base weeks (as defined  
285 in subsection (t) of this section) from that most recent base year employer  
286 with whom he had established at least 17 base weeks, by the number of base  
287 weeks in which such wages were earned. In the event that such claimant had  
288 no employer in his base year with whom he had established at least 17 base  
289 weeks, then such individual's average weekly wage shall be computed as if  
290 all of his base week wages were received from 1 employer and as if all his  
291 base weeks of employment had been performed in the employ of 1 employer.

292 If on application of a claimant it is determined that he has been employed  
293 during at least the 4 weeks immediately preceding his separation from em-  
294 ployment by an employer on a substantially reduced schedule of weekly hours  
295 due to lack of work, all weeks of substantially reduced schedule within the  
296 base period and his wages therefor shall be disregarded in computing his  
297 average weekly wage.

298 (v) "Initial determination" means, subject to the provisions of R. S.  
299 43:21-6 (b) (2) and (3), a determination of benefit rights as measured by an  
300 eligible individual's base year employment with a single employer covering  
301 all periods of employment with that employer during the base year. Subject  
302 to the provisions of R. S. 43:21-3 (d) (3) if an individual has been in employ-  
303 ment in his base year with more than 1 employer, no benefits shall be paid to  
304 that individual under any successive initial determination until his benefit  
305 rights have been exhausted under the next preceding initial determination.

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

309 (x) "Most recent base year employer" means that employer with whom  
310 the individual most recently, in point of time, performed services in employ-  
311 ment in the base year.

1 3. This act shall take effect immediately.

ASSEMBLY AMENDMENTS TO

**ASSEMBLY, No. 417**

[SECOND OFFICIAL COPY REPRINT]

---

**STATE OF NEW JERSEY**

---

ADOPTED APRIL 30, 1962

Amend page 1, title, lines 1-2, delete "sections 43:21-3 and", and insert in lieu thereof "section".

Amend pages 1-5, section 1, lines 1-113, delete section 1 in its entirety.

Amend page 5, section 2, line 1, delete "2", and insert in lieu thereof "1".

Amend page 12, section 2, line 214, following "Service", insert "heretofore or hereafter".

Amend page 15, section 3, line 1, delete "3", and insert in lieu thereof "2".

ASSEMBLY, No. 417

STATE OF NEW JERSEY

INTRODUCED FEBRUARY 13, 1962

By Assemblymen BRADY and KIJEWSKI

Referred to Committee on Labor and Industrial Relations

AN ACT concerning unemployment compensation and amending [sections 43:21-3 and] section 43:21-19 of the Revised Statutes.

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

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

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

6 (b) Weekly benefits for unemployment.

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

16 (2) With respect to an individual's benefit year commencing on or  
17 after July 1, 1961, such individual, if eligible and unemployed (as defined

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

18 in subsection (m) of section 43:21-19 of the Revised Statutes), shall be  
19 paid an amount (except as to final payment) equal to his weekly benefit  
20 rate less any remuneration paid or payable to him for such week in  
21 excess of 20% of his weekly benefit rate (fractional part of a dollar  
22 omitted) or \$5.00, whichever is the greater; provided that such amount  
23 shall be computed to the next higher multiple of \$1.00 if not already a  
24 multiple thereof.

25 (c) Weekly benefit rate.

26 (1) With respect to an individual whose benefit year commences  
27 on or after October 1, 1955, and prior to July 1, 1961, and whose aver-  
28 age weekly wage does not exceed \$45.00, his weekly benefit rate under  
29 each benefit determination shall be  $\frac{2}{3}$  of his average weekly wage; pro-  
30 vided, that such rate shall be computed to the next higher multiple of  
31 \$1.00 if not already a multiple thereof, and shall not be more than \$30.00  
32 nor less than \$10.00.

33 (2) With respect to an individual whose benefit year commences on  
34 or after October 1, 1955, and prior to July 1, 1961, and whose average  
35 weekly wage exceeds \$45.00, his weekly benefit rate under each benefit  
36 determination shall be \$30.00 plus  $\frac{1}{3}$  of the amount by which his average  
37 weekly wage exceeds \$45.00; provided, that such rate shall be computed  
38 to the next higher multiple of \$1.00 if not already a multiple thereof, and  
39 shall not be more than \$35.00.

40 (3) With respect to an individual whose benefit year commences  
41 on [and] or after July 1, 1961, his weekly benefit rate under each  
42 benefit determination shall be an amount equal to the weekly benefit  
43 rate set forth in Column B of the table in this paragraph on the line in  
44 which in Column A there appears his average weekly wage:

	Column A Average Weekly Wage	Column B Weekly Benefit Rate
45	\$18.00 or less .....	\$10.00
46	18.01 but not more than \$19.50.....	11.00
47	19.51 but not more than 21.00.....	12.00
48	21.01 but not more than 22.50.....	13.00
49	22.51 but not more than 24.00.....	14.00
50	24.01 but not more than 25.50.....	15.00
51	25.51 but not more than 27.00.....	16.00
52	27.01 but not more than 28.50.....	17.00
53	28.51 but not more than 30.00.....	18.00
54	30.01 but not more than 31.50.....	19.00
55	31.51 but not more than 33.00.....	20.00
56	33.01 but not more than 34.50.....	21.00
57	34.51 but not more than 36.00.....	22.00
58	36.01 but not more than 37.50.....	23.00
59	37.51 but not more than 39.00.....	24.00
60	39.01 but not more than 40.50.....	25.00
61	40.51 but not more than 42.00.....	26.00
62	42.01 but not more than 43.50.....	27.00
63	43.51 but not more than 45.00.....	28.00
64	45.01 but not more than 47.50.....	29.00
65	47.51 but not more than 50.00.....	30.00
66	50.01 but not more than 52.50.....	31.00
67	52.51 but not more than 55.00.....	32.00
68	55.01 but not more than 57.50.....	33.00
69	57.51 but not more than 60.00.....	34.00
70	60.01 but not more than 63.00.....	35.00
71	63.01 but not more than 66.00.....	36.00
72	66.01 but not more than 69.00.....	37.00
73	69.01 but not more than 73.50.....	38.00

	Column A Average Weekly Wage	Column B Weekly Benefit Rate
74	73.51 but not more than 76.00.....	39.00
75	76.01 but not more than 79.00.....	40.00
76	79.01 but not more than 82.00.....	41.00
77	82.01 but not more than 84.00.....	42.00
78	84.01 but not more than 86.00.....	43.00
79	86.01 but not more than 88.00.....	44.00
80	88.01 but not more than 90.00.....	45.00
81	90.01 but not more than 92.00.....	46.00
82	92.01 but not more than 94.00.....	47.00
83	94.01 but not more than 96.00.....	48.00
84	96.01 but not more than 98.00*.....	49.00
85	98.01 or more .....	50.00

86 (d) Maximum total benefits.

87 With respect to an individual to whom benefits shall be payable for  
88 benefit years commencing on or after July 1, 1961 as provided in this section:

89 (1) Such individual shall be entitled to receive, under each succes-  
90 sive benefit determination relating to each of his base year employers,  
91 a total amount of benefits equal to  $\frac{3}{4}$  of his base weeks from the employer  
92 in question multiplied by his weekly benefit rate; but [the amount of  
93 benefits thus resulting under any determination made with respect to an  
94 employer] *if the number produced by  $\frac{3}{4}$  of his base weeks is not al-  
95 ready a whole number, it shall be adjusted to the next [higher multiple of  
96 \$1.00 if not already a multiple thereof] lower whole number if less than  
97  $\frac{1}{2}$ , or to the next higher whole number if  $\frac{1}{2}$  or more.*

98 (2) No such individual shall be entitled to receive benefits under  
99 this chapter (R. S. 43:21-1 et seq.) [for more than 26 weeks] *in excess  
100 of 26 times his weekly benefit rate* in any benefit year under either of  
101 subsections (c) and (f) of section 43:21-4 of this chapter (R. S. 43:21-1  
102 et seq.). In the event that any individual qualifies for benefits under

103 both of said subsections during any benefit year, the maximum total  
104 amount of benefits payable under said subsections combined to such in-  
105 dividual during the benefit year shall be 1½ times the maximum amount  
106 of benefits payable under 1 of said subsections.

107 (3) The maximum total benefits of any individual shall be reduced  
108 by an amount equal to 17 times his weekly benefit rate upon the discovery  
109 by the division that such individual illegally received any sum as benefits  
110 contrary to the provisions of this chapter as the result of any false or  
111 fraudulent representation; provided, however, that such reduction shall  
112 apply only to a benefit year in existence at the time of the discovery and  
113 to a benefit year established within 1 year from the time of such discovery.]

1 [2.] 1. Section 43:21-19 of the Revised Statutes is amended to read as  
2 follows:

3 43:21-19. As used in this chapter (R. S. 43:21-1 et seq.), unless the con-  
4 text clearly requires otherwise:

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

7 (2) "Average annual payroll" means the average of the annual payrolls  
8 of any employer for the last 3 or 5 preceding calendar years, whichever  
9 average is higher, except that any year or years throughout which an em-  
10 ployer has had no "annual payroll" because of military service shall be de-  
11 leted from the reckoning; the "average annual payroll" in such case is to be  
12 determined on the basis of the prior 3 or 5 calendar years in each of  
13 which the employer had an "annual payroll" in the operation of his business,  
14 if the employer resumes his business within 12 months after separation,  
15 discharge or release from such service, under conditions other than dishonor-  
16 able, and makes application to have his "average annual payroll" determined  
17 on the basis of such deletion within 12 months after he resumes his business;  
18 provided, however, that "average annual payroll" solely for the purposes of  
19 paragraph (3) of subsection (e) of section 43:21-7 of this Title means the  
20 average of the annual payrolls of any employer, on which he paid contribu-

21 tions to the State disability benefits fund, for the last 3 or 5 preceding  
22 calendar years, whichever average is higher; provided further, that only those  
23 wages be included on which employer contributions have been paid on or  
24 before January 31 (or the next succeeding day if such January 31 is a Satur-  
25 day or Sunday) immediately preceding the beginning of the 12 months'  
26 period for which the employer's contribution rate is computed.

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

30 (c) "Base year" [will] *with* respect to benefit years commencing on or  
31 after January 1, 1953, shall mean the 52 calendar weeks ending with the  
32 second week immediately preceding an individual's benefit year.

33 (d) "Benefit year" with respect to any individual means the 364 con-  
34 secutive calendar days beginning with the day on, or as of, which he first  
35 files a valid claim for benefits, and thereafter beginning with the day on, or  
36 as of, which the individual next files a valid claim for benefits after the  
37 termination of his last preceding benefit year. Any claim for benefits made  
38 in accordance with subsection (a) of section 43:21-6 of this Title shall be  
39 deemed to be a "valid claim" for the purpose of this subsection if (1) no  
40 remuneration was paid or is payable for the day on which, or as of which he  
41 files a claim for benefits, and no work is available to him with his current  
42 employing unit on such day, or, he is unemployed for the week in which,  
43 or as of which, he files a claim for benefits; and (2) he has fulfilled the condi-  
44 tions imposed by subsection (e) of section 43:21-4 of this Title.

45 (e) "Division" means the Division of Employment Security of the De-  
46 partment of Labor and Industry established by chapter 446, P. L. 1948, and  
47 any transaction or exercise of authority by the director of the division there-  
48 under, or under this chapter (R. S. 43:21-1 et seq.), shall be deemed to be  
49 performed by the division.

50 (f) "Contributions" means the money payments to the State unemploy-  
51 ment compensation fund required by this chapter (R. S. 43:21-1 et seq.).

52 (g) "Employing unit" means any individual or type of organization,  
53 including any partnership, association, trust, estate, joint-stock company,  
54 insurance company or corporation, whether domestic or foreign, or the  
55 receiver, trustee in bankruptcy, trustee or successor thereof, or the legal  
56 representative of a deceased person, which has or subsequent to January 1,  
57 1936, had in its employ 1 or more individuals performing services for it  
58 within this State. All individuals performing services within this State for  
59 any employing unit which maintains 2 or more separate establishments  
60 within this State shall be deemed to be employed by a single employing unit  
61 for all the purposes of this chapter (R. S. 43:21-1 et seq.). Whenever any  
62 employing unit contracts with or has under it any contractor or subcon-  
63 tractor for any employment which is part of its usual trade, occupation,  
64 profession, or business, unless the employing unit as well as each such con-  
65 tractor or subcontractor is an employer by reason of subsection (c) of section  
66 43:21-8 of this Title or subsection (h) of this section, the employing unit  
67 shall for all the purposes of this chapter be deemed to employ each individ-  
68 ual in the employ of each such contractor or subcontractor for each day  
69 during which such individual is engaged in performing such employment; ex-  
70 cept that each such contractor or subcontractor who is an employer by reason  
71 of subsection (c) of section 43:21-8 of this Title or subsection (h) of this  
72 section, shall alone be liable for the contributions measured by wages pay-  
73 able to individuals in his employ, and except that any employing unit who  
74 shall become liable for and pay contributions with respect to individuals in  
75 the employ of any such contractor or subcontractor who is not an employer  
76 by reason of subsection (c) of section 43:21-8 of this Title or subsection (h)  
77 of this section, may recover the same from such contractor or subcontractor.  
78 Each individual employed to perform or to assist in performing the work of  
79 any agent or employee of an employing unit shall be deemed to be employed  
80 by such employing unit for all the purposes of this chapter (R. S. 43:21-1 et  
81 seq.), whether such individual was hired or paid directly by such employing

82 unit or by such agent or employee; provided, the employing unit had  
83 actual or constructive knowledge of the work.

84 (h) "Employer" means:

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

90 (2) Any employing unit (whether or not an employing unit at the time  
91 of acquisition) which acquired the organization, trade or business, or sub-  
92 stantially all the assets thereof, of another which at the time of such acqui-  
93 sition was an employer subject to this chapter (R. S. 43:21-1 et seq.);

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

98 (4) *Any employing unit which together with 1 or more other employing*  
99 *units is owned or controlled (by legally enforceable means or otherwise),*  
100 *directly or indirectly by the same interests, or which owns or controls 1 or*  
101 *more other employing units (by legally enforceable means or otherwise), and*  
102 *which, if treated as a single unit with such other employing unit or interest,*  
103 *would be an employer under paragraph (1) of this subsection;*

104 [(4) Any employing unit which is an instrumentality of the United States  
105 (except such as are wholly or partially owned by the United States, or exempt  
106 from the tax imposed by section 3301 of the Federal Unemployment Tax Act  
107 (26 U. S. C. 3301), as amended, by virtue of any other provisions of law), and  
108 which for some portion of a day in each of 20 different weeks, whether or  
109 not such weeks are or were consecutive, within either the current or the pre-  
110 ceding calendar year, has or had in employment the number of individuals  
111 required to become an employer under paragraph (1) of this subsection, sub-  
112 ject, however, to section 5240 of the Revised Statutes of the United States

113 (12 U. S. C. 484), as amended and modified by subsection (c) of section 3305  
114 of said Federal Unemployment Tax Act as amended; if in any year, this  
115 State shall not be certified under section 3304 of said Federal Unemploy-  
116 ment Tax Act (26 U. S. C. 3304), as amended, any contributions, penalties  
117 and interest required under this chapter (R. S. 43:21-1 et seq.) from any  
118 such instrumentality of the United States, or its employees, with respect to  
119 such year shall be refunded without interest upon application not later than  
120 2 years after the calendar year in which the contributions, penalties and  
121 interest were paid to, or collected by, the division;]

122 (5) Any employing unit which, having become an employer under para-  
123 graphs (1), (2), (3) or (4) has not, under section 43:21-8 of this chapter  
124 (R. S. 43:21-1 et seq.) ceased to be an employer subject to this chapter  
125 (R. S. 43:21-1 et seq.); or

126 (6) For the effective period of its election pursuant to subsection (c)  
127 of section 43:21-8 of this chapter (R. S. 43:21-1 et seq.) any other employ-  
128 ing unit which has elected to become fully subject to this chapter (R. S.  
129 43:21-1 et seq.).

130 (i) (1) "Employment" means service, including service in interstate  
131 commerce performed for remuneration or under any contract of hire, written  
132 or oral, express or implied.

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

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

136 (B) The service is not localized in any State but some of the service  
137 is performed in this State, and (i) the base of operations, or, if there is  
138 no base of operations, then the place from which such service is directed  
139 or controlled, is in this State; or (ii) the base of operations or place  
140 from which such service is directed or controlled is not in any State in  
141 which some part of the service is performed, but the individual's resi-  
142 dence is in this State.

143 (3) Services performed within this State but not covered under para-  
144 graph (2) of this subsection shall be deemed to be employment subject to  
145 this chapter (R. S. 43:21-1 et seq.) if contributions are not required and  
146 paid with respect to such services under an unemployment compensation law  
147 of any other State or of the Federal Government.

148 (4) Services not covered under paragraph (2) of this subsection, and  
149 performed entirely without this State, with respect to no part of which con-  
150 tributions are required and paid under an unemployment compensation law  
151 of any other State or of the Federal Government, shall be deemed to be em-  
152 ployment subject to this chapter (R. S. 43:21-1 et seq.) if the individual  
153 performing such services is a resident of this State and the division approves  
154 the election of the employing unit for whom such services are performed  
155 that the entire service of such individual shall be deemed to be employment  
156 subject to this chapter (R. S. 43:21-1 et seq.); provided, written objections  
157 on the part of a substantial proportion of such individuals affected are not  
158 presented to the division within 10 days following the filing of such election.

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

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

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

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

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

171 (B) such service is either outside the usual course of the business for  
172 which such service is performed, or that such service is performed

173 outside of all the places of business of the enterprise for which such  
174 service is performed; and

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

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

178 (A) Agricultural labor;

179 (B) Domestic service in a private home;

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

183 (D) Service performed in the employ of this State or of any political  
184 subdivision thereof or of any instrumentality of this State or its political  
185 subdivisions;

186 (E) Service performed in the employ of any other State or its  
187 political subdivisions, or of the United States Government, or of an  
188 instrumentality of any other State or States or their political subdivi-  
189 sions or of the United States[, but this subparagraph shall not apply  
190 to an instrumentality of the United States which may become an employer  
191 under R. S. 43:21-19 (h) (5) hereof];

192 (F) Services performed in the employ of a corporation, community  
193 chest, fund, or foundation, organized and operated exclusively for reli-  
194 gious, charitable, scientific, literary, hospital, benevolent, philanthropic,  
195 or educational purposes, or for the prevention of cruelty to children or  
196 animals, no part of the net earnings of which inures to the benefit of any  
197 private shareholder or individual;

198 (G) Services performed in the employ of fraternal beneficiary  
199 societies, orders, or associations operating under the lodge system or for  
200 the exclusive benefit of the members of a fraternity itself operating under  
201 the lodge system and providing for the payment of life, sick, accident,  
202 or other benefits to the members of such society, order, or association,  
203 or their dependents;

204 (H) Services performed as an officer or other employee of any build-  
205 ing and loan association of this State, except where such services  
206 constitute the principal employment of the individual; services performed  
207 as an officer or other employee of any building and loan association  
208 where such association is a member of the Federal Home Loan Bank  
209 System; services performed as an officer or other employee of any bank  
210 which is a member of the Federal Reserve System;

211 (I) Service with respect to which unemployment insurance is pay-  
212 able under an unemployment insurance program established by an Act  
213 of Congress;

214 (J) Service *heretofore or hereafter* performed by agents of *mutual*  
215 *fund brokers-dealers* or insurance companies, exclusive of industrial in-  
216 surance agents, or by agents of investment companies, who are compen-  
216A sated wholly on a commission basis;

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

219 (L) Services performed in the employ of any veterans' organization  
220 chartered by Act of Congress or of any auxiliary thereof, no part of the  
221 net earnings of which organization, or auxiliary thereof, inures to the  
222 benefit of any private shareholder or individual;

223 (M) Service heretofore or hereafter performed for or in behalf of  
224 the owner or operator of any theatre, ballroom, amusement hall or other  
225 place of entertainment, not in excess of 10 weeks in any calendar year for  
226 the same owner or operator, by any leader or musician of a band or  
227 orchestra, commonly called a "name band," entertainer, vaudeville  
228 artist, actor, actress, singer or other entertainer;

229 (N) Services performed by an individual for a labor union organiza-  
230 tion, known and recognized as a union local, as a member of a com-  
231 mittee or committees reimbursed by the union local for time lost from  
232 regular employment, or as a part-time officer of a union local and the  
233 remuneration for such services is less than \$250.00 in a calendar year.

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

237 (k) "Fund" means the unemployment compensation fund established  
238 by this chapter (R. S. 43:21-1 et seq.), to which all contributions required and  
239 from which all benefits provided under this chapter (R. S. 43:21-1 et seq.)  
240 shall be paid.

241 (l) "State" includes, in addition to the States of the United States of  
242 America, the District of Columbia.

243 (m) Unemployment.

244 (1) An individual shall be deemed "unemployed" for any week during  
245 which he is not engaged in full-time work and with respect to which his  
246 remuneration is less than his weekly benefit rate, including any week during  
247 which he is on vacation without pay; provided, such vacation is not the result  
248 of the individual's voluntary action.

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

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

257 (n) "Unemployment compensation administration fund" means the un-  
258 employment compensation administration fund established by this chapter  
259 (R. S. 43:21-1 et seq.), from which administrative expenses under this  
260 chapter (R. S. 43:21-1 et seq.) shall be paid.

261 (o) "Wages" means remuneration paid subsequent to December 31, 1946,  
262 by employers for employment; provided, however, that for eligibility and  
263 benefit purposes wages earned but not paid when the amount thereof has been  
264 calculated and is due as determined by the established and customary  
265 practices of the employer shall be construed as having been paid when earned.

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

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

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

273 (s) "Investment company" means any company as defined in paragraph  
274 1-a of chapter 322 of the laws of 1938, entitled "An act concerning invest-  
275 ment companies, and supplementing Title 17 of the Revised Statutes by  
276 adding thereto a new chapter entitled 'investment companies.' "

277 (t) "Base week" means any calendar week of an individual's base year  
278 during which he earned in employment from an employer remuneration equal  
279 to not less than \$15.00; provided, if in any calendar week, an individual is  
280 in employment with more than 1 employer, he may in such calendar week  
281 establish a base week with respect to each such employer from whom the  
282 individual earns remuneration equal to not less than \$15.00 during such week.

283 (u) "Average weekly wage" means the amount derived by dividing an  
284 individual's total wages received during his base year base weeks (as defined  
285 in subsection (t) of this section) from that most recent base year employer  
286 with whom he had established at least 17 base weeks, by the number of base  
287 weeks in which such wages were earned. In the event that such claimant had  
288 no employer in his base year with whom he had established at least 17 base  
289 weeks, then such individual's average weekly wage shall be computed as if  
290 all of his base week wages were received from 1 employer and as if all his  
291 base weeks of employment had been performed in the employ of 1 employer.

292 If on application of a claimant it is determined that he has been employed  
293 during at least the 4 weeks immediately preceding his separation from em-  
294 ployment by an employer on a substantially reduced schedule of weekly hours  
295 due to lack of work, all weeks of substantially reduced schedule within the  
296 base period and his wages therefor shall be disregarded in computing his  
297 average weekly wage.

298 (v) "Initial determination" means, subject to the provisions of R. S.  
299 43:21-6 (b) (2) and (3), a determination of benefit rights as measured by an  
300 eligible individual's base year employment with a single employer covering  
301 all periods of employment with that employer during the base year. Subject  
302 to the provisions of R. S. 43:21-3 (d) (3) if an individual has been in employ-  
303 ment in his base year with more than 1 employer, no benefits shall be paid to  
304 that individual under any successive initial determination until his benefit  
305 rights have been exhausted under the next preceding initial determination.

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

309 (x) "Most recent base year employer" means that employer with whom  
310 the individual most recently, in point of time, performed services in employ-  
311 ment in the base year.

1 [3.] 2. This act shall take effect immediately.