

43:21-3,4

LEGISLATIVE NOTES ON R.S. 43:21-3 and 43:21-4  
(Unemployment compensation)

R.S. 43:21-3 amended 1938, c.396  
1939, c.74, s.1 ✓  
1940, c.247, ss. 1, 4 (See 1941, c.114, ss. 1, 2)  
1945, c.72 (C.43:21-3, 2)  
1948, c.110, s.19  
1950, c.172, ss. 1, 5  
1952, c.187, ss. 1, 9  
1954, c.203, s.1

R.S. 43:21-4 amended 1940, c.247, ss. 2, 4  
1941, c.114, ss. 1, 2  
1947, c.35, s.1  
1948, c.110, s.20  
1950, c.172, ss. 2, 5  
1952, c.187, ss. 2, 9

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Senate Bill No. 372 (C.94)

Introduced by Mr. Foran

May 22, 1939

STATEMENT

The purpose of this act is to amend the New Jersey Unemployment Compensation Law in order to bring it into conformity with the Federal Railroad Unemployment Insurance Act so that there will be no inconsistencies between these laws at the time the Railroad Unemployment Insurance Act becomes effective on July 1, 1939.

Senate Bill No.197 (C. 114)

Introduced by Mr. Wilensky

March 10, 1941

STATEMENT

The changes proposed are for the purpose of clarifying the law in its technical aspects and carrying out recommendations of the Federal Social Security Board.

Senate Bill No. 78 (C.72)

Introduced by Mr. Sholl

Jan. 29, 1945

STATEMENT

The purpose of this bill is to effectuate liberalization of the unemployment compensation benefit formula, in accordance with the program outlined in the Governor's First Annual Message to the Legislature (January 9, 1945). Various changes follow the recommendations of the second report of the Commission on Post-War Economic Welfare, submitted January 29, 1945.



ASSEMBLY BILL NO. 255 (C. 35)

Introduced March 10, 1947

By Mr. Loutrel

STATEMENT

The purpose of this legislation is to bring the provisions of the New Jersey Unemployment Compensation Law into conformity with the Federal Act in levying an unemployment contribution tax upon the first \$3,000 of earnings paid to an individual by an employer during a calendar year, regardless of the year of employment. Contribution liability to the Federal Government, by a recent Federal amendment, accrues on a paid basis, while such liability accrues to the State on a payable basis. This amendment will not only bring the two laws into harmony one with the other but will also enable employers to make identical wage reports to both jurisdictions and to make up reporting forms in one operation.

Under the present Federal law, the employer reports and pays contributions to the Federal Government on the first \$3,000 of wages paid to an individual, no matter where earned. As the State law now stands, New Jersey must exact contributions with respect to the first \$3,000 earned in the State, no matter how much the same individual has earned with the same employer in any other State or States. The proposed amendment will cure this situation by recognizing earnings in other States in the same year with the same employer, and will again bring the State law, State reporting and State paying into conformity with the Federal act.

ASSEMBLY BILL NO. 474

(C. 109)

Introduced March 31, 1947

By Mr. Brescher

STATEMENT

This bill would carry out the recommendations of the Legislative Memorandum on Cash Sickness Benefits, submitted to the Governor and the Legislature March 31, 1947.

109  
Assembly Bill No. 28 (C. ~~110~~)

Introduced by Mr. Brescher

February 9, 1948

STATEMENT

This is a companion bill to the proposed Temporary Disability Benefits Law, introduced in the Senate by Senator Barton.

The present bill provides for the financing of "cash sickness benefits" by transferring worker contributions from the Unemployment Compensation Fund to the Temporary Disability Benefit Fund. It also provides a new schedule of experience rates for employer contributions to the Unemployment Compensation Fund which, it is estimated, will result in tax savings to covered employers of roughly \$17,000,000 during 1949 and comparable amounts in subsequent years under stable economic conditions.

SENATE BILL NO. 147 (C.110)

Introduced by Mr. Barton

February 9, 1948

STATEMENT

A system of "cash sickness benefits" would be established by this bill, which follows the general plan of the bill introduced by Assemblyman Brescher last year (Assembly 474, as amended).

The most favorable benefit structure for employees and their employers is encouraged by reasonable provision for "contracting out" of approved private plans. The "State plan" would provide benefits similar to those now provided under the unemployment compensation law.

Financing of this program is provided in a companion bill, Assembly No. 28, introduced by House Speaker Brescher, which provides for transfer of the current worker contributions for unemployment compensation to the temporary disability benefits fund established by this bill.

REVISED STATUTES  
OF  
NEW JERSEY  
1937

EFFECTIVE  
DECEMBER 20, 1937



(IN FOUR VOLUMES)

VOL. II

*Published by*  
THE STATE OF NEW JERSEY  
*Pursuant to*  
LAWS OF 1937, CHAPTER 189  
APPROVED DECEMBER 20, 1937  
Printed in Vol. II, Following Appendix A

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The commission shall also make such investiga-  
tions regarding the operation of pension, insurance  
and annuity systems as it deems advisable.  
Source. L. 1911, c. 198, §2, p. 411 [1924 Suppl. §\*145-2].

43:20-3. Annual report to legislature. The com-  
mission shall report annually, on or before the  
third Tuesday of January. The report shall set  
forth:

a. The work done by the commission during the

preceding year in accordance with the provisions  
of this subtitle;

b. Such recommendations of legislation on the  
subject of old age insurance, pensions or annuities  
as the commission deems advisable; and

c. A tabulated statement of the expenditures of  
the commission and an estimate of the amount  
required for the commission's purposes during the  
coming year.

Source. L. 1911, c. 198, §3, p. 412 [1924 Suppl. §\*145-3].

Subtitle 9. SOCIAL SECURITY.

Cross References.

Aid to crippled children, see §§9:13-3 and 9:13-6 of  
the title Children—Juvenile and Domestic Relations  
Courts.  
Aid to dependent children, see chapter 5 of the title  
Institutions and Agencies (§30:5-1 et seq.).

Aid to the blind, see chapter 6 of the title Institutions  
and Agencies (§30:6-1 et seq.).  
Old age assistance, see chapter 7 of the title Poor  
(§44:7-1 et seq.).

Chapter 21. UNEMPLOYMENT COMPENSATION.

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43:21-4. Benefit eligibility conditions.  
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43:21-21. Reciprocal benefit arrangements.  
43:21-22. Saving clause.  
43:21-23. Separability of provisions.

43:21-1. Short title. This chapter shall be known  
and may be cited as the "unemployment compen-  
sation law".  
Source. L. 1936, c. 270, §1, p. 1045.

43:21-2. Declaration of state public policy. As  
a guide to the interpretation and application of  
this chapter, the public policy of this state is  
declared to be as follows: economic insecurity due  
to unemployment is a serious menace to the health,  
morals, and welfare of the people of this state.  
Involuntary unemployment is therefore a subject  
of general interest and concern which requires  
appropriate action by the legislature to prevent  
its spread and to lighten its burden which now  
so often falls with crushing force upon the unem-  
ployed worker and his family. The achievement  
of social security requires protection against this  
greatest hazard of our economic life. This can  
be provided by encouraging employers to provide  
more stable employment and by the systematic  
accumulation of funds during periods of employ-  
ment to provide benefits for periods of unemploy-  
ment, thus maintaining purchasing power and  
limiting the serious social consequences of poor  
relief assistance. The legislature, therefore, de-  
clares that in its considered judgment the public  
good, and the general welfare of the citizens of this  
state requires the enactment of this measure,

under the police powers of the state, for the com-  
pulsory setting aside of unemployment reserves  
to be used for the benefit of persons unemployed  
after qualifying periods of employment.  
Source. L. 1936, c. 270, §2, p. 1045.

43:21-3. Benefits. (a) Payment of benefits.  
Twenty-five months after the date when contribu-  
tions first accrue under this chapter, benefits shall  
become payable from the fund. All benefits shall  
be paid through employment offices, or such other  
agencies as may be designated in accordance with  
such regulations as may be prescribed hereunder.

(b) Weekly benefit amount for total unemploy-  
ment. Each eligible individual who is totally un-  
employed (as defined in subsection (m) of section  
43:21-19 of this title) in any week shall be paid  
with respect to such week, benefits (computed to  
the next highest multiple of twenty cents [\$0.20])  
at the rate of fifty per cent (50%) of his full-time  
weekly wages but not more than fifteen dollars  
(\$15.00) per week, nor less than either five dollars  
(\$5.00) or three-fourths of his full-time weekly  
wage, whichever is the lesser.

(c) Determination of full-time weekly wage.

(1) The full-time weekly wage of any individual  
means the weekly wages that such individual  
would receive if he were employed at his most  
recent wage rate during his base year and for the

customary scheduled full-time week prevailing for his occupation in the enterprise in which he last earned wages during his base year.

(2) If the commission finds that the full-time weekly wage, as above defined, would be unreasonable or arbitrary or not readily determinable with respect to any individual, the full-time weekly wage of such individual shall be deemed to be one-thirteenth of his total wages in that quarter in which such total wages were highest during the first eight out of the last nine completed calendar quarters immediately preceding the first day of his benefit year.

(d) Duration of benefits. The maximum total amount of benefits payable to any eligible individual during any benefit year shall not exceed one-sixth of his total wages during his base year or sixteen times his weekly benefit amount, whichever is the lesser.

Source. L. 1936, c. 270, §3, p. 1046.

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

(a) He has registered for work at and thereafter has continued to report at an employment office in accordance with such regulations as the commission may prescribe.

(b) He has made a claim for benefits in accordance with the provisions of subsection (a) of section 43:21-6 of this title.

(c) He is able to work, and is available for work.

(d) Prior to any week for which he claims benefits he has been totally unemployed for a waiting period of two weeks, which said weeks need not be consecutive. No week shall be counted as a week of total unemployment for the purposes of this subsection:

(1) if benefits have been paid with respect thereto;

(2) unless the individual was eligible for benefits with respect thereto in all respects except for the requirements of subsections (b) and (c) of this section;

(3) unless it occurs within the thirteen consecutive weeks preceding the week for which he claims benefits; provided, that this condition shall not interrupt the payment of benefits for consecutive weeks of unemployment, nor require any individual who, prior to the first day of his benefit year, shall have accumulated such two waiting period weeks, to accumulate more than three additional waiting period weeks during his ensuing benefit year;

(4) unless it occurs after benefits first could become payable to any individual under this chapter.

(e) He has within his base year earned wages of not less than sixteen times his weekly benefit amount.

Source. L. 1936, c. 270, §4, p. 1047.

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

(a) For the week in which he has left work voluntarily without good cause, and for the three

weeks which immediately follow such week (in addition to the waiting period), as determined in each case.

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

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

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

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

(d) For any week with respect to which it is found that his total unemployment is due to a stoppage of work which exists because of a labor dispute at the factory, establishment, or other premises at which he is or was last employed; provided, that this subsection shall not apply if it is shown to the satisfaction of the board of review that:

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

(2) He does not belong to a grade or class of workers of which, immediately before the commencement of the stoppage, there were members employed at the premises at which the stoppage occurs, any of whom are participating in or financing or directly interested in the dispute; provided, that if in any case in which (1) or (2) above applies separate branches of work which are commonly conducted as separate businesses in separate premises are conducted in separate departments of the same premises, each such department shall, for the purposes of this subsection,

be deemed to be a separate factory, establishment, or other premises.

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

(1) Remuneration in lieu of notice;

(2) Compensation for temporary partial disability under the workmen's compensation law of any state or under a similar law of the United States; or

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

Source. L. 1936, c. 270, §5, p. 1048.

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

(b) Initial determination. A representative designated by the executive director, and hereinafter referred to as a "deputy", shall promptly examine the claim and, on the basis of the facts found by him, shall either determine whether or not such claim is valid, and if valid, the week with respect to which benefits shall commence, the weekly benefit amount payable and the maximum duration thereof, or shall refer such claim or any question involved therein to an appeal tribunal or to the board of review, which shall make its determinations with respect thereto in accordance with the procedure described in subsection (c) of this section, except that in any case in which the payment or denial of benefits will be determined by the provisions of subsection (d) of section 43:21-5 of this title, the deputy shall promptly transmit his full findings of fact with respect to that subsection to the board of review, which, on the basis of the evidence submitted and such additional evidence as it may require, shall affirm, modify, or set aside such findings of fact and transmit to the deputy a decision upon the issues involved under that subsection. The deputy shall promptly notify the claimant and any other interested party of the decision and the reasons therefor. Unless the claimant or any such interested party, within five calendar days after the delivery of such notification, or within seven calendar days after such notification was mailed to his last-known address, files an appeal from such decision, such decision shall be final and benefits shall be paid or denied in accordance therewith. If an appeal is duly filed, benefits with respect to the period prior to the final determination of the board of review, shall be paid only after such determina-

tion; provided, that if an appeal tribunal affirms a decision of a deputy, or the board of review affirms a decision of an appeal tribunal, allowing benefits, such benefits shall be paid regardless of any appeal which may thereafter be taken, but if such decision is finally reversed, no employer's account shall be charged with benefits so paid.

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

(d) Appeal tribunals. To hear and decide disputed claims, the executive director with the approval of the commission shall establish one or more impartial appeal tribunals consisting in each case of either a salaried examiner or a body consisting of three members, one of whom shall be a salaried examiner, who shall serve as chairman, one of whom shall be a representative of employers and the other of whom shall be a representative of employees; each of the latter two members shall serve at the pleasure of the commission and be paid a fee of not more than twenty dollars (\$20.00) per day of active service on such tribunal plus necessary expenses. No person shall participate on behalf of the commission in any case in which he is an interested party. The executive director may designate alternates to serve in the absence or disqualification of any member of an appeal tribunal. The chairman shall act alone in the absence or disqualification of any other member and his alternates. In no case shall the hearings proceed unless the chairman of the appeal tribunal is present.

(e) Board of review. The board of review may on its own motion affirm, modify, or set aside any decision of an appeal tribunal on the basis of the evidence previously submitted in such case, or direct the taking of additional evidence, or may permit any of the parties to such decision to initiate further appeals before it. The board of review shall permit such further appeal by any of the parties interested in a decision of an appeal tribunal which is not unanimous and by the deputy whose decision has been overruled or modified by an appeal tribunal. The board of review may remove to itself or transfer to another appeal tribunal the proceedings on any claim pending before an appeal tribunal. Any proceeding so removed to the board of review shall be heard by a quorum thereof in accordance with the requirements in subsection (c) of this section. The board of review shall promptly notify the interested parties of its findings and decision.

(f) Procedure. The manner in which disputed claims shall be presented, the reports thereon required from the claimant and from employers, and the conduct of hearings and appeals shall be in



accordance with rules prescribed by the board of review for determining the rights of the parties, whether or not such rules conform to common law or statutory rules of evidence and other technical rules of procedure. A full and complete record shall be kept of all proceedings in connection with a disputed claim. All testimony at any hearing upon a disputed claim shall be recorded, but need not be transcribed unless the disputed claim is further appealed.

(g) Witness fees. Witnesses subpoenaed pursuant to this section shall be allowed fees at a rate fixed by the commission. Such fees and all expenses of proceedings involving disputed claims shall be deemed a part of the expense of administering this chapter.

(h) Appeal to courts. Any decision of the board of review in the absence of an appeal therefrom as herein provided shall become final ten days after the date of notification or mailing thereof, and judicial review thereof shall be permitted only after any party claiming to be aggrieved thereby has exhausted his remedies before the board of review as provided by this chapter. The board of review shall be deemed to be a party to any judicial action involving any such decision, and may be represented in any such judicial action by any qualified attorney who may be a regular salaried employee of the board of review or has been designated by it for that purpose, or at the board of review's request, by the attorney general.

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

Source. L. 1936, c. 270, §6, p. 1050.

**43:21-7. Contributions.** (a) Payment. (1) On and after December first, one thousand nine hundred and thirty-six, contributions shall accrue and become payable by each employer for each calendar year in which he is subject to this chapter, with respect to wages payable for employment (as defined in subsection (i) of section 43:21-19 of this title) occurring during such calendar year, except that for the month of December, one thousand nine hundred and thirty-six, such contributions shall accrue and become payable with respect to wages payable for employment during the month of December, one thousand nine hundred and thirty-six. Such contributions shall become due and be paid by each employer to the commission for the fund in accordance with such regulations as may be prescribed, and shall not be deducted, in whole or in part, from the remuneration of individuals in his employ.

(2) In the payment of any contributions, a fractional part of a cent shall be disregarded unless it amounts to one-half cent (\$0.00½) or more, in which case it shall be increased to one cent (\$0.01).

(b) Rate of contribution. Each employer shall pay contributions equal to the following percentages of wages payable by him with respect to employment:

(1) Ten and eight-tenths per cent (108/10%) with respect to employment during the month of December, one thousand nine hundred and thirty-six; provided, that if the total of such contributions at such ten and eight-tenths per cent (108/10%) rate equals less than nine-tenths of one per cent (9/10 of 1%) of the annual pay roll of any employer for the calendar year one thousand nine hundred and thirty-six, such employer shall pay, not later than January twenty-fifth, one thousand nine hundred and thirty-seven, an additional lump-sum contribution with respect to employment for such one month's period beginning December first, one thousand nine hundred and thirty-six, equal to the difference between nine-tenths of one per cent (9/10 of 1%) of his annual pay roll of the calendar year one thousand nine hundred and thirty-six and the total of his contributions at such ten and eight-tenths per cent (108/10%) for such one month's period beginning December first, one thousand nine hundred and thirty-six; and provided further, that the total of such contributions with respect to employment for such one month's period beginning December first, one thousand nine hundred and thirty-six, shall not exceed nine-tenths of one per cent (9/10 of 1%) of such employer's annual pay roll for the calendar year one thousand nine hundred and thirty-six; provided further, that if the federal social security act be amended or an extension thereunder be granted to permit payment of the tax on pay rolls provided in section nine hundred one (1), at a date later than January thirty-first, one thousand nine hundred and thirty-seven, the commission may, by regulation, postpone to a later date the required payment of contributions as provided in this subsection.

(2) One and eight-tenths per cent (18/10%) with respect to employment during the calendar year one thousand nine hundred and thirty-seven;

(3) Two and seven-tenths per cent (27/10%) with respect to employment during the calendar years one thousand nine hundred and thirty-eight, one thousand nine hundred and thirty-nine, one thousand nine hundred and forty and one thousand nine hundred and forty-one; and

(4) With respect to employment after December thirty-first, one thousand nine hundred and forty-one, the percentage determined pursuant to subsection (c) of this section.

(c) Future rates based on benefit experience.

(1) A separate account for each employer shall be maintained and this shall be credited with all the contributions which he has paid on his own behalf. But nothing in this chapter shall be construed to grant any employer or individuals in his service prior claims or rights to the amounts paid by him into the fund either on his own behalf or on behalf of such individuals. Benefits paid to an eligible individual shall be charged against the account of his most recent employers against whose accounts the maximum charges hereunder have not previously been made in the inverse chronological order in which the employment of such individual occurred, but the maximum amount so charged shall not exceed one-sixth of the wages payable to such

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individual by each such employer for employment on and after the first day of the nine completed calendar quarters immediately preceding such individual's benefit year, or two hundred forty dollars (\$240.00), whichever is the lesser, but this provision shall not be construed to limit the duration of benefits payable pursuant to subsection (d) of section 43:21-3 of this title. The commission shall by general rules prescribe the manner in which benefits shall be charged against the accounts of several employers for whom an individual performed employment during the same week.

(2) The commission may prescribe regulations for the establishment, maintenance, and dissolution of joint accounts by two or more employers, and shall, in accordance with such regulations and upon application by two or more employers to establish such an account, or to merge their several individual accounts in a joint account, maintain such joint account as if it constituted a single employer's account.

(3) Each employer's rate shall be two and seven-tenths per cent (27/10%), except as otherwise provided in the following provisions. No employer's rate shall be less than two and seven-tenths per cent (27/10%) unless and until there shall have been three calendar years throughout which any individual in his employ could have received benefits if eligible.

(4) Each employer's rate for the twelve months commencing January first of any calendar year shall be determined on the basis of his record up to the beginning of such calendar year. If, at the beginning of such calendar year, the total of all his contributions, paid on his own behalf, for all past years exceeds the total benefits charged to his account for all such years, his contribution rate shall be:

(A) One and eight-tenths per cent (18/10%), if such excess equals or exceeds seven and one-half per cent (7½%), but is less than ten per cent (10%) of his average annual pay roll (as defined in paragraph (2) of subsection (a) of section 43:21-19 of this title);

(B) Nine-tenths of one per cent (9/10 of 1%), if such excess equals or exceeds ten per cent (10%) of his average annual pay roll.

If the total of his contributions, paid on his own behalf for all past periods or for the past one hundred twenty consecutive calendar months, whichever period is more advantageous to such employer for the purposes of this paragraph, is less than the total benefits charged against his account during the same period, his rate shall be three and six-tenths per cent (36/10%).

(5) No employer's rate for the period of twelve months commencing January first of any calendar year shall be less than two and seven-tenths per cent (27/10%), unless the total assets of the fund, excluding contributions not yet paid at the beginning of such calendar year, exceed the total benefits paid from the fund within the last preceding calendar year; and no employer's rate shall be less than one and eight-tenths per cent (18/10%) unless such assets at such time were at least twice

the total benefits paid from the fund within such last preceding year.

(d) Contribution by workers. (1) Each worker shall contribute to the fund one per cent (1%) of his wages paid by an employer with respect to his employment which occurs after December thirty-first, one thousand nine hundred and thirty-seven, and after such employer has satisfied the conditions set forth in subsection (h) of section 43:21-19 of this title with respect to becoming an employer. Each employer shall, notwithstanding any provisions of law in this state to the contrary, withhold in trust the amount of his workers' contributions from their wages at the time such wages are paid, shall show such deduction on his pay-roll records, shall furnish such evidence thereof to his workers as the commission may prescribe, and shall transmit all such contributions, in addition to his own contributions, to the office of the commission in such manner and at such times as may be prescribed. If any employer fails to deduct the contributions of any of his workers at the time their wages are paid, or fails to make a deduction therefor at the time wages are paid for the next succeeding pay-roll period, he alone shall thereafter be liable for such contributions, and for the purposes of section 43:21-14 of this title, such contributions shall be treated as employer's contributions required from him. As used in this chapter, except when the context clearly requires otherwise, the term "contributions" shall include the contributions of workers pursuant to this section.

(2) If an individual does not receive any wages from the employing unit which for the purposes of this chapter is treated as his employer, or receives his wages from some other employing unit, such employer shall nevertheless be liable for such individual's contributions in the first instance; and after payment thereof such employer may deduct the amount of such contributions from any sums payable by him to such employing unit, or may recover the amount of such contributions from such employing unit or in the absence of such an employing unit, from such individual, in a civil action for debt; provided, proceedings therefor are instituted within three months after the date on which such contributions are payable. General rules shall be prescribed whereby such an employing unit may recover the amount of such contributions from such individuals in the same manner as if it were the employer.

(3) Every employer who has elected to become an employer subject to this chapter or to cease to be an employer subject to this chapter, pursuant to the provisions of section 43:21-8 of this title, shall post and maintain printed notices of such election on his premises, of such design, in such numbers, and at such places as the executive director may determine to be necessary to give notice thereof to persons in his service.

(4) Contributions by workers, payable to the commission as herein provided, shall be exempt from garnishment, attachment, execution, or any other remedy for the collection of debts.

Source. L. 1936, c. 270, §7, p. 1054.

**43:21-8. Period, election, and termination of employer's coverage.** (a) Any employing unit which is or becomes an employer subject to this chapter within any calendar year shall be subject to this chapter during the whole of such calendar year.

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

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

(2) Any employing unit for which services that do not constitute employment as defined in this chapter are performed, may file with the commission a written election that all such services performed by individuals in its employ in one or more distinct establishments or places of business shall be deemed to constitute employment for all the purposes of this chapter for not less than two calendar years; provided, written objections on the part of a substantial proportion of such individuals affected are not presented to the commission within ten days following the filing of such election. Upon the written approval of such election by the commission, such services shall be deemed to constitute employment subject to this chapter from and after the date stated in such approval. Such services shall cease to be deemed employment subject hereto as of January first of any calendar year subsequent to such two calendar years, only if at least thirty days prior to such first day of January such employing unit has filed with the commission a written notice to that effect.

Source. L. 1936, c. 270, §8, p. 1059.

**43:21-9. Unemployment compensation fund.** (a) Establishment and control. There is hereby established as a special fund, separate and apart from

all public moneys or funds of this state, an unemployment compensation fund, which shall be administered by the commission exclusively for the purposes of the chapter. This fund shall consist of (1) all contributions collected under this chapter, together with any interest thereon collected pursuant to subsection (a) of section 43:21-14 of this title; (2) all fines and penalties collected pursuant to the provisions of this chapter; (3) interest earned upon any moneys in the fund; (4) any property or securities acquired through the use of moneys belonging to the fund; and (5) all earnings of such property or securities. All moneys in the fund shall be mingled and undivided.

(b) Accounts and deposit. The treasurer of the state of New Jersey shall be ex-officio the treasurer and custodian of the fund and shall administer such fund in accordance with the directions of the commission and shall issue his warrants upon it in accordance with such regulations as the commission shall prescribe. He shall maintain within the fund three separate accounts: (1) A clearing account, (2) an unemployment trust fund account, and (3) a benefit account. All moneys payable to the fund, upon receipt thereof by the commission, shall be forwarded to the treasurer who shall immediately deposit them in the clearing account. Refunds payable pursuant to subsection (g) of section 43:21-14 of this title may be paid from the clearing account upon warrants issued by the treasurer under the direction of the commission. After clearance thereof, all other moneys in the clearing account shall be immediately deposited with the secretary of the treasury of the United States of America to the credit of the account of this state in the unemployment trust fund, established and maintained pursuant to section nine hundred four of the social security act, as amended, any provisions of law in this state relating to the deposit, administration, release, or disbursement of moneys in the possession or custody of this state to the contrary notwithstanding. The benefit account shall consist of all moneys requisitioned from this state's account in the unemployment trust fund. Moneys in the clearing and benefit accounts may be deposited by the treasurer, under the direction of the commission, in any bank or public depository in which general funds of the state may be deposited, but no public deposit insurance charge or premium shall be paid out of the fund. The treasurer shall give a separate bond conditioned upon the faithful performance of his duties as custodian of the fund in an amount fixed by the commission and in a form prescribed by law or approved by the attorney general. Premiums for said bond shall be paid from the administration fund.

(c) Withdrawals. Moneys shall be requisitioned from this state's account in the unemployment trust fund solely for the payment of benefits and in accordance with regulations prescribed by the commission. The commission shall from time to time requisition from the unemployment trust fund such amounts, not exceeding the amounts standing to its account therein, as it deems necessary for the payment of benefits for a reasonable

future period. Upon receipt thereof the treasurer shall deposit such moneys in the benefit account and shall issue his warrants for the payment of benefits solely from such benefit account. Expenditures of such moneys in the benefit account and refunds from the clearing account shall not be subject to any provisions of law requiring specific appropriations or other formal release by state officers of money in their custody. All warrants issued by the treasurer for the payment of benefits and refunds shall bear the signature of the treasurer and the counter-signature of the executive director or his duly authorized agent for that purpose. Any balance of moneys requisitioned from the unemployment trust fund which remains unclaimed or unpaid in the benefit account after the expiration of the period for which such sums were requisitioned shall either be deducted from estimates for, and may be utilized for the payment of, benefits during succeeding periods, or, in the discretion of the commission, shall be redeposited with the secretary of the treasury of the United States of America, to the credit of this state's account in the unemployment trust fund, as provided in subsection (b) of this section.

(d) Management of funds upon discontinuance of unemployment trust fund. The provisions of subsections (a), (b), and (c) to the extent that they relate to the unemployment trust fund, shall be operative only so long as such unemployment trust fund continues to exist and so long as the secretary of the treasury of the United States of America continues to maintain for this state a separate book account of all funds deposited therein by this state for benefit purposes, together with this state's proportionate share of the earnings of such unemployment trust fund, from which no other state is permitted to make withdrawals. If and when such unemployment trust fund ceases to exist, or such separate book account is no longer maintained, all moneys, properties, or securities therein, belonging to the unemployment compensation fund of this state shall be transferred to the treasurer of the unemployment compensation fund, who shall hold, invest, transfer, sell, deposit, and release such moneys, properties, or securities in a manner approved by the commission, in accordance with the provisions of this chapter; provided, that such moneys shall be invested in the following readily marketable classes of securities: Bonds or other interest-bearing obligations of the United States of America and of the state of New Jersey; and provided further, that such investment shall at all times be so made that all the assets of the fund shall always be readily convertible into cash when needed for the payment of benefits. The treasurer shall dispose of securities or other properties belonging to the unemployment compensation fund only under the direction of the commission.

Source. L. 1936, c. 270, §9, p. 1060.

**43:21-10. Unemployment compensation commission.** (a) Organization. There is hereby created a commission to be known as the unemployment compensation commission of New Jersey. It shall consist of seven members who shall be ap-

pointed by the governor, with confirmation by the senate, not more than four of whom shall be of the same political affiliation. They shall serve without salary; provided, however, that their necessary expenses shall be paid. No person may be appointed who is an officer or committee member of any political party organization. First appointees to the commission shall serve as designated by the governor at the time of appointment, as follows: one for a term of one year, one for a term of two years, one for a term of three years, one for a term of four years, one for a term of five years, one for a term of six years, and one for a term of seven years. At the expiration of initial terms, appointments shall be made for a term of seven years in each case. Any vacancies created by death, resignation or removal shall be filled by appointment for the unexpired portion of the term so vacated.

The governor may, at any time after a fair public hearing, remove any member of the commission for gross inefficiency, neglect of duty, malfeasance, misfeasance or nonfeasance in office.

(b) Executive director. The commission shall appoint an executive director who shall be the chief executive and approval officer of the commission and its official agent for all purposes, and who shall hold office at its pleasure. He shall give his full time to the duties of this office, shall be paid a suitable salary to be fixed by the commission and shall have general charge and supervision of the work of all departments of the commission as well as any subdivisions thereof.

It shall be the duty of the executive director to administer this chapter with the advice of the commission; and to that end, the executive director shall have the following duties and powers:

(1) To formulate necessary rules and regulations, subject to approval by the commission.

(2) To appoint and fix the compensation of members of the staff, subject to approval by the commission; such appointments shall be made subject to the provisions of Title 11, Civil Service, at such compensation as may be fixed by the New Jersey civil service commission.

(3) To make such expenditures as are necessary in the discharge of his functions hereunder as provided for in the budget to be approved annually by the commission, to make requisitions for any funds provided by the federal government for administration of this chapter, and he is hereby authorized to draw vouchers on the administration fund for the purpose of administering this chapter.

(4) To draw vouchers upon the unemployment compensation fund and the appropriate accounts therein for the payment of benefits.

(5) To delegate to other persons any of the powers conferred upon him by this chapter, so far as is reasonably necessary.

(c) Divisions. The executive director shall establish such administrative divisions as may be necessary to carry out the purposes of this chapter, subject to approval of the commission. Among such divisions shall be New Jersey state employment service division, established pursuant to section 43:21-12 of this title. The New Jersey state

employment service shall be a separate administrative unit with respect to personnel, budget, and duties, except in so far as the commission may find such separation to be impracticable.

(d) Board of review. The executive director shall appoint, subject to the provisions of Title 11, Civil Service, from civil service eligible lists, subject to approval of the commission, a board of review, consisting of three members whose duties shall be to act as a final appeals board in cases of dispute and to whom shall be delegated the duty of supervising the work of local appeal tribunals to be organized as provided for elsewhere in this chapter. No member of the board of review shall participate in any case in which he is an interested party.

(e) Powers and duties. The commission shall have the following specific powers and duties:

(1) To designate its chairman.

(2) To study the operation of this chapter and from time to time prepare recommendations to the governor and legislature with respect to any improvements which might be desirable.

(3) To make rules and regulations governing its own procedure.

(4) To advise the executive director and other members of the commission staff with particular respect to policies and procedures.

(f) Quorum. Any four commissioners shall constitute a quorum. No vacancies shall impair the right of the remaining commissioners to exercise all of the powers of the commission.

Source. L. 1936, c. 270, §10, p. 1063.

**43:21-11. Administration.** (a) Duties and powers of the commission. It shall be the duty of the commission to determine all matters of policy; and it shall have power and authority to adopt, amend, or rescind such rules and regulations, require such reports, make such investigations, and take such other action as it deems necessary or suitable to that end or to administer this chapter; provided, that the commission may delegate such power and authority to the executive director subject to their ultimate supervision and control. Such rules and regulations shall be effective upon publication in the manner, not inconsistent with the provisions of this chapter, which the commission shall prescribe. The commission shall determine its own organization and methods of procedure in accordance with the provisions of this chapter, and shall have an official seal which shall be judicially noticed. Not later than the first day of February of each year, the commission shall submit to the governor a report covering the administration and operation of this chapter during the preceding calendar year and shall make such recommendations for amendments to this chapter as the commission deems proper. Such report shall include a balance sheet of the moneys in the fund in which there shall be provided, if possible, a reserve against the liability in future years to pay benefits in excess of the then current contributions, which reserve shall be set up by the commission in accordance with accepted actuarial principles on the basis of statistics of employment, business activity, and other relevant factors for

the longest possible period. Whenever the commission believes that a change in contribution or benefit rates will become necessary to protect the solvency of the fund, it shall promptly so inform the governor and the legislature, and make recommendations with respect thereto. The commission shall make a study of the problem of paying partial benefits for partial unemployment.

(b) Regulations and general and special rules. General and special rules may be adopted, amended, or rescinded by the commission. General rules shall become effective ten days after filing with the secretary of state and publication in one or more newspapers of general circulation in this state. Special rules shall become effective ten days after notification to or mailing to the last known address of the individuals or concerns affected thereby. Regulations may be adopted, amended, or rescinded by the commission and shall become effective in the manner and at the time prescribed by the commission.

(c) Publication. The commission shall cause to be printed for distribution to the public the text of this chapter, the commission's regulations and general rules, its annual reports to the governor, and any other material the commission deems relevant and suitable and shall furnish the same to any person upon application therefor.

(d) Personnel. Subject to other provisions of this chapter, the commission is authorized to appoint, subject to the provisions of Title 11, Civil Service, fix the compensation, and prescribe the duties and powers of such officers, accountants, attorneys, experts, and other persons as may be necessary in the performance of its duties. All positions shall be filled by persons selected and appointed on a nonpartisan merit basis from lists of eligible persons prepared by the civil service commission, subject to the provisions of Title 11, Civil Service. The commission shall not employ or pay any person who is an officer or committee member of any political party organization. The commission may delegate to any such person so appointed such power and authority as it deems reasonable and proper for the effective administration of this chapter, and may in its discretion bond any person handling moneys or signing checks hereunder.

(e) Advisory councils. The commission shall appoint a state advisory council of six members and local advisory councils of four members each, composed in each case of an equal number of employer representatives and employee representatives who may fairly be regarded as representative because of their vocation, employment, or affiliations, and of such members representing the general public as the commission may designate. Such councils shall aid the commission in formulating policies and discussing problems related to the administration of this chapter and in assuring impartiality and freedom from political influence in the solution of such problems. Such advisory councils shall serve without compensation, but shall be reimbursed for any necessary expenses.

(f) Employment stabilization. The commission, with the advice and aid of its advisory councils,

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and through its appropriate divisions, shall take all appropriate steps to reduce and prevent unemployment; to encourage and assist in the adoption of practical methods of vocational training, retraining and vocational guidance; to investigate, recommend, advise, and assist in the establishment and operation, by municipalities, counties, school districts, and the state, of reserves for public works to be used in times of business depression and unemployment; to promote the re-employment of unemployed workers throughout the state in every other way that may be feasible; and to these ends to carry on and publish the results of investigations and research studies.

(g) Records and reports. Each employing unit shall keep true and accurate employment records, containing such information as may be prescribed. Such records shall be open to inspection and be subject to being copied by the commission or its authorized representatives at any reasonable time. The executive director may require from any employing unit any sworn or unsworn reports, with respect to persons employed by it, which is deemed necessary for the effective administration of this chapter. Information thus obtained shall not be published or be open to public inspection (other than to public employees in the performance of their public duties) in any manner revealing the employing unit's identity, but any claimant at a hearing before an appeal tribunal, the commission or the board of review, shall be supplied with information from such records to the extent necessary for the proper presentation of his claim. Any employee or member of the commission who violates any provision of this section shall be liable to a fine of not less than twenty dollars (\$20.00) nor more than two hundred dollars (\$200.00), to be recovered in an action at law in the name of the commission, said fine when recovered to be paid to the unemployment compensation fund for the use of said fund.

(h) Oaths and witnesses. In the discharge of the duties imposed by this chapter the chairman of an appeal tribunal and any duly authorized representative or member of the commission, the executive director or any deputy director thereof or member of the board of review shall have power to administer oaths, take depositions, certify to official acts, and issue subpoenas to compel the attendance of witnesses and the production of books, papers, correspondence, memoranda, and other records deemed necessary as evidence in connection with a disputed claim or the administration of this chapter.

(i) Subpoenas. In case of contumacy by, or refusal to obey a subpoena issued to any person, any court of this state within the jurisdiction of which the inquiry is carried on or within the jurisdiction of which said person guilty of contumacy or refusal to obey is found or resides or transacts business, upon application by the commission or its duly authorized representative, or the board of review, shall have jurisdiction to issue to such person an order requiring such person to appear before the board of review or a member thereof, a commissioner, the commission, the executive di-

rector, or his duly authorized representative, there to produce evidence if so ordered or there to give testimony touching the matter under investigation or in question; and any failure to obey such order of the court may be punished by said court as a contempt thereof. Any person who shall without just cause fail or refuse to attend and testify or to answer any lawful inquiry or to produce books, papers, correspondence, memoranda, and other records, if it is in his power so to do, in obedience to a subpoena of the commission or of the board of review shall be punished by a fine of not more than two hundred dollars (\$200.00) or by imprisonment for not longer than sixty days, or by both such fine and imprisonment, and each day such violation continues shall be deemed to be a separate offense.

(j) Protection against self-incrimination. No person shall be excused from attending and testifying or from producing books, papers, correspondence, memoranda, and other records before the commission or the board of review or in obedience to the subpoena of a member of the commission or the executive director thereof, the board of review or a member thereof, or any duly authorized representative of the commission in any cause or proceeding before the commission, the board of review or a member thereof, on the ground that the testimony or evidence, documentary or otherwise, required of him may tend to incriminate him or subject him to a penalty or forfeiture; but no individual shall be prosecuted or subjected to any penalty or forfeiture for or on account of any transaction, matter, or thing concerning which he is compelled, after having claimed his privilege against self-incrimination, to testify or produce evidence, documentary or otherwise, except that such individual so testifying shall not be exempt from prosecution and punishment for perjury committed in so testifying.

(k) State-federal co-operation. In the administration of this chapter, the commission shall co-operate to the fullest extent consistent with the provisions of this chapter, with the social security board, created by the social security act, approved August fourteenth, one thousand nine hundred and thirty-five, as amended; shall make such reports, in such form and containing such information as the social security board may from time to time require, and shall comply with such provisions as the social security board may from time to time find necessary to assure the correctness and verification of such reports; and shall comply with the regulations prescribed by the social security board governing the expenditures of such sums as may be allotted and paid to this state under Title III of the social security act for the purpose of assisting in the administration of this chapter.

Upon request therefor the executive director shall furnish to any agency of the United States charged with the administration of public works or assistance through public employment, the name, address, ordinary occupation, and employment status of each recipient of benefits and such recipient's rights to further benefits under this chapter.

Source. L. 1936, c. 270, §11, p. 1066.

[Title 43, p. 80]



**43:21-12. Employment service.** (a) State employment service. The employment bureau of the New Jersey department of labor and its present personnel, including those employed by the New Jersey national re-employment service, is hereby transferred to the commission as a division thereof, which shall establish and maintain free public employment offices in such number and in such places as may be necessary for the proper administration of this chapter and for the purpose of performing such duties as are within the purview of the act of congress entitled "An act to provide for the establishment of a national employment system and for co-operation with the states in the promotion of such system, and for other purposes," approved June sixth, one thousand nine hundred and thirty-three (48 Stat. 113; U. S. C. title 29, sec. 49 (c)), as amended. The said division shall be administered by a full-time salaried director, who shall be charged with the duty, subject to the supervision of the commission and the executive director, to co-operate with any official or agency of the United States having powers or duties under the provisions of the said act of congress, as amended, and to do and perform all things necessary to secure to this state the benefits of the said act of congress, as amended, in the promotion and maintenance of a system of public employment offices. The provisions of the said act of congress, as amended, are hereby accepted by this state, in conformity with section four of said act, and this state will observe and comply with the requirements thereof. The New Jersey state employment service division is hereby designated and constituted the agency of this state for the purpose of said act. The executive director, with the approval of the commission, is empowered to appoint, subject to the provisions of Title 11, Civil Service, the director, other officers, and employees, subject to the provisions aforesaid, of the New Jersey state employment service on a nonpartisan merit basis from lists of eligible persons prepared by the civil service commission and in accordance with regulations prescribed by the director of the United States employment service; provided, however, that present employees having civil service status shall retain full rights as provided in Title 11, Civil Service.

(b) Financing. All moneys received by this state under the said act of congress, as amended, shall be paid into the special "employment service account" in the unemployment compensation administration fund, and said moneys are hereby made available to the New Jersey state employment service to be expended as provided by this section and by said act of congress. For the purpose of establishing and maintaining free public employment offices, said division is authorized to enter into agreements with any political subdivision of this state or with any private, nonprofit organization, and as a part of any such agreement the commission may accept moneys, services, or quarters as a contribution to the employment service account.

Source. L. 1936, c. 270, §12, p. 1072.

**43:21-13. Unemployment compensation administration fund.** (a) Special fund. There is hereby created in the state treasury a special fund to be known as the unemployment compensation administration fund. All moneys which are deposited or paid into this fund are hereby appropriated and made available to the commission. All moneys in this fund shall be expended solely for the purpose of defraying the cost of the administration of this chapter, and for no other purpose whatsoever. The fund shall consist of all moneys appropriated by this state, and all moneys received from the United States of America, or any agency thereof, including the social security board and the United States employment service, or from any other source, for such purpose. All moneys in this fund shall be deposited, administered, and disbursed, in the same manner and under the same conditions and requirements as is provided by law for other special funds in the state treasury. Any balances in this fund shall not lapse at any time, but shall be continuously available to the commission for expenditure consistent with this chapter. The state treasurer shall give a separate and additional bond conditioned upon the faithful performance of his duties in connection with the unemployment compensation administration fund in an amount to be fixed by the commission and in a form prescribed by law or approved by the attorney general. The premiums for such bond and the premiums for the bond given by the treasurer of the unemployment compensation fund under section 43:21-9 of this title shall be paid from the moneys in the unemployment compensation administration fund.

(b) Employment service account. A special "employment service account" shall be maintained as a part of the unemployment compensation administration fund for the purpose of maintaining the public employment offices established pursuant to section 43:21-12 of this title and for the purpose of co-operating with the United States employment service. There is hereby appropriated to this account the balance of any sum previously appropriated to the employment service, and such additional sum as to equal sixty-five thousand dollars (\$65,000.00) for the remainder of the fiscal year ending June thirtieth, one thousand nine hundred and thirty-seven. The governor shall fix and determine and state in his annual budget message a sum sufficient to pay the estimated amount of the state's net share of the cost of the employment service as provided in this chapter. The legislature shall include the amount so determined and stated in the annual appropriation bill. In addition, there shall be paid into such account the moneys designated in subsection (b) of section 43:21-12 of this title, and such moneys as are apportioned for the purposes of this account from any moneys received by this state under Title III of the social security act, as amended.

Source. L. 1936, c. 270, §13, p. 1073.

**43:21-14. Collection of contributions.** (a) Report and payment of contributions. Every employer shall file with the commission periodical reports on such forms and at such times as the commission shall prescribe, to disclose his liability

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for contributions under the provisions of this chapter, and at the time of filing each such report the commission may require payment of the contributions required by this chapter for the period covered by such report. The commission may require that such reports shall be under oath of the employer. Any employer who shall fail to file any such report and pay the contributions on or before the date they are due, shall pay a penalty of one dollar (\$1.00) for each day from such due date until the report shall be filed with the commission and, in addition thereto, shall pay interest at the rate of one per cent (1%) a month on the unpaid contributions from such due date until the date of payment thereof with the accrued interest thereon.

(b) Tax a debt and lien; proceedings to recover; preference. The contributions, penalties, and interest due from any employer under the provisions of this chapter, from the time they shall be due, shall be a personal debt of the employer to the state of New Jersey, recoverable in any court of competent jurisdiction in an action at law in the name of the state of New Jersey. Such debt, whether sued upon or not, shall be a lien on all the property of the debtor except as against an innocent purchaser for value in the usual course of business and without notice thereof, and shall have preference in any distribution of the assets of the employer, whether in bankruptcy, insolvency or otherwise.

(c) Arbitrary assessment. If any employer shall fail to make any report as required by the rules and regulations of the commission pursuant to the provisions of this chapter, the commission may make an estimate of the liability of such employer from any information it may obtain and, according to such estimate so made, assess such employer for the contributions, penalties, and interest due the state from him, give notice of such assessment to the employer, and make demand upon him for payment.

(d) Deficiency assessment. After a report is filed under the provisions of this chapter and the rules and regulations of the commission, the commission shall cause the report to be examined and shall make such further audit and investigation as it may deem necessary, and if therefrom there shall be determined that there is a deficiency with respect to the payment of the contributions due from such employer, the commission shall assess the additional contributions, penalties, and interest due the state from such employer, give notice of such assessment to the employer, and make demand upon him for payment.

(e) Certificates of debt; judgment; procedure thereon. As an additional or alternative remedy, the commission may issue a certificate to the clerk of the supreme court or the clerk of the court of common pleas of any county that any employer is indebted under this chapter in such an amount as shall be named in such certificate, and thereupon the clerk to whom such certificate shall have been issued shall immediately enter upon his record of docketed judgments the name of such person, the name of the state, the amount of the debt so

certified, a description of the liability under this chapter, and the date of making such entries. The making of such entries shall have the same force and effect as the entry of a docketed judgment in the office of such clerk, and the commission shall have all the remedies and may take all the proceedings for the collection thereof which may be had or taken upon the recovery of a judgment in an action at law upon contract, but without prejudice to the employer's right of appeal.

(f) Priorities under legal dissolutions or distributions. In the event of any distribution of an employer's assets pursuant to an order of any court under the laws of this state, including any receivership, assignment for benefit of creditors, adjudicated insolvency, composition, or similar proceeding, contributions then or thereafter due shall be paid in full prior to all other claims except taxes and claims for remuneration of not more than two hundred fifty dollars (\$250.00) to each claimant, earned within six months of the commencement of the proceeding. In the event of an employer's adjudication in bankruptcy, judicially confirmed extension proposal, or composition, under the federal bankruptcy act of 1898, as amended, contributions then or thereafter due shall be entitled to such priority as is provided in section sixty-four (b) of that act (U. S. C., Title XI, sec. 104 (b), as amended).

(g) Refunds. If not later than one year after the date on which any contributions or interest thereon became due, an employer who has paid such contributions or interest thereon shall make application for an adjustment thereof in connection with subsequent contribution payments, or for a refund thereof because such adjustment cannot be made, and the commission or executive director shall determine that such contributions or interest or any portion thereof was erroneously collected, such employer shall be allowed to make an adjustment thereof, without interest, in connection with subsequent contribution payments by him, or if such adjustment cannot be made the said amount shall be refunded, without interest, from the fund. For like cause and within the same period, adjustment or refund may be so made on the initiative of the commission through the executive director.

(h) All interest and penalties collected pursuant to this section shall be paid into the unemployment compensation fund.

Source. L. 1936, c. 270, §14, p. 1075.

**43:21-15. Protection of rights and benefits.**  
(a) Waiver of rights void. Any agreement by an individual to waive, release, or commute his rights to benefits or any other rights under this chapter shall be void. No agreement by any individual in the employ of any person or concern to pay all or any portion of an employer's contributions, required under this chapter from such employer, shall be valid. No employer shall directly or indirectly make or require or accept any deduction from the remuneration of any individual in his employ to finance the employer's contributions required from him, or require or accept any waiver of any right hereunder by any individual in his employ. Any employer or officer or agent of an



violates any provision of this subsection, for each offense, be fined not less than one hundred dollars (\$100.00) nor more than one thousand dollars (\$1,000.00) or be imprisoned for more than six months, or both.

**Limitation of fees.** No individual claiming benefits shall be charged fees of any kind in any proceeding under this chapter by the commission or its representatives or by any court or any officer thereof. Any individual claiming benefits in any proceeding before the board of review or a court may be represented by counsel or other duly authorized agent; but no such counsel or agents shall either charge or receive for such services more than an amount approved by the board of review. Any person who violates any provision of this subsection shall, for each such offense, be fined not less than fifty dollars (\$50.00) nor more than five hundred dollars (\$500.00), or imprisoned for not more than six months, or both.

(c) **No assignment of benefits; exemptions.** Any assignment, pledge, or encumbrance of any right to benefits which are or may become due or payable under this chapter shall be void; and such rights to benefits shall be exempt from levy, execution, attachment, or any other remedy whatsoever provided for the collection of debt; and benefits received by any individual, so long as they are not mingled with other funds of the recipient, shall be exempt from any remedy whatsoever for the collection of all debts except debts incurred for necessities furnished to such individual or his spouse or dependents during the time when such individual was unemployed. Any waiver of any exemption provided for in this subsection shall be void.  
Source. L. 1936, c. 270, §15, p. 1078.

**43:21-16. Penalties.** (a) Whoever makes a false statement or representation knowing it to be false or knowingly fails to disclose a material fact, to obtain or increase any benefit or other payment under this chapter, either for himself or for any other person, shall be liable to a fine of not less than twenty dollars (\$20.00) nor more than fifty dollars (\$50.00), to be recovered in an action at law in the name of the commission, said fine when recovered to be paid to the unemployment compensation fund for the use of said fund; and each such false statement or representation or failure to disclose a material fact shall constitute a separate offense.

(b) Any employing unit or any officer or agent of an employing unit or any other person who makes a false statement or representation knowing it to be false, or who knowingly fails to disclose a material fact, to prevent or reduce the payment of benefits to any individual entitled thereto, or to avoid becoming or remaining subject hereto or to avoid or reduce any contribution or other payment required from an employing unit under this chapter, or who willfully fails or refuses to make any such contributions or other payment or to furnish any reports required hereunder or to produce or permit the inspection or copying of records as required hereunder, shall be liable to a fine of not less than twenty dollars (\$20.00) nor more than two hundred dollars (\$200.00), to be recovered in an action at law in the name of the

commission. Said fine when recovered to be paid to the unemployment compensation fund for the use of said fund; and each such false statement or representation or failure to disclose a material fact, and each day of such failure or refusal shall constitute a separate offense.

(c) Any person who shall willfully violate any provision of this chapter or any rule or regulation thereunder, the violation of which is made unlawful or the observance of which is required under the terms of this chapter, and for which a penalty is neither prescribed herein nor provided by any other applicable statute, shall be liable to a fine of not less than twenty dollars (\$20.00) nor more than two hundred dollars (\$200.00), to be recovered in an action at law in the name of the commission, said fine when recovered to be paid to the unemployment compensation fund for the use of said fund; and each day such violation continues shall be deemed to be a separate offense.

(d) Any person who, by reason of the nondisclosure or misrepresentation by him or by another, of a material fact (irrespective of whether such nondisclosure or misrepresentation was known or fraudulent) has received any sum as benefits under this chapter while any conditions for the receipt of benefits imposed by this chapter were not fulfilled in his case, or while he was disqualified from receiving benefits, shall, in the discretion of the commission, either be liable to have such sum deducted from any future benefits payable to him under this chapter or shall be liable to repay to the commission for the unemployment compensation fund, a sum equal to the amount so received by him, and such sum shall be collectible in the manner provided in subsection (e) of section 43:21-14 of this title for the collection of past-due contributions.  
Source. L. 1936, c. 270, §16, p. 1079.

**43:21-17. Representation in court.** (a) In any civil action to enforce the provisions of this chapter the commission and the state may be represented by any qualified attorney who is a regular salaried employee of the commission or is designated by it for this purpose or at the commission's request, by the attorney general.  
Source. L. 1936, c. 270, §17, p. 1080.

**43:21-18. Nonliability of state.** Benefits shall be deemed to be due and payable under this chapter only to the extent provided in this chapter and to the extent that moneys are available therefor to the credit of the unemployment compensation fund, and neither the state, the commission nor any representative thereof shall be liable for any amount in excess of such sums.  
Source. L. 1936, c. 270, §18, p. 1081.

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

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

(2) "Average annual pay roll" means the average of the annual pay rolls of any employer for the last three or five preceding calendar years, whichever average is higher.

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

(c) The term "base year" means the first four of the last five completed calendar quarters immediately preceding the first day of an individual's benefit year.

(d) "Benefit year", with respect to any individual means the fifty-two consecutive week periods beginning with the first day of the first week with respect to which benefits are first payable to him, and thereafter, the fifty-two consecutive week periods beginning with the first day of the first week with respect to which benefits are next payable to him after the termination of his last preceding benefit year.

(e) "Commission" means the unemployment compensation commission established by section 43:21-10 of this title, and for purposes of this chapter any transaction or exercise of authority by the executive director shall be deemed to be performed by the commission.

(f) "Contributions" means the money payments to the state unemployment compensation fund required by this chapter.

(g) "Employing unit" means any individual or type of organization, including any partnership, association, trust, estate, joint-stock company, insurance company or corporation, whether domestic or foreign, or the receiver, trustee in bankruptcy, trustee or successor thereof, or the legal representative of a deceased person, which has or subsequent to January first, one thousand nine hundred and thirty-six, had in its employ one or more individuals performing services for it within this state. All individuals performing services within this state for any employing unit which maintains two or more separate establishments within this state shall be deemed to be employed by a single employing unit for all the purposes of this chapter. Whenever any employing unit contracts with or has under it any contractor or subcontractor for any employment which is part of its usual trade, occupation, profession, or business, unless the employing unit as well as each such contractor or subcontractor is an employer by reason of subsection (c) of section 43:21-8 of this title or subsection (h) of this section, the employing unit shall for all the purposes of this chapter be deemed to employ each individual in the employ of each such contractor or subcontractor for each day during which such individual is engaged in performing such employment; except that each such contractor or subcontractor who is an employer by reason of subsection (c) of section 43:21-8 of this title or subsection (h) of this section, shall alone be liable for the contributions measured by wages payable to individuals in his employ, and except that any employing unit who shall become liable for and pay contributions with respect to individuals in the employ of any such contractor or subcontractor who is not an employer by reason of subsection (c) of section 43:21-8 of this title or subsection (h) of this section, may recover the same from such contractor or subcontractor. Each individual employed to perform or to assist in performing the work of any agent or

employee of an employing unit shall be deemed to be employed by such employing unit for all the purposes of this chapter, whether such individual was hired or paid directly by such employing unit or by such agent or employee, provided the employing unit had actual or constructive knowledge of the work.

(h) "Employer" means:

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

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

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

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

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

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

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

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

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

(3) Services performed within this state but not covered under paragraph (2) of this subsection shall be deemed to be employment subject to this chapter if contributions are not required and paid with respect to such services under an unemploy-

ment compensation law of any other state or of the federal government.

(4) Services not covered under paragraph (2) of this subsection, and performed entirely without this state, with respect to no part of which contributions are required and paid under an unemployment compensation law of any other state or of the federal government, shall be deemed to be employment subject to this chapter if the individual performing such services is a resident of this state and the commission approves the election of the employing unit for whom such services are performed that the entire service of such individual shall be deemed to be employment subject to this chapter, provided written objections on the part of a substantial proportion of such individuals affected are not presented to the commission within ten days following the filing of such election.

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

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

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

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

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

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

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

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

(A) Agricultural labor;

(B) Domestic service in a private home;

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

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

(E) Service performed in the employ of this state, or of any political subdivision thereof, or of any instrumentality of this state or its political subdivisions;

(F) Service performed in the employ of any other state or its political subdivisions, or of the United States government, or of an instrumentality of any other state or states or their political subdivisions or of the United States;

(G) Service performed in the employ of a corporation, community chest, fund, or foundation, organized and operated exclusively for religious,

charitable, scientific, literary, or educational purposes, or for the prevention of cruelty to children or animals, no part of the net earnings of which inures to the benefit of any private shareholder or individual.

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

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

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

(m) "Total unemployment."

(1) An individual shall be deemed "totally unemployed" in any week with respect to which no remuneration is payable to him and during which he performs no services (other than odd jobs or subsidiary work for which no remuneration as used in this section is payable to him).

(2) As used in this subsection, the term "remuneration" shall include only that part of remuneration for odd jobs or subsidiary work, or both, which is in excess of three dollars (\$3.00) in any one week.

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

(n) "Unemployment compensation administration fund" means the unemployment compensation administration fund established by this chapter, from which administrative expenses under this chapter shall be paid.

(o) "Wages" means remuneration payable by employers for employment.

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

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

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

(s) "Weekly benefit amount." An individual's "weekly benefit amount" means the amount of benefits he would be entitled to receive for one week of total unemployment and an individual's weekly benefit amount as determined for the first week of his benefit year shall constitute his weekly benefit amount throughout such benefit year.

Source. L. 1936, c. 270, §19, p. 1081.

#### 43:21-20. Part-time workers.

(a) As used in this section the term "part-time worker" means an individual whose normal work

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is in an occupation in which his services are not required for the customary scheduled full-time hours prevailing in the establishment in which he is employed, or who, owing to personal circumstances, does not customarily work the customary scheduled full-time hours prevailing in the establishment in which he is employed.

(b) The commission shall approve fair and reasonable general rules applicable to part-time workers, for determining their full-time weekly wage, and the total wages required to qualify such workers for benefits.

Source. L. 1936, c. 270, §20, p. 1087.

43:21-21. Reciprocal benefit arrangements. The commission is hereby authorized to enter into arrangements with the appropriate agencies of other states or the federal government whereby potential rights to benefits accumulated under the unemployment compensation laws of several states or under such a law of the federal government, or both, may constitute the basis for the payment of benefits through a single appropriate agency

under terms which the commission finds will be fair and reasonable as to all affected interests and will not result in any substantial loss to the fund.

Source. L. 1936, c. 270, §21, p. 1088.

43:21-22. Saving clause. The legislature reserves the right to amend or repeal all or any part of this chapter at any time; and there shall be no vested private right of any kind against such amendment or repeal. All the rights, privileges, or immunities conferred by this chapter or by acts done pursuant thereto shall exist subject to the power of the legislature to amend or repeal this chapter at any time.

Source. L. 1936, c. 270, §22, p. 1088.

43:21-23. Separability of provisions. If any provision of this chapter, or the application thereof to any person or circumstance, is held invalid, the remainder of this chapter and the application of such provision to other persons or circumstances shall not be affected thereby.

Source. L. 1936, c. 270, §23, p. 1088.

Version Passed by  
Senate and Assembly.

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# STATE OF NEW JERSEY

ADOPTED MARCH 30, 1950

AN Act concerning unemployment compensation, and amending sections 43:21-3,  
43:21-4, 43:21-5 and 43:21-7 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. Twenty-five months after the date  
4 when contributions first accrue under this chapter, benefits shall become pay-  
5 able from the fund; *provided*, that remuneration or services with respect to  
6 which unemployment compensation is payable under the Railroad Unemploy-  
7 ment Insurance Act (52 Stat. 1094), irrespective of when performed, shall  
8 not be included for purposes of determining eligibility under subsection (e)  
9 of section 43:21-4 of this chapter or the weekly benefit rate under subsec-  
10 tion (c) of this section for the purpose of any benefit year commencing on  
11 or after July first, one thousand nine hundred and thirty-nine, nor shall any  
12 benefits with respect to unemployment occurring on and after July first, one  
13 thousand nine hundred and thirty-nine, be payable under subsection (d) of  
14 this section on the basis of such remuneration. All benefits shall be paid  
15 through employment offices, or such other agencies as may be designated in  
16 accordance with such regulations as may be prescribed hereunder.

17 (b) Weekly benefits for unemployment. Each eligible individual who is  
18 unemployed (as defined in subsection (m) of section 43:21-19 of this chap-  
19 ter) in any week shall be paid with respect to such week (except as to final  
20 payment) an amount equal to his weekly benefit rate less any remuneration

21 in excess of three dollars (\$3.00) paid or payable to him for such week;  
 22 *provided*, that such amount shall be computed to the next highest multiple of  
 23 one dollar (\$1.00), if not already a multiple thereof.

24 (c) Weekly benefit rate. An individual's weekly rate shall be one-  
 25 twenty-second of his total wages in that calendar quarter in which said total  
 26 wages were highest during his base year; *provided*, that such rate shall be  
 27 computed to the next highest multiple of one dollar (\$1.00) if not already a  
 28 multiple thereof, and shall not be more than twenty-six dollars (\$26.00)  
 29 nor less than ten dollars (\$10.00).

30 (d) Maximum total benefits. The maximum total amount of benefits  
 31 payable to any eligible individual under either of subsections (c) and (f) of  
 32 section 43:21-4 of this Title during any benefit year shall be either one-third  
 33 of his total wages during his base year, computed to the next highest multiple  
 34 of one dollar (\$1.00), if not already a multiple thereof, or twenty-six times  
 35 his weekly benefit rate, whichever is the lesser; in no event, however, are  
 36 such total benefits under either of said subsections (c) and (f) to be less than  
 37 ten times his weekly benefit rate. In the event that an individual qualified  
 38 for benefits under both of said subsections during any benefit year, the  
 39 maximum total amount of benefits payable under said subsections combined  
 40 to such individual during the benefit year shall be one and one-half times the  
 41 maximum amount of benefits payable under one of said subsections.

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

2 43:21-4. An individual, totally or partially unemployed, shall be eligible  
 3 to receive benefits with respect to any week only if it appears that:

4 (a) He has registered for work at, and thereafter continued to report  
 5 at, an employment office in accordance with such regulations as the commis-  
 6 sion may prescribe, except that the commission may, by regulation, waive or  
 7 alter either or both of the requirements of this subsection as to individuals  
 8 attached to regular jobs, and as to such other types of cases or situations with  
 9 respect to which the commission finds that compliance with such require-  
 10 ments would be oppressive, or would be inconsistent with the purpose of this

11 act; *provided*, that no such regulation shall conflict with subsection (a) of  
12 section 43:21-3 of the Revised Statutes.

13 (b) He has made a claim for benefits in accordance with the provisions  
14 of subsection (a) of section 43:21-6 of this Title.

15 (c) He is able to work, is available for work, and has demonstrated that  
16 he is actively seeking work, except as provided in subsection (f) of this  
17 section;

18 (d) Prior to the first week for which he claims benefits in any benefit  
19 year he has been totally or partially unemployed for a waiting period of one  
20 week in that benefit year. No week shall be counted as a week of unemploy-  
21 ment for the purposes of this subsection:

22 (1) if benefits have been paid, or are payable with respect thereto;

23 (2) if it has constituted a waiting period week under the Temporary  
24 Disability Benefits Law;

25 (3) unless the individual fulfills the requirements of subsections (a) and  
26 (c) of this section.

27 (e) His wages within his base year were not less than twenty-five times  
28 his weekly benefit amount.

29-33 (f) He has suffered any accident or sickness not compensable under the  
34 workmen's compensation law (Title 34 of the Revised Statutes) and resulting  
35 in his total disability to perform any work for remuneration, and would be  
36 eligible to receive benefits under this chapter (without regard to the maxi-  
37 mum amount of benefits payable during any benefit year) except for his  
38 inability to work and has furnished notice and proof of claim to the commis-  
39 sion, in accordance with its rules and regulations, and payment is not pre-  
40 cluded by the provisions of subsection (g) hereof or of section 43:21-3 (d)  
41 of this Title. Such benefit payments shall be charged to and paid from the  
42 State disability benefits fund established by the Temporary Disability  
43 Benefits Law, and shall not be charged to any employer account in comput-  
44 ing any employer's experience rate for contributions payable under this  
45 chapter.

46 (g) No benefits shall be payable under subsection (f) above to any  
47 individual:

48 (1) for any period during which such individual is not under the care  
49 of a legally licensed physician;

50 (2) for any period of disability due to pregnancy or resulting child-  
51 birth, miscarriage, or abortion;

52 (3) for any period of disability due to willfully or intentionally self-  
53 inflicted injury, or to injuries sustained in the perpetration by the individual  
54 of a high misdemeanor;

55 (4) for any week with respect to which or a part of which he has  
56 received or is seeking unemployment benefits under any unemployment  
57 compensation or disability benefit law of any other State or of the United  
58 States; *provided*, that if the appropriate agency of such other State or of the  
59 United States finally determines that he is not entitled to such benefits, this  
60 disqualification shall not apply;

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

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

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

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



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

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

3        (a) For the week in which he has left work voluntarily without good  
4 cause, and for each week thereafter until he has earned in employment (which  
5 may be with an employing unit having in employment one or more individ-  
5A uals) at least four times his weekly benefit rate, as determined in each case.

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

9        (c) If it is found that he has failed, without good cause, either to apply  
10 for available, suitable work when so directed by the employment office or the  
11 director or to accept suitable work when offered him, or to return to his cus-  
12 tomary self-employment (if any) when so directed by the director. Such dis-  
13 qualification shall continue for the week in which such failure occurred and  
14 for the three weeks which immediately follow such week (in addition to the  
15-18 waiting period), as determined:

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

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

35 (d) For any week with respect to which it is found that his unem-  
 36 ployment is due to a stoppage of work which exists because of a labor  
 37 dispute at the factory, establishment, or other premises at which he is or was  
 38 last employed; *provided*, that this subsection shall not apply if it is shown  
 39 that:

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

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

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

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

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

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

2 43:21-7. (a) Payment.

3 (1) On and after December first, one thousand nine hundred and thirty-  
 4 six, contributions shall accrue and become payable by each employer for each

5 calendar year in which he is subject to this chapter, with respect to having  
6 individuals in his employ during such calendar year at the rates and on the  
7 basis hereinafter set forth, except that for the month of December, one thou-  
8 sand nine hundred and thirty-six, such contributions shall accrue and become  
9 payable with respect to having individuals in his employ during the month  
10 of December, one thousand nine hundred and thirty-six. Such contributions  
11 shall become due and be paid by each employer to the Division of Employ-  
12 ment Security for the fund in accordance with such regulations as may be  
13 prescribed, and shall not be deducted, in whole or in part, from the  
14 remuneration of individuals in his employ.

15 (2) In the payment of any contributions, a fractional part of a cent shall  
16 be disregarded unless it amounts to one-half cent (\$0.005) or more, in which  
17 case it shall be increased to one cent (\$0.01).

18 (b) Rate of contributions. Each employer shall pay the following con-  
19 tributions:

20 (1) Ten and eight-tenths per centum (10  $\frac{8}{10}\%$ ) of wages payable with  
21 respect to employment during the month of December, one thousand nine  
22 hundred and thirty-six and paid prior to January first, one thousand nine  
23 hundred and forty-seven; *provided*, that if the total of such contributions at  
24 such ten and eight-tenths per centum (10  $\frac{8}{10}\%$ ) rate equals less than nine-  
25 tenths of one per centum ( $\frac{9}{10}$  of 1%) of the annual payroll of any  
26 employer payable for the calendar year one thousand nine hundred and  
27 thirty-six, such employer shall pay, not later than January twenty-fifth, one  
28 thousand nine hundred and thirty-seven, an additional lump-sum contribution  
29 with respect to employment for such one month's period beginning Decem-  
30 ber first, one thousand nine hundred and thirty-six, equal to the difference  
31 between nine-tenths of one per centum ( $\frac{9}{10}$  of 1%) of his annual payroll  
32 payable for the calendar year one thousand nine hundred and thirty-six and  
33 the total of his contributions at such ten and eight-tenths per centum  
34 (10  $\frac{8}{10}\%$ ) for such one month's period beginning December first, one thou-  
35 sand nine hundred and thirty-six; *and provided further*, that the total of

36 such contributions with respect to employment for such one month's period  
 37 beginning December first, one thousand nine hundred and thirty-six, shall  
 38 not exceed nine-tenths of one per centum ( $9/10$  of 1%) of such employer's  
 39 annual payroll payable for the calendar year one thousand nine hundred and  
 40 thirty-six.

41 (2) One and eight-tenths per centum ( $1\frac{8}{10}\%$ ) of wages payable with  
 42 respect to employment during the calendar year one thousand nine hundred  
 43 and thirty-seven and paid prior to January first, one thousand nine hundred  
 44 and forty-seven;

45 (3) Two and seven-tenths per centum ( $2\frac{7}{10}\%$ ) of wages payable with  
 46 respect to employment during the calendar years one thousand nine hundred  
 47 and thirty-eight, one thousand nine hundred and thirty-nine, one thousand  
 48 nine hundred and forty and one thousand nine hundred and forty-one and  
 49 paid prior to January first, one thousand nine hundred and forty-seven; and,  
 50 except as otherwise prescribed by subsection (c) of this section, also during  
 51 the calendar years one thousand nine hundred and forty-two to one thousand  
 52 nine hundred and forty-six, inclusive, and paid prior to January first, one  
 53 thousand nine hundred and forty-seven; and

54 (4) For the calendar year one thousand nine hundred and forty-seven,  
 55 and each calendar year thereafter, two and seven-tenths per centum  
 56 ( $2\frac{7}{10}\%$ ) of wages paid by him during each such calendar year, except as  
 57 otherwise prescribed by subsection (c) of this section.

58 (5) The "wages" of any individual, with respect to any one employer  
 59 as the term is used in this subsection (b) and in subsections (c), (d) and  
 60 (e) of this section seven, shall include:

61 (A) All remuneration payable for the month of December, one  
 62 thousand nine hundred and thirty-six, and for the calendar years one  
 63 thousand nine hundred and thirty-seven, one thousand nine hundred and  
 64 thirty-eight, one thousand nine hundred and thirty-nine, and paid prior  
 65 to January first, one thousand nine hundred and forty-seven;

66 (B) The first three thousand dollars (\$3,000.00) earned for each of  
67 the calendar years one thousand nine hundred and forty to one thou-  
68 sand nine hundred and forty-six, inclusive, and paid prior to January  
69 first, one thousand nine hundred and forty-seven; and

70 (C) The first three thousand dollars (\$3,000.00) paid during the  
71 calendar year one thousand nine hundred and forty-seven and during  
72 each calendar year thereafter, for services either within or without this  
73 State; *provided*, that no contribution shall be required by this State with  
74 respect to services performed in another State if such other State im-  
75 poses contribution liability with respect thereto.

76 (c) Future rates based on benefit experience: (1) A separate account  
77 for each employer shall be maintained and this shall be credited with all the  
78 contributions which he has paid on his own behalf on or before January  
79 thirty-first of any calendar year with respect to employment occurring in  
80 preceding calendar years. But nothing in this chapter shall be construed to  
81 grant any employer or individuals in his service prior claims or rights to  
82 the amounts paid by him into the fund either on his own behalf or on behalf  
83 of such individuals. Benefits paid to any individual on or before January  
84 thirty-first of any calendar year with respect to unemployment in preceding  
85 calendar years shall be charged against the account of each of the employers  
86 with whom such individual accrued the wage credits constituting the basis  
87 of such benefits, in the same proportion as such wage credits with each such  
88 employer bear to such wage credits with all such employers. The Division  
89 of Employment Security shall furnish to each employer at such frequency  
90 as the division shall, by regulation, prescribe, but in no case less frequently  
91 than annually, a detailed statement of benefits charged to his account.

92 (2) The Division of Employment Security may prescribe regulations  
93 for the establishment, maintenance, and dissolution of joint accounts by two  
94 or more employers, and shall, in accordance with such regulations and upon  
95 application by two or more employers to establish such an account, or to  
96 merge their several individual accounts in a joint account, maintain such  
97-115 joint account as if it constituted a single employer's account.

116 (3) Each employer's rate shall be two and seven-tenths per centum  
 117 ( $2\frac{7}{10}\%$ ), except as otherwise provided in the following provisions: No  
 118 employer's rate shall be other than two and seven-tenths per centum  
 119 ( $2\frac{7}{10}\%$ ) unless and until there shall have been three calendar years  
 120 throughout which any individual in his employ could have received benefits  
 121 if eligible.

122 (4) Each employer's rate for the twelve months commencing July first  
 123 of any calendar year shall be determined on the basis of his record up to the  
 124 beginning of such calendar year. If, at the beginning of such calendar year,  
 125 the total of all his contributions, paid on his own behalf, for all past years  
 126 exceeds the total benefits charged to his account for all such years, his con-  
 127 tribution rate shall be:

128 (A) Two and four-tenths per centum ( $2\frac{4}{10}\%$ ), if such excess  
 129 equals or exceeds four per centum (4%), but is less than five per centum  
 130 (5%) of his average annual payroll (as defined in paragraph (2), sub-  
 131 section (a) of section 43:21-19 of this Title);

132 (B) Two and one-tenth per centum ( $2\frac{1}{10}\%$ ), if such excess equals  
 133 or exceeds five per centum (5%), but is less than six per centum (6%)  
 134 of his average annual payroll;

135 (C) One and eight-tenths per centum ( $1\frac{8}{10}\%$ ), if such excess  
 136 equals or exceeds six per centum (6%), but is less than seven per centum  
 137 (7%) of his average annual payroll;

138 (D) One and five-tenths per centum ( $1\frac{5}{10}\%$ ), if such excess  
 139 equals or exceeds seven per centum (7%), but is less than eight per  
 140 centum (8%) of his average annual payroll;

141 (E) One and two-tenths per centum ( $1\frac{2}{10}\%$ ), if such excess  
 142 equals or exceeds eight per centum (8%), but is less than nine per  
 143 centum (9%), of his average annual payroll;

144 (F) Nine-tenths of one per centum ( $\frac{9}{10}$  of 1%), if such excess  
 145 equals or exceeds nine per centum (9%), but is less than ten per centum  
 146 (10%), of his average annual payroll;

147 (G) Six-tenths of one per centum (6/10 of 1%), if such excess  
 148 equals or exceeds ten per centum (10%), but is less than eleven per  
 149 centum (11%), of his average annual payroll;

150 (H) Three-tenths of one per centum (3/10 of 1%), if such excess  
 151 equals or exceeds eleven per centum (11%) of his average annual pay-  
 152 roll.

153 If the total of his contributions, paid on his own behalf, for all past  
 154 periods, or for the past one hundred twenty consecutive calendar months,  
 155 whichever period is more advantageous to such employer for the purposes  
 156 of this paragraph, is less than the total benefits charged against his account  
 157 during the same period, his rate shall be three per centum (3%).

158 (5) (A) If on March thirty-first of any calendar year the balance in  
 159 the Unemployment Trust Fund equals or exceeds four per centum (4%) but is  
 160 less than seven per centum (7%) of the total taxable wages reported to the  
 161 division as of that date in respect to employment during the preceding  
 162 calendar year, the contribution rate, effective July first following, of each  
 163 employer eligible for a contribution rate calculation based upon benefit expe-  
 164 rience, shall be increased by three-tenths of one per centum (3/10 of 1%)  
 165 over the contribution rate otherwise established under the provisions of para-  
 166 graph (4) of this subsection. If on March thirty-first of any calendar year  
 167 the balance of the Unemployment Trust Fund is less than four per centum  
 168 (4%) of the total taxable wages reported to the Division of Employment  
 169 Security as of that date in respect to employment during the preceding  
 170 calendar year, the contribution rate, effective July first following, of each  
 171 employer eligible for a contribution rate calculation based upon benefit  
 172 experience, shall be increased by six-tenths of one per centum (6/10 of 1%)  
 173 over the contribution rate otherwise established under the provisions of  
 174 paragraph (4) of this subsection; *provided*, that if on such March thirty-  
 175 first, such balance is less than two and one-half per centum (2½%) of such  
 176 total taxable wages, the contribution rate so effective, of any employer, shall  
 177 be not less than two and seven-tenths per centum (27/10%); *provided*

178 *further*, that the contribution rate of any employer increased pursuant to  
 179 the provisions of this subparagraph, when so increased, shall not exceed  
 180 three and six-tenths per centum (3 6/10%).

181 (B) If on March thirty-first of any calendar year the balance in the  
 182 Unemployment Trust Fund equals or exceeds ten per centum (10%) but is  
 183 less than twelve and one-half per centum (12½%) of the total taxable wages  
 184 reported to the Division of Employment Security as of that date in respect  
 185 to employment during the preceding calendar year, the contribution rate,  
 186 effective July first following, of each employer eligible for a contribution  
 187 rate calculation based upon benefit experience, shall be reduced by three-  
 188 tenths of one per centum (3/10 of 1%) under the contribution rate other-  
 189 wise established under the provisions of paragraphs (3) and (4) of this  
 190 subsection; *provided*, that in no event shall the contribution rate of any  
 191 employer be reduced to less than three-tenths of one per centum (3/10 of  
 192 1%). If on March thirty-first of any calendar year the balance in the Unem-  
 193 ployment Trust Fund equals or exceeds twelve and one-half per centum  
 194 (12½%) of the total taxable wages reported to the division as of that date  
 195 in respect to employment during the preceding calendar year, the contribu-  
 196 tion rate, effective July first following, of each employer eligible for a  
 197 contribution rate calculation based upon benefit experience, shall be reduced  
 198 by six-tenths of one per centum (6/10 of 1%) if his account reflects an excess  
 199 of contributions paid over total benefits charged of three per centum (3%)  
 200 or more of his average annual payroll, otherwise by three-tenths of one per  
 201 centum (3/10 of 1%) under the contribution rate otherwise established  
 202 under the provisions of paragraphs (3) and (4) of this subsection; *provided*,  
 203 that in no event shall the contribution rate of any employer be reduced to  
 204 less than three-tenths of one per centum (3/10 of 1%).

205 (6) Additional contributions.

206 Notwithstanding any other provision of law, any employer who has been  
 207 assigned a contribution rate pursuant to subsection (c) of this section for  
 208 the year commencing July first, one thousand nine hundred and forty-eight,



209 and for any year commencing July first thereafter, may voluntarily make  
210 payment of additional contributions, and upon such payment shall receive  
211 a recomputation of the experience rate applicable to such employer in-  
212 cluding in the calculation the additional contribution so made. Any such  
213 additional contribution shall be made during the thirty-day period follow-  
214 ing the date of the mailing to the employer of the notice of his contribution  
215 rate as prescribed in this section, unless, for good cause, the time for pay-  
216 ment has been extended by the director for not to exceed an additional  
217 sixty days; *provided*, that in no event may such payments which are made  
218 later than one hundred twenty days after the beginning of the year for  
219 which such rates are effective be considered in determining the experience  
220 rate for the year in which the payment is made. Any employer receiving  
221 any extended period of time within which to make such additional payment  
222 and failing to make such payment timely shall pay, in addition to the re-  
223 quired amount of additional payment, a penalty of five per centum (5%)  
224 thereof or five dollars (\$5.00), whichever is greater, not to exceed fifty dol-  
225 lars (\$50.00). Any adjustment under this subsection shall be made only in  
226 the form of credits against accrued or future contributions.

227 (7) Transfers.

228 An employer who transfers his or its organization, trade, assets or  
229 business, in whole or in part, to a successor in interest, whether by merger,  
230 consolidation, sale, transfer, descent or otherwise, may jointly make applica-  
231 tion with such successor in interest for transfer of the employment experi-  
232 ence of the predecessor employer to the successor in interest, including  
233 credit for past years, contributions paid, annual payrolls, benefit charges,  
234 et cetera, applicable to such predecessor employer. The Division of Employ-  
235 ment Security may allow such transfer of employment experience pursuant  
236 to regulations adopted by the division, only if it finds that the employment  
237 experience of the predecessor employer with respect to the organization,  
238 trade, assets or business, or part thereof, as the case may be, which has been  
239 transferred, may be considered indicative of the future employment experi-

240 ence of the successor in interest. In the event of a part transfer of an  
 241 employer's organization, trade, assets or business, only that portion of the  
 242 employment experience relating to the portion of the organization, trade,  
 243 assets or business transferred shall be transferred, and credit shall be given  
 244 to the successor in interest only for the years during which contributions were  
 245 paid by the predecessor employer with respect to that part of the organiza-  
 246 tion, trade, assets or business transferred. A transfer of the employment  
 247 experience in whole or in part having been applied for and approved by  
 248 the Division of Employment Security, the predecessor employer thereafter  
 249 shall not be entitled to consideration for an adjusted rate based upon his or  
 250 its experience or the part thereof, as the case may be, which has thus been  
 251 transferred. A successor in interest to whom employment experience or a  
 252 part thereof is transferred pursuant to this subsection shall, as of the date  
 253 of the transfer of the organization, trade, assets or business, or part thereof,  
 254 immediately become an employer if not theretofore an employer subject to  
 254A this chapter.

255 (d) Contribution of workers; transfer to temporary disability benefit  
 256 fund.

257 (1) Each worker shall contribute to the fund one per centum (1%) of  
 258 his wages paid by an employer with respect to his employment which occurs  
 259 after December thirty-first, one thousand nine hundred and thirty-seven, and  
 260 after such employer has satisfied the conditions set forth in subsection (h)  
 261 of section 43:21-19 of this Title with respect to becoming an employer; *pro-*  
 262 *vided, however*, that such contribution shall be at the rate of one-fourth of  
 263 one per centum ( $\frac{1}{4}$  of 1%) of wages paid with respect to employment on  
 264 and after January first, one thousand nine hundred and forty-nine, while  
 265 the worker is covered by an approved private plan under the Temporary  
 266 Disability Benefits Law or while the worker is exempt from the provisions  
 267 of the Temporary Disability Benefits Law under section seven of that law.  
 268 Each employer shall, notwithstanding any provisions of the law in this State  
 269 to the contrary, withhold in trust the amount of his workers' contributions

270 from their wages at the time such wages are paid, shall show such deduc-  
271 tion of his payroll records, shall furnish such evidence thereof to his workers  
272 as the division may prescribe, and shall transmit all such contributions, in  
273 addition to his own contributions, to the office of the Division of Employment  
274 Security in such manner and at such times as may be prescribed. If any  
275 employer fails to deduct the contributions of any of his workers at the time  
276 their wages are paid, or fails to make a deduction therefor at the time wages  
277 are paid for the next succeeding payroll period, he alone shall thereafter be  
278 liable for such contributions, and for the purposes of section 43:21-14 of this  
279 Title, such contributions shall be treated as employer's contributions required  
280 from him. As used in this chapter, except when the context clearly requires  
281 otherwise, the term "contributions" shall include the contributions of  
282 workers pursuant to this section.

283       (2) There shall be deposited in and credited to the State disability bene-  
284 fits fund, as the same shall be established by law, three-quarters of all worker  
285 contributions, received by the Division of Employment Security pursuant to  
286 subparagraph (1) above on and after April first, one thousand nine hun-  
287 dred and forty-eight or the date this subparagraph takes effect, whichever  
288 is later, with respect to wages upon which the rate of contributions is one  
289 per centum (1%) as provided in (1) above.

290       (3) If an individual does not receive any wages from the employing  
291 unit which for the purposes of this chapter is treated as his employer, or re-  
292 ceives his wages from some other employing unit, such employer shall never-  
293 theless be liable for such individual's contributions in the first instance; and  
294 after payment thereof such employer may deduct the amount of such con-  
295 tributions from any sums payable by him to such employing unit, or may  
296 recover the amount of such contributions from such employing unit or in the  
297 absence of such an employing unit, from such individual, in a civil action  
298 for debt; *provided*, proceedings therefor are instituted within three months  
299 after the date on which such contributions are payable. General rules shall  
300 be prescribed whereby such an employing unit may recover the amount of

301 such contributions from such individuals in the same manner as if it were  
302 the employer.

303 (4) Every employer who has elected to become an employer subject to  
304 this chapter or to cease to be an employer subject to this chapter, pursuant  
305 to the provisions of section 43:21-8 of this Title, shall post and maintain  
306 printed notices of such election on his premises, of such design, in such num-  
307 bers, and at such places as the director may determine to be necessary to  
308 give notice thereof to persons in his service.

309 (5) Contributions by workers, payable to the Division of Employment  
310 Security as herein provided, shall be exempt from garnishment, attachment,  
311 execution, or any other remedy for the collection of debts.

312 (e) Contributions by employers to State disability benefits fund.

313 (1) Except as hereinafter provided, each employer shall, in addition to  
314 the contributions required by subsections (a), (b), and (c) of this section,  
315 contribute one-quarter of one per centum ( $\frac{1}{4}$  of 1%) of the wages paid by  
316 such employer to workers with respect to employment after January first,  
317 one thousand nine hundred and forty-nine. Such contributions shall become  
318 due and be paid by each employer to the Division of Employment Security  
319 for the State disability benefits fund as established by law, in accordance  
320 with such regulations as may be prescribed, and shall not be deducted, in  
321 whole or in part, from the remuneration of individuals in his employ. In the  
322 payment of any contributions, a fractional part of a cent shall be disre-  
323 garded unless it amounts to one-half cent (\$0.005) or more, in which case  
324 it shall be increased to one cent (\$0.01).

325 (2) During the continuance of coverage of a worker by an approved  
326 private plan of disability benefits under the Temporary Disability Benefits  
327 Law, the employer shall be exempt from the contribution required by sub-  
328 paragraph (1) above with respect to wages paid to such worker.

329 (3) (A) The rates of contribution as specified in subparagraph (1)  
330 above shall be subject to modification as provided herein with respect to  
331 employer contributions due on and after July first, one thousand nine hun-  
332 dred and fifty-one.

333 (B) A separate disability benefits account shall be maintained for each  
334 employer required to contribute to the State disability benefits fund and such  
335 account shall be credited with contributions deposited in and credited to such  
336 fund with respect to employment occurring on and after January first, one  
337 thousand nine hundred and forty-nine. Each employer's account shall be  
338 credited with all contributions paid on or before January thirty-first of any  
339 calendar year on his own behalf and on behalf of individuals in his service  
340 with respect to employment occurring in preceding calendar years. But  
341 nothing in this act shall be construed to grant any employer or individuals  
342 in his service prior claims or rights to the amounts paid by him to the fund  
343 either on his own behalf or on behalf of such individuals. Benefits paid to  
344 any covered individual in accordance with Article III of the Temporary Dis-  
345 ability Benefits Law on or before January thirty-first of any calendar year  
346 with respect to disability in preceding calendar years shall be charged  
347 against the account of the employer by whom such individual was employed  
348 at the commencement of such disability or by whom he was last employed if  
349 out of employment.

350 (C) The division may prescribe regulations for the establishment,  
351 maintenance, and dissolution of joint accounts by two or more employers,  
352 and shall, in accordance with such regulations and upon application by two  
353 or more employers to establish such an account, or to merge their several  
354 individual accounts in a joint account, maintain such joint account as if it  
355 constituted a single employer's account.

356 (D) Prior to July first of each calendar year, the Division of Employ-  
357 ment Security shall make a preliminary determination of the rate of contri-  
358 bution for the twelve months commencing on such July first for each em-  
359 ployer subject to the contribution requirements of this subsection (e).

360 (1) Such preliminary rate shall be one-quarter of one per centum ( $\frac{1}{4}$  of  
361 1%) unless on the preceding December thirty-first such employer shall have  
362 been a covered employer for at least two full years and his account shall  
363 have been credited with at least fifteen hundred dollars (\$1,500.00) of em-  
364 ployer and employee contributions.

365 (2) If the minimum requirements in (1) above have been fulfilled and  
 366 the credited contributions exceed the benefits charged by more than five hun-  
 367 dred dollars (\$500.00), such preliminary rate shall be as follows:

368 (i) Two-tenths of one per centum ( $2/10$  of 1%) if such excess over  
 369 five hundred dollars (\$500.00) exceeds one per centum (1%) but is less  
 370 than one and one-quarter per centum ( $1\frac{1}{4}\%$ ) of his average annual pay-  
 371 roll (as defined in this chapter);

372 (ii) Fifteen one hundredths of one per centum ( $15/100$  of 1%) if  
 373 such excess over five hundred dollars (\$500.00) equals or exceeds one  
 374 and one-quarter per centum ( $1\frac{1}{4}\%$ ) but is less than one and one-half per  
 375 centum ( $1\frac{1}{2}\%$ ) of his average annual payroll;

376 (iii) One-tenth of one per centum ( $1/10$  of 1%) if such excess over  
 377 five hundred dollars (\$500.00) equals or exceeds one and one-half per  
 378 centum ( $1\frac{1}{2}\%$ ) of his average annual payroll.

379 (3) If the minimum requirements in (1) above have been fulfilled and the  
 380 contributions credited exceed the benefits charged but by not more than five  
 381 hundred dollars (\$500.00) plus one per centum (1%) of his average annual  
 382 payroll, or if the benefits charged exceed the contributions credited but by not  
 383 more than five hundred dollars (\$500.00), the preliminary rate shall be one-  
 384 quarter of one per centum ( $\frac{1}{4}$  of 1%).

385 (4) If the minimum requirements in (1) above have been fulfilled and  
 386 the benefits charged exceed the contributions credited by more than five hun-  
 387 dred dollars (\$500.00), such preliminary rate shall be as follows:

388 (i) Thirty-five one hundredths of one per centum ( $35/100$  of 1%) if  
 389 such excess over five hundred dollars (\$500.00) is less than one-quarter  
 390 of one per centum ( $\frac{1}{4}$  of 1%) of his average annual payroll;

391 (ii) Forty-five one hundredths of one per centum ( $45/100$  of 1%) if  
 392 such excess over five hundred dollars (\$500.00) equals or exceeds one-  
 393 quarter of one per centum ( $\frac{1}{4}$  of 1%) but is less than one-half of one  
 394 per centum ( $\frac{1}{2}$  of 1%) of his average annual payroll;

395 (iii) Fifty-five one hundredths of one per centum ( $55/100$  of 1%) if

396 such excess over five hundred dollars (\$500.00) equals or exceeds one-  
 397 half of one per centum ( $\frac{1}{2}$  of 1%) but is less than three-quarters of one  
 398 per centum ( $\frac{3}{4}$  of 1%) of his average annual payroll;

399 (iv) Sixty-five one hundredths of one per centum (65/100 of 1%) if  
 400 such excess over five hundred dollars (\$500.00) equals or exceeds three-  
 401 quarters of one per centum ( $\frac{3}{4}$  of 1%) but is less than one per centum  
 402 (1%) of his average annual payroll;

403 (v) Seventy-five one hundredths of one per centum (75/100 of 1%)  
 404 if such excess over five hundred dollars (\$500.00) equals or exceeds one  
 405 per centum (1%) of his average annual payroll.

406 (5) Determination of the preliminary rates as specified in (2), (3) and  
 407 (4) above shall be subject, however, to the condition that it shall in no event  
 408 be decreased by more than one-tenth of one per centum ( $\frac{1}{10}$  of 1%) of  
 409 wages or increased by more than two-tenths of one per centum ( $\frac{2}{10}$  of 1%)  
 410 of wages from the preliminary rate determined for the preceding year in  
 411 accordance with (1), (2), (3) or (4), whichever shall have been applicable.

412 (E) (1) Prior to July first of each calendar year the Division of Employ-  
 413 ment Security shall determine the amount of the State disability benefits fund  
 414 as of December thirty-first of the preceding calendar year increased by the con-  
 415 tributions paid thereto during January of the current calendar year with re-  
 416 spect to employment occurring in preceding calendar years and decreased by  
 417 the benefits paid during January of the current calendar year with respect to  
 418 disability in preceding calendar years. If such amount exceeds the total of the  
 419 amounts withdrawn from the unemployment trust fund pursuant to section  
 420 twenty-three of the Temporary Disability Benefits Law plus the amount at the  
 421 end of such preceding calendar year of the unemployment disability account  
 422 (as defined in section twenty-two of said law), such excess shall be expressed  
 423 as a percentage of the wages on which contributions were paid to the State dis-  
 424 ability benefits fund on or before January thirty-first with respect to  
 425 employment in the preceding calendar year.

426 (2) The Division of Employment Security shall then make a final deter-  
 427 mination of the rates of contribution for the twelve months commencing  
 428 July first of such year for employers whose preliminary rates are deter-  
 429 mined as provided in (D) hereof, as follows:

430 (i) If the percentage determined in accordance with paragraph (1)  
 431 of this subsection equals or exceeds one and one-quarter per centum  
 432 ( $1\frac{1}{4}\%$ ) the final employer rates shall be the preliminary rates deter-  
 433 mined as provided in (D) hereof, except that if the employer's prelimi-  
 434 nary rate is determined as provided in (D) (2) or (D) (3) hereof, the  
 435 final employer rate shall be the preliminary employer rate decreased by  
 436 such percentage of excess taken to the nearest five one hundredths of  
 437 one per centum ( $5/100$  of  $1\%$ ), but in no case shall such final rate be less  
 438 than one-tenth of one per centum ( $1/10$  of  $1\%$ ).

439 (ii) If the percentage determined in accordance with paragraph (1)  
 440 of this subsection equals or exceeds three-quarters of one per centum  
 441 ( $\frac{3}{4}$  of  $1\%$ ) and is less than one and one-quarter of one per centum ( $1\frac{1}{4}$   
 442 of  $1\%$ ), the final employer rates shall be the preliminary employer rates.

443 (iii) If the percentage determined in accordance with paragraph  
 444 (1) of this subsection is less than three-quarters of one per centum  
 445 ( $\frac{3}{4}$  of  $1\%$ ), the final employer rates shall be the preliminary em-  
 446 ployer rates determined as provided in (D) hereof increased by the  
 447 difference between three-quarters of one per centum ( $\frac{3}{4}$  of  $1\%$ ) and  
 448 such percentage taken to the nearest five one hundredths of one per  
 449 centum ( $5/100$  of  $1\%$ ); *provided, however*, that no such final rate shall  
 450 be more than one-quarter of one per centum ( $\frac{1}{4}$  of  $1\%$ ) in the case of  
 451 an employer whose preliminary rate is determined as provided in (D)  
 452 (2) hereof, more than one-half of one per centum ( $\frac{1}{2}$  of  $1\%$ ) in the  
 453 case of an employer whose preliminary rate is determined as pro-  
 454 vided in (D) (1) and (D) (3) hereof, nor more than three-quarters  
 455 of one per centum ( $\frac{3}{4}$  of  $1\%$ ) in the case of an employer whose pre-  
 456 liminary rate is determined as provided in (D) (4) hereof.



457 (iv) If the amount of the State disability benefits fund determined  
458 as provided in paragraph (1) of this subsection is equal to or less than  
459 the total of the amounts withdrawn from the unemployment trust  
460 fund pursuant to section twenty-three of the Temporary Disability  
461 Benefits Law plus the amount at the end of the preceding calendar year  
462 of the unemployment disability account, then the final rate shall be  
463 three-quarters of one per centum ( $\frac{3}{4}$  of 1%) for all employers.

1 5. This act shall take effect July first, one thousand nine hundred and  
2 fifty, but shall apply only to benefit years commencing on and after that date.

SENATE, No. 310

STATE OF NEW JERSEY

INTRODUCED MARCH 13, 1950

By Messrs. BODINE and CLAPP

Referred to Committee on Labor, Industries and Social Welfare

AN ACT concerning unemployment compensation, and amending sections 43:21-3, 43:21-4, 43:21-5, 43:21-6, 43:21-7, 43:21-11 and 43:21-16 of the Revised Statutes, and supplementing chapter twenty-one of Title 43.

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. Twenty-five months after the date  
4 when contributions first accrue under this chapter, benefits shall become pay-  
5 able from the fund: *provided*, that remuneration or services with respect to  
6 which unemployment compensation is payable under the Railroad Unemploy-  
7 ment Insurance Act (52 Stat. 1094), irrespective of when performed, shall  
8 not be included for purposes of determining eligibility under subsection (c)  
9 of section 43:21-4 of this chapter or the weekly benefit rate under subsec-  
10 tion (c) of this section for the purpose of any benefit year commencing on  
11 or after July first, one thousand nine hundred and thirty-nine, nor shall any  
12 benefits with respect to unemployment occurring on and after July first, one  
13 thousand nine hundred and thirty-nine, be payable under subsection (d) of  
14 this section on the basis of such remuneration. All benefits shall be paid  
15 through employment offices, or such other agencies as may be designated in  
16 accordance with such regulations as may be prescribed hereunder.

17 (b) Weekly benefits for unemployment.

18       (1) With respect to an individual's benefit year commencing prior to  
 19 January first, one thousand nine hundred and fifty-one, such **Each eligible**  
 20 individual **who is**, if eligible and unemployed (as defined in subsection  
 21 (m) of section 43:21-19 of this **chapter** Title) in any week, shall be paid  
 22 with respect to such week (except as to final payment) an amount equal to  
 23 his weekly benefit rate less any remuneration in excess of three dollars  
 24 (\$3.00) paid or payable to him for such week; *provided*, that such amount  
 25 shall be computed to the next highest multiple of one dollar (\$1.00), if not  
 26 already a multiple thereof.

27       (2) With respect to an individual's benefit year commencing on or after  
 28 January first, one thousand nine hundred and fifty-one, such individual, if  
 29 eligible and unemployed (as defined in subsection (m) of section 43:21-19 of  
 30 this Title). shall be paid an amount (except as to final payment) equal to  
 31 his weekly benefit rate with respect to any week in which he has earned no  
 32 remuneration or remuneration equal to less than one-half his weekly benefit  
 33 rate, or shall be paid an amount equal to one-half his weekly benefit rate  
 34 with respect to any week in which he has earned remuneration equal to or  
 35 more than one-half his weekly benefit rate but less than his weekly benefit  
 36 rate.

37       (c) **Weekly benefit rate.**

38       (1) With respect to an individual to whom benefits shall be payable as  
 39 provided in paragraph (1) of subsection (b) of this section, the **An indi-**  
 40 **vidual's** weekly benefit rate shall be one-twenty-second of his total wages  
 41 in that calendar quarter in which said total wages were highest during his  
 42 base year; provided, that such rate shall be computed to the next highest  
 43 multiple of one dollar (\$1.00) if not already a multiple thereof, and shall  
 44 not be more than **twenty-two dollars (\$22.00)** thirty dollars (\$30.00) nor  
 45 less than **nine dollars (\$9.00).** ten dollars (\$10.00).

46       (2) With respect to an individual to whom benefits shall be payable as  
 47 provided in paragraph (2) of subsection (b) of this section, the weekly bene-

48 fit rate with respect to each determination shall be three-fifths of such indi-  
 49 vidual's average weekly wage with the employer to whom the determination  
 50 applies; *provided*, that such rate shall be computed to the next highest mul-  
 51 tiple of one dollar (\$1.00) if not already a multiple thereof, and shall not be  
 52 more than thirty dollars (\$30.00) nor less than ten dollars (\$10.00).

53 (d) Maximum total benefits.

54 (1) With respect to an individual to whom weekly benefits for unem-  
 55 ployment shall be payable as provided in paragraph (1) of subsection (b)  
 56 of this section, **[T]** the maximum total amount of benefits payable to any  
 57 eligible individual under either of subsections (c) and (f) of section 43:21-4  
 58 of this Title during any benefit year shall be either one-third of his total  
 59 wages during his base year, computed to the next highest multiple of one  
 60 dollar (\$1.00), if not already a multiple thereof, or twenty-six times his  
 61 weekly benefit rate, whichever is the lesser; in no event, however, are such  
 62 total benefits under either of said subsections (c) and (f) to be less than ten  
 63 times his weekly benefit rate. In the event that an individual qualifies for  
 64 benefits under both of said subsections during any benefit year, the max-  
 65 imum total amount of benefits payable under said subsections combined to  
 66 such individual during the benefit year shall be one and one-half times the  
 67 maximum amount of benefits payable under one of said subsections.

68 (2) With respect to an individual to whom benefits shall be payable as  
 69 provided in paragraph (2) of subsection (b) of this section:

70 (A) Such individual shall be entitled to receive, under each suc-  
 71 cessive benefit determination relating to each of his base year employers,  
 72 a total amount of benefits equal to two-thirds of his credit weeks with  
 73 the employer in question multiplied by his weekly benefit rate with  
 74 respect to said employer; but the amount of benefits thus resulting under  
 75 any determination made with respect to an employer shall be adjusted  
 76 to the next higher multiple of one-half of said weekly benefit rate if not  
 77 already a multiple thereof.

78        (B) No such individual shall be entitled to receive benefits under  
 79        either of subsections (c) or (f) of section 43:21-4 of this Title for  
 80        more than twenty-six weeks in any benefit year. For the purposes of  
 81        this paragraph, any week for which an individual receives a half-pay-  
 82        ment as provided in paragraph (2) of subsection (b) of this section shall  
 83        be counted as one-half of a week.

84        (C) Such an individual, if he qualifies for benefits successively  
 85        under both subsections (c) and (f) of section 43:21-4 of this Title during  
 86        any benefit year, shall be entitled to receive benefits for a number of  
 87        weeks not to exceed one and one-half times his maximum number of  
 88        benefit weeks in the benefit year under one of said subsections. Subject  
 89        to said limitation, an individual's claims for benefits shall be determined  
 90        under either of said subsections, without regard to claims determined or  
 91        paid under the other of said subsections, in accordance with the pro-  
 92        cedure prescribed in subparagraph (B) of paragraph (1) of subsection  
 93        (b) of section 43:21-6 of this Title.

94        (D) If the full weekly benefit rate cannot be paid to an individual  
 95        who is otherwise entitled thereto because the amount of unused benefits  
 96        remaining under the applicable benefit determination is only one-half of  
 97        said rate, he shall be paid that amount; but if such individual is entitled  
 98        to additional benefits under a successive determination, he shall also be  
 99        paid for the week in question an amount equal to one-half of his weekly  
 100        benefit rate under said successive determination.

1        2. Section 43:21-4 of the Revised Statutes is amended to read as follows:  
 2        43:21-4. An individual, totally or partially unemployed, shall be eligible  
 3 to receive benefits with respect to any week only if it appears that:

4        (a) He has registered for work at, and thereafter continued to report  
 5 at, an employment office in accordance with such regulations as the commis-  
 6 sion may prescribe, except that the commission may, by regulation, waive or  
 7 alter either or both of the requirements of this subsection as to individuals

8 attached to regular jobs as to such other types of cases or situations with  
 9 respect to which the commission finds that compliance with such require-  
 10 ments would be oppressive, or would be inconsistent with the purpose of this  
 11 act; *provided*, that no such regulation shall conflict with subsection (a) of  
 12 section 43:21-3 of the Revised Statutes.

13 (b) He has made a claim for benefits in accordance with the provisions  
 14 of subsection (a) of section 43:21-6 of this Title.

15 (c) He is able to work, is available for work, and has demonstrated that  
 16 he is actively seeking work, except as provided in subsection (f) of this  
 17 section;

18 (d) Prior to the first week for which he claims benefits in any benefit  
 19 year he has been totally or partially unemployed for a waiting period of one  
 20 week in that benefit year. No week shall be counted as a week of unemploy-  
 21 ment for the purposes of this subsection:

22 (1) if benefits have been paid, or are payable with respect thereto;

23 (2) if it has constituted a waiting period week under the Temporary  
 24 Disability Benefits Law;

25 (3) unless the individual fulfills the requirements of subsection (a) and  
 26 (e) of this section.

27 (e) With respect to a base year as defined in subsection (c) of section  
 28 43:21-19 of this Title, [H] his wages within [his] such base year or not  
 29 less than thirty times his weekly benefit amount. With respect to a base year  
 30 commencing on or after January first, one thousand nine hundred and fifty-  
 31 one, he has established at least fifteen credit weeks.

32-33 (f) He has suffered any accident or sickness not compensable under the  
 34 workmen's compensation law (Title 34 of the Revised Statutes) and resulting  
 35 in his total disability to perform any work for remuneration, and would be  
 36 eligible to receive benefits under this chapter (without regard to the maxi-  
 37 mum amount of benefits payable during any benefit year) except for his  
 38 inability to work and has furnished notice and proof of claim to the commis-  
 39 sion, in accordance with its rules and regulations, and payment is not pre-

cluded by the provisions of subsection (g) hereof or of section 43:21-3 (d) of this Title. Such benefit payments shall be charged to and paid from the State disability benefits fund established by the Temporary Disability Benefits Law, and shall not be charged to any employer account in computing any employer's experience rate for contributions payable under this chapter.

(g) No benefits shall be payable under subsection (f) above to any individual:

(1) for any period during which such individual is not under the care of a legally licensed physician;

(2) for any period of disability due to pregnancy or resulting childbirth, miscarriage, or abortion;

(3) for any period of disability due to willfully or intentionally self-inflicted injury, or to injuries sustained in the perpetration by the individual of a high misdemeanor;

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

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

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

(7) for any period of disability commencing prior to January first, one thousand nine hundred and forty-nine, or for any period of disability commencing while such individual is a "covered individual" as defined in subsection three (b) of the Temporary Disability Benefits Law (chapter 110, P. L. 1948), or after the expiration of twenty-six consecutive weeks during

70 which the individual has been unemployed and ineligible or disqualified for  
71 benefits for such unemployment.

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

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

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

3 (a) For the week in which he has left work voluntarily without good  
4 cause, and for **the** three weeks which immediately follow such week (in  
5 addition to the waiting period) as determined in each case] each week there-  
6 after until he has established at least six credit weeks as defined in section  
7 nineteen of this chapter.

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

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

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



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

35       (d) For any week with respect to which it is found that his unem-  
 36       ployment is due to a stoppage of work which exists because of a labor  
 37       dispute at the factory, establishment, or other premises at which he is or was  
 38       last employed; *provided*, that this subsection shall not apply if it is shown  
 39       that:

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

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

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

54       (f) For any week with respect to which or a part of which he has  
 55       received or is seeking unemployment benefits under an unemployment com-

56 pension law of any other State or of the United States; *provided*, that if  
 57 the appropriate agency of such other State or of the United States finally  
 58 determines that he is not entitled to such unemployment benefits, this dis-  
 59 qualification shall not apply.

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

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

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

10 (b) (1) **[Initial] [d] Determinations.**

11 (A) Procedure for making initial determinations with respect to  
 12 benefit years commencing prior to January first, one thousand nine  
 13 hundred and fifty-one. A representative designated by the **[executive]**  
 14 director, and hereinafter referred to as a "deputy," shall promptly  
 15 examine the claim and, on the basis of the facts found by him, shall  
 16 either determine whether or not such claim is valid, and if valid, the  
 17 week with respect to which benefits shall commence, the weekly benefit  
 18 amount payable and the maximum duration thereof, or shall refer such  
 19 claim or any question involved therein to an appeal tribunal or to the  
 20 board of review, which shall make its determinations with respect thereto  
 21 in accordance with the procedure described in subsection (c) of this  
 22 section. The deputy shall promptly notify the claimant, the most recent  
 23 employing unit and all employers in the base year of the decision and  
 24 the reasons therefor. Unless the claimant or any such interested party,  
 25 within five calendar days after the delivery of such notification, or within  
 26 seven calendar days after such notification was mailed to his and their

27 last-known address and addresses, files an appeal from such decision,  
 28 such decision shall be final and benefits shall be paid or denied in ac-  
 29 cordance therewith. If an appeal is duly filed, benefits with respect to  
 30 the period prior to the final determination of the board of review, shall  
 31 be paid only after such determination; *provided*, that if an appeal tri-  
 32 bunal affirms a decision of a deputy, or the board of review affirms a  
 33 decision of an appeal tribunal, allowing benefits, such benefits shall be  
 34 paid regardless of any appeal which may thereafter be taken, but if such  
 35 decision is finally reversed, no employer's account shall be charged with  
 36 benefits so paid.

37 (B) Procedure for making determinations with respect to benefit  
 38 years commencing on or after January first, one thousand nine hundred  
 39 and fifty-one.

40 A representative or representatives designated by the director of  
 41 the division and hereinafter referred to as a "deputy," shall promptly  
 42 examine the claim, and shall notify the most recent employing unit and,  
 43 successively as necessary, each employer in inverse chronological order  
 44 during the base year. Such notification shall require said employing unit  
 45 and employer to furnish such information to the deputy as may be neces-  
 46 sary to determine the claimant's eligibility and benefit rights, and such  
 47 notification shall also provide the most recent employer in the base year  
 48 with the name and address of the most recent employing unit of the  
 49 claimant and the claimant's statement as to the commencement of and  
 50 reason for his unemployment.

51 If any employer or employing unit fails to respond to the request  
 52 for information within five days after the mailing of such request, the  
 53 deputy may rely entirely on information from other sources.

54 The deputy shall promptly make a determination based upon the  
 55 available information. The determination shall show the weekly benefit  
 56 amount payable, the maximum duration of benefits, and also shall show

57 whether the claimant is ineligible or disqualified for benefits under  
 58 that determination. The claimant and each employer affected by an  
 59 initial determination shall be promptly notified thereof.

60 Whenever a determination is based upon information other than  
 61 that supplied by an employer because such employer failed to respond  
 62 to the deputy's request for information, such determination shall be  
 63 incontestable by the noncomplying employer, as to any benefits paid  
 64 prior to the close of the week following the receipt of his reply and  
 65 such benefits may be chargeable to such employer's account.

66 The deputy shall issue a separate benefit determination with respect  
 67 to each of the claimant's base year employers, starting with the most  
 68 recent employer and continuing as necessary in the inverse chrono-  
 69 logical order of the claimant's last date of employment with each such  
 70 employer.

71 The amount of benefits payable under a determination may be re-  
 72 duced or canceled if necessary to avoid payment of benefits for a num-  
 73 ber of weeks in excess of the maximum specified in paragraph (2) of  
 74 subsection (d) of section 43:21-3 of this Title.

75 (C) Procedure for making determinations in certain cases of con-  
 76 current employment, with respect to benefit years commencing on or  
 77 after January first, one thousand nine hundred and fifty-one.

78 Notwithstanding any other provisions of this Title, if an individual  
 79 shows to the satisfaction of the deputy that there were at least thirteen  
 80 weeks in his base period in each of which he earned wages from two  
 81 or more employers totaling fifteen dollars (\$15.00) or more but in each  
 82 of which there was no single employer from whom he earned as much as  
 83 fifteen dollars (\$15.00) then such individual's claim shall be determined  
 84 in accordance with the special provisions of this subparagraph. In such  
 85 case, the deputy shall determine the individual's eligibility for benefits,  
 86 his average weekly wage, weekly benefit rate and maximum total bene-

87 fits as if all his base year employers were a single employer. Such de-  
 88 termination shall apportion the liability for benefit charges thereunder  
 89 to the individual's several base year employers so that each employ-  
 90 er's maximum liability for charges thereunder bears the same relation  
 91 to the maximum total benefits allowed as the wages earned by the indi-  
 92 vidual from each employer during the base year bears to his total wages  
 93 earned from all employers during the base year. Such determination  
 94 shall also specify the individual's last date of employment within the  
 95 base year with respect to each base year employer, and such employers  
 96 shall be charged for benefits paid under said determination in the in-  
 97 verse chronological order of such last dates of employment.

98 (2) **Subsequent determinations.** The deputy shall make determina-  
 99 tions with respect to claims for benefits thereafter in the course of the bene-  
 100 fit year in accordance with any initial determination allowing benefits; *pro-*  
 101 *vided*, the claimant is eligible and not disqualified; the allowance of benefits  
 102 by the deputy on any such claim (if disputed), or the denial of benefits by  
 103 the deputy on any such claim, shall be appealable within seven calendar days  
 104 after the date of notification thereof. **Weekly determinations.** The direc-  
 105 tor of the division may assign one or more deputies to each local claims office  
 106 for the purpose of making weekly determinations (except, in his discretion,  
 107 those under subsections 4(f) and 5(d) of this chapter) in the course of the  
 108 benefit year, in accordance with the initial determination of a valid claim.  
 109 Whenever a determination of eligibility shall be made with respect to the first  
 110 week of the benefit year for which benefits are claimed, the claimant and the  
 111 employing unit whose account may be charged for benefits payable there-  
 112 under shall be promptly notified of such determination. Whenever a de-  
 113 termination of ineligibility or disqualification shall be made with respect to  
 114 any week of the benefit year, the claimant and any employer who has been  
 115 notified of the claim shall be promptly notified of such determination.

116 (3) Any claimant or any interested entity or person may file an appeal

117 from any determination under paragraphs (1) and (2) of this subsection  
 118 within five calendar days after the delivery of notification, or within seven  
 119 calendar days after the mailing of notification, of such determination. Un-  
 120 less such an appeal is filed such determination shall be final and benefits  
 121 shall be paid or denied in accordance therewith. If an appeal is duly filed,  
 122 benefits with respect to the period covered by the appeal shall be payable  
 123 only after a determination of entitlement by the appellate tribunal; benefits  
 124 payable for periods pending an appeal and not in dispute shall be paid as  
 125 such benefits accrue; *provided*, that insofar as any such appeal is or may be  
 126 an appeal from a determination to the effect that the claimant is disqualified  
 127 under the provisions of section 43:21-5 of the Revised Statutes or any amend-  
 128 ments thereof or supplements thereto, benefits pending determination of the  
 129 appeal shall be withheld only for the period of disqualification as provided  
 130 for in said section, and notwithstanding such appeal the benefits otherwise  
 131 provided by this act shall be paid for the period subsequent to such period  
 132 of disqualification; *and provided, also*, that if there are two determinations  
 133 of entitlement, benefits for the period covered by such determination shall be  
 134 paid regardless of any appeal which may thereafter be taken, but no em-  
 135 ployer's account shall be charged with benefits so paid if the decision is  
 136 finally reversed.

137 (c) Appeals. Unless such appeal is withdrawn, an appeal tribunal,  
 138 after affording the parties reasonable opportunity for fair hearing, shall  
 139 affirm or modify the findings of fact and **[decision of the deputy.]** the de-  
 140 termination. The parties shall be duly notified of such tribunal's decision,  
 141 together with its reasons therefor, which shall be deemed to be the final de-  
 142 cision of the board of review, unless within ten days after the date of notifi-  
 143 cation or mailing of such decision, further appeal is initiated pursuant to  
 144 subsection (e) of this section.

145 (d) Appeal tribunals. To hear and decide disputed benefit claims, in-  
 146 cluding appeals from determinations with respect to demands **[by the**

147 deputy] for refunds of benefits under section 43:21-16 (d) of this chapter,  
 148 the [executive] director with the approval of the [commission] Commis-  
 149 sioner of Labor and Industry shall establish one or more impartial appeal  
 150 tribunals consisting in each case of either a salaried examiner or a body con-  
 151 sisting of three members, one of whom shall be a salaried examiner, who shall  
 152 serve as chairman, one of whom shall be a representative of employers and  
 153 the other of whom shall be a representative of employees; each of the latter  
 154 two members shall serve at the pleasure of the [commission] commissioner  
 155 and be paid a fee of not more than twenty dollars (\$20.00) per day of active  
 156 service on such tribunal plus necessary expenses. No person shall partici-  
 157 pate on behalf of the [commission] division in any case in which he is an  
 158 interested party. The [executive] director may designate alternates to serve  
 159 in the absence or disqualification of any member of an appeal tribunal. The  
 160 chairman shall act alone in the absence or disqualification of any other  
 161 member and his alternates. In no case shall the hearings proceed unless the  
 162 chairman of the appeal tribunal is present.

163 (e) Board of review. The board of review may on its own motion  
 164 affirm, modify, or set aside any decision of an appeal tribunal on the basis  
 165 of the evidence previously submitted in such case, or direct the taking of  
 166 additional evidence, or may permit any of the parties to such decision to  
 167 initiate further appeals before it. The board of review shall permit such  
 168 further appeal by any of the parties interested in a decision of an appeal  
 169 tribunal which is not unanimous and [by the deputy whose decision] from  
 170 any determination which has been overruled or modified by an appeal  
 171 tribunal. The board of review may remove to itself or transfer to another  
 172 appeal tribunal the proceedings on any claim pending before an appeal tri-  
 173 bunal. Any proceeding so removed to the board of review shall be heard by  
 174 a quorum thereof in accordance with the requirements [in] of subsection  
 175 (c) of this section. The board of review shall promptly notify the interested  
 176 parties of its findings and decision.

177 (f) Procedure. The manner in which disputed benefit claims, and ap-  
 178 peals from determinations with respect to (1) claims for benefits and (2)  
 178A demands **【by the deputy】** for refunds of benefits under section 43:21-16 (d)  
 179 of this chapter shall be presented, the reports thereon required from the  
 180 claimant and from employers, and the conduct of hearings and appeals shall  
 181 be in accordance with rules prescribed by the board of review for determining  
 182 the rights of the parties, whether or not such rules conform to common law  
 183 or statutory rules of evidence and other technical rules of procedure. A full  
 184 and complete record shall be kept of all proceedings in connection with a  
 185 disputed claim. All testimony at any hearing upon a disputed claim shall  
 186 be recorded, but need not be transcribed unless the disputel claim is further  
 187 appealed.

188 (g) Witness fees. Witnesses subpoenaed pursuant to this section shall  
 189 be allowed fees at a rate fixed by the **【commission】** director. Such fees and  
 190 all expenses of proceedings involving disputed claims shall be deemed a part  
 191 of the expenses of administering this chapter.

192 (h) Appeal to courts. Any decision of the board of review in the ab-  
 193 sence of an appeal therefrom as herein provided shall become final ten days  
 194 after the date of notification or mailing thereof, and judicial review thereof  
 195 shall be permitted only after any party claiming to be aggrieved thereby has  
 196 exhausted his remedies before the board of review as provided by this chap-  
 197 ter. The board of review shall be deemed to be a party to any judicial action  
 198 involving any such decision, and may be represented in any such judicial  
 199 action by any qualified attorney who may be a regular salaried employee of  
 200 the board of review or has been designated by it for that purpose, or at the  
 201 board of review's request, by the Attorney-General.

202 (i) Court review. Within ten days after the decision of the board of  
 203 review has become final, any party aggrieved thereby may secure judicial re-  
 204 view thereof **【by writ of certiorari directed to the board of review】** by pro-  
 205 cedure in lieu of prerogative writs in which action any other party to the  
 206 proceedings before the board of review shall be made a defendant.



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

2        43:21-7. (a) Payment.

3        (1) On and after December first, one thousand nine hundred and thirty-  
 4 six, contributions shall accrue and become payable by each employer for each  
 5 calendar year in which he is subject to this chapter, with respect to having  
 6 individuals in his employ during such calendar year at the rates and on the  
 7 basis hereinafter set forth, except that for the month of December, one thou-  
 8 sand nine hundred and thirty-six, such contributions shall accrue and become  
 9 payable with respect to having individuals in his employ during the month  
 10 of December, one thousand nine hundred and thirty-six. Such contributions  
 11 shall become due and be paid by each employer to the commission for the  
 12 fund in accordance with such regulations as may be prescribed, and shall  
 13 not be deducted, in whole or in part, from the remuneration of individuals in  
 14 his employ.

15        (2) In the payment of any contributions, a fractional part of a cent shall  
 16 be disregarded unless it amounts to one-half cent (\$0.005) or more, in which  
 17 case it shall be increased to one cent (\$0.01).

18        (b) Rate of contributions. Each employer shall pay the following con-  
 19 tributions:

20        (1) Ten and eight-tenths per centum (10 8/10%) of wages payable with  
 21 respect to employment during the month of December, one thousand nine  
 22 hundred and thirty-six and paid prior to January first, one thousand nine  
 23 hundred and forty-seven; *provided*, that if the total of such contributions at  
 24 such ten and eight-tenths per centum (10 8/10%) rate equals less than nine-  
 25 tenths of one per centum (9/10 of 1%) of the annual payroll of any  
 26 employer payable for the calendar year one thousand nine hundred and  
 27 thirty-six, such employer shall pay, not later than January twenty-fifth, one  
 28 thousand nine hundred and thirty-seven, an additional lump-sum contribution  
 29 with respect to employment for such one month's period beginning Decem-  
 30 ber first, one thousand nine hundred and thirty-six, equal to the difference  
 31 between nine-tenths of one per centum (9/10 of 1%) of his annual payroll  
 32 payable for the calendar year one thousand nine hundred and thirty-six and

33 the total of his contributions at such ten and eight-tenths per centum  
 34 (10 8/10%) for such one month's period beginning December first, one thou-  
 35 sand nine hundred and thirty-six; *and provided further*, that the total of  
 36 such contributions with respect to employment for such one month's period  
 37 beginning December first, one thousand nine hundred and thirty-six, shall  
 38 not exceed nine-tenths of one per centum (9/10 of 1%) of such employer's  
 39 annual payroll payable for the calendar year one thousand nine hundred and  
 40 thirty-six.

41 (2) One and eight-tenths per centum (1 8/10%) of wages payable with  
 42 respect to employment during the calendar year one thousand nine hundred  
 43 and thirty-seven and paid prior to January first, one thousand nine hundred  
 44 and forty-seven;

45 (3) Two and seven-tenths per centum (2 7/10%) of wages payable with  
 46 respect to employment during the calendar years one thousand nine hundred  
 47 and thirty-eight, one thousand nine hundred and thirty-nine, one thousand  
 48 nine hundred and forty and one thousand nine hundred and forty-one and  
 49 paid prior to January first, one thousand nine hundred and forty-seven; and,  
 50 except as otherwise prescribed by subsection (c) of this section, also during  
 51 the calendar years one thousand nine hundred and forty-two to one thousand  
 52 nine hundred and forty-six, inclusive, and paid prior to January first, one  
 53 thousand nine hundred and forty-seven; and

54 (4) For the calendar year one thousand nine hundred and forty-seven,  
 55 and each calendar year thereafter, two and seven-tenths per centum  
 56 (2 7/10%) of wages paid by him during each such calendar year, except as  
 57 otherwise prescribed by subsection (c) of this section.

58 (5) The "wages" of any individual, with respect to any one employer  
 59 as the term is used in this subsection (b) and in subsections (c), (d) and  
 60 (e) of this section seven, shall include:

61 (A) All remuneration payable for the month of December, one  
 62 thousand nine hundred and thirty-six, and for the calendar years one  
 63 thousand nine hundred and thirty-seven, one thousand nine hundred and

64 thirty-eight, one thousand nine hundred and thirty-nine, and paid prior  
 65 to January first, one thousand nine hundred and forty-seven;

66 (B) The first three thousand dollars (\$3,000.00) earned for each of  
 67 the calendar years one thousand nine hundred and forty to one thou-  
 68 sand nine hundred and forty-six, inclusive, and paid prior to January  
 69 first, one thousand nine hundred and forty-seven; and

70 (C) The first three thousand dollars (\$3,000.00) paid during the  
 71 calendar year one thousand nine hundred and forty-seven and during  
 72 each calendar year thereafter, for services either within or without this  
 73 State; *provided*, that no contribution shall be required by this State with  
 74 respect to services performed in another State if such other State im-  
 75 poses contribution liability with respect thereto.

76 (c) Future rates based on benefit experience: (1) A separate account  
 77 for each employer shall be maintained and this shall be credited with all the  
 78 contributions which he has paid on his own behalf on or before January  
 79 thirty-first of any calendar year with respect to employment occurring in  
 80 preceding calendar years. But nothing in this chapter shall be construed to  
 81 grant any employer or individuals in his service prior claims or rights to  
 82 the amounts paid by him into the fund either on his own behalf or on behalf  
 83 of such individuals. Benefits paid with respect to benefit years commencing  
 84 prior to January first, one thousand nine hundred and fifty-one, to any indi-  
 85 vidual on or before January thirty-first of any calendar year with respect to  
 86 unemployment in preceding calendar years shall be charged against the  
 87 account of each of the employers with whom such individual accrued the  
 88 wage credits constituting the basis of such benefits, in the same proportion  
 89 as such wage credits with each such employer bear to such wage credits with  
 90 all such employers. The commission shall furnish to each employer at such  
 91 frequency as the commission shall, by regulation, prescribe, but in no case  
 92 less frequently than annually, a detailed statement of benefits charged to his  
 93 account. Benefits paid with respect to benefit years commencing on and  
 94 after January first, one thousand nine hundred and fifty-one, to any indi-

95 vidual on or before January thirty-first of any calendar year with respect to  
96 unemployment in preceding calendar years shall be charged against the  
97 account or accounts of the employer or employers in whose employment  
98 such individual established credit weeks constituting the basis of such bene-  
99 fits. Benefits paid under a given benefit determination shall be charged  
100 against the account of the employer to whom such determination relates.  
101 When each benefit payment is made the division shall promptly send either  
102 a copy of the benefit check or other form of notification to the employer  
103 against whose account the benefits are to be charged. Such copy or notifica-  
104 tion shall identify the employer against whose account the amount of such  
105 payment is being charged, shall show at least the name and social security  
106 account number of the claimant and shall specify the period of unemploy-  
107 ment to which said payment applies.

108     The division shall furnish to each employer no less frequently than  
109 annually a summary statement of benefits charged to his account.

110     (2) The commission may prescribe regulations for the establishment,  
111 maintenance, and dissolution of joint accounts by two or more employers,  
112 and shall, in accordance with such regulations and upon application by two  
113 or more employers to establish such an account, or to merge their several  
114 individual accounts in a joint account, maintain such joint account as if it  
115 constituted a single employer's account.

116     (3) Each employer's rate shall be two and seven-tenths per centum  
117 (2 7/10%), except as otherwise provided in the following provisions. No  
118 employer's rate shall be other than two and seven-tenths per centum  
119 (2 7/10%) unless and until there shall have been three calendar years  
120 throughout which any individual in his employ could have received benefits  
121 if eligible.

122     (4) Each employer's rate for the twelve months commencing July first  
123 of any calendar year shall be determined on the basis of his record up to the

124 beginning of such calendar year. If, at the beginning of such calendar year,  
 125 the total of all his contributions, paid on his own behalf, for all past years  
 126 exceeds the total benefits charged to his account for all such years, his con-  
 127 tribution rate shall be:

128       (A) Two and four-tenths per centum ( $2\frac{4}{10}\%$ ), if such excess  
 129 equals or exceeds four per centum (4%), but is less than five per centum  
 130 (5%) of his average annual payroll (as defined in paragraph (2), sub-  
 131 section (a) of section 43:21-19 of this Title);

132       (B) Two and one-tenth per centum ( $2\frac{1}{10}\%$ ), if such excess equals  
 133 or exceeds five per centum (5%), but is less than six per centum (6%)  
 134 of his average annual payroll;

135       (C) One and eight-tenths per centum ( $1\frac{8}{10}\%$ ), if such excess  
 136 equals or exceeds six per centum (6%), but is less than seven per centum  
 137 (7%) of his average annual payroll;

138       (D) One and five-tenths per centum ( $1\frac{5}{10}\%$ ), if such excess  
 139 equals or exceeds seven per centum (7%), but is less than eight per  
 140 centum (8%) of his average annual payroll;

141       (E) One and two-tenths per centum ( $1\frac{2}{10}\%$ ), if such excess  
 142 equals or exceeds eight per centum (8%), but is less than nine per  
 143 centum (9%), of his average annual payroll;

144       (F) Nine-tenths of one per centum ( $\frac{9}{10}$  of 1%), if such excess  
 145 equals or exceeds nine per centum (9%), but is less than ten per centum  
 146 (10%), of his average annual payroll;

147       (G) Six-tenths of one per centum ( $\frac{6}{10}$  of 1%), if such excess  
 148 equals or exceeds ten per centum (10%), but is less than eleven per  
 149 centum (11%), of his average annual payroll;

150       (H) Three-tenths of one per centum ( $\frac{3}{10}$  of 1%), if such excess  
 151 equals or exceeds eleven per centum (11%) of his average annual pay-  
 152 roll.

153       If the total of his contributions, paid on his own behalf, for all past  
 154 periods, or for the past one hundred twenty consecutive calendar months,

155 whichever period is more advantageous to such employer for the purposes  
156 of this paragraph, is less than the total benefits charged against his account  
157 during the same period, his rate shall be three per centum (3%).

158 (5) (A) If on March thirty-first of any calendar year the balance in  
159 the Unemployment Trust Fund equals or exceeds four per centum (4%) but is  
160 less than seven per centum (7%) of the total taxable wages reported to the  
161 commission as of that date in respect to employment during the preceding  
162 calendar year, the contribution rate, effective July first following, of each  
163 employer eligible for a contribution rate calculation based upon benefit expe-  
164 rience, shall be increased by three-tenths of one per centum ( $3/10$  of 1%)  
165 over the contribution rate otherwise established under the provisions of para-  
166 graph (4) of this subsection. If on March thirty-first of any calendar year  
167 the balance of the Unemployment Trust Fund is less than four per centum  
168 (4%) of the total taxable wages reported to the commission as of that  
169 date in respect to employment during the preceding calendar year, the  
170 contribution rate, effective July first following, of each employer eligible  
171 for a contribution rate calculation based upon benefit experience, shall be in-  
172 creased by six-tenths of one per centum ( $6/10$  of 1%) over the contribu-  
173 tion rate otherwise established under the provisions of paragraph (4) of  
174 this subsection; *provided*, that if on such March thirty-first, such balance  
175 is less than two and one-half per centum ( $2\frac{1}{2}\%$ ) of such total taxable  
176 wages, the contribution rate so effective, of any employer, shall be not less  
177 than two and seven-tenths per centum ( $2\frac{7}{10}\%$ ); *provided further*, that  
178 the contribution rate of any employer increased pursuant to the provisions  
179 of this subparagraph, when so increased, shall not exceed three and six-  
180 tenths per centum ( $3\frac{6}{10}\%$ ).

181 (B) If on March thirty-first of any calendar year the balance in the  
182 Unemployment Trust Fund equals or exceeds ten per centum (10%) but is  
183 less than twelve and one-half per centum ( $12\frac{1}{2}\%$ ) of the total taxable wages  
184 reported to the commission as of that date in respect to employment dur-  
185 ing the preceding calendar year, the contribution rate, effective July first

186 following, of each employer eligible for a contribution rate calculation based  
 187 upon benefit experience, shall be reduced by three-tenths of one per centum  
 188 (3/10 of 1%) under the contribution rate otherwise established under the  
 189 provisions of paragraphs (3) and (4) of this subsection; *provided*, that in  
 190 no event shall the contribution rate of any employer be reduced to less than  
 191 three-tenths of one per centum (3/10 of 1%). If on March thirty-first of  
 192 any calendar year the balance in the Unemployment Trust Fund equals or  
 193 exceeds twelve and one-half per centum (12½%) of the total taxable wages  
 194 reported to the commission as of that date in respect to employment dur-  
 195 ing the preceding calendar year, the contribution rate, effective July first  
 196 following, of each employer eligible for a contribution rate calculation  
 197 based upon benefit experience, shall be reduced by six-tenths of one per  
 198 centum (6/10 of 1%) if his account reflects an excess of contributions paid  
 199 over total benefits charged of three per centum (3%) or more of his average  
 200 annual payroll, otherwise by three-tenths of one per centum (3/10 of 1%) un-  
 201 der the contribution rate otherwise established under the provisions of para-  
 202 graphs (3) and (4) of this subsection; *provided*, that in no event shall the  
 203 contribution rate of any employer be reduced to less than three-tenths of  
 204 one per centum (3/10 of 1%).

205 (6) Additional contributions.

206 Notwithstanding any other provision of law, any employer who has been  
 207 assigned a contribution rate pursuant to subsection (e) of this section for  
 208 the year commencing July first, one thousand nine hundred and forty-eight,  
 209 and for any year commencing July first thereafter, may voluntarily make  
 210 payment of additional contributions, and upon such payment shall receive  
 211 a recomputation of the experience rate applicable to such employer in-  
 212 cluding in the calculation the additional contribution so made. Any such  
 213 additional contribution shall be made during the thirty-day period follow-  
 214 ing the date of the mailing to the employer of the notice of his contribution  
 215 rate as prescribed in this section, unless, for good cause, the time for pay-  
 216 ment has been extended by the director for not to exceed an additional

217 sixty days; *provided*, that in no event may such payments which are made  
218 later than one hundred twenty days after the beginning of the year for  
219 which such rates are effective be considered in determining the experience  
220 rate for the year in which the payment is made. Any employer receiving  
221 any extended period of time within which to make such additional payment  
222 and failing to make such payment timely shall pay, in addition to the re-  
223 quired amount of additional payment, a penalty of five per centum (5%)  
224 thereof or five dollars (\$5.00), whichever is greater, not to exceed fifty dol-  
225 lars (\$50.00). Any adjustment under this subsection shall be made only in  
226 the form of credits against accrued or future contributions.

227 (7) Transfers.

228 An employer who transfers his or its organization, trade, assets of  
229 business, in whole or in part, to a successor in interest, whether by merger,  
230 consolidation, sale, transfer, descent or otherwise, may jointly make applica-  
231 tion with such successor in interest for transfer of the employment experi-  
232 ence of the predecessor employer to the successor in interest, including  
233 credit for past years, contributions paid, annual payrolls, benefit charges,  
234 et cetera, applicable to such predecessor employer. The commission may  
235 allow such transfer of employment experience pursuant to regulations  
236 adopted by the commission, only if it finds that the employment experience  
237 of the predecessor employer with respect to the organization, trade, as-  
238 sets or business, or part thereof, as the case may be, which has been trans-  
239 ferred, may be considered indicative of the future employment experience of  
240 the successor in interest. In the event of a part transfer of an employer's  
241 organization, trade, assets or business, only that portion of the employ-  
242 ment experience relating to the portion of the organization, trade, assets  
243 or business transferred shall be transferred, and credit shall be given to  
244 the successor in interest only for the years during which contributions were  
245 paid by the predecessor employer with respect to that part of the organiza-  
246 tion, trade, assets or business transferred. A transfer of the employment  
247 experience in whole or in part having been applied for and approved by



248 the commission, the predecessor employer thereafter shall not be entitled  
249 to consideration for an adjusted rate based upon his or its experience or  
250 the part thereof, as the case may be, which has thus been transferred. A  
251 successor in interest to whom employment experience or a part thereof is  
252 transferred pursuant to this subsection shall, as of the date of the transfer  
253 of the organization, trade, assets or business, or part thereof, immediately  
254 become an employer if not theretofore an employer subject to this chapter.

255 (d) Contribution of workers; transfer to temporary disability benefit  
256 fund.

257 (1) Each worker shall contribute to the fund one per centum (1%) of  
258 his wages paid by an employer with respect to his employment which occurs  
259 after December thirty-first, one thousand nine hundred and thirty-seven, and  
260 after such employer has satisfied the conditions set forth in subsection (h)  
261 of section 43:21-19 of this Title with respect to becoming an employer; *pro-*  
262 *vided, however,* that such contribution shall be at the rate of one-fourth of  
263 one per centum ( $\frac{1}{4}$  of 1%) of wages paid with respect to employment on  
264 and after January first, one thousand nine hundred and forty-nine, while  
265 the worker is covered by an approved private plan under the Temporary  
266 Disability Benefits Law or while the worker is exempt from the provisions  
267 of that law under section seven thereof. Each employer shall, notwithstand-  
268 ing any provisions of law in this State to the contrary, withhold in trust  
269 the amount of his workers' contributions from their wages at the time  
270 such wages are paid, shall show such deduction of his payroll records,  
271 shall furnish such evidence thereof to his workers as the commission  
272 may prescribe, and shall transmit all such contributions, in addition to his  
273 own contributions, to the office of the commission in such manner and at  
274 such times as may be prescribed. If any employer fails to deduct the con-  
275 tributions of any of his workers at the time their wages are paid, or fails  
276 to make a deduction therefor at the time wages are paid for the next  
277 succeeding payroll period, he alone shall thereafter be liable for such con-  
278 tributions, and for the purposes of section 43:21-14 of this Title, such con-

279 tributions shall be treated as employer's contributions required from him.  
280 As used in this chapter, except when the context clearly requires other-  
281 wise, the term "contributions" shall include the contributions of workers  
282 pursuant to this section.

283       (2) There shall be deposited in and credited to the State disability bene-  
284 fits fund, as the same shall be established by law, three-quarters of all worker  
285 contributions, received by the commission pursuant to subparagraph (1)  
286 above on and after April first, one thousand nine hundred and forty-eight or  
287 the date this subparagraph takes effect, whichever is later, with respect to  
288 wages upon which the rate of contributions is one per centum (1%) as pro-  
289 vided in (1) above.

290       (3) If an individual does not receive any wages from the employing  
291 unit which for the purposes of this chapter is treated as his employer, or re-  
292 ceives his wages from some other employing unit, such employer shall never-  
293 theless be liable for such individual's contributions in the first instance; and  
294 after payment thereof such employer may deduct the amount of such con-  
295 tributions from any sums payable by him to such employing unit, or may  
296 recover the amount of such contributions from such employing unit or in the  
297 absence of such an employing unit, from such individual, in a civil action  
298 for debt; *provided*, proceedings therefor are instituted within three months  
299 after the date on which such contributions are payable. General rules shall  
300 be prescribed whereby such an employing unit may recover the amount of  
301 such contributions from such individuals in the same manner as if it were  
302 the employer.

303       (4) Every employer who has elected to become an employer subject to  
304 this chapter or to cease to be an employer subject to this chapter, pursuant  
305 to the provisions of section 43:21-8 of this Title, shall post and maintain  
306 printed notices of such election on his premises, of such design, in such num-  
307 bers, and at such places as the executive director may determine to be neces-  
308 sary to give notice thereof to persons in his service.

309 (5) Contributions by workers, payable to the commission as herein  
310 provided, shall be exempt from garnishment, attachment, execution, or any  
311 other remedy for the collection of debts.

312 (e) Contributions by employers to State disability benefits fund.

313 (1) Except as hereinafter provided, each employer shall, in addition to  
314 the contributions required by subsections (a), (b), and (c) of this section,  
315 contribute one-quarter of one per centum ( $\frac{1}{4}$  of 1%) of the wages paid by  
316 such employer to workers with respect to employment after January first,  
317 one thousand nine hundred and forty-nine. Such contributions shall become  
318 due and be paid by each employer to the commission for the State disability  
319 benefits fund as established by law, in accordance with such regulations as  
320 may be prescribed, and shall not be deducted, in whole or in part, from the  
321 remuneration of individuals in his employ. In the payment of any contribu-  
322 tions, a fractional part of a cent shall be disregarded unless it amounts to  
323 one-half cent (\$0.005) or more, in which case it shall be increased to one  
324 cent (\$0.01).

325 (2) During the continuance of coverage of a worker by an approved  
326 private plan of disability benefits under the Temporary Disability Benefits  
327 Law, the employer shall be exempt from the contribution required by sub-  
328 paragraph (1) above with respect to wages paid to such worker.

329 (3) (A) The rates of contribution as specified in subparagraph (1)  
330 above shall be subject to modification as provided herein with respect to  
331 employer contributions due on and after July first, one thousand nine hun-  
332 dred and fifty-one.

333 (B) A separate disability benefits account shall be maintained for each  
334 employer required to contribute to the State disability benefits fund and such  
335 account shall be credited with contributions deposited in and credited to such  
336 fund with respect to employment occurring on and after January first, one  
337 thousand nine hundred and forty-nine. Each employer's account shall be  
338 credited with all contributions paid on or before January thirty-first of any  
339 calendar year on his own behalf and on behalf of individuals in his service

340 with respect to employment occurring in preceding calendar years. But  
341 nothing in this act shall be construed to grant any employer or individuals  
342 in his service prior claims or rights to the amounts paid by him to the fund  
343 either on his own behalf or on behalf of such individuals. Benefits paid to  
344 any covered individual in accordance with Article III of the Temporary Dis-  
345 ability Benefits Law on or before January thirty-first of any calendar year  
346 with respect to disability in preceding calendar years shall be charged  
347 against the account of the employer by whom such individual was employed  
348 at the commencement of such disability or by whom he was last employed if  
349 out of employment.

350 (C) The commission may prescribe regulations for the establishment,  
351 maintenance, and dissolution of joint accounts by two or more employers,  
352 and shall, in accordance with such regulations and upon application by two  
353 or more employers to establish such an account, or to merge their several  
354 individual accounts in a joint account, maintain such joint account as if it  
355 constituted a single employer's account.

356 (D) Prior to July first of each calendar year, the commission shall make  
357 a preliminary determination of the rate of contribution for the twelve months  
358 commencing on such July first for each employer subject to the contribution  
359 requirements of this subsection (e).

360 (1) Such preliminary rate shall be one-quarter of one per centum ( $\frac{1}{4}$  of  
361 1%) unless on the preceding December thirty-first such employer shall have  
362 been a covered employer for at least two full years and his account shall  
363 have been credited with at least fifteen hundred dollars (\$1,500.00) of em-  
364 ployer and employee contributions.

365 (2) If the minimum requirements in (1) above have been fulfilled and  
366 the credited contributions exceed the benefits charged by more than five hun-  
367 dred dollars (\$500.00), such preliminary rate shall be as follows:

368 (i) Two-tenths of one per centum ( $\frac{2}{10}$  of 1%) if such excess over  
369 five hundred dollars (\$500.00) exceeds one per centum (1%) but is less

370 than one and one-quarter per centum ( $1\frac{1}{4}\%$ ) of his average annual pay-  
 371 roll (as defined in this chapter);

372 (ii) Fifteen one hundredths of one per centum ( $15/100$  of  $1\%$ ) if  
 373 such excess over five hundred dollars (\$500.00) equals or exceeds one  
 374 and one-quarter per centum ( $1\frac{1}{4}\%$ ) but is less than one and one-half per  
 375 centum ( $1\frac{1}{2}\%$ ) of his average annual payroll;

376 (iii) One-tenth of one per centum ( $1/10$  of  $1\%$ ) if such excess over  
 377 five hundred dollars (\$500.00) equals or exceeds one and one-half per  
 378 centum ( $1\frac{1}{2}\%$ ) of his average annual payroll.

379 (3) If the minimum requirements in (1) above have been fulfilled and the  
 380 contributions credited exceed the benefits charged but by not more than five  
 381 hundred dollars (\$500.00) plus one per centum ( $1\%$ ) of his average annual  
 382 payroll, or if the benefits charged exceed the contributions credited but by not  
 383 more than five hundred dollars (\$500.00), the preliminary rate shall be one-  
 384 quarter of one per centum ( $\frac{1}{4}$  of  $1\%$ ).

385 (4) If the minimum requirements in (1) above have been fulfilled and  
 386 the benefits charged exceed the contributions credited by more than five hun-  
 387 dred dollars (\$500.00), such preliminary rate shall be as follows:

388 (i) Thirty-five one hundredths of one per centum ( $35/100$  of  $1\%$ ) if  
 389 such excess over five hundred dollars (\$500.00) is less than one-quarter  
 390 of one per centum ( $\frac{1}{4}$  of  $1\%$ ) of his average annual payroll;

391 (ii) Forty-five one hundredths of one per centum ( $45/100$  of  $1\%$ ) if  
 392 such excess over five hundred dollars (\$500.00) equals or exceeds one-  
 393 quarter of one per centum ( $\frac{1}{4}$  of  $1\%$ ) but is less than one-half of one  
 394 per centum ( $\frac{1}{2}$  of  $1\%$ ) of his average annual payroll;

395 (iii) Fifty-five one hundredths of one per centum ( $55/100$  of  $1\%$ ) if  
 396 such excess over five hundred dollars (\$500.00) equals or exceeds one-  
 397 half of one per centum ( $\frac{1}{2}$  of  $1\%$ ) but is less than three-quarters of one  
 398 per centum ( $\frac{3}{4}$  of  $1\%$ ) of his average annual payroll;

399 (iv) Sixty-five one hundredths of one per centum ( $65/100$  of  $1\%$ ) if  
 400 such excess over five hundred dollars (\$500.00) equals or exceeds three-

401       quarters of one per centum ( $\frac{3}{4}$  of 1%) but is less than one per centum  
402       (1%) of his average annual payroll;

403           (v) Seventy-five one hundredths of one per centum (75/100 of 1%)  
404       if such excess over five hundred dollars (\$500.00) equals or exceeds one  
405       per centum (1%) of his average annual payroll.

406       (5) Determination of the preliminary rate as specified in (2), (3) and  
407       (4) above shall be subject, however, to the condition that it shall in no event  
408       be decreased by more than one-tenth of one per centum ( $\frac{1}{10}$  of 1%) of  
409       wages or increased by more than two-tenths of one per centum ( $\frac{2}{10}$  of 1%)  
410       of wages from the preliminary rate determined for the preceding year in  
411       accordance with (1), (2), (3) or (4), whichever shall have been applicable.

412       (E) (1) Prior to July first of each calendar year the commission shall  
413       determine the amount of the State disability benefits fund as of December  
414       thirty-first of the preceding calendar year increased by the contributions  
415       paid thereto during January of the current calendar year with respect to em-  
416       ployment occurring in preceding calendar years and decreased by the benefits  
417       paid during January of the current calendar year with respect to disability in  
418       preceding calendar years. If such amount exceeds the total of the amounts  
419       withdrawn from the unemployment trust fund pursuant to section twenty-  
420       three of the Temporary Disability Benefits Law plus the amount at the end  
421       of such preceding calendar year of the unemployment disability account (as  
422       defined in section twenty-two of said law), such excess shall be expressed as  
423       a percentage of the wages on which contributions were paid to the State dis-  
424       ability benefits fund on or before January thirty-first with respect to  
425       employment in the preceding calendar year.

426       (2) The commission shall then make a final determination of the rates  
427       of contribution for the twelve months commencing July first of such year for  
428       employers whose preliminary rates are determined as provided in (D) hereof,  
429       as follows:

430           (i) If the percentage determined in accordance with paragraph (1)  
431       of this subsection equals or exceeds one and one-quarter per centum

432 (1¼%) the final employer rates shall be the preliminary rates deter-  
 433 mined as provided in (D) hereof, except that if the employer's prelimi-  
 434 nary rate is determined as provided in (D) (2) or (D) (3) hereof, the  
 435 final employer rate shall be the preliminary employer rate decreased by  
 436 such percentage of excess taken to the nearest five one hundredths of  
 437 one per centum (5/100 of 1%), but in no case shall such final rate be less  
 438 than one-tenth of one per centum (1/10 of 1%).

439 (ii) If the percentage determined in accordance with paragraph (1)  
 440 of this subsection equals or exceeds three-quarters of one per centum  
 441 (¾ of 1%) and is less than one and one-quarter of one per centum (1¼  
 442 of 1%), the final employer rates shall be the preliminary employer rates.

443 (iii) If the percentage determined in accordance with paragraph  
 444 (1) of this subsection is less than three-quarters of one per centum  
 445 (¾ of 1%), the final employer rates shall be the preliminary em-  
 446 ployer rates determined as provided in (D) hereof increased by the  
 447 difference between three-quarters of one per centum (¾ of 1%) and  
 448 such percentage taken to the nearest five one hundredths of one per  
 449 centum (5/100 of 1%); *provided, however*, that no such final rate shall  
 450 be more than one-quarter of one per centum (¼ of 1%) in the case of  
 451 an employer whose preliminary rate is determined as provided in (D)  
 452 (2) hereof, more than one-half of one per centum (½ of 1%) in the  
 453 case of an employer whose preliminary rate is determined as pro-  
 454 vided in (D) (1) and (D) (3) hereof, nor more than three-quarters  
 455 of one per centum (¾ of 1%) in the case of an employer whose pre-  
 456 liminary rate is determined as provided in (D) (4) hereof.

457 (iv) If the amount of the State disability benefits fund determined  
 458 as provided in paragraph (1) of this subsection is equal to or less than  
 459 the total of the amounts withdrawn from the unemployment trust  
 460 fund pursuant to section twenty-three of the Temporary Disability  
 461 Benefits Law plus the amount at the end of the preceding calendar year  
 462 of the unemployment disability account, then the final rate shall be  
 463 three-quarters of one per centum (¾ of 1%) for all employers.

1       6. Section 43:21-11 of the Revised Statutes is amended to read as fol-  
2 lows:

3       43:21-11. (a) Duties and powers of the commission. It shall be the  
4 duty of the commission to determine all matters of policy; and it shall have  
5 power and authority to adopt, amend, or rescind such rules and regulations,  
6 require such reports, make such investigations, and take such other action as  
7 it deems necessary or suitable to that end or to administer this chapter; *pro-*  
8 *vided*, that the commission may delegate such power and authority to the  
9 executive director subject to their ultimate supervision and control. Such  
10 rules and regulations shall be effective upon publication in the manner, not  
11 inconsistent with the provisions of this chapter, which the commission shall  
12 prescribe. The commission shall determine its own organization and  
13 methods of procedure in accordance with the provisions of this chapter, and  
14 shall have an official seal which shall be judicially noticed. Not later than  
15 the first day of February of each year, the commission shall submit to the  
16 Governor a report covering the administration and operation of this chapter  
17 during the preceding calendar year and shall make such recommendations for  
18 amendments to this chapter as the commission deems proper. Such report  
19 shall include a balance sheet of the moneys in the fund in which there shall be  
20 provided, if possible, a reserve against the liability in future years to pay  
21 benefits in excess of the then current contributions, which reserve shall be  
22 set up by the commission in accordance with accepted actuarial principles  
23 on the basis of statistics of employment, business activity, and other relevant  
24 factors for the longest possible period. Whenever the commission believes  
25 that a change in contribution or benefit rates will become necessary to protect  
26 the solvency of the fund, it shall promptly so inform the Governor and the  
27 Legislature, and make recommendations with respect thereto. The com-  
28 mission shall make a study of the problem of paying partial benefits for  
29 partial unemployment.

30       (b) Regulations and general and special rules. General and special rules  
31 may be adopted, amended, or rescinded by the commission. General rules



32 shall become effective ten days after filing with the Secretary of State and  
33 publication in one or more newspapers of general circulation in this State.  
34 Special rules shall become effective ten days after notification to or mailing  
35 to the last known address of the individuals or concerns affected thereby.  
36 Regulations may be adopted, amended, or rescinded by the commission and  
37 shall become effective in the manner and at the time prescribed by the  
38 commission.

39 (c) Publication. The commission shall cause to be printed for distribu-  
40 tion to the public the text of this chapter, the commission's regulations and  
41 general rules, its annual reports to the Governor, and any other material the  
42 commission deems relevant and suitable and shall furnish the same to any  
43 person upon application therefor.

44 (d) Personnel. Subject to other provisions of this chapter, the com-  
45 mission is authorized to appoint (subject to the provisions of Title 11  
46 Civil Service), fix the compensation, and prescribe the duties and powers of  
47 such officers, accountants, attorneys, experts, and other persons as may be  
48 necessary in the performance of its duties. All positions shall be filled by  
49 persons selected and appointed on a nonpartisan merit basis from lists of  
50 eligible persons prepared by the Civil Service Commission, in accordance  
51 with the provisions of Title 11, Civil Service, except that any attorney, now  
52 or hereafter in office or position of legal assistant for the commission, shall  
53 be placed in the exempt class of the civil service and thereafter shall not be  
54 subject to removal except for cause and then only in accordance with the pro-  
55 visions of Title 11, Civil Service; *provided, however*, that nothing herein shall  
56 be construed to apply to any attorney designated as special counsel in  
57 accordance with the provisions of sections 43:21-6, subsection (h), and  
58 43:21-17. The commission shall not employ or pay any person who is an  
59 officer or committee member of any political party organization. The com-  
60 mission may delegate to any such person so appointed such power and au-  
61 thority as it deems reasonable and proper for the effective administration of  
62 this chapter, and may in its discretion bond any person handling moneys or  
63 signing checks hereunder.

64 (e) Advisory councils. The commission shall appoint a State advisory  
65 council of six members and local advisory councils of four members each,  
66 composed in each case of an equal number of employer representatives and  
67 employee representatives who may fairly be regarded as representative  
68 because of their vocation, employment, or affiliations, and of such members  
69 representing the general public as the commission may designate. Such  
70 councils shall aid the commission in formulating policies and discussing  
71 problems related to the administration of this chapter and in assuring  
72 impartiality and freedom from political influence in the solution of such  
73 problems. Such advisory councils shall serve without compensation, but  
74 shall be reimbursed for any necessary expenses.

75 (f) Employment stabilization. The commission, with the advice and aid  
76 of its advisory councils, and through its appropriate divisions, shall take all  
77 appropriate steps to reduce and prevent unemployment; to encourage and  
78 assist in the adoption of practical methods of vocational training, retraining  
79 and vocational guidance; to investigate, recommend, advise, and assist in the  
80 establishment and operation, by municipalities, counties, school districts, and  
81 the State, of reserves for public works to be used in times of business de-  
82 pression and unemployment; to promote the re-employment of unemployed  
83 workers throughout the State in every other way that may be feasible; and  
84 to these ends to carry on and publish the results of investigations and re-  
85 search studies.

86 (g) Records and reports. Each employing unit shall keep true and ac-  
87 curate employment records, containing such information as may be pre-  
88 scribed. Such records shall be open to inspection and be subject to being  
89 copied by the **commission** director of the division or **its** his authorized  
90 representatives at any reasonable time. The **executive** director may re-  
90a quire from any employing unit any sworn or unsworn reports, with respect  
91 to persons employed by it, which is deemed necessary for the effective admin-  
92 istration of this chapter. Under such rules and regulations as may be  
93 adopted by the division reports relative to wages and separation from em-

94 ployment may be required from any employer or employing unit at the time  
 95 such employer or employing unit suspends business operations in this State.  
 96 If the nature of such suspension is temporary or in the nature of a transfer,  
 97 then the director may excuse the employer or employing unit from furnish-  
 98 ing such a termination report upon assurances that proper arrangements have  
 99 been made to supply any information which may be required under sub-  
 100 paragraph (B) of paragraph (1) of subsection (b) of section 43:21-6 of this  
 101 Title. Information thus obtained shall not be published or be open to public  
 102 inspection (other than to public employees in the performance of their pub-  
 103 lic duties) in any manner revealing the employing unit's identity, but any  
 104 claimant at a hearing before an appeal tribunal, the commission or the board  
 105 of review, shall be supplied with information from such records to the ex-  
 106 tent necessary for the proper presentation of his claim. Any employee or  
 107 member of the commission who violates any provision of this section shall  
 108 be liable to a fine of not less than twenty dollars (\$20.00) nor more than two  
 109 hundred dollars (\$200.00), to be recovered in an action at law in the name of  
 110 the commission, said fine when recovered to be paid to the unemployment  
 111 compensation fund for the use of said fund.

112 (h) Oaths and witnesses. In the discharge of the duties imposed by this  
 113 chapter, the chairman of an appeal tribunal and any duly authorized repre-  
 114 sentative or member of the commission, the executive director or any deputy  
 115 director thereof or member of the board of review shall have power to ad-  
 116 minister oaths and affirmations, take depositions, certify to official acts, and  
 117 issue subpoenas to compel the attendance of witnesses and the production of  
 118 books, papers, correspondence, memoranda, and other records deemed neces-  
 119 sary as evidence in connection with a disputed claim or the administration  
 120 of this chapter. Witnesses subpoenaed pursuant to this section shall in the  
 121 discretion of the commission be allowed fees at a rate to be fixed by it. Such  
 122 fees shall be deemed a part of the expense of administering this chapter.

123 (i) Subpoenas. In case of contumacy by, or refusal to obey a subpoena

124 issued to any person, any court of this State within the jurisdiction of which  
125 the inquiry is carried on or within the jurisdiction of which said person  
126 guilty of contumacy or refusal to obey is found or resides or transacts busi-  
127 ness, upon application by the commission or its duly authorized representa-  
128 tive, or the board of review, shall have jurisdiction to issue to such person  
129 an order requiring such person to appear before the board of review or a  
130 member thereof, a commissioner, the commission, the executive director, or  
131 his duly authorized representative, there to produce evidence if so ordered  
132 or there to give testimony touching the matter under investigation or in  
133 question; and any failure to obey such order of the court may be punished  
134 by said court as a contempt thereof. Any person who shall without just cause  
135 fail or refuse to attend and testify or to answer any lawful inquiry or to pro-  
136 duce books, papers, correspondence, memoranda, and other records, if it is  
137 in his power so to do, in obedience to a subpoena of the commission or of the  
138 board of review shall be punished by a fine of not more than two hundred  
139 dollars (\$200.00) or by imprisonment for not longer than sixty days, or by  
140 both such fine and imprisonment, and each day such violation continues shall  
141 be deemed to be a separate offense.

142 (j) Protection against self-incrimination. No person shall be excused  
143 from attending and testifying or from producing books, papers, correspond-  
144 ence, memoranda, and other records before the commission or the board of  
145 review or in obedience to the subpoena of a member of the commission or the  
146 executive director thereof, the board of review or a member thereof, or any  
147 duly authorized representative of the commission in any cause or proceeding  
148 before the commission, the board of review or a member thereof, on the  
149 ground that the testimony or evidence, documentary or otherwise, required  
150 of him may tend to incriminate him or subject him to a penalty or forfeiture;  
151 but no individual shall be prosecuted or subjected to any penalty or forfei-  
152 ture for or on account of any transaction, matter, or thing concerning which  
153 he is compelled, after having claimed his privilege against self-incrimina-  
154 tion, to testify or produce evidence, documentary or otherwise, except that

155 such individual so testifying shall not be exempt from prosecution and pun-  
156 ishment for perjury committed in so testifying.

157       (k) State-Federal co-operation. In the administration of this chapter  
158 the commission shall co-operate to the fullest extent consistent with the pro-  
159 visions of this chapter, with the Social Security Board, created by the social  
160 security act, approved August fourteenth, one thousand nine hundred and  
161 thirty-five, as amended; shall make such reports, in such form and containing  
162 such information as the Social Security Board may from time to time require,  
163 and shall comply with such provisions as the Social Security Board may  
164 from time to time find necessary to assure the correctness and verification of  
165 such reports; and shall comply with the regulations prescribed by the Social  
166 Security Board governing the expenditures of such sums as may be allotted  
167 and paid to this State under Title III of the social security act for the pur-  
168 pose of assisting in the administration of this chapter.

169       Upon request therefor the executive director shall furnish to any agency  
170 of the United States charged with the administration of public works or  
171 assistance through public employment, the name, address, ordinary occupa-  
172 tion, and employment status of each recipient of benefits and such recipient's  
173 rights to further benefits under this chapter.

174       The commission may make the State's records relating to the administra-  
175 tion of this chapter available to the Railroad Retirement Board and may  
176 furnish the Railroad Retirement Board, at the expense of such board, such  
177 copies thereof as the Railroad Retirement Board deems necessary for its  
178 purposes.

179       The commission may afford reasonable co-operation with every agency  
180 of the United States charged with the administration of any unemployment  
181 insurance law.

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

3       43:21-16. (a) Whoever makes a false statement or representation know-  
4 ing it to be false or knowingly fails to disclose a material fact, to obtain or

5 increase any benefit or other payment under this chapter, either for him-  
 6 self or for any other person, shall be liable to a fine of **【not less than】** twenty  
 7 dollars (\$20.00) for each offense **【nor more than fifty dollars (\$50.00)】**, to be  
 8 recovered in an action at law in the name of the **【commission,】** division or as  
 9 provided in subsection (e) of R. S. 43:21-14, said fine when recovered to be  
 10 paid to the unemployment compensation auxiliary fund for the use of  
 11 said fund; and each such false statement or representation or failure to  
 12 disclose a material fact shall constitute a separate offense.

13 (b) (1) Any employing unit or any officer or agent of an employing  
 14 unit or any other person who makes a false statement or representation  
 15 knowing it to be false, or who knowingly fails to disclose a material fact,  
 16 to prevent or reduce the payment of benefits to any individual entitled  
 17 thereto, or to avoid becoming or remaining subject hereto or to avoid or  
 18 reduce any contribution or other payment required from an employing unit  
 19 under this chapter, or who willfully fails or refuses to **【make any such con-**  
 20 **tributions or other payment or to】** furnish any reports required hereunder  
 21 or to produce or permit the inspection or copying of records as required  
 22 hereunder, shall be liable to a fine of **【not less than twenty dollars (\$20.00)**  
 23 **nor more than two hundred dollars (\$200.00),】** fifty dollars (\$50.00), to be re-  
 24 covered in an action at law in the name of the **【commission.】** division or as  
 25 provided in subsection (e) of section 43:21-14. Said fine when recovered  
 26 **【to】** shall be paid to the unemployment compensation auxiliary fund for the  
 27 use of said fund; and each such false statement or representation or failure  
 28 to disclose a material fact, and each day of such failure or refusal shall con-  
 29 stitute a separate offense. Any penalties imposed pursuant to this subsection  
 30 shall be in addition to those otherwise prescribed in this chapter.

31 (2) Any employing unit or any officer or agent of an employing unit  
 32 or any other person who fails to submit any report required under sub-  
 33 paragraph 21-6 (b) (1) (B) shall be subject to a penalty of five dollars

34 (\$5.00) for each such report not submitted within ten days after being  
 35 served with a special demand therefor in writing by the director, and an  
 36 additional five-dollar (\$5.00) penalty may be assessed for each full week  
 37 which may elapse after the end of said ten-day period and before the re-  
 38 port is filed; *provided*, that when such report or reports are filed after  
 39 said ten-day period but it is shown to the satisfaction of the director that  
 40 the failure was due to reasonable cause, no such penalty shall be imposed.  
 41 The assessment of any penalty under this paragraph shall be subject to  
 42 review in the same manner and under the same conditions as provided in  
 43 subsection 43:21-6 (b) for the review of initial determinations on benefit  
 44 claims.

45 (c) Any person who shall willfully violate any provision of this chap-  
 46 ter or any rule or regulation thereunder, the violation of which is made  
 47 unlawful or the observance of which is required under the terms of this  
 48 chapter, and for which a penalty is neither prescribed herein nor provided  
 49 by any other applicable statute, shall be liable to a fine of **【not less than**  
 50 **twenty dollars (\$20.00) nor more than two hundred dollars (\$200.00),】**  
 51 fifty dollars (\$50.00), to be recovered in an action at law in the name of the  
 52 **【commission】** division or as provided in subsection (e) of section 43:21-14,  
 53 said fine when recovered to be paid to the unemployment compensation aux-  
 54 iliary fund for the use of said fund; and each day such violation continues  
 55 shall be deemed to be a separate offense.

56 (d) When it is determined by **【the deputy】** a representative or repre-  
 57 sentative designated by the director that any person, by reason of the nondis-  
 58 closure or misrepresentation by him or by another, of a material fact  
 59 **【irrespective of】** whether or not such nondisclosure or misrepresentation  
 60 (was known or fraudulent) has received any sum as benefits under this chap-  
 61 ter while any conditions for the receipt of benefits imposed by this chapter  
 62 were not fulfilled in his case, or while he was disqualified from receiving

63 benefits, such person shall, in the discretion of the commission, if the  
 64 director in his discretion directs recovery, either be liable to have such sum  
 65 deducted from any future benefits payable to him under this chapter or shall  
 66 be liable to repay to the commission division for the unemployment com-  
 67 pensation fund, a sum equal to the amount so received by him, and such sum  
 68 shall be collectible in the manner provided in subsection (e) of section  
 69 43:21-14 of this Title for the collection of past-due contributions. The  
 70 deputy shall promptly notify Such person shall be promptly notified of the  
 71 determination and the reasons therefor. Unless such person, within five  
 72 calendar days after the delivery of such determination, or within seven  
 73 calendar days after such notification was mailed to his or her last-known  
 74 address, files an appeal from such determination, such determination shall  
 75 be final.

76 (e) Any employing unit, employer or person failing to remit, when pay-  
 77 able, any employer contributions, or worker contributions (if withheld or de-  
 78 ducted) or the amount of such worker contributions (if not withheld or de-  
 79 ducted), or files or causes to be filed with the Division of Employment Security  
 80 of the Department of Labor and Industry of the State of New Jersey, any  
 81 false or fraudulent report or statement, and any person who aids or abets an  
 82 employing unit, employer, or any person in the preparation or filing of any  
 83 false or fraudulent report or statement with the aforesaid division with the  
 84 intent to defraud the aforesaid division or the State of New Jersey or with  
 85 intent to evade the payment of any contributions, interest or penalties, or any  
 86 part thereof, which shall be due under the provisions of this chapter (R. S.  
 87 43:21-1 et seq.), shall be liable for each offense upon conviction before any  
 88 County Court, county district court, criminal judicial district court, or magis-  
 89 trate's court, to a fine not to exceed two hundred fifty dollars (\$250.00) or by  
 90 imprisonment for a term not to exceed ninety days, or both, at the discretion



91 of the court. The fine upon conviction shall be payable to the unemployment  
 92 compensation auxiliary fund of the Division of Employment Security of the  
 93 Department of Labor and Industry of the State of New Jersey. Any penalties  
 94 imposed by this subsection shall be in addition to those otherwise prescribed  
 95 in this chapter (R. S. 43:21-1 et seq.).

1 8. As used in chapter twenty-one of Title 43 of the Revised Statutes, un-  
 2 less the context clearly requires otherwise:

3 (a) "Base year," with respect to benefit years commencing on or after  
 4 January first, one thousand nine hundred and fifty-one, shall mean the fifty-  
 5 two calendar weeks immediately preceding an individual's benefit year.

6 (b) "Remuneration," with respect to benefit years commencing on or  
 7 after January first, one thousand nine hundred and fifty-one, shall include the  
 8 entire remuneration as defined in subsection (p) of R. S. 43:21-19.

9 (c) "Credit week" means any calendar week of an individual's base year  
 10 during which he earned in employment from an employer not less than fifteen  
 11 dollars (\$15.00).

12 (d) "Average weekly wage" with respect to any determination means  
 13 the amount derived by dividing an individual's total wages received from his  
 14 employer during the current calendar year, by the number of calendar weeks  
 15 in which such wages were earned; *provided*, that if there were not at least  
 16 eight such weeks in the current year said amount shall be derived by dividing  
 17 the individual's total wages received from his employer during both the cur-  
 18 rent calendar year and the preceding calendar year, by the number of cal-  
 19 endar weeks in which such wages were earned.

20 If on application of a claimant it is determined that he has been em-  
 21 ployed during at least the four weeks immediately preceding his separation  
 22 from employment by an employer on a substantially reduced schedule of  
 23 weekly hours due to lack of work, all such weeks of reduced hours within the  
 24 base period and his wages therefor shall be disregarded in computing his  
 25 average weekly wage.

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

## STATEMENT

The purpose of this bill is to carry out the recommendations of Gov. Alfred E. Driscoll so as to increase allowable unemployment compensation benefits for those who have earned the right to their protection, and to completely revise the manner of administering benefit payments so as to provide for the effective administration of the new benefit structure. In general, the bill would have the following effects:

1) Elimination of delays in benefit payments, through decentralized administration. If this works as well as the Michigan system, from which the bill is adapted, it will result in the disposition of the great bulk of benefit disputes right in the local employment office—mostly by telephone—and in the payment of benefits on a simple charge-a-plate record.

2) The maximum weekly benefit for unemployment would be increased from the present \$22 to \$30—under the existing formula (which is intended to vary benefits according to prior earnings) it is estimated that 68 per centum of the claimants were deprived by the \$22 ceiling of additional benefits warranted by their earnings' history.

3) The new benefit provisions would provide for replacement of 60 per centum of the average weekly wage (present formula replaces approximately 59 per centum) up to the maximum weekly benefit, and the benefit determination would be on the basis of earnings in the claimant's most recent period of employment, as compared with the present law which makes it necessary to go back as far as twenty-seven months to determine current benefits. Variable duration of benefits would be continued, and would be related to duration of prior employment.

4) Termination of the discrimination against new entrants into the labor market by permitting an individual to become eligible after establishing fifteen "credit weeks" immediately preceding the filing of a claim, in place of the present requirement of from seven months to a year's employment before a new worker can become protected by the unemployment compensation system. This

would also eliminate the present requirement that a worker must have earned in his base year at least 30 times his benefit rate in order to be eligible for any benefits.

5) Disqualification of any employee who has quit work voluntarily without good cause would be tightened to bar any such individual from benefits until after he has demonstrated his attachment to the labor market by establishing six consecutive credit weeks in employment.

6) Elimination of quarterly wage reporting and separation reports (B 10 and B 10 A) and the substitution of the system of request reporting— under these provisions an employer would only report wage data on a former employee if an actual claim for benefits was filed, and the Employment Security Division will realize the saving which will result from the eventual junking of over 6,000.-000 wage reports.

7) Provide for the charging of benefits to the experience rating accounts first of the most recent employer and then of prior employers, if necessary, in inverse chronological order, so that the employer most closely associated with the claim for unemployment compensation will be first charged (in proportion to his employment of the claimant during the preceding year).

8) Provisions for prompt determination of appeals on the payment or denial of benefits in contested cases would be added.

9) Prompt notification of claimants and of the affected employer of each benefit determination would be provided.

10) Strengthened provision for the prosecution of fraud are added in conformity with Senate No. 134.

[OFFICIAL COPY REPRINT]

**SENATE, No. 310**

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**STATE OF NEW JERSEY**

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INTRODUCED MARCH 13, 1950

By Messrs. BODINE and CLAPP

Referred to Committee on Labor, Industries and Social Welfare

AN ACT concerning unemployment compensation, and amending sections 43:21-3, 43:21-4, 43:21-5, 43:21-6, 43:21-7, 43:21-11 and 43:21-16 of the Revised Statutes, and supplementing chapter twenty-one of Title 43.

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. Twenty-five months after the date  
4 when contributions first accrue under this chapter, benefits shall become pay-  
5 able from the fund; *provided*, that remuneration or services with respect to  
6 which unemployment compensation is payable under the Railroad Unemploy-  
7 ment Insurance Act (52 Stat. 1094), irrespective of when performed, shall  
8 not be included for purposes of determining eligibility under subsection (c)  
9 of section 43:21-4 of this chapter or the weekly benefit rate under subsec-  
10 tion (c) of this section for the purpose of any benefit year commencing on  
11 or after July first, one thousand nine hundred and thirty-nine, nor shall any  
12 benefits with respect to unemployment occurring on and after July first, one  
13 thousand nine hundred and thirty-nine, be payable under subsection (d) of  
14 this section on the basis of such remuneration. All benefits shall be paid  
15 through employment offices, or such other agencies as may be designated in  
16 accordance with such regulations as may be prescribed hereunder.

17     (b) Weekly benefits for unemployment.

18       (1) With respect to an individual's benefit year commencing prior to  
19 January first, one thousand nine hundred and fifty-one, such individual, if eli-  
20 gible and unemployed (as defined in subsection (m) of section 43:21-19 of  
21 this Title) in any week, shall be paid with respect to such week (except as  
22 to final payment) an amount equal to his weekly benefit rate less any remu-  
23 neration in excess of three dollars (\$3.00) paid or payable to him for such  
24 week; *provided*, that such amount shall be computed to the next highest mul-  
25-26 tiple of one dollar (\$1.00), if not already a multiple thereof.

27       (2) With respect to an individual's benefit year commencing on or after  
28 January first, one thousand nine hundred and fifty-one, such individual, if  
29 eligible and unemployed (as defined in subsection (m) of section 43:21-19 of  
30 this Title), shall be paid an amount (except as to final payment) equal to  
31 his weekly benefit rate with respect to any week in which he has earned no  
32 remuneration or remuneration equal to less than one-half his weekly benefit  
33 rate, or shall be paid an amount equal to one-half his weekly benefit rate  
34 with respect to any week in which he has earned remuneration equal to or  
35 more than one-half his weekly benefit rate but less than his weekly benefit  
36 rate.

37       (c) Weekly benefit rate.

38       (1) With respect to an individual to whom benefits shall be payable as  
39 provided in paragraph (1) of subsection (b) of this section, the  
40 weekly benefit rate shall be one-twenty-second of his total wages  
41 in that calendar quarter in which said total wages were highest during his  
42 base year; *provided*, that such rate shall be computed to the next highest  
43 multiple of one dollar (\$1.00) if not already a multiple thereof, and shall  
44 not be more than twenty-six dollars (\$26.00) nor less than ten dollars  
45 (\$10.00).

46       (2) With respect to an individual to whom benefits shall be payable as  
47 provided in paragraph (2) of subsection (b) of this section, the weekly bene-

48 fit rate with respect to each determination shall be three-fifths of such indi-  
49 vidual's average weekly wage with the employer to whom the determination  
50 applies; *provided*, that such rate shall be computed to the next highest mul-  
51 tiple of one dollar (\$1.00) if not already a multiple thereof, and shall not be  
52 more than twenty-six dollars (\$26.00) nor less than ten dollars (\$10.00).

53 (d) Maximum total benefits.

54 (1) With respect to an individual to whom weekly benefits for unem-  
55 ployment shall be payable as provided in paragraph (1) of subsection (b)  
56 of this section, the maximum total amount of benefits payable to any  
57 eligible individual under either of subsections (c) and (f) of section 43:21-4  
58 of this Title during any benefit year shall be either one-third of his total  
59 wages during his base year, computed to the next highest multiple of one  
60 dollar (\$1.00), if not already a multiple thereof, or twenty-six times his  
61 weekly benefit rate, whichever is the lesser; in no event, however, are such  
62 total benefits under either of said subsections (c) and (f) to be less than ten  
63 times his weekly benefit rate. In the event that an individual qualifies for  
64 benefits under both of said subsections during any benefit year, the max-  
65 imum total amount of benefits payable under said subsections combined to  
66 such individual during the benefit year shall be one and one-half times the  
67 maximum amount of benefits payable under one of said subsections.

68 (2) With respect to an individual to whom benefits shall be payable as  
69 provided in paragraph (2) of subsection (b) of this section:

70 (A) Such individual shall be entitled to receive, under each suc-  
71 cessive benefit determination relating to each of his base year employers,  
72 a total amount of benefits equal to two-thirds of his credit weeks with  
73 the employer in question multiplied by his weekly benefit rate with  
74 respect to said employer; but the amount of benefits thus resulting under  
75 any determination made with respect to an employer shall be adjusted  
76 to the next higher multiple of one-half of said weekly benefit rate if not  
77 already a multiple thereof.

78 (B) No such individual shall be entitled to receive benefits under  
 79 either of subsections (c) or (f) of section 43:21-4 of this Title for  
 80 more than twenty-six weeks in any benefit year. For the purposes of  
 81 this paragraph, any week for which an individual receives a half-pay-  
 82 ment as provided in paragraph (2) of subsection (b) of this section shall  
 83 be counted as one-half of a week.

84 (C) Such an individual, if he qualifies for benefits successively  
 85 under both subsections (c) and (f) of section 43:21-4 of this Title during  
 86 any benefit year, shall be entitled to receive benefits for a number of  
 87 weeks not to exceed one and one-half times his maximum number of  
 88 benefit weeks in the benefit year under one of said subsections. Subject  
 89 to said limitation, an individual's claims for benefits shall be determined  
 90 under either of said subsections, without regard to claims determined or  
 91 paid under the other of said subsections, in accordance with the pro-  
 92 cedure prescribed in subparagraph (B) of paragraph (1) of subsection  
 93 (b) of section 43:21-6 of this Title.

94 (D) If the full weekly benefit rate cannot be paid to an individual  
 95 who is otherwise entitled thereto because the amount of unused benefits  
 96 remaining under the applicable benefit determination is only one-half of  
 97 said rate, he shall be paid that amount; but if such individual is entitled  
 98 to additional benefits under a successive determination, he shall also be  
 99 paid for the week in question an amount equal to one-half of his weekly  
 100 benefit rate under said successive determination.

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

2 43:21-4. An individual, totally or partially unemployed, shall be eligible  
 3 to receive benefits with respect to any week only if it appears that:

4 (a) He has registered for work at, and thereafter continued to report  
 5 at, an employment office in accordance with such regulations as the commis-  
 6 sion may prescribe, except that the commission may, by regulation, waive or  
 7 alter either or both of the requirements of this subsection as to individuals

8 attached to regular jobs as to such other types of cases or situations with  
 9 respect to which the commission finds that compliance with such require-  
 10 ments would be oppressive, or would be inconsistent with the purpose of this  
 11 act; *provided*, that no such regulation shall conflict with subsection (a) of  
 12 section 43:21-3 of the Revised Statutes.

13 (b) He has made a claim for benefits in accordance with the provisions  
 14 of subsection (a) of section 43:21-6 of this Title.

15 (c) He is able to work, is available for work, and has demonstrated that  
 16 he is actively seeking work, except as provided in subsection (f) of this  
 17 section;

18 (d) Prior to the first week for which he claims benefits in any benefit  
 19 year he has been totally or partially unemployed for a waiting period of one  
 20 week in that benefit year. No week shall be counted as a week of unemploy-  
 21 ment for the purposes of this subsection:

22 (1) if benefits have been paid, or are payable with respect thereto;

23 (2) if it has constituted a waiting period week under the Temporary  
 24 Disability Benefits Law;

25 (3) unless the individual fulfills the requirements of subsection (a) and  
 26 (c) of this section.

27 (e) With respect to a base year as defined in subsection (c) of section  
 28 43:21-19 of this Title, his wages within such base year or not less than thirty  
 29 times his weekly benefit amount. With respect to a base year commencing on  
 30 or after January first, one thousand nine hundred and fifty-one, he has estab-  
 31 lished at least fifteen credit weeks.

32-33 (f) He has suffered any accident or sickness not compensable under the  
 34 workmen's compensation law (Title 34 of the Revised Statutes) and resulting  
 35 in his total disability to perform any work for remuneration, and would be  
 36 eligible to receive benefits under this chapter (without regard to the maxi-  
 37 mum amount of benefits payable during any benefit year) except for his  
 38 inability to work and has furnished notice and proof of claim to the commis-  
 39 sion, in accordance with its rules and regulations, and payment is not pre-



cluded by the provisions of subsection (g) hereof or of section 43:21-3 (d) of this Title. Such benefit payments shall be charged to and paid from the State disability benefits fund established by the Temporary Disability Benefits Law, and shall not be charged to any employer account in computing any employer's experience rate for contributions payable under this chapter.

(g) No benefits shall be payable under subsection (f) above to any individual:

(1) for any period during which such individual is not under the care of a legally licensed physician;

(2) for any period of disability due to pregnancy or resulting childbirth, miscarriage, or abortion;

(3) for any period of disability due to willfully or intentionally self-inflicted injury, or to injuries sustained in the perpetration by the individual of a high misdemeanor;

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

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

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

(7) for any period of disability commencing prior to January first, one thousand nine hundred and forty-nine, or for any period of disability commencing while such individual is a "covered individual" as defined in subsection three (b) of the Temporary Disability Benefits Law (chapter 110, P. L. 1948), or after the expiration of twenty-six consecutive weeks during

70 which the individual has been unemployed and ineligible or disqualified for  
71 benefits for such unemployment.

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

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

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

3 (a) For the week in which he has left work voluntarily without good  
4 cause, and for each week thereafter until he has established at least six  
5 credit weeks as defined in section nineteen of this chapter.

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

9 (c) If it is found that he has failed, without good cause, either to apply  
10 for available, suitable work when so directed by the employment office or the  
11 director or to accept suitable work when offered him, or to return to his cus-  
12 tomary self-employment (if any) when so directed by the director. Such dis-  
13 qualification shall continue for the week in which such failure occurred and  
14 for the three weeks which immediately follow such week (in addition to the  
15-18 waiting period), as determined.

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

25 (2) Notwithstanding any other provisions of this chapter, no work  
26 shall be deemed suitable and benefits shall not be denied under this chap-  
27 ter to any otherwise eligible individual for refusing to accept new work

28 under any of the following conditions: (a) If the position offered is  
29 vacant due directly to a strike, lockout, or other labor dispute; (b) if  
30 the remuneration, hours, or other conditions of the work offered are sub-  
31 stantially less favorable to the individual than those prevailing for  
32 similar work in the locality; (c) if as a condition of being employed the  
33 individual would be required to join a company union or to resign from  
34 or refrain from joining any bona fide labor organization.

35 (d) For any week with respect to which it is found that his unem-  
36 ployment is due to a stoppage of work which exists because of a labor  
37 dispute at the factory, establishment, or other premises at which he is or was  
38 last employed; *provided*, that this subsection shall not apply if it is shown  
39 that:

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

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

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

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

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

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

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

10 (b) (1) Determinations.

11 (A) Procedure for making initial determinations with respect to  
12 benefit years commencing prior to January first, one thousand nine  
13 hundred and fifty-one. A representative designated by the di-  
14 rector, and hereinafter referred to as a "deputy," shall promptly  
15 examine the claim and, on the basis of the facts found by him, shall  
16 either determine whether or not such claim is valid, and if valid, the  
17 week with respect to which benefits shall commence, the weekly benefit  
18 amount payable and the maximum duration thereof, or shall refer such  
19 claim or any question involved therein to an appeal tribunal or to the  
20 board of review, which shall make its determinations with respect thereto  
21 in accordance with the procedure described in subsection (c) of this  
22 section. The deputy shall promptly notify the claimant, the most recent  
23 employing unit and all employers in the base year of the decision and  
24 the reasons therefor. Unless the claimant or any such interested party,  
25 within five calendar days after the delivery of such notification, or within  
26 seven calendar days after such notification was mailed to his and their  
27 last-known address and addresses, files an appeal from such decision,  
28 such decision shall be final and benefits shall be paid or denied in ac-  
29 cordance therewith. If an appeal is duly filed, benefits with respect to

30 the period prior to the final determination of the board of review, shall  
31 be paid only after such determination; *provided*, that if an appeal tri-  
32 bunal affirms a decision of a deputy, or the board of review affirms a  
33 decision of an appeal tribunal, allowing benefits, such benefits shall be  
34 paid regardless of any appeal which may thereafter be taken, but if such  
35 decision is finally reversed, no employer's account shall be charged with  
36 benefits so paid.

37 (B) Procedure for making determinations with respect to benefit  
38 years commencing on or after January first, one thousand nine hundred  
39 and fifty-one.

40 A representative or representatives designated by the director of  
41 the division and hereinafter referred to as a "deputy," shall promptly  
42 examine the claim, and shall notify the most recent employing unit and,  
43 successively as necessary, each employer in inverse chronological order  
44 during the base year. Such notification shall require said employing unit  
45 and employer to furnish such information to the deputy as may be neces-  
46 sary to determine the claimant's eligibility and benefit rights, and such  
47 notification shall also provide the most recent employer in the base year  
48 with the name and address of the most recent employing unit of the  
49 claimant and the claimant's statement as to the commencement of and  
50 reason for his unemployment.

51 If any employer or employing unit fails to respond to the request  
52 for information within five days after the mailing of such request, the  
53 deputy may rely entirely on information from other sources.

54 The deputy shall promptly make a determination based upon the  
55 available information. The determination shall show the weekly benefit  
56 amount payable, the maximum duration of benefits, and also shall show  
57 whether the claimant is ineligible or disqualified for benefits under  
58 that determination. The claimant and each employer affected by an  
59 initial determination shall be promptly notified thereof.

60 Whenever a determination is based upon information other than  
61 that supplied by an employer because such employer failed to respond  
62 to the deputy's request for information, such determination shall be  
63 incontestable by the noncomplying employer, as to any benefits paid  
64 prior to the close of the week following the receipt of his reply and  
65 such benefits may be chargeable to such employer's account.

66 The deputy shall issue a separate benefit determination with respect  
67 to each of the claimant's base year employers, starting with the most  
68 recent employer and continuing as necessary in the inverse chrono-  
69 logical order of the claimant's last date of employment with each such  
70 employer.

71 The amount of benefits payable under a determination may be re-  
72 duced or canceled if necessary to avoid payment of benefits for a num-  
73 ber of weeks in excess of the maximum specified in paragraph (2) of  
74 subsection (d) of section 43:21-3 of this Title.

75 (C) Procedure for making determinations in certain cases of con-  
76 current employment, with respect to benefit years commencing on or  
77 after January first, one thousand nine hundred and fifty-one.

78 Notwithstanding any other provisions of this Title, if an individual  
79 shows to the satisfaction of the deputy that there were at least thirteen  
80 weeks in his base period in each of which he earned wages from two  
81 or more employers totaling fifteen dollars (\$15.00) or more but in each  
82 of which there was no single employer from whom he earned as much as  
83 fifteen dollars (\$15.00) then such individual's claim shall be determined  
84 in accordance with the special provisions of this subparagraph. In such  
85 case, the deputy shall determine the individual's eligibility for benefits,  
86 his average weekly wage, weekly benefit rate and maximum total bene-  
87 fits as if all his base year employers were a single employer. Such de-  
88 termination shall apportion the liability for benefit charges thereunder  
89 to the individual's several base year employers so that each employ-

90 er's maximum liability for charges thereunder bears the same relation  
91 to the maximum total benefits allowed as the wages earned by the indi-  
92 vidual from each employer during the base year bears to his total wages  
93 earned from all employers during the base year. Such determination  
94 shall also specify the individual's last date of employment within the  
95 base year with respect to each base year employer, and such employers  
96 shall be charged for benefits paid under said determination in the in-  
97 verse chronological order of such last dates of employment.

98 (2) Weekly determinations. The director of the division may assign one  
99 or more deputies to each local claims office for the purpose of making weekly  
100 determinations (except, in his discretion, those under subsections 4(f) and  
101 5(d) of this chapter) in the course of the benefit year, in accordance  
102 with the initial determination of a valid claim. Whenever a determina-  
103 tion of eligibility shall be made with respect to the first week of the  
104 benefit year for which benefits are claimed, the claimant and the em-  
105-111 ploying unit whose account may be charged for benefits payable there-  
112 under shall be promptly notified of such determination. Whenever a de-  
113 termination of ineligibility or disqualification shall be made with respect to  
114 any week of the benefit year, the claimant and any employer who has been  
115 notified of the claim shall be promptly notified of such determination.

116 (3) Any claimant or any interested entity or person may file an appeal  
117 from any determination under paragraphs (1) and (2) of this subsection  
118 within five calendar days after the delivery of notification, or within seven  
119 calendar days after the mailing of notification, of such determination. Un-  
120 less such an appeal is filed such determination shall be final and benefits  
121 shall be paid or denied in accordance therewith. If an appeal is duly filed,  
122 benefits with respect to the period covered by the appeal shall be payable  
123 only after a determination of entitlement by the appellate tribunal; benefits  
124 payable for periods pending an appeal and not in dispute shall be paid as  
125 such benefits accrue; *provided*, that insofar as any such appeal is or may be  
126 an appeal from a determination to the effect that the claimant is disqualified

127 under the provisions of section 43:21-5 of the Revised Statutes or any amend-  
 128 ments thereof or supplements thereto, benefits pending determination of the  
 129 appeal shall be withheld only for the period of disqualification as provided  
 130 for in said section, and notwithstanding such appeal the benefits otherwise  
 131 provided by this act shall be paid for the period subsequent to such period  
 132 of disqualification; *and provided, also*, that if there are two determinations  
 133 of entitlement, benefits for the period covered by such determination shall be  
 134 paid regardless of any appeal which may thereafter be taken, but no em-  
 135 ployer's account shall be charged with benefits so paid if the decision is  
 136 finally reversed.

137 (c) Appeals. Unless such appeal is withdrawn, an appeal tribunal,  
 138 after affording the parties reasonable opportunity for fair hearing, shall  
 139 affirm or modify the findings of fact and the determination. The parties  
 140 shall be duly notified of such tribunal's decision, together with its reasons  
 141 therefor, which shall be deemed to be the final decision of the board of re-  
 142 view, unless within ten days after the date of notification or mailing of such  
 143 decision, further appeal is initiated pursuant to subsection (e) of this  
 144 section.

145 (d) Appeal tribunals. To hear and decide disputed benefit claims, in-  
 146 cluding appeals from determinations with respect to demands for refunds  
 147 of benefits under section 43:21-16 (d) of this chapter, the director with the  
 148 approval of the Commissioner of Labor and Industry shall establish one or  
 149 more impartial appeal tribunals consisting in each case of either a salaried ex-  
 150 aminer or a body consisting of three members, one of whom shall be a salaried  
 151 examiner, who shall serve as chairman, one of whom shall be a representative  
 152 of employers and the other of whom shall be a representative of employees;  
 153 each of the latter two members shall serve at the pleasure of the commis-  
 154 sioner and be paid a fee of not more than twenty dollars (\$20.00) per day of  
 155 active service on such tribunal plus necessary expenses. No person shall par-  
 156 ticipate on behalf of the division in any case in which he is an interested party.



157 The director may designate alternates to serve in the absence or disqualifica-  
158 tion of any member of an appeal tribunal. The chairman shall act alone in  
159 the absence or disqualification of any other member and his alternates. In  
160 no case shall the hearings proceed unless the chairman of the appeal tribunal  
161-162 is present.

163 (e) Board of review. The board of review may on its own motion  
164 affirm, modify, or set aside any decision of an appeal tribunal on the basis  
165 of the evidence previously submitted in such case, or direct the taking of  
166 additional evidence, or may permit any of the parties to such decision to  
167 initiate further appeals before it. The board of review shall permit such  
168 further appeal by any of the parties interested in a decision of an appeal  
169 tribunal which is not unanimous and from any determination which has been  
170 overruled or modified by an appeal tribunal. The board of review may re-  
171 move to itself or transfer to another appeal tribunal the proceedings on any  
172 claim pending before an appeal tribunal. Any proceeding so removed to the  
173 board of review shall be heard by a quorum thereof in accordance with the  
174 requirements of subsection (c) of this section. The board of review shall  
175-176 promptly notify the interested parties of its findings and decision.

177 (f) Procedure. The manner in which disputed benefit claims, and ap-  
178 peals from determinations with respect to (1) claims for benefits and (2)  
178A demands for refunds of benefits under section 43:21-16 (d) of this  
179 chapter shall be presented, the reports thereon required from the  
180 claimant and from employers, and the conduct of hearings and appeals shall  
181 be in accordance with rules prescribed by the board of review for determining  
182 the rights of the parties, whether or not such rules conform to common law  
183 or statutory rules of evidence and other technical rules of procedure. A full  
184 and complete record shall be kept of all proceedings in connection with a  
185 disputed claim. All testimony at any hearing upon a disputed claim shall  
186 be recorded, but need not be transcribed unless the disputel claim is further  
187 appealed.

188 (g) Witness fees. Witnesses subpoenaed pursuant to this section shall  
 189 be allowed fees at a rate fixed by the director. Such fees and all expenses  
 190 of proceedings involving disputed claims shall be deemed a part of the ex-  
 191 penses of administering this chapter.

192 (h) Appeal to courts. Any decision of the board of review in the ab-  
 193 sence of an appeal therefrom as herein provided shall become final ten days  
 194 after the date of notification or mailing thereof, and judicial review thereof  
 195 shall be permitted only after any party claiming to be aggrieved thereby has  
 196 exhausted his remedies before the board of review as provided by this chap-  
 197 ter. The board of review shall be deemed to be a party to any judicial action  
 198 involving any such decision, and may be represented in any such judicial  
 199 action by any qualified attorney who may be a regular salaried employee of  
 200 the board of review or has been designated by it for that purpose, or at the  
 201 board of review's request, by the Attorney-General.

202 (i) Court review. Within ten days after the decision of the board of  
 203 review has become final, any party aggrieved thereby may secure judicial re-  
 204 view thereof by procedure in lieu of prerogative writs in which action any  
 205 other party to the proceedings before the board of review shall be made a  
 206 defendant.

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

2 43:21-7. (a) Payment.

3 (1) On and after December first, one thousand nine hundred and thirty-  
 4 six, contributions shall accrue and become payable by each employer for each  
 5 calendar year in which he is subject to this chapter, with respect to having  
 6 individuals in his employ during such calendar year at the rates and on the  
 7 basis hereinafter set forth, except that for the month of December, one thou-  
 8 sand nine hundred and thirty-six, such contributions shall accrue and become  
 9 payable with respect to having individuals in his employ during the month  
 10 of December, one thousand nine hundred and thirty-six. Such contributions  
 11 shall become due and be paid by each employer to the commission for the  
 12 fund in accordance with such regulations as may be prescribed, and shall

13 not be deducted, in whole or in part, from the remuneration of individuals in  
14 his employ.

15 (2) In the payment of any contributions, a fractional part of a cent shall  
16 be disregarded unless it amounts to one-half cent (\$.005) or more, in which  
17 case it shall be increased to one cent (\$.01).

18 (b) Rate of contributions. Each employer shall pay the following con-  
19 tributions:

20 (1) Ten and eight-tenths per centum (10 8/10%) of wages payable with  
21 respect to employment during the month of December, one thousand nine  
22 hundred and thirty-six and paid prior to January first, one thousand nine  
23 hundred and forty-seven; *provided*, that if the total of such contributions at  
24 such ten and eight-tenths per centum (10 8/10%) rate equals less than nine-  
25 tenths of one per centum (9/10 of 1%) of the annual payroll of any  
26 employer payable for the calendar year one thousand nine hundred and  
27 thirty-six, such employer shall pay, not later than January twenty-fifth, one  
28 thousand nine hundred and thirty-seven, an additional lump-sum contribution  
29 with respect to employment for such one month's period beginning Decem-  
30 ber first, one thousand nine hundred and thirty-six, equal to the difference  
31 between nine-tenths of one per centum (9/10 of 1%) of his annual payroll  
32 payable for the calendar year one thousand nine hundred and thirty-six and  
33 the total of his contributions at such ten and eight-tenths per centum  
34 (10 8/10%) for such one month's period beginning December first, one thou-  
35 sand nine hundred and thirty-six; *and provided further*, that the total of  
36 such contributions with respect to employment for such one month's period  
37 beginning December first, one thousand nine hundred and thirty-six, shall  
38 not exceed nine-tenths of one per centum (9/10 of 1%) of such employer's  
39 annual payroll payable for the calendar year one thousand nine hundred and  
40 thirty-six.

41 (2) One and eight-tenths per centum (1 8/10%) of wages payable with  
42 respect to employment during the calendar year one thousand nine hundred

43 and thirty-seven and paid prior to January first, one thousand nine hundred  
44 and forty-seven;

45 (3) Two and seven-tenths per centum ( $2\frac{7}{10}\%$ ) of wages payable with  
46 respect to employment during the calendar years one thousand nine hundred  
47 and thirty-eight, one thousand nine hundred and thirty-nine, one thousand  
48 nine hundred and forty and one thousand nine hundred and forty-one and  
49 paid prior to January first, one thousand nine hundred and forty-seven; and,  
50 except as otherwise prescribed by subsection (c) of this section, also during  
51 the calendar years one thousand nine hundred and forty-two to one thousand  
52 nine hundred and forty-six, inclusive, and paid prior to January first, one  
53 thousand nine hundred and forty-seven; and

54 (4) For the calendar year one thousand nine hundred and forty-seven,  
55 and each calendar year thereafter, two and seven-tenths per centum  
56 ( $2\frac{7}{10}\%$ ) of wages paid by him during each such calendar year, except as  
57 otherwise prescribed by subsection (c) of this section.

58 (5) The "wages" of any individual, with respect to any one employer  
59 as the term is used in this subsection (b) and in subsections (c), (d) and  
60 (e) of this section seven, shall include:

61 (A) All remuneration payable for the month of December, one  
62 thousand nine hundred and thirty-six, and for the calendar years one  
63 thousand nine hundred and thirty-seven, one thousand nine hundred and  
64 thirty-eight, one thousand nine hundred and thirty-nine, and paid prior  
65 to January first, one thousand nine hundred and forty-seven;

66 (B) The first three thousand dollars (\$3,000.00) earned for each of  
67 the calendar years one thousand nine hundred and forty to one thou-  
68 sand nine hundred and forty-six, inclusive, and paid prior to January  
69 first, one thousand nine hundred and forty-seven; and

70 (C) The first three thousand dollars (\$3,000.00) paid during the  
71 calendar year one thousand nine hundred and forty-seven and during  
72 each calendar year thereafter, for services either within or without this

73 State; *provided*, that no contribution shall be required by this State with  
74 respect to services performed in another State if such other State im-  
75 poses contribution liability with respect thereto.

76 (c) Future rates based on benefit experience: (1) A separate account  
77 for each employer shall be maintained and this shall be credited with all the  
78 contributions which he has paid on his own behalf on or before January  
79 thirty-first of any calendar year with respect to employment occurring in  
80 preceding calendar years. But nothing in this chapter shall be construed to  
81 grant any employer or individuals in his service prior claims or rights to  
82 the amounts paid by him into the fund either on his own behalf or on behalf  
83 of such individuals. Benefits paid with respect to benefit years commencing  
84 prior to January first, one thousand nine hundred and fifty-one, to any indi-  
85 vidual on or before January thirty-first of any calendar year with respect to  
86 unemployment in preceding calendar years shall be charged against the  
87 account of each of the employers with whom such individual accrued the  
88 wage credits constituting the basis of such benefits, in the same proportion  
89 as such wage credits with each such employer bear to such wage credits with  
90 all such employers. The commission shall furnish to each employer at such  
91 frequency as the commission shall, by regulation, prescribe, but in no case  
92 less frequently than annually, a detailed statement of benefits charged to his  
93 account. Benefits paid with respect to benefit years commencing on and  
94 after January first, one thousand nine hundred and fifty-one, to any indi-  
95 vidual on or before January thirty-first of any calendar year with respect to  
96 unemployment in preceding calendar years shall be charged against the  
97 account or accounts of the employer or employers in whose employment  
98 such individual established credit weeks constituting the basis of such bene-  
99 fits. Benefits paid under a given benefit determination shall be charged  
100 against the account of the employer to whom such determination relates.  
101 When each benefit payment is made the division shall promptly send either  
102 a copy of the benefit check or other form of notification to the employer  
103 against whose account the benefits are to be charged. Such copy or notifica-

tion shall identify the employer against whose account the amount of such payment is being charged, shall show at least the name and social security account number of the claimant and shall specify the period of unemployment to which said payment applies.

The division shall furnish to each employer no less frequently than annually a summary statement of benefits charged to his account.

(2) The commission may prescribe regulations for the establishment, maintenance, and dissolution of joint accounts by two or more employers, and shall, in accordance with such regulations and upon application by two or more employers to establish such an account, or to merge their several individual accounts in a joint account, maintain such joint account as if it constituted a single employer's account.

(3) Each employer's rate shall be two and seven-tenths per centum ( $2\frac{7}{10}\%$ ), except as otherwise provided in the following provisions. No employer's rate shall be other than two and seven-tenths per centum ( $2\frac{7}{10}\%$ ) unless and until there shall have been three calendar years throughout which any individual in his employ could have received benefits if eligible.

(4) Each employer's rate for the twelve months commencing July first of any calendar year shall be determined on the basis of his record up to the beginning of such calendar year. If, at the beginning of such calendar year, the total of all his contributions, paid on his own behalf, for all past years exceeds the total benefits charged to his account for all such years, his contribution rate shall be:

(A) Two and four-tenths per centum ( $2\frac{4}{10}\%$ ), if such excess equals or exceeds four per centum (4%), but is less than five per centum (5%) of his average annual payroll (as defined in paragraph (2), subsection (a) of section 43:21-19 of this Title);

(B) Two and one-tenth per centum ( $2\frac{1}{10}\%$ ), if such excess equals or exceeds five per centum (5%), but is less than six per centum (6%) of his average annual payroll;

135 (C) One and eight-tenths per centum ( $1\frac{8}{10}\%$ ), if such excess  
 136 equals or exceeds six per centum (6%), but is less than seven per centum  
 137 (7%) of his average annual payroll;

138 (D) One and five-tenths per centum ( $1\frac{5}{10}\%$ ), if such excess  
 139 equals or exceeds seven per centum (7%), but is less than eight per  
 140 centum (8%) of his average annual payroll;

141 (E) One and two-tenths per centum ( $1\frac{2}{10}\%$ ), if such excess  
 142 equals or exceeds eight per centum (8%), but is less than nine per  
 143 centum (9%), of his average annual payroll;

144 (F) Nine-tenths of one per centum ( $\frac{9}{10}$  of 1%), if such excess  
 145 equals or exceeds nine per centum (9%), but is less than ten per centum  
 146 (10%), of his average annual payroll;

147 (G) Six-tenths of one per centum ( $\frac{6}{10}$  of 1%), if such excess  
 148 equals or exceeds ten per centum (10%), but is less than eleven per  
 149 centum (11%), of his average annual payroll;

150 (H) Three-tenths of one per centum ( $\frac{3}{10}$  of 1%), if such excess  
 151 equals or exceeds eleven per centum (11%) of his average annual pay-  
 152 roll.

153 If the total of his contributions, paid on his own behalf, for all past  
 154 periods, or for the past one hundred twenty consecutive calendar months,  
 155 whichever period is more advantageous to such employer for the purposes  
 156 of this paragraph, is less than the total benefits charged against his account  
 157 during the same period, his rate shall be three per centum (3%).

158 (5) (A) If on March thirty-first of any calendar year the balance in  
 159 the Unemployment Trust Fund equals or exceeds four per centum (4%) but is  
 160 less than seven per centum (7%) of the total taxable wages reported to the  
 161 commission as of that date in respect to employment during the preceding  
 162 calendar year, the contribution rate, effective July first following, of each  
 163 employer eligible for a contribution rate calculation based upon benefit expe-  
 164 rience, shall be increased by three-tenths of one per centum ( $\frac{3}{10}$  of 1%)

165 over the contribution rate otherwise established under the provisions of para-  
166 graph (4) of this subsection. If on March thirty-first of any calendar year  
167 the balance of the Unemployment Trust Fund is less than four per centum  
168 (4%) of the total taxable wages reported to the commission as of that  
169 date in respect to employment during the preceding calendar year, the  
170 contribution rate, effective July first following, of each employer eligible  
171 for a contribution rate calculation based upon benefit experience, shall be in-  
172 creased by six-tenths of one per centum ( $\frac{6}{10}$  of 1%) over the contribu-  
173 tion rate otherwise established under the provisions of paragraph (4) of  
174 this subsection; *provided*, that if on such March thirty-first, such balance  
175 is less than two and one-half per centum ( $2\frac{1}{2}\%$ ) of such total taxable  
176 wages, the contribution rate so effective, of any employer, shall be not less  
177 than two and seven-tenths per centum ( $2\frac{7}{10}\%$ ); *provided further*, that  
178 the contribution rate of any employer increased pursuant to the provisions  
179 of this subparagraph, when so increased, shall not exceed three and six-  
180 tenths per centum ( $3\frac{6}{10}\%$ ).

181 (B) If on March thirty-first of any calendar year the balance in the  
182 Unemployment Trust Fund equals or exceeds ten per centum (10%) but is  
183 less than twelve and one-half per centum ( $12\frac{1}{2}\%$ ) of the total taxable wages  
184 reported to the commission as of that date in respect to employment dur-  
185 ing the preceding calendar year, the contribution rate, effective July first  
186 following, of each employer eligible for a contribution rate calculation based  
187 upon benefit experience, shall be reduced by three-tenths of one per centum  
188 ( $\frac{3}{10}$  of 1%) under the contribution rate otherwise established under the  
189 provisions of paragraphs (3) and (4) of this subsection; *provided*, that in  
190 no event shall the contribution rate of any employer be reduced to less than  
191 three-tenths of one per centum ( $\frac{3}{10}$  of 1%). If on March thirty-first of  
192 any calendar year the balance in the Unemployment Trust Fund equals or  
193 exceeds twelve and one-half per centum ( $12\frac{1}{2}\%$ ) of the total taxable wages  
194 reported to the commission as of that date in respect to employment dur-  
195 ing the preceding calendar year, the contribution rate, effective July first



196 following, of each employer eligible for a contribution rate calculation  
197 based upon benefit experience, shall be reduced by six-tenths of one per  
198 centum (6/10 of 1%) if his account reflects an excess of contributions paid  
199 over total benefits charged of three per centum (3%) or more of his average  
200 annual payroll, otherwise by three-tenths of one per centum (3/10 of 1%) un-  
201 der the contribution rate otherwise established under the provisions of para-  
202 graphs (3) and (4) of this subsection; *provided*, that in no event shall the  
203 contribution rate of any employer be reduced to less than three-tenths of  
204 one per centum (3/10 of 1%).

205 (6) Additional contributions.

206 Notwithstanding any other provision of law, any employer who has been  
207 assigned a contribution rate pursuant to subsection (c) of this section for  
208 the year commencing July first, one thousand nine hundred and forty-eight,  
209 and for any year commencing July first thereafter, may voluntarily make  
210 payment of additional contributions, and upon such payment shall receive  
211 a recomputation of the experience rate applicable to such employer in-  
212 cluding in the calculation the additional contribution so made. Any such  
213 additional contribution shall be made during the thirty-day period follow-  
214 ing the date of the mailing to the employer of the notice of his contribution  
215 rate as prescribed in this section, unless, for good cause, the time for pay-  
216 ment has been extended by the director for not to exceed an additional  
217 sixty days; *provided*, that in no event may such payments which are made  
218 later than one hundred twenty days after the beginning of the year for  
219 which such rates are effective be considered in determining the experience  
220 rate for the year in which the payment is made. Any employer receiving  
221 any extended period of time within which to make such additional payment  
222 and failing to make such payment timely shall pay, in addition to the re-  
223 quired amount of additional payment, a penalty of five per centum (5%)  
224 thereof or five dollars (\$5.00), whichever is greater, not to exceed fifty dol-  
225 lars (\$50.00). Any adjustment under this subsection shall be made only in  
226 the form of credits against accrued or future contributions.

## 227 (7) Transfers.

228 An employer who transfers his or its organization, trade, assets of  
229 business, in whole or in part, to a successor in interest, whether by merger,  
230 consolidation, sale, transfer, descent or otherwise, may jointly make applica-  
231 tion with such successor in interest for transfer of the employment experi-  
232 ence of the predecessor employer to the successor in interest, including  
233 credit for past years, contributions paid, annual payrolls, benefit charges,  
234 et cetera, applicable to such predecessor employer. The commission may  
235 allow such transfer of employment experience pursuant to regulations  
236 adopted by the commission, only if it finds that the employment experience  
237 of the predecessor employer with respect to the organization, trade, as-  
238 sets or business, or part thereof, as the case may be, which has been trans-  
239 ferred, may be considered indicative of the future employment experience of  
240 the successor in interest. In the event of a part transfer of an employer's  
241 organization, trade, assets or business, only that portion of the employ-  
242 ment experience relating to the portion of the organization, trade, assets  
243 or business transferred shall be transferred, and credit shall be given to  
244 the successor in interest only for the years during which contributions were  
245 paid by the predecessor employer with respect to that part of the organiza-  
246 tion, trade, assets or business transferred. A transfer of the employment  
247 experience in whole or in part having been applied for and approved by  
248 the commission, the predecessor employer thereafter shall not be entitled  
249 to consideration for an adjusted rate based upon his or its experience or  
250 the part thereof, as the case may be, which has thus been transferred. A  
251 successor in interest to whom employment experience or a part thereof is  
252 transferred pursuant to this subsection shall, as of the date of the transfer  
253 of the organization, trade, assets or business, or part thereof, immediately  
254 become an employer if not theretofore an employer subject to this chapter.

255 (d) Contribution of workers; transfer to temporary disability benefit  
256 fund.

257       (1) Each worker shall contribute to the fund one per centum (1%) of  
258 his wages paid by an employer with respect to his employment which occurs  
259 after December thirty-first, one thousand nine hundred and thirty-seven, and  
260 after such employer has satisfied the conditions set forth in subsection (h)  
261 of Section 43:21-19 of this Title with respect to becoming an employer; *pro-*  
262 *vided, however,* that such contribution shall be at the rate of one-fourth of  
263 one per centum ( $\frac{1}{4}$  of 1%) of wages paid with respect to employment on  
264 and after January first, one thousand nine hundred and forty-nine, while  
265 the worker is covered by an approved private plan under the Temporary  
266 Disability Benefits Law or while the worker is exempt from the provisions  
267 of that law under section seven thereof. Each employer shall, notwithstand-  
268 ing any provisions of law in this State to the contrary, withhold in trust  
269 the amount of his workers' contributions from their wages at the time  
270 such wages are paid, shall show such deduction of his payroll records,  
271 shall furnish such evidence thereof to his workers as the commission  
272 may prescribe, and shall transmit all such contributions, in addition to his  
273 own contributions, to the office of the commission in such manner and at  
274 such times as may be prescribed. If any employer fails to deduct the con-  
275 tributions of any of his workers at the time their wages are paid, or fails  
276 to make a deduction therefor at the time wages are paid for the next  
277 succeeding payroll period, he alone shall thereafter be liable for such con-  
278 tributions, and for the purposes of section 43:21-14 of this Title, such con-  
279 tributions shall be treated as employer's contributions required from him.  
280 As used in this chapter, except when the context clearly requires other-  
281 wise, the term "contributions" shall include the contributions of workers  
282 pursuant to this section.

283       (2) There shall be deposited in and credited to the State disability bene-  
284 fits fund, as the same shall be established by law, three-quarters of all worker  
285 contributions, received by the commission pursuant to subparagraph (1)  
286 above on and after April first, one thousand nine hundred and forty-eight or

287 the date this subparagraph takes effect, whichever is later, with respect to  
288 wages upon which the rate of contributions is one per centum (1%) as pro-  
289 vided in (1) above.

290 (3) If an individual does not receive any wages from the employing  
291 unit which for the purposes of this chapter is treated as his employer, or re-  
292 ceives his wages from some other employing unit, such employer shall never-  
293 theless be liable for such individual's contributions in the first instance; and  
294 after payment thereof such employer may deduct the amount of such con-  
295 tributions from any sums payable by him to such employing unit, or may  
296 recover the amount of such contributions from such employing unit or in the  
297 absence of such an employing unit, from such individual, in a civil action  
298 for debt; *provided*, proceedings therefor are instituted within three months  
299 after the date on which such contributions are payable. General rules shall  
300 be prescribed whereby such an employing unit may recover the amount of  
301 such contributions from such individuals in the same manner as if it were  
302 the employer.

303 (4) Every employer who has elected to become an employer subject to  
304 this chapter or to cease to be an employer subject to this chapter, pursuant  
305 to the provisions of section 43:21-8 of this Title, shall post and maintain  
306 printed notices of such election on his premises, of such design, in such num-  
307 bers, and at such places as the executive director may determine to be neces-  
308 sary to give notice thereof to persons in his service.

309 (5) Contributions by workers, payable to the commission as herein  
310 provided, shall be exempt from garnishment, attachment, execution, or any  
311 other remedy for the collection of debts.

312 (e) Contributions by employers to State disability benefits fund.

313 (1) Except as hereinafter provided, each employer shall, in addition to  
314 the contributions required by subsections (a), (b), and (c) of this section,  
315 contribute one-quarter of one per centum ( $\frac{1}{4}$  of 1%) of the wages paid by  
316 such employer to workers with respect to employment after January first,

317 one thousand nine hundred and forty-nine. Such contributions shall become  
318 due and be paid by each employer to the commission for the State disability  
319 benefits fund as established by law, in accordance with such regulations as  
320 may be prescribed, and shall not be deducted, in whole or in part, from the  
321 remuneration of individuals in his employ. In the payment of any contribu-  
322 tions, a fractional part of a cent shall be disregarded unless it amounts to  
323 one-half cent (\$0.005) or more, in which case it shall be increased to one  
324 cent (\$0.01).

325 (2) During the continuance of coverage of a worker by an approved  
326 private plan of disability benefits under the Temporary Disability Benefits  
327 Law, the employer shall be exempt from the contribution required by sub-  
328 paragraph (1) above with respect to wages paid to such worker.

329 (3) (A) The rates of contribution as specified in subparagraph (1)  
330 above shall be subject to modification as provided herein with respect to  
331 employer contributions due on and after July first, one thousand nine hun-  
332 dred and fifty-one.

333 (B) A separate disability benefits account shall be maintained for each  
334 employer required to contribute to the State disability benefits fund and such  
335 account shall be credited with contributions deposited in and credited to such  
336 fund with respect to employment occurring on and after January first, one  
337 thousand nine hundred and forty-nine. Each employer's account shall be  
338 credited with all contributions paid on or before January thirty-first of any  
339 calendar year on his own behalf and on behalf of individuals in his service  
340 with respect to employment occurring in preceding calendar years. But  
341 nothing in this act shall be construed to grant any employer or individuals  
342 in his service prior claims or rights to the amounts paid by him to the fund  
343 either on his own behalf or on behalf of such individuals. Benefits paid to  
344 any covered individual in accordance with Article III of the Temporary Dis-  
345 ability Benefits Law on or before January thirty-first of any calendar year  
346 with respect to disability in preceding calendar years shall be charged  
347 against the account of the employer by whom such individual was employed

348 at the commencement of such disability or by whom he was last employed if  
349 out of employment.

350 (C) The commission may prescribe regulations for the establishment,  
351 maintenance, and dissolution of joint accounts by two or more employers,  
352 and shall, in accordance with such regulations and upon application by two  
353 or more employers to establish such an account, or to merge their several  
354 individual accounts in a joint account, maintain such joint account as if it  
355 constituted a single employer's account.

356 (D) Prior to July first of each calendar year, the commission shall make  
357 a preliminary determination of the rate of contribution for the twelve months  
358 commencing on such July first for each employer subject to the contribution  
359 requirements of this subsection (e).

360 (1) Such preliminary rate shall be one-quarter of one per centum ( $\frac{1}{4}$  of  
361 1%) unless on the preceding December thirty-first such employer shall have  
362 been a covered employer for at least two full years and his account shall  
363 have been credited with at least fifteen hundred dollars (\$1,500.00) of em-  
364 ployer and employee contributions.

365 (2) If the minimum requirements in (1) above have been fulfilled and  
366 the credited contributions exceed the benefits charged by more than five hun-  
367 dred dollars (\$500.00), such preliminary rate shall be as follows:

368 (i) Two-tenths of one per centum ( $\frac{2}{10}$  of 1%) if such excess over  
369 five hundred dollars (\$500.00) exceeds one per centum (1%) but is less  
370 than one and one-quarter per centum ( $1\frac{1}{4}\%$ ) of his average annual pay-  
371 roll (as defined in this chapter);

372 (ii) Fifteen one hundredths of one per centum ( $\frac{15}{100}$  of 1%) if  
373 such excess over five hundred dollars (\$500.00) equals or exceeds one  
374 and one-quarter per centum ( $1\frac{1}{4}\%$ ) but is less than one and one-half per  
375 centum ( $1\frac{1}{2}\%$ ) of his average annual payroll;

376 (iii) One-tenth of one per centum ( $\frac{1}{10}$  of 1%) if such excess over  
377 five hundred dollars (\$500.00) equals or exceeds one and one-half per  
378 centum ( $1\frac{1}{2}\%$ ) of his average annual payroll.

379 (3) If the minimum requirements in (1) above have been fulfilled and the  
 380 contributions credited exceed the benefits charged but by not more than five  
 381 hundred dollars (\$500.00) plus one per centum (1%) of his average annual  
 382 payroll, or if the benefits charged exceed the contributions credited but by not  
 383 more than five hundred dollars (\$500.00), the preliminary rate shall be one-  
 384 quarter of one per centum ( $\frac{1}{4}$  of 1%).

385 (4) If the minimum requirements in (1) above have been fulfilled and  
 386 the benefits charged exceed the contributions credited by more than five hun-  
 387 dred dollars (\$500.00), such preliminary rate shall be as follows:

388 (i) Thirty-five one hundredths of one per centum (35/100 of 1%) if  
 389 such excess over five hundred dollars (\$500.00) is less than one-quarter  
 390 of one per centum ( $\frac{1}{4}$  of 1%) of his average annual payroll;

391 (ii) Forty-five one hundredths of one per centum (45/100 of 1%) if  
 392 such excess over five hundred dollars (\$500.00) equals or exceeds one-  
 393 quarter of one per centum ( $\frac{1}{4}$  of 1%) but is less than one-half of one  
 394 per centum ( $\frac{1}{2}$  of 1%) of his average annual payroll;

395 (iii) Fifty-five one hundredths of one per centum (55/100 of 1%) if  
 396 such excess over five hundred dollars (\$500.00) equals or exceeds one-  
 397 half of one per centum ( $\frac{1}{2}$  of 1%) but is less than three-quarters of one  
 398 per centum ( $\frac{3}{4}$  of 1%) of his average annual payroll;

399 (iv) Sixty-five one hundredths of one per centum (65/100 of 1%) if  
 400 such excess over five hundred dollars (\$500.00) equals or exceeds three-  
 401 quarters of one per centum ( $\frac{3}{4}$  of 1%) but is less than one per centum  
 402 (1%) of his average annual payroll;

403 (v) Seventy-five one hundredths of one per centum (75/100 of 1%)  
 404 if such excess over five hundred dollars (\$500.00) equals or exceeds one  
 405 per centum (1%) of his average annual payroll.

406 (5) Determination of the preliminary rate as specified in (2), (3) and  
 407 (4) above shall be subject, however, to the condition that it shall in no event  
 408 be decreased by more than one-tenth of one per centum ( $\frac{1}{10}$  of 1%) of

409 wages or increased by more than two-tenths of one per centum (2/10 of 1%)  
410 of wages from the preliminary rate determined for the preceding year in  
411 accordance with (1), (2), (3) or (4), whichever shall have been applicable.

412 (E) (1) Prior to July first of each calendar year the commission shall  
413 determine the amount of the State disability benefits fund as of December  
414 thirty-first of the preceding calendar year increased by the contributions  
415 paid thereto during January of the current calendar year with respect to em-  
416 ployment occurring in preceding calendar years and decreased by the benefits  
417 paid during January of the current calendar year with respect to disability in  
418 preceding calendar years. If such amount exceeds the total of the amounts  
419 withdrawn from the unemployment trust fund pursuant to section twenty-  
420 three of the Temporary Disability Benefits Law plus the amount at the end  
421 of such preceding calendar year of the unemployment disability account (as  
422 defined in section twenty-two of said law), such excess shall be expressed as  
423 a percentage of the wages on which contributions were paid to the State dis-  
424 ability benefits fund on or before January thirty-first with respect to  
425 employment in the preceding calendar year.

426 (2) The commission shall then make a final determination of the rates  
427 of contribution for the twelve months commencing July first of such year for  
428 employers whose preliminary rates are determined as provided in (D) hereof,  
429 as follows:

430 (i) If the percentage determined in accordance with paragraph (1)  
431 of this subsection equals or exceeds one and one-quarter per centum  
432 ( $1\frac{1}{4}\%$ ) the final employer rates shall be the preliminary rates deter-  
433 mined as provided in (D) hereof, except that if the employer's prelimi-  
434 nary rate is determined as provided in (D) (2) or (D) (3) hereof, the  
435 final employer rate shall be the preliminary employer rate decreased by  
436 such percentage of excess taken to the nearest five one hundredths of  
437 one per centum ( $5/100$  of 1%), but in no case shall such final rate be less  
438 than one-tenth of one per centum ( $1/10$  of 1%).



439 (ii) If the percentage determined in accordance with paragraph (1)  
 440 of this subsection equals or exceeds three-quarters of one per centum  
 441 ( $\frac{3}{4}$  of 1%) and is less than one and one-quarter of one per centum ( $1\frac{1}{4}$   
 442 of 1%), the final employer rates shall be the preliminary employer rates.

443 (iii) If the percentage determined in accordance with paragraph  
 444 (1) of this subsection is less than three-quarters of one per centum  
 445 ( $\frac{3}{4}$  of 1%), the final employer rates shall be the preliminary em-  
 446 ployer rates determined as provided in (D) hereof increased by the  
 447 difference between three-quarters of one per centum ( $\frac{3}{4}$  of 1%) and  
 448 such percentage taken to the nearest five one hundredths of one per  
 449 centum ( $\frac{5}{100}$  of 1%); *provided, however*, that no such final rate shall  
 450 be more than one-quarter of one per centum ( $\frac{1}{4}$  of 1%) in the case of  
 451 an employer whose preliminary rate is determined as provided in (D)  
 452 (2) hereof, more than one-half of one per centum ( $\frac{1}{2}$  of 1%) in the  
 453 case of an employer whose preliminary rate is determined as pro-  
 454 vided in (D) (1) and (D) (3) hereof, nor more than three-quarters  
 455 of one per centum ( $\frac{3}{4}$  of 1%) in the case of an employer whose pre-  
 456 liminary rate is determined as provided in (D) (4) hereof.

457 (iv) If the amount of the State disability benefits fund determined  
 458 as provided in paragraph (1) of this subsection is equal to or less than  
 459 the total of the amounts withdrawn from the unemployment trust  
 460 fund pursuant to section twenty-three of the Temporary Disability  
 461 Benefits Law plus the amount at the end of the preceding calendar year  
 462 of the unemployment disability account, then the final rate shall be  
 463 three-quarters of one per centum ( $\frac{3}{4}$  of 1%) for all employers.

1 6. Section 43:21-11 of the Revised Statutes is amended to read as fol-  
 2 lows:

3 43:21-11. (a) Duties and powers of the commission. It shall be the  
 4 duty of the commission to determine all matters of policy; and it shall have  
 5 power and authority to adopt, amend, or rescind such rules and regulations,

6 require such reports, make such investigations, and take such other action as  
7 it deems necessary or suitable to that end or to administer this chapter; *pro-*  
8 *vided*, that the commission may delegate such power and authority to the  
9 executive director subject to their ultimate supervision and control. Such  
10 rules and regulations shall be effective upon publication in the manner, not  
11 inconsistent with the provisions of this chapter, which the commission shall  
12 prescribe. The commission shall determine its own organization and  
13 methods of procedure in accordance with the provisions of this chapter, and  
14 shall have an official seal which shall be judicially noticed. Not later than  
15 the first day of February of each year, the commission shall submit to the  
16 Governor a report covering the administration and operation of this chapter  
17 during the preceding calendar year and shall make such recommendations for  
18 amendments to this chapter as the commission deems proper. Such report  
19 shall include a balance sheet of the moneys in the fund in which there shall be  
20 provided, if possible, a reserve against the liability in future years to pay  
21 benefits in excess of the then current contributions, which reserve shall be  
22 set up by the commission in accordance with accepted actuarial principles  
23 on the basis of statistics of employment, business activity, and other relevant  
24 factors for the longest possible period. Whenever the commission believes  
25 that a change in contribution or benefit rates will become necessary to protect  
26 the solvency of the fund, it shall promptly so inform the Governor and the  
27 Legislature, and make recommendations with respect thereto. The com-  
28 mission shall make a study of the problem of paying partial benefits for  
29 partial unemployment.

30 (b) Regulations and general and special rules. General and special rules  
31 may be adopted, amended, or rescinded by the commission. General rules  
32 shall become effective ten days after filing with the Secretary of State and  
33 publication in one or more newspapers of general circulation in this State.  
34 Special rules shall become effective ten days after notification to or mailing  
35 to the last known address of the individuals or concerns affected thereby.

36 Regulations may be adopted, amended, or rescinded by the commission and  
37 shall become effective in the manner and at the time prescribed by the  
38 commission.

39 (c) Publication. The commission shall cause to be printed for distribu-  
40 tion to the public the text of this chapter, the commission's regulations and  
41 general rules, its annual reports to the Governor, and any other material the  
42 commission deems relevant and suitable and shall furnish the same to any  
43 person upon application therefor.

44 (d) Personnel. Subject to other provisions of this chapter, the com-  
45 mission is authorized to appoint (subject to the provisions of Title 11  
46 Civil Service), fix the compensation, and prescribe the duties and powers of  
47 such officers, accountants, attorneys, experts, and other persons as may be  
48 necessary in the performance of its duties. All positions shall be filled by  
49 persons selected and appointed on a nonpartisan merit basis from lists of  
50 eligible persons prepared by the Civil Service Commission, in accordance  
51 with the provisions of Title 11, Civil Service, except that any attorney, now  
52 or hereafter in office or position of legal assistant for the commission, shall  
53 be placed in the exempt class of the civil service and thereafter shall not be  
54 subject to removal except for cause and then only in accordance with the pro-  
55 visions of Title 11, Civil Service; *provided, however*, that nothing herein shall  
56 be construed to apply to any attorney designated as special counsel in  
57 accordance with the provisions of sections 43:21-6, subsection (h), and  
58 43:21-17. The commission shall not employ or pay any person who is an  
59 officer or committee member of any political party organization. The com-  
60 mission may delegate to any such person so appointed such power and au-  
61 thority as it deems reasonable and proper for the effective administration of  
62 this chapter, and may in its discretion bond any person handling moneys or  
63 signing checks hereunder.

64 (e) Advisory councils. The commission shall appoint a State advisory  
65 council of six members and local advisory councils of four members each,

66 composed in each case of an equal number of employer representatives and  
67 employee representatives who may fairly be regarded as representative  
68 because of their vocation, employment, or affiliations, and of such members  
69 representing the general public as the commission may designate. Such  
70 councils shall aid the commission in formulating policies and discussing  
71 problems related to the administration of this chapter and in assuring  
72 impartiality and freedom from political influence in the solution of such  
73 problems. Such advisory councils shall serve without compensation, but  
74 shall be reimbursed for any necessary expenses.

75 (f) Employment stabilization. The commission, with the advice and aid  
76 of its advisory councils, and through its appropriate divisions, shall take all  
77 appropriate steps to reduce and prevent unemployment; to encourage and  
78 assist in the adoption of practical methods of vocational training, retraining  
79 and vocational guidance; to investigate, recommend, advise, and assist in the  
80 establishment and operation, by municipalities, counties, school districts, and  
81 the State, of reserves for public works to be used in times of business de-  
82 pression and unemployment; to promote the re-employment of unemployed  
83 workers throughout the State in every other way that may be feasible; and  
84 to these ends to carry on and publish the results of investigations and re-  
85 search studies.

86 (g) Records and reports. Each employing unit shall keep true and ac-  
87 curate employment records, containing such information as may be pre-  
88 scribed. Such records shall be open to inspection and be subject to being  
89 copied by the director of the division or his authorized representatives at  
90 any reasonable time. The director may require from any employ-  
91 ing unit any sworn or unsworn reports, with respect to persons  
91A employed by it, which is deemed necessary for the effective admin-  
92 istration of this chapter. Under such rules and regulations as may be  
93 adopted by the division reports relative to wages and separation from em-  
94 ployment may be required from any employer or employing unit at the time

95 such employer or employing unit suspends business operations in this State.  
96 If the nature of such suspension is temporary or in the nature of a transfer,  
97 then the director may excuse the employer or employing unit from furnish-  
98 ing such a termination report upon assurances that proper arrangements have  
99 been made to supply any information which may be required under sub-  
100 paragraph (B) of paragraph (1) of subsection (b) of section 43:21-6 of this  
101 Title. Information thus obtained shall not be published or be open to public  
102 inspection (other than to public employees in the performance of their pub-  
103 lic duties) in any manner revealing the employing unit's identity, but any  
104 claimant at a hearing before an appeal tribunal, the commission or the board  
105 of review, shall be supplied with information from such records to the ex-  
106 tent necessary for the proper presentation of his claim. Any employee or  
107 member of the commission who violates any provision of this section shall  
108 be liable to a fine of not less than twenty dollars (\$20.00) nor more than two  
109 hundred dollars (\$200.00), to be recovered in an action at law in the name of  
110 the commission, said fine when recovered to be paid to the unemployment  
111 compensation fund for the use of said fund.

112 (h) Oaths and witnesses. In the discharge of the duties imposed by this  
113 chapter, the chairman of an appeal tribunal and any duly authorized repre-  
114 sentative or member of the commission, the executive director or any deputy  
115 director thereof or member of the board of review shall have power to ad-  
116 minister oaths and affirmations, take depositions, certify to official acts, and  
117 issue subpoenas to compel the attendance of witnesses and the production of  
118 books, papers, correspondence, memoranda, and other records deemed neces-  
119 sary as evidence in connection with a disputed claim or the administration  
120 of this chapter. Witnesses subpoenaed pursuant to this section shall in the  
121 discretion of the commission be allowed fees at a rate to be fixed by it. Such  
122 fees shall be deemed a part of the expense of administering this chapter.

123 (i) Subpoenas. In case of contumacy by, or refusal to obey a subpoena  
124 issued to any person, any court of this State within the jurisdiction of which

125 the inquiry is carried on or within the jurisdiction of which said person  
126 guilty of contumacy or refusal to obey is found or resides or transacts busi-  
127 ness, upon application by the commission or its duly authorized representa-  
128 tive, or the board of review, shall have jurisdiction to issue to such person  
129 an order requiring such person to appear before the board of review or a  
130 member thereof, a commissioner, the commission, the executive director, or  
131 his duly authorized representative, there to produce evidence if so ordered  
132 or there to give testimony touching the matter under investigation or in  
133 question; and any failure to obey such order of the court may be punished  
134 by said court as a contempt thereof. Any person who shall without just cause  
135 fail or refuse to attend and testify or to answer any lawful inquiry or to pro-  
136 duce books, papers, correspondence, memoranda, and other records, if it is  
137 in his power so to do, in obedience to a subpoena of the commission or of the  
138 board of review shall be punished by a fine of not more than two hundred  
139 dollars (\$200.00) or by imprisonment for not longer than sixty days, or by  
140 both such fine and imprisonment, and each day such violation continues shall  
141 be deemed to be a separate offense.

142 (j) Protection against self-incrimination. No person shall be excused  
143 from attending and testifying or from producing books, papers, correspond-  
144 ence, memoranda, and other records before the commission or the board of  
145 review or in obedience to the subpoena of a member of the commission or the  
146 executive director thereof, the board of review or a member thereof, or any  
147 duly authorized representative of the commission in any cause or proceeding  
148 before the commission, the board of review or a member thereof, on the  
149 ground that the testimony or evidence, documentary or otherwise, required  
150 of him may tend to incriminate him or subject him to a penalty or forfeiture;  
151 but no individual shall be prosecuted or subjected to any penalty or forfei-  
152 ture for or on account of any transaction, matter, or thing concerning which  
153 he is compelled, after having claimed his privilege against self-incrimina-  
154 tion, to testify or produce evidence, documentary or otherwise, except that

155 such individual so testifying shall not be exempt from prosecution and pun-  
156 ishment for perjury committed in so testifying.

157 (k) State-Federal co-operation. In the administration of this chapter  
158 the commission shall co-operate to the fullest extent consistent with the pro-  
159 visions of this chapter, with the Social Security Board, created by the social  
160 security act, approved August fourteenth, one thousand nine hundred and  
161 thirty-five, as amended; shall make such reports, in such form and containing  
162 such information as the Social Security Board may from time to time require,  
163 and shall comply with such provisions as the Social Security Board may  
164 from time to time find necessary to assure the correctness and verification of  
165 such reports; and shall comply with the regulations prescribed by the Social  
166 Security Board governing the expenditures of such sums as may be allotted  
167 and paid to this State under Title III of the social security act for the pur-  
168 pose of assisting in the administration of this chapter.

169 Upon request therefor the executive director shall furnish to any agency  
170 of the United States charged with the administration of public works or  
171 assistance through public employment, the name, address, ordinary occupa-  
172 tion, and employment status of each recipient of benefits and such recipient's  
173 rights to further benefits under this chapter.

174 The commission may make the State's records relating to the administra-  
175 tion of this chapter available to the Railroad Retirement Board and may  
176 furnish the Railroad Retirement Board, at the expense of such board, such  
177 copies thereof as the Railroad Retirement Board deems necessary for its  
178 purposes.

179 The commission may afford reasonable co-operation with every agency  
180 of the United States charged with the administration of any unemployment  
181 insurance law.

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

3 43:21-16. (a) Whoever makes a false statement or representation know-  
4 ing it to be false or knowingly fails to disclose a material fact, to obtain or

5 increase any benefit or other payment under this chapter, either for him-  
6 self or for any other person, shall be liable to a fine of twenty dollars (\$20.00)  
7 for each offense, to be recovered in an action at law in the name of the divi-  
8 sion or as provided in subsection (e) of R. S. 43:21-14, said fine when re-  
9 covered to be paid to the unemployment compensation auxiliary fund for  
10 the use of said fund; and each such false statement or representation or  
11-12 failure to disclose a material fact shall constitute a separate offense.

13       (b) (1) Any employing unit or any officer or agent of an employing  
14 unit or any other person who makes a false statement or representation  
15 knowing it to be false, or who knowingly fails to disclose a material fact,  
16 to prevent or reduce the payment of benefits to any individual entitled  
17 thereto, or to avoid becoming or remaining subject hereto or to avoid or  
18 reduce any contribution or other payment required from an employing unit  
19 under this chapter, or who willfully fails or refuses to furnish any reports  
20 required hereunder or to produce or permit the inspection or copying of  
21 records as required hereunder, shall be liable to a fine of fifty dollars (\$50.00),  
22 to be recovered in an action at law in the name of the division or as provided  
23 in subsection (e) of section 43:21-14. Said fine when recovered shall be paid  
24 to the unemployment compensation auxiliary fund for the use of said fund;  
25 and each such false statement or representation or failure to disclose a ma-  
26 terial fact, and each day of such failure or refusal shall constitute a sep-  
27 arate offense. Any penalties imposed pursuant to this subsection shall be  
28-30 in addition to those otherwise prescribed in this chapter.

31       (2) Any employing unit or any officer or agent of an employing unit  
32 or any other person who fails to submit any report required under sub-  
33 paragraph 21-6 (b) (1) (B) shall be subject to a penalty of five dollars  
34 (\$5.00) for each such report not submitted within ten days after being  
35 served with a special demand therefor in writing by the director, and an  
36 additional five-dollar (\$5.00) penalty may be assessed for each full week  
37 which may elapse after the end of said ten-day period and before the re-  
38 port is filed; *provided*, that when such report or reports are filed after



39 said ten-day period but it is shown to the satisfaction of the director that  
40 the failure was due to reasonable cause, no such penalty shall be imposed.  
41 The assessment of any penalty under this paragraph shall be subject to  
42 review in the same manner and under the same conditions as provided in  
43 subsection 43:21-6 (b) for the review of initial determinations on benefit  
44 claims.

45 (c) Any person who shall willfully violate any provision of this chap-  
46 ter or any rule or regulation thereunder, the violation of which is made  
47 unlawful or the observance of which is required under the terms of this  
48 chapter, and for which a penalty is neither prescribed herein nor provided  
49 by any other applicable statute, shall be liable to a fine of fifty dollars  
50 (\$50.00), to be recovered in an action at law in the name of the division or  
51 as provided in subsection (e) of section 43:21-14, said fine when recovered to  
52 be paid to the unemployment compensation auxiliary fund for the use of said  
53 fund; and each day such violation continues shall be deemed to be a separate  
54 offense.

55 (d) When it is determined by a representative or representative desig-  
56 nated by the director that any person, by reason of the nondisclosure or mis-  
57 representation by him or by another, of a material fact whether or not such  
58 nondisclosure or misrepresentation (was known or fraudulent) has received  
59 any sum as benefits under this chapter while any conditions for the receipt  
60 of benefits imposed by this chapter were not fulfilled in his case, or while he  
61 was disqualified from receiving benefits, such person shall, if the director in  
62 his discretion directs recovery, either be liable to have such sum deducted  
63 from any future benefits payable to him under this chapter or to repay to the  
64 division for the unemployment compensation fund, a sum equal to the amount  
65 so received by him, and such sum shall be collectible in the manner provided  
66 in subsection (e) of section 43:21-14 of this Title for the collection of past-  
67 due contributions. Such person shall be promptly notified of the determina-  
68 tion and the reasons therefor. Unless such person, within five calendar days  
69 after the delivery of such determination, or within seven calendar days after

70 such notification was mailed to his or her last-known address, files an appeal  
71-75 from such determination, such determination shall be final.

76 (e) Any employing unit, employer or person failing to remit, when pay-  
77 able, any employer contributions, or worker contributions (if withheld or de-  
78 ducted) or the amount of such worker contributions (if not withheld or de-  
79 ducted), or files or causes to be filed with the Division of Employment Security  
80 of the Department of Labor and Industry of the State of New Jersey, any  
81 false or fraudulent report or statement, and any person who aids or abets an  
82 employing unit, employer, or any person in the preparation or filing of any  
83 false or fraudulent report or statement with the aforesaid division with the  
84 intent to defraud the aforesaid division or the State of New Jersey or with  
85 intent to evade the payment of any contributions, interest or penalties, or any  
86 part thereof, which shall be due under the provisions of this chapter (R. S.  
87 43:21-1 et seq.), shall be liable for each offense upon conviction before any  
88 County Court, county district court, criminal judicial district court, or magis-  
89 trate's court, to a fine not to exceed two hundred fifty dollars (\$250.00) or by  
90 imprisonment for a term not to exceed ninety days, or both, at the discretion  
91 of the court. The fine upon conviction shall be payable to the unemployment  
92 compensation auxiliary fund of the Division of Employment Security of the  
93 Department of Labor and Industry of the State of New Jersey. Any penalties  
94 imposed by this subsection shall be in addition to those otherwise prescribed  
95 in this chapter (R. S. 43:21-1 et seq.).

1 8. As used in chapter twenty-one of Title 43 of the Revised Statutes, un-  
2 less the context clearly requires otherwise:

3 (a) "Base year," with respect to benefit years commencing on or after  
4 January first, one thousand nine hundred and fifty-one, shall mean the fifty-  
5 two calendar weeks immediately preceding an individual's benefit year.

6 (b) "Remuneration," with respect to benefit years commencing on or  
7 after January first, one thousand nine hundred and fifty-one, shall include the  
8 entire remuneration as defined in subsection (p) of R. S. 43:21-19.

9 (c) "Credit week" means any calendar week of an individual's base year  
10 during which he earned in employment from an employer not less than fifteen  
11 dollars (\$15.00).

12 (d) "Average weekly wage" with respect to any determination means  
13 the amount derived by dividing an individual's total wages received from his  
14 employer during the current calendar year, by the number of calendar weeks  
15 in which such wages were earned; *provided*, that if there were not at least  
16 eight such weeks in the current year said amount shall be derived by dividing  
17 the individual's total wages received from his employer during both the cur-  
18 rent calendar year and the preceding calendar year, by the number of cal-  
19 endar weeks in which such wages were earned.

20 If on application of a claimant it is determined that he has been em-  
21 ployed during at least the four weeks immediately preceding his separation  
22 from employment by an employer on a substantially reduced schedule of  
23 weekly hours due to lack of work, all such weeks of reduced hours within the  
24 base period and his wages therefor shall be disregarded in computing his  
25 average weekly wage.

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

3  
COMMITTEE SUBSTITUTE FOR

**SENATE, No. 310**

**STATE OF NEW JERSEY**

ADOPTED MARCH 30, 1950

AN ACT concerning unemployment compensation, and amending sections 43:21-3,  
43:21-4, 43:21-5 and 43:21-7 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. Twenty-five months after the date  
4 when contributions first accrue under this chapter, benefits shall become pay-  
5 able from the fund; *provided*, that remuneration or services with respect to  
6 which unemployment compensation is payable under the Railroad Unemploy-  
7 ment Insurance Act (52 Stat. 1094), irrespective of when performed, shall  
8 not be included for purposes of determining eligibility under subsection (e)  
9 of section 43:21-4 of this chapter or the weekly benefit rate under subsec-  
10 tion (c) of this section for the purpose of any benefit year commencing on  
11 or after July first, one thousand nine hundred and thirty-nine, nor shall any  
12 benefits with respect to unemployment occurring on and after July first, one  
13 thousand nine hundred and thirty-nine, be payable under subsection (d) of  
14 this section on the basis of such remuneration. All benefits shall be paid  
15 through employment offices, or such other agencies as may be designated in  
16 accordance with such regulations as may be prescribed hereunder.

17 (b) Weekly benefits for unemployment. Each eligible individual who is  
18 unemployed (as defined in subsection (m) of section 43:21-19 of this chap-  
19 ter) in any week shall be paid with respect to such week (except as to final  
20 payment) an amount equal to his weekly benefit rate less any remuneration

21 in excess of three dollars (\$3.00) paid or payable to him for such week;  
 22 *provided*, that such amount shall be computed to the next highest multiple of  
 23 one dollar (\$1.00), if not already a multiple thereof.

24 (c) Weekly benefit rate. An individual's weekly rate shall be one-  
 25 twenty-second of his total wages in that calendar quarter in which said total  
 26 wages were highest during his base year; *provided*, that such rate shall be  
 27 computed to the next highest multiple of one dollar (\$1.00) if not already a  
 28 multiple thereof, and shall not be more than twenty-eight dollars (\$28.00)  
 29 nor less than ten dollars (\$10.00).

30 (d) Maximum total benefits. The maximum total amount of benefits  
 31 payable to any eligible individual under either of subsections (c) and (f) of  
 32 section 43:21-4 of this Title during any benefit year shall be either one-third  
 33 of his total wages during his base year, computed to the next highest multiple  
 34 of one dollar (\$1.00), if not already a multiple thereof, or twenty-six times  
 35 his weekly benefit rate, whichever is the lesser; in no event, however, are  
 36 such total benefits under either of said subsections (c) and (f) to be less than  
 37 ten times his weekly benefit rate. In the event that an individual qualified  
 38 for benefits under both of said subsections during any benefit year, the  
 39 maximum total amount of benefits payable under said subsections combined  
 40 to such individual during the benefit year shall be one and one-half times the  
 41 maximum amount of benefits payable under one of said subsections.

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

2 43:21-4. An individual, totally or partially unemployed, shall be eligible  
 3 to receive benefits with respect to any week only if it appears that:

4 (a) He has registered for work at, and thereafter continued to report  
 5 at, an employment office in accordance with such regulations as the commis-  
 6 sion may prescribe, except that the commission may, by regulation, waive or  
 7 alter either or both of the requirements of this subsection as to individuals  
 8 attached to regular jobs, and as to such other types of cases or situations with  
 9 respect to which the commission finds that compliance with such require-  
 10 ments would be oppressive, or would be inconsistent with the purpose of this

11 act; *provided*, that no such regulation shall conflict with subsection (a) of  
12 section 43:21-3 of the Revised Statutes.

13 (b) He has made a claim for benefits in accordance with the provisions  
14 of subsection (a) of section 43:21-6 of this Title.

15 (c) He is able to work, is available for work, and has demonstrated that  
16 he is actively seeking work, except as provided in subsection (f) of this  
17 section;

18 (d) Prior to the first week for which he claims benefits in any benefit  
19 year he has been totally or partially unemployed for a waiting period of one  
20 week in that benefit year. No week shall be counted as a week of unemploy-  
21 ment for the purposes of this subsection:

22 (1) if benefits have been paid, or are payable with respect thereto;

23 (2) if it has constituted a waiting period week under the Temporary  
24 Disability Benefits Law;

25 (3) unless the individual fulfills the requirements of subsections (a) and  
26 (c) of this section.

27 (e) His wages within his base year were not less than thirty times his  
28 weekly benefit amount.

29-33 (f) He has suffered any accident or sickness not compensable under the  
34 workmen's compensation law (Title 34 of the Revised Statutes) and resulting  
35 in his total disability to perform any work for remuneration, and would be  
36 eligible to receive benefits under this chapter (without regard to the maxi-  
37 mum amount of benefits payable during any benefit year) except for his  
38 inability to work and has furnished notice and proof of claim to the commis-  
39 sion, in accordance with its rules and regulations, and payment is not pre-  
40 cluded by the provisions of subsection (g) hereof or of section 43:21-3 (d)  
41 of this Title. Such benefit payments shall be charged to and paid from the  
42 State disability benefits fund established by the Temporary Disability  
43 Benefits Law, and shall not be charged to any employer account in comput-  
44 ing any employer's experience rate for contributions payable under this  
45 chapter.

46 (g) No benefits shall be payable under subsection (f) above to any  
47 individual:

48 (1) for any period during which such individual is not under the care  
49 of a legally licensed physician;

50 (2) for any period of disability due to pregnancy or resulting child-  
51 birth, miscarriage, or abortion;

52 (3) for any period of disability due to willfully or intentionally self-  
53 inflicted injury, or to injuries sustained in the perpetration by the individual  
54 of a high misdemeanor;

55 (4) for any week with respect to which or a part of which he has  
56 received or is seeking unemployment benefits under any unemployment  
57 compensation or disability benefit law of any other State or of the United  
58 States; *provided*, that if the appropriate agency of such other State or of the  
59 United States finally determines that he is not entitled to such benefits, this  
60 disqualification shall not apply;

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

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

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

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

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

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

3        (a) For the week in which he has left work voluntarily without good  
4 cause, and for each week thereafter until he has earned in employment at  
5 least four times his weekly benefit rate, as determined in each case.

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

9        (c) If it is found that he has failed, without good cause, either to apply  
10 for available, suitable work when so directed by the employment office or the  
11 director or to accept suitable work when offered him, or to return to his cus-  
12 tomary self-employment (if any) when so directed by the director. Such dis-  
13 qualification shall continue for the week in which such failure occurred and  
14 for the three weeks which immediately follow such week (in addition to the  
15-18 waiting period), as determined:

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

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



35 (d) For any week with respect to which it is found that his unem-  
 36 ployment is due to a stoppage of work which exists because of a labor  
 37 dispute at the factory, establishment, or other premises at which he is or was  
 38 last employed; *provided*, that this subsection shall not apply if it is shown  
 39 that:

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

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

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

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

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

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

2 43:21-7. (a) Payment.

3 (1) On and after December first, one thousand nine hundred and thirty-  
 4 six, contributions shall accrue and become payable by each employer for each

5 calendar year in which he is subject to this chapter, with respect to having  
 6 individuals in his employ during such calendar year at the rates and on the  
 7 basis hereinafter set forth, except that for the month of December, one thou-  
 8 sand nine hundred and thirty-six, such contributions shall accrue and become  
 9 payable with respect to having individuals in his employ during the month  
 10 of December, one thousand nine hundred and thirty-six. Such contributions  
 11 shall become due and be paid by each employer to the Division of Employ-  
 12 ment Security for the fund in accordance with such regulations as may be  
 13 prescribed, and shall not be deducted, in whole or in part, from the  
 14 remuneration of individuals in his employ.

15 (2) In the payment of any contributions, a fractional part of a cent shall  
 16 be disregarded unless it amounts to one-half cent (\$0.005) or more, in which  
 17 case it shall be increased to one cent (\$0.01).

18 (b) Rate of contributions. Each employer shall pay the following con-  
 19 tributions:

20 (1) Ten and eight-tenths per centum ( $10 \frac{8}{10}\%$ ) of wages payable with  
 21 respect to employment during the month of December, one thousand nine  
 22 hundred and thirty-six and paid prior to January first, one thousand nine  
 23 hundred and forty-seven; *provided*, that if the total of such contributions at  
 24 such ten and eight-tenths per centum ( $10 \frac{8}{10}\%$ ) rate equals less than nine-  
 25 tenths of one per centum ( $\frac{9}{10}$  of 1%) of the annual payroll of any  
 26 employer payable for the calendar year one thousand nine hundred and  
 27 thirty-six, such employer shall pay, not later than January twenty-fifth, one  
 28 thousand nine hundred and thirty-seven, an additional lump-sum contribution  
 29 with respect to employment for such one month's period beginning Decem-  
 30 ber first, one thousand nine hundred and thirty-six, equal to the difference  
 31 between nine-tenths of one per centum ( $\frac{9}{10}$  of 1%) of his annual payroll  
 32 payable for the calendar year one thousand nine hundred and thirty-six and  
 33 the total of his contributions at such ten and eight-tenths per centum  
 34 ( $10 \frac{8}{10}\%$ ) for such one month's period beginning December first, one thou-  
 35 sand nine hundred and thirty-six; *and provided further*, that the total of

36 such contributions with respect to employment for such one month's period  
37 beginning December first, one thousand nine hundred and thirty-six, shall  
38 not exceed nine-tenths of one per centum ( $9/10$  of 1%) of such employer's  
39 annual payroll payable for the calendar year one thousand nine hundred and  
40 thirty-six.

41 (2) One and eight-tenths per centum ( $1\frac{8}{10}\%$ ) of wages payable with  
42 respect to employment during the calendar year one thousand nine hundred  
43 and thirty-seven and paid prior to January first, one thousand nine hundred  
44 and forty-seven;

45 (3) Two and seven-tenths per centum ( $2\frac{7}{10}\%$ ) of wages payable with  
46 respect to employment during the calendar years one thousand nine hundred  
47 and thirty-eight, one thousand nine hundred and thirty-nine, one thousand  
48 nine hundred and forty and one thousand nine hundred and forty-one and  
49 paid prior to January first, one thousand nine hundred and forty-seven; and,  
50 except as otherwise prescribed by subsection (c) of this section, also during  
51 the calendar years one thousand nine hundred and forty-two to one thousand  
52 nine hundred and forty-six, inclusive, and paid prior to January first, one  
53 thousand nine hundred and forty-seven; and

54 (4) For the calendar year one thousand nine hundred and forty-seven,  
55 and each calendar year thereafter, two and seven-tenths per centum  
56 ( $2\frac{7}{10}\%$ ) of wages paid by him during each such calendar year, except as  
57 otherwise prescribed by subsection (c) of this section.

58 (5) The "wages" of any individual, with respect to any one employer  
59 as the term is used in this subsection (b) and in subsections (c), (d) and  
60 (e) of this section seven, shall include:

61 (A) All remuneration payable for the month of December, one  
62 thousand nine hundred and thirty-six, and for the calendar years one  
63 thousand nine hundred and thirty-seven, one thousand nine hundred and  
64 thirty-eight, one thousand nine hundred and thirty-nine, and paid prior  
65 to January first, one thousand nine hundred and forty-seven;

66 (B) The first three thousand dollars (\$3,000.00) earned for each of  
67 the calendar years one thousand nine hundred and forty to one thou-  
68 sand nine hundred and forty-six, inclusive, and paid prior to January  
69 first, one thousand nine hundred and forty-seven; and

70 (C) The first three thousand dollars (\$3,000.00) paid during the  
71 calendar year one thousand nine hundred and forty-seven and during  
72 each calendar year thereafter, for services either within or without this  
73 State; *provided*, that no contribution shall be required by this State with  
74 respect to services performed in another State if such other State im-  
75 poses contribution liability with respect thereto.

76 (c) Future rates based on benefit experience: (1) A separate account  
77 for each employer shall be maintained and this shall be credited with all the  
78 contributions which he has paid on his own behalf on or before January  
79 thirty-first of any calendar year with respect to employment occurring in  
80 preceding calendar years. But nothing in this chapter shall be construed to  
81 grant any employer or individuals in his service prior claims or rights to  
82 the amounts paid by him into the fund either on his own behalf or on behalf  
83 of such individuals. Benefits paid to any individual on or before January  
84 thirty-first of any calendar year with respect to unemployment in preceding  
85 calendar years shall be charged against the account of each of the employers  
86 with whom such individual accrued the wage credits constituting the basis  
87 of such benefits, in the same proportion as such wage credits with each such  
88 employer bear to such wage credits with all such employers. The Division  
89 of Employment Security shall furnish to each employer at such frequency  
90 as the division shall, by regulation, prescribe, but in no case less frequently  
91 than annually, a detailed statement of benefits charged to his account.

92 (2) The Division of Employment Security may prescribe regulations  
93 for the establishment, maintenance, and dissolution of joint accounts by two  
94 or more employers, and shall, in accordance with such regulations and upon  
95 application by two or more employers to establish such an account, or to  
96 merge their several individual accounts in a joint account, maintain such  
97-115 joint account as if it constituted a single employer's account.

116 (3) Each employer's rate shall be two and seven-tenths per centum  
117 (2 7/10%), except as otherwise provided in the following provisions: No  
118 employer's rate shall be other than two and seven-tenths per centum  
119 (2 7/10%) unless and until there shall have been three calendar years  
120 throughout which any individual in his employ could have received benefits  
121 if eligible.

122 (4) Each employer's rate for the twelve months commencing July first  
123 of any calendar year shall be determined on the basis of his record up to the  
124 beginning of such calendar year. If, at the beginning of such calendar year,  
125 the total of all his contributions, paid on his own behalf, for all past years  
126 exceeds the total benefits charged to his account for all such years, his con-  
127 tribution rate shall be:

128 (A) Two and four-tenths per centum (2 4/10%), if such excess  
129 equals or exceeds four per centum (4%), but is less than five per centum  
130 (5%) of his average annual payroll (as defined in paragraph (2), sub-  
131 section (a) of section 43:21-19 of this Title);

132 (B) Two and one-tenth per centum (2 1/10%), if such excess equals  
133 or exceeds five per centum (5%), but is less than six per centum (6%)  
134 of his average annual payroll;

135 (C) One and eight-tenths per centum (1 8/10%), if such excess  
136 equals or exceeds six per centum (6%), but is less than seven per centum  
137 (7%) of his average annual payroll;

138 (D) One and five-tenths per centum (1 5/10%), if such excess  
139 equals or exceeds seven per centum (7%), but is less than eight per  
140 centum (8%) of his average annual payroll;

141 (E) One and two-tenths per centum (1 2/10%), if such excess  
142 equals or exceeds eight per centum (8%), but is less than nine per  
143 centum (9%), of his average annual payroll;

144 (F) Nine-tenths of one per centum (9/10 of 1%), if such excess  
145 equals or exceeds nine per centum (9%), but is less than ten per centum  
146 (10%), of his average annual payroll;

147           (G) Six-tenths of one per centum ( $6/10$  of 1%), if such excess  
148 equals or exceeds ten per centum (10%), but is less than eleven per  
149 centum (11%), of his average annual payroll;

150           (H) Three-tenths of one per centum ( $3/10$  of 1%), if such excess  
151 equals or exceeds eleven per centum (11%) of his average annual pay-  
152 roll.

153       If the total of his contributions, paid on his own behalf, for all past  
154 periods, or for the past one hundred twenty consecutive calendar months,  
155 whichever period is more advantageous to such employer for the purposes  
156 of this paragraph, is less than the total benefits charged against his account  
157 during the same period, his rate shall be three per centum (3%).

158       (5) (A) If on March thirty-first of any calendar year the balance in  
159 the Unemployment Trust Fund equals or exceeds four per centum (4%) but is  
160 less than seven per centum (7%) of the total taxable wages reported to the  
161 division as of that date in respect to employment during the preceding  
162 calendar year, the contribution rate, effective July first following, of each  
163 employer eligible for a contribution rate calculation based upon benefit expe-  
164 rience, shall be increased by three-tenths of one per centum ( $3/10$  of 1%)  
165 over the contribution rate otherwise established under the provisions of para-  
166 graph (4) of this subsection. If on March thirty-first of any calendar year  
167 the balance of the Unemployment Trust Fund is less than four per centum  
168 (4%) of the total taxable wages reported to the Division of Employment  
169 Security as of that date in respect to employment during the preceding  
170 calendar year, the contribution rate, effective July first following, of each  
171 employer eligible for a contribution rate calculation based upon benefit  
172 experience, shall be increased by six-tenths of one per centum ( $6/10$  of 1%)  
173 over the contribution rate otherwise established under the provisions of  
174 paragraph (4) of this subsection; *provided*, that if on such March thirty-  
175 first, such balance is less than two and one-half per centum ( $2\frac{1}{2}\%$ ) of such  
176 total taxable wages, the contribution rate so effective, of any employer, shall  
177 be not less than two and seven-tenths per centum ( $2\frac{7}{10}\%$ ); *provided*

178 *further*, that the contribution rate of any employer increased pursuant to  
179 the provisions of this subparagraph, when so increased, shall not exceed  
180 three and six-tenths per centum ( $3\frac{6}{10}\%$ ).

181 (B) If on March thirty-first of any calendar year the balance in the  
182 Unemployment Trust Fund equals or exceeds ten per centum (10%) but is  
183 less than twelve and one-half per centum ( $12\frac{1}{2}\%$ ) of the total taxable wages  
184 reported to the Division of Employment Security as of that date in respect  
185 to employment during the preceding calendar year, the contribution rate,  
186 effective July first following, of each employer eligible for a contribution  
187 rate calculation based upon benefit experience, shall be reduced by three-  
188 tenths of one per centum ( $\frac{3}{10}$  of 1%) under the contribution rate other-  
189 wise established under the provisions of paragraphs (3) and (4) of this  
190 subsection; *provided*, that in no event shall the contribution rate of any  
191 employer be reduced to less than three-tenths of one per centum ( $\frac{3}{10}$  of  
192 1%). If on March thirty-first of any calendar year the balance in the Unem-  
193 ployment Trust Fund equals or exceeds twelve and one-half per centum  
194 ( $12\frac{1}{2}\%$ ) of the total taxable wages reported to the division as of that date  
195 in respect to employment during the preceding calendar year, the contribu-  
196 tion rate, effective July first following, of each employer eligible for a  
197 contribution rate calculation based upon benefit experience, shall be reduced  
198 by six-tenths of one per centum ( $\frac{6}{10}$  of 1%) if his account reflects an excess  
199 of contributions paid over total benefits charged of three per centum (3%)  
200 or more of his average annual payroll, otherwise by three-tenths of one per  
201 centum ( $\frac{3}{10}$  of 1%) under the contribution rate otherwise established  
202 under the provisions of paragraphs (3) and (4) of this subsection; *provided*,  
203 that in no event shall the contribution rate of any employer be reduced to  
204 less than three-tenths of one per centum ( $\frac{3}{10}$  of 1%).

205 (6) Additional contributions.

206 Notwithstanding any other provision of law, any employer who has been  
207 assigned a contribution rate pursuant to subsection (c) of this section for  
208 the year commencing July first, one thousand nine hundred and forty-eight,

209 and for any year commencing July first thereafter, may voluntarily make  
210 payment of additional contributions, and upon such payment shall receive  
211 a recomputation of the experience rate applicable to such employer in-  
212 cluding in the calculation the additional contribution so made. Any such  
213 additional contribution shall be made during the thirty-day period follow-  
214 ing the date of the mailing to the employer of the notice of his contribution  
215 rate as prescribed in this section, unless, for good cause, the time for pay-  
216 ment has been extended by the director for not to exceed an additional  
217 sixty days; *provided*, that in no event may such payments which are made  
218 later than one hundred twenty days after the beginning of the year for  
219 which such rates are effective be considered in determining the experience  
220 rate for the year in which the payment is made. Any employer receiving  
221 any extended period of time within which to make such additional payment  
222 and failing to make such payment timely shall pay, in addition to the re-  
223 quired amount of additional payment, a penalty of five per centum (5%)  
224 thereof or five dollars (\$5.00), whichever is greater, not to exceed fifty dol-  
225 lars (\$50.00). Any adjustment under this subsection shall be made only in  
226 the form of credits against accrued or future contributions.

227       (7) Transfers.

228       An employer who transfers his or its organization, trade, assets or  
229 business, in whole or in part, to a successor in interest, whether by merger,  
230 consolidation, sale, transfer, descent or otherwise, may jointly make applica-  
231 tion with such successor in interest for transfer of the employment experi-  
232 ence of the predecessor employer to the successor in interest, including  
233 credit for past years, contributions paid, annual payrolls, benefit charges,  
234 et cetera, applicable to such predecessor employer. The Division of Employ-  
235 ment Security may allow such transfer of employment experience pursuant  
236 to regulations adopted by the division, only if it finds that the employment  
237 experience of the predecessor employer with respect to the organization,  
238 trade, assets or business, or part thereof, as the case may be, which has been  
239 transferred, may be considered indicative of the future employment experi-



240 ence of the successor in interest. In the event of a part transfer of an  
 241 employer's organization, trade, assets or business, only that portion of the  
 242 employment experience relating to the portion of the organization, trade,  
 243 assets or business transferred shall be transferred, and credit shall be given  
 244 to the successor in interest only for the years during which contributions were  
 245 paid by the predecessor employer with respect to that part of the organiza-  
 246 tion, trade, assets or business transferred. A transfer of the employment  
 247 experience in whole or in part having been applied for and approved by  
 248 the Division of Employment Security, the predecessor employer thereafter  
 249 shall not be entitled to consideration for an adjusted rate based upon his or  
 250 its experience or the part thereof, as the case may be, which has thus been  
 251 transferred. A successor in interest to whom employment experience or a  
 252 part thereof is transferred pursuant to this subsection shall, as of the date  
 253 of the transfer of the organization, trade, assets or business, or part thereof,  
 254 immediately become an employer if not theretofore an employer subject to  
 254A this chapter.

255 (d) Contribution of workers; transfer to temporary disability benefit  
 256 fund.

257 (1) Each worker shall contribute to the fund one per centum (1%) of  
 258 his wages paid by an employer with respect to his employment which occurs  
 259 after December thirty-first, one thousand nine hundred and thirty-seven, and  
 260 after such employer has satisfied the conditions set forth in subsection (h)  
 261 of section 43:21-19 of this Title with respect to becoming an employer; *pro-*  
 262 *vided, however*, that such contribution shall be at the rate of one-fourth of  
 263 one per centum ( $\frac{1}{4}$  of 1%) of wages paid with respect to employment on  
 264 and after January first, one thousand nine hundred and forty-nine, while  
 265 the worker is covered by an approved private plan under the Temporary  
 266 Disability Benefits Law or while the worker is exempt from the provisions  
 267 of the Temporary Disability Benefits Law under section seven of that law.  
 268 Each employer shall, notwithstanding any provisions of the law in this State  
 269 to the contrary, withhold in trust the amount of his workers' contributions

270 from their wages at the time such wages are paid, shall show such deduc-  
271 tion of his payroll records, shall furnish such evidence thereof to his workers  
272 as the division may prescribe, and shall transmit all such contributions, in  
273 addition to his own contributions, to the office of the Division of Employment  
274 Security in such manner and at such times as may be prescribed. If any  
275 employer fails to deduct the contributions of any of his workers at the time  
276 their wages are paid, or fails to make a deduction therefor at the time wages  
277 are paid for the next succeeding payroll period, he alone shall thereafter be  
278 liable for such contributions, and for the purposes of section 43:21-14 of this  
279 Title, such contributions shall be treated as employer's contributions required  
280 from him. As used in this chapter, except when the context clearly requires  
281 otherwise, the term "contributions" shall include the contributions of  
282 workers pursuant to this section.

283       (2) There shall be deposited in and credited to the State disability bene-  
284 fits fund, as the same shall be established by law, three-quarters of all worker  
285 contributions, received by the Division of Employment Security pursuant to  
286 subparagraph (1) above on and after April first, one thousand nine hun-  
287 dred and forty-eight or the date this subparagraph takes effect, whichever  
288 is later, with respect to wages upon which the rate of contributions is one  
289 per centum (1%) as provided in (1) above.

290       (3) If an individual does not receive any wages from the employing  
291 unit which for the purposes of this chapter is treated as his employer, or re-  
292 ceives his wages from some other employing unit, such employer shall never-  
293 theless be liable for such individual's contributions in the first instance; and  
294 after payment thereof such employer may deduct the amount of such con-  
295 tributions from any sums payable by him to such employing unit, or may  
296 recover the amount of such contributions from such employing unit or in the  
297 absence of such an employing unit, from such individual, in a civil action  
298 for debt; *provided*, proceedings therefor are instituted within three months  
299 after the date on which such contributions are payable. General rules shall  
300 be prescribed whereby such an employing unit may recover the amount of

301 such contributions from such individuals in the same manner as if it were  
302 the employer.

303 (4) Every employer who has elected to become an employer subject to  
304 this chapter or to cease to be an employer subject to this chapter, pursuant  
305 to the provisions of section 43:21-8 of this Title, shall post and maintain  
306 printed notices of such election on his premises, of such design, in such num-  
307 bers, and at such places as the director may determine to be necessary to  
308 give notice thereof to persons in his service.

309 (5) Contributions by workers, payable to the Division of Employment  
310 Security as herein provided, shall be exempt from garnishment, attachment,  
311 execution, or any other remedy for the collection of debts.

312 (e) Contributions by employers to State disability benefits fund.

313 (1) Except as hereinafter provided, each employer shall, in addition to  
314 the contributions required by subsections (a), (b), and (c) of this section,  
315 contribute one-quarter of one per centum ( $\frac{1}{4}$  of 1%) of the wages paid by  
316 such employer to workers with respect to employment after January first,  
317 one thousand nine hundred and forty-nine. Such contributions shall become  
318 due and be paid by each employer to the Division of Employment Security  
319 for the State disability benefits fund as established by law, in accordance  
320 with such regulations as may be prescribed, and shall not be deducted, in  
321 whole or in part, from the remuneration of individuals in his employ. In the  
322 payment of any contributions, a fractional part of a cent shall be disre-  
323 garded unless it amounts to one-half cent (\$0.005) or more, in which case  
324 it shall be increased to one cent (\$0.01).

325 (2) During the continuance of coverage of a worker by an approved  
326 private plan of disability benefits under the Temporary Disability Benefits  
327 Law, the employer shall be exempt from the contribution required by sub-  
328 paragraph (1) above with respect to wages paid to such worker.

329 (3) (A) The rates of contribution as specified in subparagraph (1)  
330 above shall be subject to modification as provided herein with respect to  
331 employer contributions due on and after July first, one thousand nine hun-  
332 dred and fifty-one.

333 (B) A separate disability benefits account shall be maintained for each  
334 employer required to contribute to the State disability benefits fund and such  
335 account shall be credited with contributions deposited in and credited to such  
336 fund with respect to employment occurring on and after January first, one  
337 thousand nine hundred and forty-nine. Each employer's account shall be  
338 credited with all contributions paid on or before January thirty-first of any  
339 calendar year on his own behalf and on behalf of individuals in his service  
340 with respect to employment occurring in preceding calendar years. But  
341 nothing in this act shall be construed to grant any employer or individuals  
342 in his service prior claims or rights to the amounts paid by him to the fund  
343 either on his own behalf or on behalf of such individuals. Benefits paid to  
344 any covered individual in accordance with Article III of the Temporary Dis-  
345 ability Benefits Law on or before January thirty-first of any calendar year  
346 with respect to disability in preceding calendar years shall be charged  
347 against the account of the employer by whom such individual was employed  
348 at the commencement of such disability or by whom he was last employed if  
349 out of employment.

350 (C) The division may prescribe regulations for the establishment,  
351 maintenance, and dissolution of joint accounts by two or more employers,  
352 and shall, in accordance with such regulations and upon application by two  
353 or more employers to establish such an account, or to merge their several  
354 individual accounts in a joint account, maintain such joint account as if it  
355 constituted a single employer's account.

356 (D) Prior to July first of each calendar year, the Division of Employ-  
357 ment Security shall make a preliminary determination of the rate of contri-  
358 bution for the twelve months commencing on such July first for each em-  
359 ployer subject to the contribution requirements of this subsection (e).

360 (1) Such preliminary rate shall be one-quarter of one per centum ( $\frac{1}{4}$  of  
361 1%) unless on the preceding December thirty-first such employer shall have  
362 been a covered employer for at least two full years and his account shall  
363 have been credited with at least fifteen hundred dollars (\$1,500.00) of em-  
364 ployer and employee contributions.

365 (2) If the minimum requirements in (1) above have been fulfilled and  
 366 the credited contributions exceed the benefits charged by more than five hun-  
 367 dred dollars (\$500.00), such preliminary rate shall be as follows:

368 (i) Two-tenths of one per centum ( $2/10$  of 1%) if such excess over  
 369 five hundred dollars (\$500.00) exceeds one per centum (1%) but is less  
 370 than one and one-quarter per centum ( $1\frac{1}{4}\%$ ) of his average annual pay-  
 371 roll (as defined in this chapter);

372 (ii) Fifteen one hundredths of one per centum ( $15/100$  of 1%) if  
 373 such excess over five hundred dollars (\$500.00) equals or exceeds one  
 374 and one-quarter per centum ( $1\frac{1}{4}\%$ ) but is less than one and one-half per  
 375 centum ( $1\frac{1}{2}\%$ ) of his average annual payroll;

376 (iii) One-tenth of one per centum ( $1/10$  of 1%) if such excess over  
 377 five hundred dollars (\$500.00) equals or exceeds one and one-half per  
 378 centum ( $1\frac{1}{2}\%$ ) of his average annual payroll.

379 (3) If the minimum requirements in (1) above have been fulfilled and the  
 380 contributions credited exceed the benefits charged but by not more than five  
 381 hundred dollars (\$500.00) plus one per centum (1%) of his average annual  
 382 payroll, or if the benefits charged exceed the contributions credited but by not  
 383 more than five hundred dollars (\$500.00), the preliminary rate shall be one-  
 384 quarter of one per centum ( $\frac{1}{4}$  of 1%).

385 (4) If the minimum requirements in (1) above have been fulfilled and  
 386 the benefits charged exceed the contributions credited by more than five hun-  
 387 dred dollars (\$500.00), such preliminary rate shall be as follows:

388 (i) Thirty-five one hundredths of one per centum ( $35/100$  of 1%) if  
 389 such excess over five hundred dollars (\$500.00) is less than one-quarter  
 390 of one per centum ( $\frac{1}{4}$  of 1%) of his average annual payroll;

391 (ii) Forty-five one hundredths of one per centum ( $45/100$  of 1%) if  
 392 such excess over five hundred dollars (\$500.00) equals or exceeds one-  
 393 quarter of one per centum ( $\frac{1}{4}$  of 1%) but is less than one-half of one  
 394 per centum ( $\frac{1}{2}$  of 1%) of his average annual payroll;

395 (iii) Fifty-five one hundredths of one per centum ( $55/100$  of 1%) if

396 such excess over five hundred dollars (\$500.00) equals or exceeds one-  
 397 half of one per centum ( $\frac{1}{2}$  of 1%) but is less than three-quarters of one  
 398 per centum ( $\frac{3}{4}$  of 1%) of his average annual payroll;

399 (iv) Sixty-five one hundredths of one per centum (65/100 of 1%) if  
 400 such excess over five hundred dollars (\$500.00) equals or exceeds three-  
 401 quarters of one per centum ( $\frac{3}{4}$  of 1%) but is less than one per centum  
 402 (1%) of his average annual payroll;

403 (v) Seventy-five one hundredths of one per centum (75/100 of 1%)  
 404 if such excess over five hundred dollars (\$500.00) equals or exceeds one  
 405 per centum (1%) of his average annual payroll.

406 (5) Determination of the preliminary rates as specified in (2), (3) and  
 407 (4) above shall be subject, however, to the condition that it shall in no event  
 408 be decreased by more than one-tenth of one per centum ( $\frac{1}{10}$  of 1%) of  
 409 wages or increased by more than two-tenths of one per centum ( $\frac{2}{10}$  of 1%)  
 410 of wages from the preliminary rate determined for the preceding year in  
 411 accordance with (1), (2), (3) or (4), whichever shall have been applicable.

412 (E) (1) Prior to July first of each calendar year the Division of Employ-  
 413 ment Security shall determine the amount of the State disability benefits fund  
 414 as of December thirty-first of the preceding calendar year increased by the con-  
 415 tributions paid thereto during January of the current calendar year with re-  
 416 spect to employment occurring in preceding calendar years and decreased by  
 417 the benefits paid during January of the current calendar year with respect to  
 418 disability in preceding calendar years. If such amount exceeds the total of the  
 419 amounts withdrawn from the unemployment trust fund pursuant to section  
 420 twenty-three of the Temporary Disability Benefits Law plus the amount at the  
 421 end of such preceding calendar year of the unemployment disability account  
 422 (as defined in section twenty-two of said law), such excess shall be expressed  
 423 as a percentage of the wages on which contributions were paid to the State dis-  
 424 ability benefits fund on or before January thirty-first with respect to  
 425 employment in the preceding calendar year.

426 (2) The Division of Employment Security shall then make a final deter-  
 427 mination of the rates of contribution for the twelve months commencing  
 428 July first of such year for employers whose preliminary rates are deter-  
 429 mined as provided in (D) hereof, as follows:

430 (i) If the percentage determined in accordance with paragraph (1)  
 431 of this subsection equals or exceeds one and one-quarter per centum  
 432 ( $1\frac{1}{4}\%$ ) the final employer rates shall be the preliminary rates deter-  
 433 mined as provided in (D) hereof, except that if the employer's prelimi-  
 434 nary rate is determined as provided in (D) (2) or (D) (3) hereof, the  
 435 final employer rate shall be the preliminary employer rate decreased by  
 436 such percentage of excess taken to the nearest five one hundredths of  
 437 one per centum ( $5/100$  of  $1\%$ ), but in no case shall such final rate be less  
 438 than one-tenth of one per centum ( $1/10$  of  $1\%$ ).

439 (ii) If the percentage determined in accordance with paragraph (1)  
 440 of this subsection equals or exceeds three-quarters of one per centum  
 441 ( $\frac{3}{4}$  of  $1\%$ ) and is less than one and one-quarter of one per centum ( $1\frac{1}{4}$   
 442 of  $1\%$ ), the final employer rates shall be the preliminary employer rates.

443 (iii) If the percentage determined in accordance with paragraph  
 444 (1) of this subsection is less than three-quarters of one per centum  
 445 ( $\frac{3}{4}$  of  $1\%$ ), the final employer rates shall be the preliminary em-  
 446 ployer rates determined as provided in (D) hereof increased by the  
 447 difference between three-quarters of one per centum ( $\frac{3}{4}$  of  $1\%$ ) and  
 448 such percentage taken to the nearest five one hundredths of one per  
 449 centum ( $5/100$  of  $1\%$ ); *provided, however*, that no such final rate shall  
 450 be more than one-quarter of one per centum ( $\frac{1}{4}$  of  $1\%$ ) in the case of  
 451 an employer whose preliminary rate is determined as provided in (D)  
 452 (2) hereof, more than one-half of one per centum ( $\frac{1}{2}$  of  $1\%$ ) in the  
 453 case of an employer whose preliminary rate is determined as pro-  
 454 vided in (D) (1) and (D) (3) hereof, nor more than three-quarters  
 455 of one per centum ( $\frac{3}{4}$  of  $1\%$ ) in the case of an employer whose pre-  
 456 liminary rate is determined as provided in (D) (4) hereof.

457 (iv) If the amount of the State disability benefits fund determined  
 458 as provided in paragraph (1) of this subsection is equal to or less than  
 459 the total of the amounts withdrawn from the unemployment trust  
 460 fund pursuant to section twenty-three of the Temporary Disability  
 461 Benefits Law plus the amount at the end of the preceding calendar year  
 462 of the unemployment disability account, then the final rate shall be  
 463 three-quarters of one per centum ( $\frac{3}{4}$  of 1%) for all employers.

1 5. This act shall take effect July first, one thousand nine hundred and  
 2 fifty, but shall apply only to benefit years commencing on and after that date.

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#### STATEMENT

The purpose of this bill is to carry out the policy of Governor Driscoll's second Inaugural Message to the Legislature to increase unemployment compensation benefits to an adequate level under current economic conditions. The bill would increase maximum benefits from the present twenty-two dollars (\$22.00) for twenty-six weeks to a maximum of twenty-eight dollars (\$28.00) for twenty-six weeks. In order for a claimant to be eligible for the new maximum benefits he must have earned at least six hundred and sixteen dollars (\$616.00) in the high quarter of his base year and two thousand, one hundred and eighty-four dollars (\$2,184.00) in his entire base year.

In recognition of the difficulty in administering this justifiably higher level of benefits, the bill would disqualify anyone voluntarily leaving work without good cause until he had again become employed and earned at least four times his weekly benefit rate. Decentralized administration and simpler and more effective fraud penalties are provided in another bill.

The bill also contains a few technical amendments to better conform the law  
 to the Temporary Disability Benefits Law. ||



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# STATE OF NEW JERSEY

ADOPTED MARCH 30, 1950

AN ACT concerning unemployment compensation, and amending sections 43:21-3,  
43:21-4, 43:21-5 and 43:21-7 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. Twenty-five months after the date  
4 when contributions first accrue under this chapter, benefits shall become pay-  
5 able from the fund; *provided*, that remuneration or services with respect to  
6 which unemployment compensation is payable under the Railroad Unemploy-  
7 ment Insurance Act (52 Stat. 1094), irrespective of when performed, shall  
8 not be included for purposes of determining eligibility under subsection (e)  
9 of section 43:21-4 of this chapter or the weekly benefit rate under subsec-  
10 tion (c) of this section for the purpose of any benefit year commencing on  
11 or after July first, one thousand nine hundred and thirty-nine, nor shall any  
12 benefits with respect to unemployment occurring on and after July first, one  
13 thousand nine hundred and thirty-nine, be payable under subsection (d) of  
14 this section on the basis of such remuneration. All benefits shall be paid  
15 through employment offices, or such other agencies as may be designated in  
16 accordance with such regulations as may be prescribed hereunder.

17 (b) Weekly benefits for unemployment. Each eligible individual who is  
18 unemployed (as defined in subsection (m) of section 43:21-19 of this chap-  
19 ter) in any week shall be paid with respect to such week (except as to final  
20 payment) an amount equal to his weekly benefit rate less any remuneration

21 in excess of three dollars (\$3.00) paid or payable to him for such week;  
 22 *provided*, that such amount shall be computed to the next highest multiple of  
 23 one dollar (\$1.00), if not already a multiple thereof.

24 (c) Weekly benefit rate. An individual's weekly rate shall be one-  
 25 twenty-second of his total wages in that calendar quarter in which said total  
 26 wages were highest during his base year; *provided*, that such rate shall be  
 27 computed to the next highest multiple of one dollar (\$1.00) if not already a  
 28 multiple thereof, and shall not be more than twenty-eight dollars (\$28.00)  
 29 nor less than ten dollars (\$10.00).

30 (d) Maximum total benefits. The maximum total amount of benefits  
 31 payable to any eligible individual under either of subsections (c) and (f) of  
 32 section 43:21-4 of this Title during any benefit year shall be either one-third  
 33 of his total wages during his base year, computed to the next highest multiple  
 34 of one dollar (\$1.00), if not already a multiple thereof, or twenty-six times  
 35 his weekly benefit rate, whichever is the lesser; in no event, however, are  
 36 such total benefits under either of said subsections (c) and (f) to be less than  
 37 ten times his weekly benefit rate. In the event that an individual qualified  
 38 for benefits under both of said subsections during any benefit year, the  
 39 maximum total amount of benefits payable under said subsections combined  
 40 to such individual during the benefit year shall be one and one-half times the  
 41 maximum amount of benefits payable under one of said subsections.

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

2 43:21-4. An individual, totally or partially unemployed, shall be eligible  
 3 to receive benefits with respect to any week only if it appears that:

4 (a) He has registered for work at, and thereafter continued to report  
 5 at, an employment office in accordance with such regulations as the commis-  
 6 sion may prescribe, except that the commission may, by regulation, waive or  
 7 alter either or both of the requirements of this subsection as to individuals  
 8 attached to regular jobs, and as to such other types of cases or situations with  
 9 respect to which the commission finds that compliance with such require-  
 10 ments would be oppressive, or would be inconsistent with the purpose of this

11 act; *provided*, that no such regulation shall conflict with subsection (a) of  
12 section 43:21-3 of the Revised Statutes.

13 (b) He has made a claim for benefits in accordance with the provisions  
14 of subsection (a) of section 43:21-6 of this Title.

15 (c) He is able to work, is available for work, and has demonstrated that  
16 he is actively seeking work, except as provided in subsection (f) of this  
17 section;

18 (d) Prior to the first week for which he claims benefits in any benefit  
19 year he has been totally or partially unemployed for a waiting period of one  
20 week in that benefit year. No week shall be counted as a week of unemploy-  
21 ment for the purposes of this subsection:

22 (1) if benefits have been paid, or are payable with respect thereto;

23 (2) if it has constituted a waiting period week under the Temporary  
24 Disability Benefits Law;

25 (3) unless the individual fulfills the requirements of subsections (a) and  
26 (c) of this section.

27 (e) His wages within his base year were not less than thirty times his  
28 weekly benefit amount.

29-33 (f) He has suffered any accident or sickness not compensable under the  
34 workmen's compensation law (Title 34 of the Revised Statutes) and resulting  
35 in his total disability to perform any work for remuneration, and would be  
36 eligible to receive benefits under this chapter (without regard to the maxi-  
37 mum amount of benefits payable during any benefit year) except for his  
38 inability to work and has furnished notice and proof of claim to the commis-  
39 sion, in accordance with its rules and regulations, and payment is not pre-  
40 cluded by the provisions of subsection (g) hereof or of section 43:21-3 (d)  
41 of this Title. Such benefit payments shall be charged to and paid from the  
42 State disability benefits fund established by the Temporary Disability  
43 Benefits Law, and shall not be charged to any employer account in comput-  
44 ing any employer's experience rate for contributions payable under this  
45 chapter.

46 (g) No benefits shall be payable under subsection (f) above to any  
47 individual:

48 (1) for any period during which such individual is not under the care  
49 of a legally licensed physician;

50 (2) for any period of disability due to pregnancy or resulting child-  
51 birth, miscarriage, or abortion;

52 (3) for any period of disability due to willfully or intentionally self-  
53 inflicted injury, or to injuries sustained in the perpetration by the individual  
54 of a high misdemeanor;

55 (4) for any week with respect to which or a part of which he has  
56 received or is seeking unemployment benefits under any unemployment  
57 compensation or disability benefit law of any other State or of the United  
58 States; *provided*, that if the appropriate agency of such other State or of the  
59 United States finally determines that he is not entitled to such benefits, this  
60 disqualification shall not apply;

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

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

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

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

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

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

3        (a) For the week in which he has left work voluntarily without good  
4 cause, and for each week thereafter until he has earned in employment at  
5 least four times his weekly benefit rate, as determined in each case.

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

9        (c) If it is found that he has failed, without good cause, either to apply  
10 for available, suitable work when so directed by the employment office or the  
11 director or to accept suitable work when offered him, or to return to his cus-  
12 tomary self-employment (if any) when so directed by the director. Such dis-  
13 qualification shall continue for the week in which such failure occurred and  
14 for the three weeks which immediately follow such week (in addition to the  
15-18 waiting period), as determined:

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

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

35 (d) For any week with respect to which it is found that his unem-  
 36 ployment is due to a stoppage of work which exists because of a labor  
 37 dispute at the factory, establishment, or other premises at which he is or was  
 38 last employed; *provided*, that this subsection shall not apply if it is shown  
 39 that:

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

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

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

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

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

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

2 43:21-7. (a) Payment.

3 (1) On and after December first, one thousand nine hundred and thirty-  
 4 six, contributions shall accrue and become payable by each employer for each

5 calendar year in which he is subject to this chapter, with respect to having  
 6 individuals in his employ during such calendar year at the rates and on the  
 7 basis hereinafter set forth, except that for the month of December, one thou-  
 8 sand nine hundred and thirty-six, such contributions shall accrue and become  
 9 payable with respect to having individuals in his employ during the month  
 10 of December, one thousand nine hundred and thirty-six. Such contributions  
 11 shall become due and be paid by each employer to the Division of Employ-  
 12 ment Security for the fund in accordance with such regulations as may be  
 13 prescribed, and shall not be deducted, in whole or in part, from the  
 14 remuneration of individuals in his employ.

15       (2) In the payment of any contributions, a fractional part of a cent shall  
 16 be disregarded unless it amounts to one-half cent (\$0.005) or more, in which  
 17 case it shall be increased to one cent (\$0.01).

18       (b) Rate of contributions. Each employer shall pay the following con-  
 19 tributions:

20       (1) Ten and eight-tenths per centum (10 8/10%) of wages payable with  
 21 respect to employment during the month of December, one thousand nine  
 22 hundred and thirty-six and paid prior to January first, one thousand nine  
 23 hundred and forty-seven; *provided*, that if the total of such contributions at  
 24 such ten and eight-tenths per centum (10 8/10%) rate equals less than nine-  
 25 tenths of one per centum (9/10 of 1%) of the annual payroll of any  
 26 employer payable for the calendar year one thousand nine hundred and  
 27 thirty-six, such employer shall pay, not later than January twenty-fifth, one  
 28 thousand nine hundred and thirty-seven, an additional lump-sum contribution  
 29 with respect to employment for such one month's period beginning Decem-  
 30 ber first, one thousand nine hundred and thirty-six, equal to the difference  
 31 between nine-tenths of one per centum (9/10 of 1%) of his annual payroll  
 32 payable for the calendar year one thousand nine hundred and thirty-six and  
 33 the total of his contributions at such ten and eight-tenths per centum  
 34 (10 8/10%) for such one month's period beginning December first, one thou-  
 35 sand nine hundred and thirty-six; *and provided further*, that the total of

36 such contributions with respect to employment for such one month's period  
37 beginning December first, one thousand nine hundred and thirty-six, shall  
38 not exceed nine-tenths of one per centum ( $9/10$  of 1%) of such employer's  
39 annual payroll payable for the calendar year one thousand nine hundred and  
40 thirty-six.

41 (2) One and eight-tenths per centum ( $1\frac{8}{10}\%$ ) of wages payable with  
42 respect to employment during the calendar year one thousand nine hundred  
43 and thirty-seven and paid prior to January first, one thousand nine hundred  
44 and forty-seven;

45 (3) Two and seven-tenths per centum ( $2\frac{7}{10}\%$ ) of wages payable with  
46 respect to employment during the calendar years one thousand nine hundred  
47 and thirty-eight, one thousand nine hundred and thirty-nine, one thousand  
48 nine hundred and forty and one thousand nine hundred and forty-one and  
49 paid prior to January first, one thousand nine hundred and forty-seven; and,  
50 except as otherwise prescribed by subsection (c) of this section, also during  
51 the calendar years one thousand nine hundred and forty-two to one thousand  
52 nine hundred and forty-six, inclusive, and paid prior to January first, one  
53 thousand nine hundred and forty-seven; and

54 (4) For the calendar year one thousand nine hundred and forty-seven,  
55 and each calendar year thereafter, two and seven-tenths per centum  
56 ( $2\frac{7}{10}\%$ ) of wages paid by him during each such calendar year, except as  
57 otherwise prescribed by subsection (c) of this section.

58 (5) The "wages" of any individual, with respect to any one employer  
59 as the term is used in this subsection (b) and in subsections (c), (d) and  
60 (e) of this section seven, shall include:

61 (A) All remuneration payable for the month of December, one  
62 thousand nine hundred and thirty-six, and for the calendar years one  
63 thousand nine hundred and thirty-seven, one thousand nine hundred and  
64 thirty-eight, one thousand nine hundred and thirty-nine, and paid prior  
65 to January first, one thousand nine hundred and forty-seven;



66 (B) The first three thousand dollars (\$3,000.00) earned for each of  
 67 the calendar years one thousand nine hundred and forty to one thou-  
 68 sand nine hundred and forty-six, inclusive, and paid prior to January  
 69 first, one thousand nine hundred and forty-seven; and

70 (C) The first three thousand dollars (\$3,000.00) paid during the  
 71 calendar year one thousand nine hundred and forty-seven and during  
 72 each calendar year thereafter, for services either within or without this  
 73 State; *provided*, that no contribution shall be required by this State with  
 74 respect to services performed in another State if such other State im-  
 75 poses contribution liability with respect thereto.

76 (c) Future rates based on benefit experience: (1) A separate account  
 77 for each employer shall be maintained and this shall be credited with all the  
 78 contributions which he has paid on his own behalf on or before January  
 79 thirty-first of any calendar year with respect to employment occurring in  
 80 preceding calendar years. But nothing in this chapter shall be construed to  
 81 grant any employer or individuals in his service prior claims or rights to  
 82 the amounts paid by him into the fund either on his own behalf or on behalf  
 83 of such individuals. Benefits paid to any individual on or before January  
 84 thirty-first of any calendar year with respect to unemployment in preceding  
 85 calendar years shall be charged against the account of each of the employers  
 86 with whom such individual accrued the wage credits constituting the basis  
 87 of such benefits, in the same proportion as such wage credits with each such  
 88 employer bear to such wage credits with all such employers. The Division  
 89 of Employment Security shall furnish to each employer at such frequency  
 90 as the division shall, by regulation, prescribe, but in no case less frequently  
 91 than annually, a detailed statement of benefits charged to his account.

92 (2) The Division of Employment Security may prescribe regulations  
 93 for the establishment, maintenance, and dissolution of joint accounts by two  
 94 or more employers, and shall, in accordance with such regulations and upon  
 95 application by two or more employers to establish such an account, or to  
 96 merge their several individual accounts in a joint account, maintain such  
 97-115 joint account as if it constituted a single employer's account.

116 (3) Each employer's rate shall be two and seven-tenths per centum  
117 ( $2\frac{7}{10}\%$ ), except as otherwise provided in the following provisions: No  
118 employer's rate shall be other than two and seven-tenths per centum  
119 ( $2\frac{7}{10}\%$ ) unless and until there shall have been three calendar years  
120 throughout which any individual in his employ could have received benefits  
121 if eligible.

122 (4) Each employer's rate for the twelve months commencing July first  
123 of any calendar year shall be determined on the basis of his record up to the  
124 beginning of such calendar year. If, at the beginning of such calendar year,  
125 the total of all his contributions, paid on his own behalf, for all past years  
126 exceeds the total benefits charged to his account for all such years, his con-  
127 tribution rate shall be:

128 (A) Two and four-tenths per centum ( $2\frac{4}{10}\%$ ), if such excess  
129 equals or exceeds four per centum (4%), but is less than five per centum  
130 (5%) of his average annual payroll (as defined in paragraph (2), sub-  
131 section (a) of section 43:21-19 of this Title);

132 (B) Two and one-tenth per centum ( $2\frac{1}{10}\%$ ), if such excess equals  
133 or exceeds five per centum (5%), but is less than six per centum (6%)  
134 of his average annual payroll;

135 (C) One and eight-tenths per centum ( $1\frac{8}{10}\%$ ), if such excess  
136 equals or exceeds six per centum (6%), but is less than seven per centum  
137 (7%) of his average annual payroll;

138 (D) One and five-tenths per centum ( $1\frac{5}{10}\%$ ), if such excess  
139 equals or exceeds seven per centum (7%), but is less than eight per  
140 centum (8%) of his average annual payroll;

141 (E) One and two-tenths per centum ( $1\frac{2}{10}\%$ ), if such excess  
142 equals or exceeds eight per centum (8%), but is less than nine per  
143 centum (9%), of his average annual payroll;

144 (F) Nine-tenths of one per centum ( $\frac{9}{10}$  of 1%), if such excess  
145 equals or exceeds nine per centum (9%), but is less than ten per centum  
146 (10%), of his average annual payroll;

147 (G) Six-tenths of one per centum ( $6/10$  of 1%), if such excess  
 148 equals or exceeds ten per centum (10%), but is less than eleven per  
 149 centum (11%), of his average annual payroll;

150 (H) Three-tenths of one per centum ( $3/10$  of 1%), if such excess  
 151 equals or exceeds eleven per centum (11%) of his average annual pay-  
 152 roll.

153 If the total of his contributions, paid on his own behalf, for all past  
 154 periods, or for the past one hundred twenty consecutive calendar months,  
 155 whichever period is more advantageous to such employer for the purposes  
 156 of this paragraph, is less than the total benefits charged against his account  
 157 during the same period, his rate shall be three per centum (3%).

158 (5) (A) If on March thirty-first of any calendar year the balance in  
 159 the Unemployment Trust Fund equals or exceeds four per centum (4%) but is  
 160 less than seven per centum (7%) of the total taxable wages reported to the  
 161 division as of that date in respect to employment during the preceding  
 162 calendar year, the contribution rate, effective July first following, of each  
 163 employer eligible for a contribution rate calculation based upon benefit expe-  
 164 rience, shall be increased by three-tenths of one per centum ( $3/10$  of 1%)  
 165 over the contribution rate otherwise established under the provisions of para-  
 166 graph (4) of this subsection. If on March thirty-first of any calendar year  
 167 the balance of the Unemployment Trust Fund is less than four per centum  
 168 (4%) of the total taxable wages reported to the Division of Employment  
 169 Security as of that date in respect to employment during the preceding  
 170 calendar year, the contribution rate, effective July first following, of each  
 171 employer eligible for a contribution rate calculation based upon benefit  
 172 experience, shall be increased by six-tenths of one per centum ( $6/10$  of 1%)  
 173 over the contribution rate otherwise established under the provisions of  
 174 paragraph (4) of this subsection; *provided*, that if on such March thirty-  
 175 first, such balance is less than two and one-half per centum ( $2\frac{1}{2}\%$ ) of such  
 176 total taxable wages, the contribution rate so effective, of any employer, shall  
 177 be not less than two and seven-tenths per centum ( $2\frac{7}{10}\%$ ); *provided*

178 *further*, that the contribution rate of any employer increased pursuant to  
 179 the provisions of this subparagraph, when so increased, shall not exceed  
 180 three and six-tenths per centum ( $3\frac{6}{10}\%$ ).

181 (B) If on March thirty-first of any calendar year the balance in the  
 182 Unemployment Trust Fund equals or exceeds ten per centum (10%) but is  
 183 less than twelve and one-half per centum ( $12\frac{1}{2}\%$ ) of the total taxable wages  
 184 reported to the Division of Employment Security as of that date in respect  
 185 to employment during the preceding calendar year, the contribution rate,  
 186 effective July first following, of each employer eligible for a contribution  
 187 rate calculation based upon benefit experience, shall be reduced by three-  
 188 tenths of one per centum ( $\frac{3}{10}$  of 1%) under the contribution rate other-  
 189 wise established under the provisions of paragraphs (3) and (4) of this  
 190 subsection; *provided*, that in no event shall the contribution rate of any  
 191 employer be reduced to less than three-tenths of one per centum ( $\frac{3}{10}$  of  
 192 1%). If on March thirty-first of any calendar year the balance in the Unem-  
 193 ployment Trust Fund equals or exceeds twelve and one-half per centum  
 194 ( $12\frac{1}{2}\%$ ) of the total taxable wages reported to the division as of that date  
 195 in respect to employment during the preceding calendar year, the contribu-  
 196 tion rate, effective July first following, of each employer eligible for a  
 197 contribution rate calculation based upon benefit experience, shall be reduced  
 198 by six-tenths of one per centum ( $\frac{6}{10}$  of 1%) if his account reflects an excess  
 199 of contributions paid over total benefits charged of three per centum (3%)  
 200 or more of his average annual payroll, otherwise by three-tenths of one per  
 201 centum ( $\frac{3}{10}$  of 1%) under the contribution rate otherwise established  
 202 under the provisions of paragraphs (3) and (4) of this subsection; *provided*,  
 203 that in no event shall the contribution rate of any employer be reduced to  
 204 less than three-tenths of one per centum ( $\frac{3}{10}$  of 1%).

205 (6) Additional contributions.

206 Notwithstanding any other provision of law, any employer who has been  
 207 assigned a contribution rate pursuant to subsection (c) of this section for  
 208 the year commencing July first, one thousand nine hundred and forty-eight,

209 and for any year commencing July first thereafter, may voluntarily make  
210 payment of additional contributions, and upon such payment shall receive  
211 a recomputation of the experience rate applicable to such employer in-  
212 cluding in the calculation the additional contribution so made. Any such  
213 additional contribution shall be made during the thirty-day period follow-  
214 ing the date of the mailing to the employer of the notice of his contribution  
215 rate as prescribed in this section, unless, for good cause, the time for pay-  
216 ment has been extended by the director for not to exceed an additional  
217 sixty days; *provided*, that in no event may such payments which are made  
218 later than one hundred twenty days after the beginning of the year for  
219 which such rates are effective be considered in determining the experience  
220 rate for the year in which the payment is made. Any employer receiving  
221 any extended period of time within which to make such additional payment  
222 and failing to make such payment timely shall pay, in addition to the re-  
223 quired amount of additional payment, a penalty of five per centum (5%)  
224 thereof or five dollars (\$5.00), whichever is greater, not to exceed fifty dol-  
225 lars (\$50.00). Any adjustment under this subsection shall be made only in  
226 the form of credits against accrued or future contributions.

227       (7) Transfers.

228       An employer who transfers his or its organization, trade, assets or  
229 business, in whole or in part, to a successor in interest, whether by merger,  
230 consolidation, sale, transfer, descent or otherwise, may jointly make applica-  
231 tion with such successor in interest for transfer of the employment experi-  
232 ence of the predecessor employer to the successor in interest, including  
233 credit for past years, contributions paid, annual payrolls, benefit charges,  
234 et cetera, applicable to such predecessor employer. The Division of Employ-  
235 ment Security may allow such transfer of employment experience pursuant  
236 to regulations adopted by the division, only if it finds that the employment  
237 experience of the predecessor employer with respect to the organization,  
238 trade, assets or business, or part thereof, as the case may be, which has been  
239 transferred, may be considered indicative of the future employment experi-

240 ence of the successor in interest. In the event of a part transfer of an  
 241 employer's organization, trade, assets or business, only that portion of the  
 242 employment experience relating to the portion of the organization, trade,  
 243 assets or business transferred shall be transferred, and credit shall be given  
 244 to the successor in interest only for the years during which contributions were  
 245 paid by the predecessor employer with respect to that part of the organiza-  
 246 tion, trade, assets or business transferred. A transfer of the employment  
 247 experience in whole or in part having been applied for and approved by  
 248 the Division of Employment Security, the predecessor employer thereafter  
 249 shall not be entitled to consideration for an adjusted rate based upon his or  
 250 its experience or the part thereof, as the case may be, which has thus been  
 251 transferred. A successor in interest to whom employment experience or a  
 252 part thereof is transferred pursuant to this subsection shall, as of the date  
 253 of the transfer of the organization, trade, assets or business, or part thereof,  
 254 immediately become an employer if not theretofore an employer subject to  
 254A this chapter.

255 (d) Contribution of workers; transfer to temporary disability benefit  
 256 fund.

257 (1) Each worker shall contribute to the fund one per centum (1%) of  
 258 his wages paid by an employer with respect to his employment which occurs  
 259 after December thirty-first, one thousand nine hundred and thirty-seven, and  
 260 after such employer has satisfied the conditions set forth in subsection (h)  
 261 of section 43:21-19 of this Title with respect to becoming an employer; *pro-*  
 262 *vided, however,* that such contribution shall be at the rate of one-fourth of  
 263 one per centum ( $\frac{1}{4}$  of 1%) of wages paid with respect to employment on  
 264 and after January first, one thousand nine hundred and forty-nine, while  
 265 the worker is covered by an approved private plan under the Temporary  
 266 Disability Benefits Law or while the worker is exempt from the provisions  
 267 of the Temporary Disability Benefits Law under section seven of that law.  
 268 Each employer shall, notwithstanding any provisions of the law in this State  
 269 to the contrary, withhold in trust the amount of his workers' contributions

270 from their wages at the time such wages are paid, shall show such deduc-  
271 tion of his payroll records, shall furnish such evidence thereof to his workers  
272 as the division may prescribe, and shall transmit all such contributions, in  
273 addition to his own contributions, to the office of the Division of Employment  
274 Security in such manner and at such times as may be prescribed. If any  
275 employer fails to deduct the contributions of any of his workers at the time  
276 their wages are paid, or fails to make a deduction therefor at the time wages  
277 are paid for the next succeeding payroll period, he alone shall thereafter be  
278 liable for such contributions, and for the purposes of section 43:21-14 of this  
279 Title, such contributions shall be treated as employer's contributions required  
280 from him. As used in this chapter, except when the context clearly requires  
281 otherwise, the term "contributions" shall include the contributions of  
282 workers pursuant to this section.

283       (2) There shall be deposited in and credited to the State disability bene-  
284 fits fund, as the same shall be established by law, three-quarters of all worker  
285 contributions, received by the Division of Employment Security pursuant to  
286 subparagraph (1) above on and after April first, one thousand nine hun-  
287 dred and forty-eight or the date this subparagraph takes effect, whichever  
288 is later, with respect to wages upon which the rate of contributions is one  
289 per centum (1%) as provided in (1) above.

290       (3) If an individual does not receive any wages from the employing  
291 unit which for the purposes of this chapter is treated as his employer, or re-  
292 ceives his wages from some other employing unit, such employer shall never-  
293 theless be liable for such individual's contributions in the first instance; and  
294 after payment thereof such employer may deduct the amount of such con-  
295 tributions from any sums payable by him to such employing unit, or may  
296 recover the amount of such contributions from such employing unit or in the  
297 absence of such an employing unit, from such individual, in a civil action  
298 for debt; *provided*, proceedings therefor are instituted within three months  
299 after the date on which such contributions are payable. General rules shall  
300 be prescribed whereby such an employing unit may recover the amount of

301 such contributions from such individuals in the same manner as if it were  
302 the employer.

303 (4) Every employer who has elected to become an employer subject to  
304 this chapter or to cease to be an employer subject to this chapter, pursuant  
305 to the provisions of section 43:21-8 of this Title, shall post and maintain  
306 printed notices of such election on his premises, of such design, in such num-  
307 bers, and at such places as the director may determine to be necessary to  
308 give notice thereof to persons in his service.

309 (5) Contributions by workers, payable to the Division of Employment  
310 Security as herein provided, shall be exempt from garnishment, attachment,  
311 execution, or any other remedy for the collection of debts.

312 (e) Contributions by employers to State disability benefits fund.

313 (1) Except as hereinafter provided, each employer shall, in addition to  
314 the contributions required by subsections (a), (b), and (c) of this section,  
315 contribute one-quarter of one per centum ( $\frac{1}{4}$  of 1%) of the wages paid by  
316 such employer to workers with respect to employment after January first,  
317 one thousand nine hundred and forty-nine. Such contributions shall become  
318 due and be paid by each employer to the Division of Employment Security  
319 for the State disability benefits fund as established by law, in accordance  
320 with such regulations as may be prescribed, and shall not be deducted, in  
321 whole or in part, from the remuneration of individuals in his employ. In the  
322 payment of any contributions, a fractional part of a cent shall be disre-  
323 garded unless it amounts to one-half cent (\$0.005) or more, in which case  
324 it shall be increased to one cent (\$0.01).

325 (2) During the continuance of coverage of a worker by an approved  
326 private plan of disability benefits under the Temporary Disability Benefits  
327 Law, the employer shall be exempt from the contribution required by sub-  
328 paragraph (1) above with respect to wages paid to such worker.

329 (3) (A) The rates of contribution as specified in subparagraph (1)  
330 above shall be subject to modification as provided herein with respect to  
331 employer contributions due on and after July first, one thousand nine hun-  
332 dred and fifty-one.



333 (B) A separate disability benefits account shall be maintained for each  
 334 employer required to contribute to the State disability benefits fund and such  
 335 account shall be credited with contributions deposited in and credited to such  
 336 fund with respect to employment occurring on and after January first, one  
 337 thousand nine hundred and forty-nine. Each employer's account shall be  
 338 credited with all contributions paid on or before January thirty-first of any  
 339 calendar year on his own behalf and on behalf of individuals in his service  
 340 with respect to employment occurring in preceding calendar years. But  
 341 nothing in this act shall be construed to grant any employer or individuals  
 342 in his service prior claims or rights to the amounts paid by him to the fund  
 343 either on his own behalf or on behalf of such individuals. Benefits paid to  
 344 any covered individual in accordance with Article III of the Temporary Dis-  
 345 ability Benefits Law on or before January thirty-first of any calendar year  
 346 with respect to disability in preceding calendar years shall be charged  
 347 against the account of the employer by whom such individual was employed  
 348 at the commencement of such disability or by whom he was last employed if  
 349 out of employment.

350 (C) The division may prescribe regulations for the establishment,  
 351 maintenance, and dissolution of joint accounts by two or more employers,  
 352 and shall, in accordance with such regulations and upon application by two  
 353 or more employers to establish such an account, or to merge their several  
 354 individual accounts in a joint account, maintain such joint account as if it  
 355 constituted a single employer's account.

356 (D) Prior to July first of each calendar year, the Division of Employ-  
 357 ment Security shall make a preliminary determination of the rate of contri-  
 358 bution for the twelve months commencing on such July first for each em-  
 359 ployer subject to the contribution requirements of this subsection (e).

360 (1) Such preliminary rate shall be one-quarter of one per centum ( $\frac{1}{4}$  of  
 361 1%) unless on the preceding December thirty-first such employer shall have  
 362 been a covered employer for at least two full years and his account shall  
 363 have been credited with at least fifteen hundred dollars (\$1,500.00) of em-  
 364 ployer and employee contributions.

365 (2) If the minimum requirements in (1) above have been fulfilled and  
 366 the credited contributions exceed the benefits charged by more than five hun-  
 367 dred dollars (\$500.00), such preliminary rate shall be as follows:

368 (i) Two-tenths of one per centum ( $2/10$  of 1%) if such excess over  
 369 five hundred dollars (\$500.00) exceeds one per centum (1%) but is less  
 370 than one and one-quarter per centum ( $1\frac{1}{4}\%$ ) of his average annual pay-  
 371 roll (as defined in this chapter);

372 (ii) Fifteen one hundredths of one per centum ( $15/100$  of 1%) if  
 373 such excess over five hundred dollars (\$500.00) equals or exceeds one  
 374 and one-quarter per centum ( $1\frac{1}{4}\%$ ) but is less than one and one-half per  
 375 centum ( $1\frac{1}{2}\%$ ) of his average annual payroll;

376 (iii) One-tenth of one per centum ( $1/10$  of 1%) if such excess over  
 377 five hundred dollars (\$500.00) equals or exceeds one and one-half per  
 378 centum ( $1\frac{1}{2}\%$ ) of his average annual payroll.

379 (3) If the minimum requirements in (1) above have been fulfilled and the  
 380 contributions credited exceed the benefits charged but by not more than five  
 381 hundred dollars (\$500.00) plus one per centum (1%) of his average annual  
 382 payroll, or if the benefits charged exceed the contributions credited but by not  
 383 more than five hundred dollars (\$500.00), the preliminary rate shall be one-  
 384 quarter of one per centum ( $\frac{1}{4}$  of 1%).

385 (4) If the minimum requirements in (1) above have been fulfilled and  
 386 the benefits charged exceed the contributions credited by more than five hun-  
 387 dred dollars (\$500.00), such preliminary rate shall be as follows:

388 (i) Thirty-five one hundredths of one per centum ( $35/100$  of 1%) if  
 389 such excess over five hundred dollars (\$500.00) is less than one-quarter  
 390 of one per centum ( $\frac{1}{4}$  of 1%) of his average annual payroll;

391 (ii) Forty-five one hundredths of one per centum ( $45/100$  of 1%) if  
 392 such excess over five hundred dollars (\$500.00) equals or exceeds one-  
 393 quarter of one per centum ( $\frac{1}{4}$  of 1%) but is less than one-half of one  
 394 per centum ( $\frac{1}{2}$  of 1%) of his average annual payroll;

395 (iii) Fifty-five one hundredths of one per centum ( $55/100$  of 1%) if

396 such excess over five hundred dollars (\$500.00) equals or exceeds one-  
 397 half of one per centum ( $\frac{1}{2}$  of 1%) but is less than three-quarters of one  
 398 per centum ( $\frac{3}{4}$  of 1%) of his average annual payroll;

399 (iv) Sixty-five one hundredths of one per centum ( $\frac{65}{100}$  of 1%) if  
 400 such excess over five hundred dollars (\$500.00) equals or exceeds three-  
 401 quarters of one per centum ( $\frac{3}{4}$  of 1%) but is less than one per centum  
 402 (1%) of his average annual payroll;

403 (v) Seventy-five one hundredths of one per centum ( $\frac{75}{100}$  of 1%)  
 404 if such excess over five hundred dollars (\$500.00) equals or exceeds one  
 405 per centum (1%) of his average annual payroll.

406 (5) Determination of the preliminary rates as specified in (2), (3) and  
 407 (4) above shall be subject, however, to the condition that it shall in no event  
 408 be decreased by more than one-tenth of one per centum ( $\frac{1}{10}$  of 1%) of  
 409 wages or increased by more than two-tenths of one per centum ( $\frac{2}{10}$  of 1%)  
 410 of wages from the preliminary rate determined for the preceding year in  
 411 accordance with (1), (2), (3) or (4), whichever shall have been applicable.

412 (E) (1) Prior to July first of each calendar year the Division of Employ-  
 413 ment Security shall determine the amount of the State disability benefits fund  
 414 as of December thirty-first of the preceding calendar year increased by the con-  
 415 tributions paid thereto during January of the current calendar year with re-  
 416 spect to employment occurring in preceding calendar years and decreased by  
 417 the benefits paid during January of the current calendar year with respect to  
 418 disability in preceding calendar years. If such amount exceeds the total of the  
 419 amounts withdrawn from the unemployment trust fund pursuant to section  
 420 twenty-three of the Temporary Disability Benefits Law plus the amount at the  
 421 end of such preceding calendar year of the unemployment disability account  
 422 (as defined in section twenty-two of said law), such excess shall be expressed  
 423 as a percentage of the wages on which contributions were paid to the State dis-  
 424 ability benefits fund on or before January thirty-first with respect to  
 425 employment in the preceding calendar year.

426 (2) The Division of Employment Security shall then make a final deter-  
 427 mination of the rates of contribution for the twelve months commencing  
 428 July first of such year for employers whose preliminary rates are deter-  
 429 mined as provided in (D) hereof, as follows:

430 (i) If the percentage determined in accordance with paragraph (1)  
 431 of this subsection equals or exceeds one and one-quarter per centum  
 432 ( $1\frac{1}{4}\%$ ) the final employer rates shall be the preliminary rates deter-  
 433 mined as provided in (D) hereof, except that if the employer's prelimi-  
 434 nary rate is determined as provided in (D) (2) or (D) (3) hereof, the  
 435 final employer rate shall be the preliminary employer rate decreased by  
 436 such percentage of excess taken to the nearest five one hundredths of  
 437 one per centum ( $5/100$  of  $1\%$ ), but in no case shall such final rate be less  
 438 than one-tenth of one per centum ( $1/10$  of  $1\%$ ).

439 (ii) If the percentage determined in accordance with paragraph (1)  
 440 of this subsection equals or exceeds three-quarters of one per centum  
 441 ( $\frac{3}{4}$  of  $1\%$ ) and is less than one and one-quarter of one per centum ( $1\frac{1}{4}$   
 442 of  $1\%$ ), the final employer rates shall be the preliminary employer rates.

443 (iii) If the percentage determined in accordance with paragraph  
 444 (1) of this subsection is less than three-quarters of one per centum  
 445 ( $\frac{3}{4}$  of  $1\%$ ), the final employer rates shall be the preliminary em-  
 446 ployer rates determined as provided in (D) hereof increased by the  
 447 difference between three-quarters of one per centum ( $\frac{3}{4}$  of  $1\%$ ) and  
 448 such percentage taken to the nearest five one hundredths of one per  
 449 centum ( $5/100$  of  $1\%$ ); *provided, however*, that no such final rate shall  
 450 be more than one-quarter of one per centum ( $\frac{1}{4}$  of  $1\%$ ) in the case of  
 451 an employer whose preliminary rate is determined as provided in (D)  
 452 (2) hereof, more than one-half of one per centum ( $\frac{1}{2}$  of  $1\%$ ) in the  
 453 case of an employer whose preliminary rate is determined as pro-  
 454 vided in (D) (1) and (D) (3) hereof, nor more than three-quarters  
 455 of one per centum ( $\frac{3}{4}$  of  $1\%$ ) in the case of an employer whose pre-  
 456 liminary rate is determined as provided in (D) (4) hereof.

457 (iv) If the amount of the State disability benefits fund determined  
458 as provided in paragraph (1) of this subsection is equal to or less than  
459 the total of the amounts withdrawn from the unemployment trust  
460 fund pursuant to section twenty-three of the Temporary Disability  
461 Benefits Law plus the amount at the end of the preceding calendar year  
462 of the unemployment disability account, then the final rate shall be  
463 three-quarters of one per centum ( $\frac{3}{4}$  of 1%) for all employers.

1 5. This act shall take effect July first, one thousand nine hundred and  
2 fifty, but shall apply only to benefit years commencing on and after that date.

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#### STATEMENT

The purpose of this bill is to carry out the policy of Governor Driscoll's second Inaugural Message to the Legislature to increase unemployment compensation benefits to an adequate level under current economic conditions. The bill would increase maximum benefits from the present twenty-two dollars (\$22.00) for twenty-six weeks to a maximum of twenty-eight dollars (\$28.00) for twenty-six weeks. In order for a claimant to be eligible for the new maximum benefits he must have earned at least six hundred and sixteen dollars (\$616.00) in the high quarter of his base year and two thousand, one hundred and eighty-four dollars (\$2,184.00) in his entire base year.

In recognition of the difficulty in administering this justifiably higher level of benefits, the bill would disqualify anyone voluntarily leaving work without good cause until he had again become employed and earned at least four times his weekly benefit rate. Decentralized administration and simpler and more effective fraud penalties are provided in another bill.

The bill also contains a few technical amendments to better conform the law to the Temporary Disability Benefits Law.

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# STATE OF NEW JERSEY

ADOPTED MARCH 30, 1950

AN ACT concerning unemployment compensation, and amending sections 43:21-3,  
43:21-4, 43:21-5 and 43:21-7 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. Twenty-five months after the date  
4 when contributions first accrue under this chapter, benefits shall become pay-  
5 able from the fund; *provided*, that remuneration or services with respect to  
6 which unemployment compensation is payable under the Railroad Unemploy-  
7 ment Insurance Act (52 Stat. 1094), irrespective of when performed, shall  
8 not be included for purposes of determining eligibility under subsection (e)  
9 of section 43:21-4 of this chapter or the weekly benefit rate under subsec-  
10 tion (c) of this section for the purpose of any benefit year commencing on  
11 or after July first, one thousand nine hundred and thirty-nine, nor shall any  
12 benefits with respect to unemployment occurring on and after July first, one  
13 thousand nine hundred and thirty-nine, be payable under subsection (d) of  
14 this section on the basis of such remuneration. All benefits shall be paid  
15 through employment offices, or such other agencies as may be designated in  
16 accordance with such regulations as may be prescribed hereunder.

17 (b) Weekly benefits for unemployment. Each eligible individual who is  
18 unemployed (as defined in subsection (m) of section 43:21-19 of this chap-  
19 ter) in any week shall be paid with respect to such week (except as to final  
20 payment) an amount equal to his weekly benefit rate less any remuneration

21 in excess of three dollars (\$3.00) paid or payable to him for such week;  
 22 *provided*, that such amount shall be computed to the next highest multiple of  
 23 one dollar (\$1.00), if not already a multiple thereof.

24 (c) Weekly benefit rate. An individual's weekly rate shall be one-  
 25 twenty-second of his total wages in that calendar quarter in which said total  
 26 wages were highest during his base year; *provided*, that such rate shall be  
 27 computed to the next highest multiple of one dollar (\$1.00) if not already a  
 28 multiple thereof, and shall not be more than twenty-six dollars (\$26.00)  
 29 nor less than ten dollars (\$10.00).

30 (d) Maximum total benefits. The maximum total amount of benefits  
 31 payable to any eligible individual under either of subsections (c) and (f) of  
 32 section 43:21-4 of this Title during any benefit year shall be either one-third  
 33 of his total wages during his base year, computed to the next highest multiple  
 34 of one dollar (\$1.00), if not already a multiple thereof, or twenty-six times  
 35 his weekly benefit rate, whichever is the lesser; in no event, however, are  
 36 such total benefits under either of said subsections (c) and (f) to be less than  
 37 ten times his weekly benefit rate. In the event that an individual qualified  
 38 for benefits under both of said subsections during any benefit year, the  
 39 maximum total amount of benefits payable under said subsections combined  
 40 to such individual during the benefit year shall be one and one-half times the  
 41 maximum amount of benefits payable under one of said subsections.

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

2 43:21-4. An individual, totally or partially unemployed, shall be eligible  
 3 to receive benefits with respect to any week only if it appears that:

4 (a) He has registered for work at, and thereafter continued to report  
 5 at, an employment office in accordance with such regulations as the commis-  
 6 sion may prescribe, except that the commission may, by regulation, waive or  
 7 alter either or both of the requirements of this subsection as to individuals  
 8 attached to regular jobs, and as to such other types of cases or situations with  
 9 respect to which the commission finds that compliance with such require-  
 10 ments would be oppressive, or would be inconsistent with the purpose of this

11 act; *provided*, that no such regulation shall conflict with subsection (a) of  
 12 section 43:21-3 of the Revised Statutes.

13 (b) He has made a claim for benefits in accordance with the provisions  
 14 of subsection (a) of section 43:21-6 of this Title.

15 (c) He is able to work, is available for work, and has demonstrated that  
 16 he is actively seeking work, except as provided in subsection (f) of this  
 17 section;

18 (d) Prior to the first week for which he claims benefits in any benefit  
 19 year he has been totally or partially unemployed for a waiting period of one  
 20 week in that benefit year. No week shall be counted as a week of unemploy-  
 21 ment for the purposes of this subsection:

22 (1) if benefits have been paid, or are payable with respect thereto;

23 (2) if it has constituted a waiting period week under the Temporary  
 24 Disability Benefits Law;

25 (3) unless the individual fulfills the requirements of subsections (a) and  
 26 (c) of this section.

27 (e) His wages within his base year were not less than thirty times his  
 28 weekly benefit amount.

29-33 (f) He has suffered any accident or sickness not compensable under the  
 34 workmen's compensation law (Title 34 of the Revised Statutes) and resulting  
 35 in his total disability to perform any work for remuneration, and would be  
 36 eligible to receive benefits under this chapter (without regard to the maxi-  
 37 mum amount of benefits payable during any benefit year) except for his  
 38 inability to work and has furnished notice and proof of claim to the commis-  
 39 sion, in accordance with its rules and regulations, and payment is not pre-  
 40 cluded by the provisions of subsection (g) hereof or of section 43:21-3 (d)  
 41 of this Title. Such benefit payments shall be charged to and paid from the  
 42 State disability benefits fund established by the Temporary Disability  
 43 Benefits Law, and shall not be charged to any employer account in comput-  
 44 ing any employer's experience rate for contributions payable under this  
 45 chapter.



46 (g) No benefits shall be payable under subsection (f) above to any  
47 individual:

48 (1) for any period during which such individual is not under the care  
49 of a legally licensed physician;

50 (2) for any period of disability due to pregnancy or resulting child-  
51 birth, miscarriage, or abortion;

52 (3) for any period of disability due to willfully or intentionally self-  
53 inflicted injury, or to injuries sustained in the perpetration by the individual  
54 of a high misdemeanor;

55 (4) for any week with respect to which or a part of which he has  
56 received or is seeking unemployment benefits under any unemployment  
57 compensation or disability benefit law of any other State or of the United  
58 States; *provided*, that if the appropriate agency of such other State or of the  
59 United States finally determines that he is not entitled to such benefits, this  
60 disqualification shall not apply;

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

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

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

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

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

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

3        (a) For the week in which he has left work voluntarily without good  
4 cause, and for each week thereafter until he has earned in employment at  
5 least four times his weekly benefit rate, as determined in each case.

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

9        (c) If it is found that he has failed, without good cause, either to apply  
10 for available, suitable work when so directed by the employment office or the  
11 director or to accept suitable work when offered him, or to return to his cus-  
12 tomary self-employment (if any) when so directed by the director. Such dis-  
13 qualification shall continue for the week in which such failure occurred and  
14 for the three weeks which immediately follow such week (in addition to the  
15-18 waiting period), as determined:

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

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

35 (d) For any week with respect to which it is found that his unem-  
 36 ployment is due to a stoppage of work which exists because of a labor  
 37 dispute at the factory, establishment, or other premises at which he is or was  
 38 last employed; *provided*, that this subsection shall not apply if it is shown  
 39 that:

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

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

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

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

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

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

2 43:21-7. (a) Payment.

3 (1) On and after December first, one thousand nine hundred and thirty-  
 4 six, contributions shall accrue and become payable by each employer for each

5 calendar year in which he is subject to this chapter, with respect to having  
 6 individuals in his employ during such calendar year at the rates and on the  
 7 basis hereinafter set forth, except that for the month of December, one thou-  
 8 sand nine hundred and thirty-six, such contributions shall accrue and become  
 9 payable with respect to having individuals in his employ during the month  
 10 of December, one thousand nine hundred and thirty-six. Such contributions  
 11 shall become due and be paid by each employer to the Division of Employ-  
 12 ment Security for the fund in accordance with such regulations as may be  
 13 prescribed, and shall not be deducted, in whole or in part, from the  
 14 remuneration of individuals in his employ.

15 (2) In the payment of any contributions, a fractional part of a cent shall  
 16 be disregarded unless it amounts to one-half cent (\$0.005) or more, in which  
 17 case it shall be increased to one cent (\$0.01).

18 (b) Rate of contributions. Each employer shall pay the following con-  
 19 tributions:

20 (1) Ten and eight-tenths per centum (10 8/10%) of wages payable with  
 21 respect to employment during the month of December, one thousand nine  
 22 hundred and thirty-six and paid prior to January first, one thousand nine  
 23 hundred and forty-seven; *provided*, that if the total of such contributions at  
 24 such ten and eight-tenths per centum (10 8/10%) rate equals less than nine-  
 25 tenths of one per centum (9/10 of 1%) of the annual payroll of any  
 26 employer payable for the calendar year one thousand nine hundred and  
 27 thirty-six, such employer shall pay, not later than January twenty-fifth, one  
 28 thousand nine hundred and thirty-seven, an additional lump-sum contribution  
 29 with respect to employment for such one month's period beginning Decem-  
 30 ber first, one thousand nine hundred and thirty-six, equal to the difference  
 31 between nine-tenths of one per centum (9/10 of 1%) of his annual payroll  
 32 payable for the calendar year one thousand nine hundred and thirty-six and  
 33 the total of his contributions at such ten and eight-tenths per centum  
 34 (10 8/10%) for such one month's period beginning December first, one thou-  
 35 sand nine hundred and thirty-six; *and provided further*, that the total of

36 such contributions with respect to employment for such one month's period  
37 beginning December first, one thousand nine hundred and thirty-six, shall  
38 not exceed nine-tenths of one per centum ( $9/10$  of 1%) of such employer's  
39 annual payroll payable for the calendar year one thousand nine hundred and  
40 thirty-six.

41 (2) One and eight-tenths per centum ( $1\frac{8}{10}\%$ ) of wages payable with  
42 respect to employment during the calendar year one thousand nine hundred  
43 and thirty-seven and paid prior to January first, one thousand nine hundred  
44 and forty-seven;

45 (3) Two and seven-tenths per centum ( $2\frac{7}{10}\%$ ) of wages payable with  
46 respect to employment during the calendar years one thousand nine hundred  
47 and thirty-eight, one thousand nine hundred and thirty-nine, one thousand  
48 nine hundred and forty and one thousand nine hundred and forty-one and  
49 paid prior to January first, one thousand nine hundred and forty-seven; and,  
50 except as otherwise prescribed by subsection (c) of this section, also during  
51 the calendar years one thousand nine hundred and forty-two to one thousand  
52 nine hundred and forty-six, inclusive, and paid prior to January first, one  
53 thousand nine hundred and forty-seven; and

54 (4) For the calendar year one thousand nine hundred and forty-seven,  
55 and each calendar year thereafter, two and seven-tenths per centum  
56 ( $2\frac{7}{10}\%$ ) of wages paid by him during each such calendar year, except as  
57 otherwise prescribed by subsection (c) of this section.

58 (5) The "wages" of any individual, with respect to any one employer  
59 as the term is used in this subsection (b) and in subsections (c), (d) and  
60 (e) of this section seven, shall include:

61 (A) All remuneration payable for the month of December, one  
62 thousand nine hundred and thirty-six, and for the calendar years one  
63 thousand nine hundred and thirty-seven, one thousand nine hundred and  
64 thirty-eight, one thousand nine hundred and thirty-nine, and paid prior  
65 to January first, one thousand nine hundred and forty-seven;

66 (B) The first three thousand dollars (\$3,000.00) earned for each of  
67 the calendar years one thousand nine hundred and forty to one thou-  
68 sand nine hundred and forty-six, inclusive, and paid prior to January  
69 first, one thousand nine hundred and forty-seven; and

70 (C) The first three thousand dollars (\$3,000.00) paid during the  
71 calendar year one thousand nine hundred and forty-seven and during  
72 each calendar year thereafter, for services either within or without this  
73 State; *provided*, that no contribution shall be required by this State with  
74 respect to services performed in another State if such other State im-  
75 poses contribution liability with respect thereto.

76 (c) Future rates based on benefit experience: (1) A separate account  
77 for each employer shall be maintained and this shall be credited with all the  
78 contributions which he has paid on his own behalf on or before January  
79 thirty-first of any calendar year with respect to employment occurring in  
80 preceding calendar years. But nothing in this chapter shall be construed to  
81 grant any employer or individuals in his service prior claims or rights to  
82 the amounts paid by him into the fund either on his own behalf or on behalf  
83 of such individuals. Benefits paid to any individual on or before January  
84 thirty-first of any calendar year with respect to unemployment in preceding  
85 calendar years shall be charged against the account of each of the employers  
86 with whom such individual accrued the wage credits constituting the basis  
87 of such benefits, in the same proportion as such wage credits with each such  
88 employer bear to such wage credits with all such employers. The Division  
89 of Employment Security shall furnish to each employer at such frequency  
90 as the division shall, by regulation, prescribe, but in no case less frequently  
91 than annually, a detailed statement of benefits charged to his account.

92 (2) The Division of Employment Security may prescribe regulations  
93 for the establishment, maintenance, and dissolution of joint accounts by two  
94 or more employers, and shall, in accordance with such regulations and upon  
95 application by two or more employers to establish such an account, or to  
96 merge their several individual accounts in a joint account, maintain such  
97-115 joint account as if it constituted a single employer's account.

116 (3) Each employer's rate shall be two and seven-tenths per centum  
117 ( $2\frac{7}{10}\%$ ), except as otherwise provided in the following provisions: No  
118 employer's rate shall be other than two and seven-tenths per centum  
119 ( $2\frac{7}{10}\%$ ) unless and until there shall have been three calendar years  
120 throughout which any individual in his employ could have received benefits  
121 if eligible.

122 (4) Each employer's rate for the twelve months commencing July first  
123 of any calendar year shall be determined on the basis of his record up to the  
124 beginning of such calendar year. If, at the beginning of such calendar year,  
125 the total of all his contributions, paid on his own behalf, for all past years  
126 exceeds the total benefits charged to his account for all such years, his con-  
127 tribution rate shall be:

128 (A) Two and four-tenths per centum ( $2\frac{4}{10}\%$ ), if such excess  
129 equals or exceeds four per centum (4%), but is less than five per centum  
130 (5%) of his average annual payroll (as defined in paragraph (2), sub-  
131 section (a) of section 43:21-19 of this Title);

132 (B) Two and one-tenth per centum ( $2\frac{1}{10}\%$ ), if such excess equals  
133 or exceeds five per centum (5%), but is less than six per centum (6%)  
134 of his average annual payroll;

135 (C) One and eight-tenths per centum ( $1\frac{8}{10}\%$ ), if such excess  
136 equals or exceeds six per centum (6%), but is less than seven per centum  
137 (7%) of his average annual payroll;

138 (D) One and five-tenths per centum ( $1\frac{5}{10}\%$ ), if such excess  
139 equals or exceeds seven per centum (7%), but is less than eight per  
140 centum (8%) of his average annual payroll;

141 (E) One and two-tenths per centum ( $1\frac{2}{10}\%$ ), if such excess  
142 equals or exceeds eight per centum (8%), but is less than nine per  
143 centum (9%), of his average annual payroll;

144 (F) Nine-tenths of one per centum ( $\frac{9}{10}$  of 1%), if such excess  
145 equals or exceeds nine per centum (9%), but is less than ten per centum  
146 (10%), of his average annual payroll;

147 (G) Six-tenths of one per centum ( $\frac{6}{10}$  of 1%), if such excess  
148 equals or exceeds ten per centum (10%), but is less than eleven per  
149 centum (11%), of his average annual payroll;

150 (H) Three-tenths of one per centum ( $\frac{3}{10}$  of 1%), if such excess  
151 equals or exceeds eleven per centum (11%) of his average annual pay-  
152 roll.

153 If the total of his contributions, paid on his own behalf, for all past  
154 periods, or for the past one hundred twenty consecutive calendar months,  
155 whichever period is more advantageous to such employer for the purposes  
156 of this paragraph, is less than the total benefits charged against his account  
157 during the same period, his rate shall be three per centum (3%).

158 (5) (A) If on March thirty-first of any calendar year the balance in  
159 the Unemployment Trust Fund equals or exceeds four per centum (4%) but is  
160 less than seven per centum (7%) of the total taxable wages reported to the  
161 division as of that date in respect to employment during the preceding  
162 calendar year, the contribution rate, effective July first following, of each  
163 employer eligible for a contribution rate calculation based upon benefit expe-  
164 rience, shall be increased by three-tenths of one per centum ( $\frac{3}{10}$  of 1%)  
165 over the contribution rate otherwise established under the provisions of para-  
166 graph (4) of this subsection. If on March thirty-first of any calendar year  
167 the balance of the Unemployment Trust Fund is less than four per centum  
168 (4%) of the total taxable wages reported to the Division of Employment  
169 Security as of that date in respect to employment during the preceding  
170 calendar year, the contribution rate, effective July first following, of each  
171 employer eligible for a contribution rate calculation based upon benefit  
172 experience, shall be increased by six-tenths of one per centum ( $\frac{6}{10}$  of 1%)  
173 over the contribution rate otherwise established under the provisions of  
174 paragraph (4) of this subsection; *provided*, that if on such March thirty-  
175 first, such balance is less than two and one-half per centum ( $2\frac{1}{2}\%$ ) of such  
176 total taxable wages, the contribution rate so effective, of any employer, shall  
177 be not less than two and seven-tenths per centum ( $2\frac{7}{10}\%$ ); *provided*



178 *further*, that the contribution rate of any employer increased pursuant to  
 179 the provisions of this subparagraph, when so increased, shall not exceed  
 180 three and six-tenths per centum (3 6/10%).

181 (B) If on March thirty-first of any calendar year the balance in the  
 182 Unemployment Trust Fund equals or exceeds ten per centum (10%) but is  
 183 less than twelve and one-half per centum (12½%) of the total taxable wages  
 184 reported to the Division of Employment Security as of that date in respect  
 185 to employment during the preceding calendar year, the contribution rate,  
 186 effective July first following, of each employer eligible for a contribution  
 187 rate calculation based upon benefit experience, shall be reduced by three-  
 188 tenths of one per centum (3/10 of 1%) under the contribution rate other-  
 189 wise established under the provisions of paragraphs (3) and (4) of this  
 190 subsection; *provided*, that in no event shall the contribution rate of any  
 191 employer be reduced to less than three-tenths of one per centum (3/10 of  
 192 1%). If on March thirty-first of any calendar year the balance in the Unem-  
 193 ployment Trust Fund equals or exceeds twelve and one-half per centum  
 194 (12½%) of the total taxable wages reported to the division as of that date  
 195 in respect to employment during the preceding calendar year, the contribu-  
 196 tion rate, effective July first following, of each employer eligible for a  
 197 contribution rate calculation based upon benefit experience, shall be reduced  
 198 by six-tenths of one per centum (6/10 of 1%) if his account reflects an excess  
 199 of contributions paid over total benefits charged of three per centum (3%)  
 200 or more of his average annual payroll, otherwise by three-tenths of one per  
 201 centum (3/10 of 1%) under the contribution rate otherwise established  
 202 under the provisions of paragraphs (3) and (4) of this subsection; *provided*,  
 203 that in no event shall the contribution rate of any employer be reduced to  
 204 less than three-tenths of one per centum (3/10 of 1%).

205 (6) Additional contributions.

206 Notwithstanding any other provision of law, any employer who has been  
 207 assigned a contribution rate pursuant to subsection (c) of this section for  
 208 the year commencing July first, one thousand nine hundred and forty-eight,

209 and for any year commencing July first thereafter, may voluntarily make  
210 payment of additional contributions, and upon such payment shall receive  
211 a recomputation of the experience rate applicable to such employer in-  
212 cluding in the calculation the additional contribution so made. Any such  
213 additional contribution shall be made during the thirty-day period follow-  
214 ing the date of the mailing to the employer of the notice of his contribution  
215 rate as prescribed in this section, unless, for good cause, the time for pay-  
216 ment has been extended by the director for not to exceed an additional  
217 sixty days; *provided*, that in no event may such payments which are made  
218 later than one hundred twenty days after the beginning of the year for  
219 which such rates are effective be considered in determining the experience  
220 rate for the year in which the payment is made. Any employer receiving  
221 any extended period of time within which to make such additional payment  
222 and failing to make such payment timely shall pay, in addition to the re-  
223 quired amount of additional payment, a penalty of five per centum (5%)  
224 thereof or five dollars (\$5.00), whichever is greater, not to exceed fifty dol-  
225 lars (\$50.00). Any adjustment under this subsection shall be made only in  
226 the form of credits against accrued or future contributions.

227 (7) Transfers.

228 An employer who transfers his or its organization, trade, assets or  
229 business, in whole or in part, to a successor in interest, whether by merger,  
230 consolidation, sale, transfer, descent or otherwise, may jointly make applica-  
231 tion with such successor in interest for transfer of the employment experi-  
232 ence of the predecessor employer to the successor in interest, including  
233 credit for past years, contributions paid, annual payrolls, benefit charges,  
234 et cetera, applicable to such predecessor employer. The Division of Employ-  
235 ment Security may allow such transfer of employment experience pursuant  
236 to regulations adopted by the division, only if it finds that the employment  
237 experience of the predecessor employer with respect to the organization,  
238 trade, assets or business, or part thereof, as the case may be, which has been  
239 transferred, may be considered indicative of the future employment experi-

240 ence of the successor in interest. In the event of a part transfer of an  
 241 employer's organization, trade, assets or business, only that portion of the  
 242 employment experience relating to the portion of the organization, trade,  
 243 assets or business transferred shall be transferred, and credit shall be given  
 244 to the successor in interest only for the years during which contributions were  
 245 paid by the predecessor employer with respect to that part of the organiza-  
 246 tion, trade, assets or business transferred. A transfer of the employment  
 247 experience in whole or in part having been applied for and approved by  
 248 the Division of Employment Security, the predecessor employer thereafter  
 249 shall not be entitled to consideration for an adjusted rate based upon his or  
 250 its experience or the part thereof, as the case may be, which has thus been  
 251 transferred. A successor in interest to whom employment experience or a  
 252 part thereof is transferred pursuant to this subsection shall, as of the date  
 253 of the transfer of the organization, trade, assets or business, or part thereof,  
 254 immediately become an employer if not theretofore an employer subject to  
 254A this chapter.

255 (d) Contribution of workers; transfer to temporary disability benefit  
 256 fund.

257 (1) Each worker shall contribute to the fund one per centum (1%) of  
 258 his wages paid by an employer with respect to his employment which occurs  
 259 after December thirty-first, one thousand nine hundred and thirty-seven, and  
 260 after such employer has satisfied the conditions set forth in subsection (h)  
 261 of section 43:21-19 of this Title with respect to becoming an employer; *pro-*  
 262 *vided, however,* that such contribution shall be at the rate of one-fourth of  
 263 one per centum ( $\frac{1}{4}$  of 1%) of wages paid with respect to employment on  
 264 and after January first, one thousand nine hundred and forty-nine, while  
 265 the worker is covered by an approved private plan under the Temporary  
 266 Disability Benefits Law or while the worker is exempt from the provisions  
 267 of the Temporary Disability Benefits Law under section seven of that law.  
 268 Each employer shall, notwithstanding any provisions of the law in this State  
 269 to the contrary, withhold in trust the amount of his workers' contributions

270 from their wages at the time such wages are paid, shall show such deduc-  
271 tion of his payroll records, shall furnish such evidence thereof to his workers  
272 as the division may prescribe, and shall transmit all such contributions, in  
273 addition to his own contributions, to the office of the Division of Employment  
274 Security in such manner and at such times as may be prescribed. If any  
275 employer fails to deduct the contributions of any of his workers at the time  
276 their wages are paid, or fails to make a deduction therefor at the time wages  
277 are paid for the next succeeding payroll period, he alone shall thereafter be  
278 liable for such contributions, and for the purposes of section 43:21-14 of this  
279 Title, such contributions shall be treated as employer's contributions required  
280 from him. As used in this chapter, except when the context clearly requires  
281 otherwise, the term "contributions" shall include the contributions of  
282 workers pursuant to this section.

283       (2) There shall be deposited in and credited to the State disability bene-  
284 fits fund, as the same shall be established by law, three-quarters of all worker  
285 contributions, received by the Division of Employment Security pursuant to  
286 subparagraph (1) above on and after April first, one thousand nine hun-  
287 dred and forty-eight or the date this subparagraph takes effect, whichever  
288 is later, with respect to wages upon which the rate of contributions is one  
289 per centum (1%) as provided in (1) above.

290       (3) If an individual does not receive any wages from the employing  
291 unit which for the purposes of this chapter is treated as his employer, or re-  
292 ceives his wages from some other employing unit, such employer shall never-  
293 theless be liable for such individual's contributions in the first instance; and  
294 after payment thereof such employer may deduct the amount of such con-  
295 tributions from any sums payable by him to such employing unit, or may  
296 recover the amount of such contributions from such employing unit or in the  
297 absence of such an employing unit, from such individual, in a civil action  
298 for debt; *provided*, proceedings therefor are instituted within three months  
299 after the date on which such contributions are payable. General rules shall  
300 be prescribed whereby such an employing unit may recover the amount of

301 such contributions from such individuals in the same manner as if it were  
302 the employer.

303 (4) Every employer who has elected to become an employer subject to  
304 this chapter or to cease to be an employer subject to this chapter, pursuant  
305 to the provisions of section 43:21-8 of this Title, shall post and maintain  
306 printed notices of such election on his premises, of such design, in such num-  
307 bers, and at such places as the director may determine to be necessary to  
308 give notice thereof to persons in his service.

309 (5) Contributions by workers, payable to the Division of Employment  
310 Security as herein provided, shall be exempt from garnishment, attachment,  
311 execution, or any other remedy for the collection of debts.

312 (e) Contributions by employers to State disability benefits fund.

313 (1) Except as hereinafter provided, each employer shall, in addition to  
314 the contributions required by subsections (a), (b), and (c) of this section,  
315 contribute one-quarter of one per centum ( $\frac{1}{4}$  of 1%) of the wages paid by  
316 such employer to workers with respect to employment after January first,  
317 one thousand nine hundred and forty-nine. Such contributions shall become  
318 due and be paid by each employer to the Division of Employment Security  
319 for the State disability benefits fund as established by law, in accordance  
320 with such regulations as may be prescribed, and shall not be deducted, in  
321 whole or in part, from the remuneration of individuals in his employ. In the  
322 payment of any contributions, a fractional part of a cent shall be disre-  
323 garded unless it amounts to one-half cent (\$0.005) or more, in which case  
324 it shall be increased to one cent (\$0.01).

325 (2) During the continuance of coverage of a worker by an approved  
326 private plan of disability benefits under the Temporary Disability Benefits  
327 Law, the employer shall be exempt from the contribution required by sub-  
328 paragraph (1) above with respect to wages paid to such worker.

329 (3) (A) The rates of contribution as specified in subparagraph (1)  
330 above shall be subject to modification as provided herein with respect to  
331 employer contributions due on and after July first, one thousand nine hun-  
332 dred and fifty-one.

333 (B) A separate disability benefits account shall be maintained for each  
 334 employer required to contribute to the State disability benefits fund and such  
 335 account shall be credited with contributions deposited in and credited to such  
 336 fund with respect to employment occurring on and after January first, one  
 337 thousand nine hundred and forty-nine. Each employer's account shall be  
 338 credited with all contributions paid on or before January thirty-first of any  
 339 calendar year on his own behalf and on behalf of individuals in his service  
 340 with respect to employment occurring in preceding calendar years. But  
 341 nothing in this act shall be construed to grant any employer or individuals  
 342 in his service prior claims or rights to the amounts paid by him to the fund  
 343 either on his own behalf or on behalf of such individuals. Benefits paid to  
 344 any covered individual in accordance with Article III of the Temporary Dis-  
 345 ability Benefits Law on or before January thirty-first of any calendar year  
 346 with respect to disability in preceding calendar years shall be charged  
 347 against the account of the employer by whom such individual was employed  
 348 at the commencement of such disability or by whom he was last employed if  
 349 out of employment.

350 (C) The division may prescribe regulations for the establishment,  
 351 maintenance, and dissolution of joint accounts by two or more employers,  
 352 and shall, in accordance with such regulations and upon application by two  
 353 or more employers to establish such an account, or to merge their several  
 354 individual accounts in a joint account, maintain such joint account as if it  
 355 constituted a single employer's account.

356 (D) Prior to July first of each calendar year, the Division of Employ-  
 357 ment Security shall make a preliminary determination of the rate of contri-  
 358 bution for the twelve months commencing on such July first for each em-  
 359 ployer subject to the contribution requirements of this subsection (e).

360 (1) Such preliminary rate shall be one-quarter of one per centum ( $\frac{1}{4}$  of  
 361 1%) unless on the preceding December thirty-first such employer shall have  
 362 been a covered employer for at least two full years and his account shall  
 363 have been credited with at least fifteen hundred dollars (\$1,500.00) of em-  
 364 ployer and employee contributions.

365 (2) If the minimum requirements in (1) above have been fulfilled and  
 366 the credited contributions exceed the benefits charged by more than five hun-  
 367 dred dollars (\$500.00), such preliminary rate shall be as follows:

368 (i) Two-tenths of one per centum ( $2/10$  of 1%) if such excess over  
 369 five hundred dollars (\$500.00) exceeds one per centum (1%) but is less  
 370 than one and one-quarter per centum ( $1\frac{1}{4}\%$ ) of his average annual pay-  
 371 roll (as defined in this chapter);

372 (ii) Fifteen one hundredths of one per centum ( $15/100$  of 1%) if  
 373 such excess over five hundred dollars (\$500.00) equals or exceeds one  
 374 and one-quarter per centum ( $1\frac{1}{4}\%$ ) but is less than one and one-half per  
 375 centum ( $1\frac{1}{2}\%$ ) of his average annual payroll;

376 (iii) One-tenth of one per centum ( $1/10$  of 1%) if such excess over  
 377 five hundred dollars (\$500.00) equals or exceeds one and one-half per  
 378 centum ( $1\frac{1}{2}\%$ ) of his average annual payroll.

379 (3) If the minimum requirements in (1) above have been fulfilled and the  
 380 contributions credited exceed the benefits charged but by not more than five  
 381 hundred dollars (\$500.00) plus one per centum (1%) of his average annual  
 382 payroll, or if the benefits charged exceed the contributions credited but by not  
 383 more than five hundred dollars (\$500.00), the preliminary rate shall be one-  
 384 quarter of one per centum ( $\frac{1}{4}$  of 1%).

385 (4) If the minimum requirements in (1) above have been fulfilled and  
 386 the benefits charged exceed the contributions credited by more than five hun-  
 387 dred dollars (\$500.00), such preliminary rate shall be as follows:

388 (i) Thirty-five one hundredths of one per centum ( $35/100$  of 1%) if  
 389 such excess over five hundred dollars (\$500.00) is less than one-quarter  
 390 of one per centum ( $\frac{1}{4}$  of 1%) of his average annual payroll;

391 (ii) Forty-five one hundredths of one per centum ( $45/100$  of 1%) if  
 392 such excess over five hundred dollars (\$500.00) equals or exceeds one-  
 393 quarter of one per centum ( $\frac{1}{4}$  of 1%) but is less than one-half of one  
 394 per centum ( $\frac{1}{2}$  of 1%) of his average annual payroll;

395 (iii) Fifty-five one hundredths of one per centum ( $55/100$  of 1%) if

396 such excess over five hundred dollars (\$500.00) equals or exceeds one-  
 397 half of one per centum ( $\frac{1}{2}$  of 1%) but is less than three-quarters of one  
 398 per centum ( $\frac{3}{4}$  of 1%) of his average annual payroll;

399 (iv) Sixty-five one hundredths of one per centum ( $\frac{65}{100}$  of 1%) if  
 400 such excess over five hundred dollars (\$500.00) equals or exceeds three-  
 401 quarters of one per centum ( $\frac{3}{4}$  of 1%) but is less than one per centum  
 402 (1%) of his average annual payroll;

403 (v) Seventy-five one hundredths of one per centum ( $\frac{75}{100}$  of 1%)  
 404 if such excess over five hundred dollars (\$500.00) equals or exceeds one  
 405 per centum (1%) of his average annual payroll.

406 (5) Determination of the preliminary rates as specified in (2), (3) and  
 407 (4) above shall be subject, however, to the condition that it shall in no event  
 408 be decreased by more than one-tenth of one per centum ( $\frac{1}{10}$  of 1%) of  
 409 wages or increased by more than two-tenths of one per centum ( $\frac{2}{10}$  of 1%)  
 410 of wages from the preliminary rate determined for the preceding year in  
 411 accordance with (1), (2), (3) or (4), whichever shall have been applicable.

412 (E) (1) Prior to July first of each calendar year the Division of Employ-  
 413 ment Security shall determine the amount of the State disability benefits fund  
 414 as of December thirty-first of the preceding calendar year increased by the con-  
 415 tributions paid thereto during January of the current calendar year with re-  
 416 spect to employment occurring in preceding calendar years and decreased by  
 417 the benefits paid during January of the current calendar year with respect to  
 418 disability in preceding calendar years. If such amount exceeds the total of the  
 419 amounts withdrawn from the unemployment trust fund pursuant to section  
 420 twenty-three of the Temporary Disability Benefits Law plus the amount at the  
 421 end of such preceding calendar year of the unemployment disability account  
 422 (as defined in section twenty-two of said law), such excess shall be expressed  
 423 as a percentage of the wages on which contributions were paid to the State dis-  
 424 ability benefits fund on or before January thirty-first with respect to  
 425 employment in the preceding calendar year.



426 (2) The Division of Employment Security shall then make a final deter-  
 427 mination of the rates of contribution for the twelve months commencing  
 428 July first of such year for employers whose preliminary rates are deter-  
 429 mined as provided in (D) hereof, as follows:

430 (i) If the percentage determined in accordance with paragraph (1)  
 431 of this subsection equals or exceeds one and one-quarter per centum  
 432 ( $1\frac{1}{4}\%$ ) the final employer rates shall be the preliminary rates deter-  
 433 mined as provided in (D) hereof, except that if the employer's prelimi-  
 434 nary rate is determined as provided in (D) (2) or (D) (3) hereof, the  
 435 final employer rate shall be the preliminary employer rate decreased by  
 436 such percentage of excess taken to the nearest five one hundredths of  
 437 one per centum ( $5/100$  of  $1\%$ ), but in no case shall such final rate be less  
 438 than one-tenth of one per centum ( $1/10$  of  $1\%$ ).

439 (ii) If the percentage determined in accordance with paragraph (1)  
 440 of this subsection equals or exceeds three-quarters of one per centum  
 441 ( $\frac{3}{4}$  of  $1\%$ ) and is less than one and one-quarter of one per centum ( $1\frac{1}{4}$   
 442 of  $1\%$ ), the final employer rates shall be the preliminary employer rates.

443 (iii) If the percentage determined in accordance with paragraph  
 444 (1) of this subsection is less than three-quarters of one per centum  
 445 ( $\frac{3}{4}$  of  $1\%$ ), the final employer rates shall be the preliminary em-  
 446 ployer rates determined as provided in (D) hereof increased by the  
 447 difference between three-quarters of one per centum ( $\frac{3}{4}$  of  $1\%$ ) and  
 448 such percentage taken to the nearest five one hundredths of one per  
 449 centum ( $5/100$  of  $1\%$ ); *provided, however*, that no such final rate shall  
 450 be more than one-quarter of one per centum ( $\frac{1}{4}$  of  $1\%$ ) in the case of  
 451 an employer whose preliminary rate is determined as provided in (D)  
 452 (2) hereof, more than one-half of one per centum ( $\frac{1}{2}$  of  $1\%$ ) in the  
 453 case of an employer whose preliminary rate is determined as pro-  
 454 vided in (D) (1) and (D) (3) hereof, nor more than three-quarters  
 455 of one per centum ( $\frac{3}{4}$  of  $1\%$ ) in the case of an employer whose pre-  
 456 liminary rate is determined as provided in (D) (4) hereof.

457 (iv) If the amount of the State disability benefits fund determined  
 458 as provided in paragraph (1) of this subsection is equal to or less than  
 459 the total of the amounts withdrawn from the unemployment trust  
 460 fund pursuant to section twenty-three of the Temporary Disability  
 461 Benefits Law plus the amount at the end of the preceding calendar year  
 462 of the unemployment disability account, then the final rate shall be  
 463 three-quarters of one per centum ( $\frac{3}{4}$  of 1%) for all employers.

1 5. This act shall take effect July first, one thousand nine hundred and  
 2 fifty, but shall apply only to benefit years commencing on and after that date.

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#### STATEMENT

The purpose of this bill is to carry out the policy of Governor Driscoll's second Inaugural Message to the Legislature to increase unemployment compensation benefits to an adequate level under current economic conditions. The bill would increase maximum benefits from the present twenty-two dollars (\$22.00) for twenty-six weeks to a maximum of twenty-six dollars (\$26.00) for twenty-six weeks. In order for a claimant to be eligible for the new maximum benefits he must have earned at least six hundred and sixteen dollars (\$616.00) in the high quarter of his base year and two thousand, one hundred and eighty-four dollars (\$2,184.00) in his entire base year.

In recognition of the difficulty in administering this justifiably higher level of benefits, the bill would disqualify anyone voluntarily leaving work without good cause until he had again become employed and earned at least four times his weekly benefit rate. Decentralized administration and simpler and more effective fraud penalties are provided in another bill.

The bill also contains a few technical amendments to better conform the law to the Temporary Disability Benefits Law.

6.

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ASSEMBLY COMMITTEE AMENDMENTS TO

**SENATE, No. 310**

**STATE OF NEW JERSEY**

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ADOPTED APRIL 12, 1950

Amend page 2, section 1 (c), line 28, delete the words "twenty-six dollars (\$26.00)" and substitute the words "thirty dollars (\$30.00)".

Amend page 3, section 2 (c), lines 27 and 28, delete the words "thirty times his weekly benefit amount" and insert the words "three hundred dollars (\$300.00)".

Amend page 5, section 3 (a), line 4, delete the words "in employment" and insert the words "from any employer or employing unit remuneration equal to".

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# STATE OF NEW JERSEY

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ADOPTED MAY 10, 1950

Amend page 3, section 2, line 27, omit "thirty" insert "twenty-five".

Amend page 5, section 3, line 4, after "employment" insert "(which may  
be with an employing unit having in employment one or more individuals)".

SENATE, No. 154

185 W. State Street  
Trenton, N. J.

# STATE OF NEW JERSEY

INTRODUCED MARCH 10, 1952

By Mr. BODINE

Referred to Committee on Labor, Industries and Social Welfare

AN ACT concerning unemployment compensation and temporary disability benefits, and amending sections 43:21-3, 43:21-4, 43:21-6, 43:21-7, 43:21-11, 43:21-14, 43:21-16 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. [Twenty-five months after the date  
4 when contributions first accrue under this chapter, benefits shall become pay-  
5 able from the fund; *provided*, that remuneration or services with respect to  
6 which unemployment compensation is payable under the Railroad Unemploy-  
7 ment Insurance Act (52 Stat. 1094), irrespective of when performed, shall  
8 not be included for purposes of determining eligibility under subsection (e)  
9 of section 43:21-4 of this chapter or the weekly benefit rate under subsec-  
10 tion (c) of this section for the purpose of any benefit year commencing on  
11 or after July first, one thousand nine hundred and thirty-nine, nor shall any  
12 benefits with respect to unemployment occurring on and after July first, one  
13 thousand nine hundred and thirty-nine, be payable under subsection (d) of this  
14 section on the basis of such remuneration.] All benefits shall be paid from the  
15 fund through employment offices, or such other agencies as may be designated  
16 in accordance with such regulations as may be prescribed hereunder.

17 (b) Weekly benefits for unemployment.

18 (1) With respect to an individual's benefit year commencing prior to Jan-  
 19 uary first, one thousand nine hundred and fifty-three, such [Each eligible]  
 20 individual [who is], if eligible and unemployed (as defined in subsection  
 21 (m) of section 43:21-19 of this [chapter] Title) in any week, shall be paid  
 22 with respect to such week (except as to final payment) an amount equal to  
 23 his weekly benefit rate less any remuneration in excess of three dollars  
 24 (\$3.00) paid or payable to him for such week; *provided*, that such amount  
 25 shall be computed to the next highest multiple of one dollar (\$1.00), if not  
 26 already a multiple thereof.

27 (2) With respect to an individual's benefit year commencing on or after  
 28 January first, one thousand nine hundred and fifty-three, such individual, if  
 29 eligible and unemployed (as defined in subsection (m) of section 43:21-19 of  
 30 this Title), shall be paid an amount (except as to final payment) equal to  
 31 his weekly benefit rate with respect to any week in which he has earned no  
 32 remuneration or remuneration equal to less than one-half said rate, or shall  
 33 be paid an amount equal to one-half his weekly benefit rate with respect to  
 34 any week in which he has earned remuneration equal to or more than one-half  
 35 said rate but less than said rate.

36 (c) Weekly benefit rate.

37 (1) With respect to an individual to whom benefits shall be payable as  
 38 provided in paragraph (1) of subsection (b) of this section, the [An indi-  
 39 vidual's] weekly benefit rate shall be one-twenty-second of his total wages  
 40 in that calendar quarter in which said total wages were highest during his  
 41 base year; provided, that such rate shall be computed to the next highest  
 42 multiple of one dollar (\$1.00) if not already a multiple thereof, and shall  
 43 not be more than [twenty-six dollars (\$26.00)] thirty dollars (\$30.00) nor  
 44 less than ten dollars (\$10.00).

45 (2) With respect to an individual to whom benefits shall be payable as  
 46 provided in paragraph (2) of subsection (b) of this section, his weekly benefit

47 rate under each benefit determination shall be two-thirds of his average  
 48 weekly wage; *provided*, that such rate shall be computed to the next highest  
 49 multiple of one dollar (\$1.00) if not already a multiple thereof, and shall  
 50 not be more than thirty dollars (\$30.00) nor less than ten dollars (\$10.00).

51 (d) Maximum total benefits.

52 (1) With respect to an individual to whom weekly benefits for unem-  
 53 ployment shall be payable as provided in paragraph (1) of subsection (b)  
 54 of this section, [T] the maximum total amount of benefits payable to any  
 55 eligible individual under either of subsections (c) and (f) of section 43:21-4  
 56 of this Title during any benefit year shall be either one-third of his total  
 57 wages during his base year, computed to the next highest multiple of one  
 58 dollar (\$1.00), if not already a multiple thereof, or twenty-six times his  
 59 weekly benefit rate, whichever is the lesser; in no event, however, are such  
 60 total benefits under either of said subsections (c) and (f) to be less than ten  
 61 times his weekly benefit rate. In the event that an individual qualified for  
 62 benefits under both of said subsections during any benefit year, the max-  
 63 imum total amount of benefits payable under said subsections combined to  
 64 such individual during the benefit year shall be one and one-half times the  
 65 maximum amount of benefits payable under one of said subsections.

66 (2) With respect to an individual to whom benefits shall be payable as  
 67 provided in paragraph (2) of subsection (b) of this section:

68 (A) Such individual shall be entitled to receive, under each suc-  
 69 cessive benefit determination relating to each of his base year employers,  
 70 a total amount of benefits equal to three-fourths of his base weeks from  
 71 the employer in question multiplied by his weekly benefit rate; but the  
 72 amount of benefits thus resulting under any determination made with re-  
 73 spect to an employer shall be adjusted to the next higher multiple of one-  
 74 half of said weekly benefit rate, if not already a multiple thereof.

75 (B) No such individual shall be entitled to receive benefits under this  
 76 Title for more than twenty-six weeks in any benefit year under either of

77 subsections (c) and (f) of section 43:21-4 of this Title. In the event  
 78 that any individual qualifies for benefits under both of said subsections  
 79 during any benefit year, the maximum total amount of benefits payable  
 80 under said subsections combined to such individual during the benefit  
 81 year shall be one and one-half times the maximum amount of benefits  
 82 payable under one of said subsections. For the purposes of this para-  
 83 graph, any week for which an individual receives a half-payment as  
 84 provided in paragraph (2) of subsection (b) of this section shall be  
 85 counted as one-half of a week.

86 (C) If the full weekly benefit rate cannot be paid to an individual  
 87 who is otherwise entitled thereto because the amount of unused benefits  
 88 remaining under the applicable benefit determination is only one-half of  
 89 said rate, he shall be paid that amount; but if such individual is entitled  
 90 to additional benefits under a successive determination, he shall also be  
 91 paid for the week in question an amount equal to one-half of his weekly  
 92 benefit rate under said successive determination.

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

2 43:21-4. An unemployed individual [ , totally or partially unemployed,]  
 3 shall be eligible to receive benefits with respect to any week only if it appears  
 4 that:

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



15 (b) He has made a claim for benefits in accordance with the provisions  
16 of subsection (a) of section 43:21-6 of this Title.

17 (c) He is able to work, is available for work, and has demonstrated that  
18 he is actively seeking work, except as provided in subsection (f) of this sec-  
19 tion; provided, that the director may, in his discretion, modify the require-  
20 ment of actively seeking work if, in his judgment, such modification of this  
21 requirement is warranted by economic conditions;

22 (d) 【Prior to the first week for which he claims benefits in any benefit  
23 year】 He has been totally or partially unemployed for a waiting period of  
24 one week in 【that】 the benefit year which includes that week. When bene-  
25 fits become payable with respect to the week next following the waiting  
26 period, he shall be eligible to receive benefits as appropriate with respect to  
27 the waiting period. No week shall be counted as a week of unemployment for  
28 the purposes of this subsection:

29 (1) if benefits have been paid, or are payable with respect thereto; pro-  
29A vided, that the requirements of this paragraph shall be waived with respect to  
29B any benefits paid or payable for a waiting period as provided in this subsection;

29C (2) if it has constituted a waiting period week under the Temporary Dis-  
29D ability Benefits Law;

29E (3) unless the individual fulfills the requirements of subsections (a) and  
29F (c) of this section.

29G (4) if it has constituted a week with respect to which it is found that his  
29H unemployment was due to a stoppage of work which exists because of a labor  
29I dispute, in accordance with the provisions of subsection (d) of section  
29J 43:21-5 of this Title.

30 (e) With respect to a base year as defined in paragraph (1) of subsec-  
31 tion (c) of section 43:21-19 of this Title, 【His】 his wages within 【his】 such  
32 base year were not less than twenty-five times his weekly benefit amount. With  
33 respect to a base year as defined in paragraph (2) of subsection (c) of sec-

tion 43:21-19 of this Title, he has established at least seventeen base weeks  
as defined in subsection (t) of section 43:21-19 of this Title.

(f) He has suffered any accident or sickness not compensable under the  
workmen's compensation law (Title 34 of the Revised Statutes) and resulting  
in his total disability to perform any work for remuneration, and would be  
eligible to receive benefits under this chapter (without regard to the maxi-  
mum amount of benefits payable during any benefit year) except for his  
inability to work and has furnished notice and proof of claim to the [commis-  
sion] division, in accordance with its rules and regulations, and payment is  
not precluded by the provisions of subsection (g) hereof or of section 43:21-3  
(d) of this Title. Such benefit payments shall be charged to and paid from  
the State disability benefits fund established by the Temporary Disability  
Benefits Law, and shall not be charged to any employer account in comput-  
ing any employer's experience rate for contributions payable under this  
chapter.

(g) No benefits shall be payable under subsection (f) above to any  
individual:

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

(2) for any period of disability due to pregnancy or resulting child-  
birth, miscarriage, or abortion;

(3) for any period of disability due to willfully or intentionally self-  
inflicted injury, or to injuries sustained in the perpetration by the individual  
of a high misdemeanor;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

70 If any employer or employing unit fails to respond to the request for in-  
 71 formation within seven days after the mailing of such request, the deputy may  
 72 rely entirely on information from other sources, including an affidavit to the  
 73 best of the knowledge and belief of the claimant with respect to his wages  
 74-75 and time worked.

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

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

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

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

97E (A) the correctness of the benefit payments authorized to be made  
 97F under the determination;  
 97G (B) fraud in connection with the claim pursuant to which the initial  
 97H determination is issued; or

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

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

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

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

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

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



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

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

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

185 any appeal tribunal. The board of review may remove to itself or transfer to  
186 another appeal tribunal the proceedings on any claim pending before an ap-  
187 peal tribunal. Any proceeding so removed to the board of review shall be  
188 heard by a quorum thereof in accordance with the requirements of subsec-  
189 tion (c) of this section. The board of review shall promptly notify the in-  
190 terested parties of its findings and decision.

191 (f) Procedure. The manner in which disputed benefit claims, and ap-  
192 peals from determinations with respect to (1) claims for benefits and (2) de-  
193 mands for refunds of benefits under section 43:21-16 (d) of this chapter (R. S.  
194 43:21-1 et seq.) shall be presented, the reports thereon required from the  
195 claimant and from employers, and the conduct of hearings and appeals shall  
196 be in accordance with rules prescribed by the board of review for determin-  
197 ing the rights of the parties, whether or not such rules conform to common  
198 law or statutory rules of evidence and other technical rules of procedure. A  
199 full and complete record shall be kept of all proceedings in connection with  
200 a disputed claim. All testimony at any hearing upon a disputed claim shall  
201 be recorded, but need not be transcribed unless the disputed claim is further  
202 appealed.

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

207 [(h) Appeal to courts. Any decision of the board of review in the ab-  
208 sence of an appeal therefrom as herein provided shall become final ten days  
209 after the date of notification or mailing thereof, and judicial review thereof  
210 shall be permitted only after any party claiming to be aggrieved thereby  
211 has exhausted his remedies before the board of review as provided by this  
212 chapter (R. S. 43:21-1 et seq.). The board of review shall be deemed to be  
213 a party to any judicial action involving any such decision, and may be repre-  
214 sented in any such judicial action by any qualified attorney who may be a  
215 regular salaried employee of the board of review or has been designated by

216 it for that purpose, or at the board of review's request, by the Attorney-Gen-  
217 eral.】

218       (h) Court review. Any decision of the board of review shall become final  
219 as to any party upon the mailing of a copy thereof to such party at his last-  
220 known address. The Division of Employment Security and any party to a pro-  
221 ceeding before the board of review may secure judicial review of the final de-  
222 cision of the board of review. Any party not joining in the appeal shall be  
223 made a defendant; the board of review shall be deemed to be a party to any  
224 judicial action involving the review of, or appeal from, any of its decisions,  
225 and may be represented in any such judicial action by any qualified attorney  
226 who may be a regular salaried employee of the board of review or has been  
227 designated by it for that purpose, or, at the board of review's request, by the  
228 Attorney-General.

229       【(i) Court review. Within ten days after the decision of the board of  
230 review has become final, any party aggrieved thereby may secure judicial re-  
231 view thereof by a proceeding in lieu of the prerogative writs, in which action  
232 any other party to the proceeding before the board of review shall be made  
233 a defendant.】

234       【(j)】 (i) Failure to give notice. The failure of any public officer or em-  
235 ployee at any time heretofore or hereafter to give notice of determination  
236 or decision required in subsections (b), (c) and (e) of this section, as  
237 originally passed or amended, shall not relieve any employer's account of any  
238 charge by reason of any benefits paid unless and until that employer can  
239 show to the satisfaction of the director of the division that the said benefits,  
240 in whole or in part, would not have been charged or chargeable to his account  
241 had such notice been given. Any determination hereunder by the director  
242 shall be subject to court review.

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

3 43:21-7. (a) Payment.

4 (1) **【On and after December first, one thousand nine hundred and thirty-**  
 5 **six, contributions】** Contributions shall accrue and become payable by each em-  
 6 ployer for each calendar year in which he is subject to this chapter, with re-  
 7 spect to having individuals in his employ during such calendar year at the  
 8 rates and on the basis hereinafter set forth **【**, except that for the month of  
 9 December, one thousand nine hundred and thirty-six, such contributions  
 10 shall accrue and become payable with respect to having individuals in his  
 11 employ during the months of December, one thousand nine hundred and  
 12 thirty-six**】**. Such contributions shall become due and be paid by each em-  
 13 ployer to the Division of Employment Security for the fund in accordance  
 14 with such regulations as may be prescribed, and shall not be deducted, in  
 15 whole or in part, from the remuneration of individuals in his employ.

15A (2) In the payment of any contributions, a fractional part of a cent shall  
 16 be disregarded unless it amounts to one-half cent (\$0.005) or more, in which  
 17 case it shall be increased to one cent (\$0.01).

18 (b) Rate of contributions. Each employer shall pay the following con-  
 19 tributions:

20 **【(1) Ten and eight-tenths per centum (10 8/10%) of wages payable with**  
 21 **respect to employment during the month of December, one thousand nine**  
 22 **hundred and thirty-six and paid prior to January first, one thousand nine**  
 23 **hundred and forty-seven; *provided*, that if the total of such contributions at**  
 24 **such ten and eight-tenths per centum (10 8/10%) rate equals less than nine-**  
 25 **tenths of one per centum (9/10 of 1%) of the annual payroll of any**  
 26 **employer payable for the calendar year one thousand nine hundred and**  
 27 **thirty-six, such employer shall pay, not later than January twenty-fifth, one**  
 28 **thousand nine hundred and thirty-seven, an additional lump-sum contribution**  
 29 **with respect to employment for such one month's period beginning Decem-**  
 30 **ber first, one thousand nine hundred and thirty-six, equal to the difference**  
 31 **between nine-tenths of one per centum (9/10 of 1%) of his annual payroll**  
 32 **payable for the calendar year one thousand nine hundred and thirty-six and**

33 the total of his contributions at such ten and eight-tenths per centum  
 34 (10 8/10%) for such one month's period beginning December first, one thou-  
 35 sand nine hundred and thirty-six; *and provided further*, that the total of  
 36 such contributions with respect to employment for such one month's period  
 37 beginning December first, one thousand nine hundred and thirty-six, shall  
 38 not exceed nine-tenths of one per centum (9/10 of 1%) of such employer's  
 39 annual payroll payable for the calendar year one thousand nine hundred and  
 40 thirty-six.

41 (2) One and eight-tenths per centum (1 8/10%) of wages payable with  
 42 respect to employment during the calendar year one thousand nine hundred  
 43 and thirty-seven and paid prior to January first, one thousand nine hundred  
 44 and forty-seven;

45 (3) Two and seven-tenths per centum (2 7/10%) of wages payable with  
 46 respect to employment during the calendar years one thousand nine hundred  
 47 and thirty-eight, one thousand nine hundred and thirty-nine, one thousand  
 48 nine hundred and forty and one thousand nine hundred and forty-one and  
 49 paid prior to January first, one thousand nine hundred and forty-seven; and,  
 50 except as otherwise prescribed by subsection (c) of this section, also during  
 51 the calendar years one thousand nine hundred and forty-two to one thousand  
 52 nine hundred and forty-six, inclusive, and paid prior to January first, one  
 53 thousand nine hundred and forty-seven; and]

54 [(4)] (1) For the calendar year one thousand nine hundred and forty-  
 55 seven, and each calendar year thereafter, two and seven-tenths per centum  
 56 (2 7/10%) of wages paid by him during each such calendar year, except as  
 57 otherwise prescribed by subsection (c) of this section.

58 [(5)] (2) The "wages" of any individual, with respect to any one em-  
 59 ployer as the term is used in this subsection (b) and in subsections (c), (d)  
 60 and (e) of this section seven, shall include [:]

61 [(A) All remuneration payable for the month of December, one  
 62 thousand nine hundred and thirty-six, and for the calendar years one  
 63 thousand nine hundred and thirty-seven, one thousand nine hundred and

64 thirty-eight, one thousand nine hundred and thirty-nine, and paid prior  
 65 to January first, one thousand nine hundred and forty-seven;

66 (B) The first three thousand dollars (\$3,000.00) earned for each of  
 67 the calendar years one thousand nine hundred and forty to one thou-  
 68 sand nine hundred and forty-six, inclusive, and paid prior to January  
 69 first, one thousand nine hundred and forty-seven; and]

70 [(C) The] the first three thousand dollars (\$3,000.00) paid during  
 71 the calendar year one thousand nine hundred and forty-seven and during  
 72 each calendar year thereafter, for services either within or without this  
 73 State; provided, that no contribution shall be required by this State with  
 74 respect to services performed in another State if such other State im-  
 75 poses contribution liability with respect thereto. If an employer (here-  
 76 inafter referred to as successor employer) during any calendar year  
 77 acquires substantially all the property used in a trade or business of  
 78 another employer (hereinafter referred to as a predecessor), or used in  
 79 a separate unit of a trade or business of a predecessor, and immediately  
 80 after the acquisition employs in his trade or business an individual who  
 81 immediately prior to the acquisition was employed in the trade or busi-  
 82 ness of such predecessor, then, for the purpose of determining whether  
 83 the successor employer has paid wages with respect to employment equal  
 84 to three thousand dollars (\$3,000.00) to such individual during such cal-  
 85 endar year, any wages paid to such individual by such predecessor during  
 86 such calendar year and prior to such acquisition shall be considered as  
 87 having been paid by such successor employer.

88 (c) Future rates based on benefit experience: (1) A separate account  
 89 for each employer shall be maintained and this shall be credited with all the  
 90 contributions which he has paid on his own behalf on or before January  
 91 thirty-first of any calendar year with respect to employment occurring in  
 92 preceding calendar years. But nothing in this chapter shall be construed to  
 93 grant any employer or individuals in his service prior claims or rights to

94 the amounts paid by him into the fund either on his own behalf or on behalf  
95 of such individuals. Benefits paid with respect to benefit years commencing  
96 prior to January first, one thousand nine hundred and fifty-three, to any indi-  
97 vidual on or before January thirty-first of any calendar year with respect to  
98 unemployment in preceding calendar years shall be charged against the  
99 account of each of the employers with whom such individual accrued the  
100 wage credits constituting the basis of such benefits, in the same proportion  
101 as such wage credits with each such employer bear to such wage credits with  
102 all such employers. The Division of Employment Security shall furnish to each  
103 employer at such frequency as the division shall, by regulation, prescribe,  
104 but in no case less frequently than annually, a detailed statement of benefits  
105 charged to his account. Benefits paid with respect to benefit years commenc-  
106 ing on and after January first, one thousand nine hundred and fifty-three, to  
107 any individual on or before January thirty-first of any calendar year with re-  
108 spect to unemployment in preceding calendar years shall be charged against  
109 the account or accounts of the employer or employers in whose employment  
110 such individual established base weeks constituting the basis of such bene-  
111 fits. Benefits paid under a given benefit determination shall be charged  
112 against the account of the employer to whom such determination relates.  
113 When each benefit payment is made the division shall promptly send either a  
114 copy of the benefit check or other form of notification to the employer against  
115 whose account the benefits are to be charged. Such copy of notification shall  
116 identify the employer against whose account the amount of such payment is  
117 being charged, shall show at least the name and social security account num-  
118 ber of the claimant and shall specify the period of unemployment to which  
119 said check applies. If the total amount of benefits paid to a claimant and  
120 charged to the account of the appropriate employer exceeds fifty per centum  
121 (50%) of the total base-year wages paid to the claimant by that employer,  
122 then such employer may apply to the division to have canceled from his ac-  
123 count such excess benefit charges as specified above. Any such application

124 for the cancellation of excess charges shall be submitted by the employer  
124A within six months from the date of the benefit check, payment of which cre-  
124B ates such charges. In no event will the erasure of such charges affect a con-  
124C tribution rate already assigned to the employer with respect to any fiscal  
124D year commencing prior to the date the application is received by the division.

125 The division shall furnish to each employer an annual summary state-  
126 ment of benefits charged to his account.

127 (2) The Division of Employment Security may prescribe regulations for  
128 the establishment, maintenance, and dissolution of joint accounts by two or  
129 more employers, and shall, in accordance with such regulations and upon ap-  
130 plication by two or more employers to establish such an account, or to merge  
131 their several individual accounts in a joint account, maintain such joint  
132 account as if it constituted a single employer's account.

133 (3) Each employer's rate shall be two and seven-tenths per centum  
134 (2 7/10%), except as otherwise provided in the following provisions: No  
135 employer's rate shall be other than two and seven-tenths per centum  
136 (2 7/10%) unless and until there shall have been three calendar years  
137 throughout which any individual in his employ could have received benefits if  
138 eligible. No employer's rate shall be lower than two and seven-tenths per  
139 centum (2 7/10%) unless assignment of such lower rate is consistent with the  
140 conditions applicable to additional credit allowance for such year under  
141 section 1602 (a) (1) of the Internal Revenue Code (U. S. Code Title 26,  
142 section 1602 (a) (1)), any other provision of this section to the contrary  
143 notwithstanding.

144 (4) Each employer's rate for the twelve months commencing July first  
145 of any calendar year shall be determined on the basis of his record up to the  
146 beginning of such calendar year. If, at the beginning of such calendar year,  
147 the total of all his contributions, paid on his own behalf, for all past years  
148 exceeds the total benefits charged to his account for all such years, his con-  
149 tribution rate shall be:



150 (A) Two and four-tenths per centum ( $2\frac{4}{10}\%$ ), if such excess  
 151 equals or exceeds four per centum (4%), but is less than five per centum  
 152 (5%) of his average annual payroll (as defined in paragraph (2), sub-  
 153 section (a) of section 43:21-19 of this Title);

154 (B) Two and one-tenth per centum ( $2\frac{1}{10}\%$ ), if such excess equals  
 155 or exceeds five per centum (5%), but is less than six per centum (6%)  
 156 of his average annual payroll;

157 (C) One and eight-tenths per centum ( $1\frac{8}{10}\%$ ), if such excess  
 158 equals or exceeds six per centum (6%), but is less than seven per centum  
 159 (7%) of his average annual payroll;

160 (D) One and five-tenths per centum ( $1\frac{5}{10}\%$ ), if such excess equals  
 161 or exceeds seven per centum (7%), but is less than eight per centum  
 162 (8%) of his average annual payroll;

163 (E) One and two-tenths per centum ( $1\frac{2}{10}\%$ ), if such excess equals  
 164 or exceeds eight per centum (8%), but is less than nine per centum  
 165 (9%), of his average annual payroll;

166 (F) Nine-tenths of one per centum ( $\frac{9}{10}$  of 1%), if such excess  
 167 equals or exceeds nine per centum (9%), but is less than ten per centum  
 168 (10%), of his average annual payroll;

169 (G) Six-tenths of one per centum ( $\frac{6}{10}$  of 1%), if such excess  
 170 equals or exceeds ten per centum (10%), but is less than eleven per  
 171 centum (11%), of his average annual payroll;

172 (H) Three-tenths of one per centum ( $\frac{3}{10}$  of 1%), if such excess  
 173 equals or exceeds eleven per centum (11%) of his average annual pay-  
 174 roll.

175 If the total of his contributions, paid on his own behalf, for all past  
 176 periods, or for the past one hundred twenty consecutive calendar months,  
 177 whichever period is more advantageous to such employer for the purposes of  
 178 this paragraph, is less than the total benefits charged against his account  
 179 during the same period, his rate shall be three per centum (3%).

180 (5) (A) If on March thirty-first of any calendar year the balance in the  
 181 Unemployment Trust Fund equals or exceeds four per centum (4%) but is  
 182 less than seven per centum (7%) of the total taxable wages reported to the  
 183 division as of that date in respect to employment during the preceding  
 184 calendar year, the contribution rate, effective July first following, of each  
 185 employer eligible for a contribution rate calculation based upon benefit ex-  
 186 perience, shall be increased by three-tenths of one per centum ( $3/10$  of 1%)  
 187 over the contribution rate otherwise established under the provisions of para-  
 188 graphs (3) or (4) of this subsection. If on March thirty-first of any calendar  
 189 year the balance of the Unemployment Trust Fund is less than four per centum  
 190 (4%) of the total taxable wages reported to the Division of Employment Secu-  
 191 rity as of that date in respect to employment during the preceding calendar  
 192 year, the contribution rate, effective July first following, of each employer eli-  
 193 gible for a contribution rate calculation based upon benefit experience, shall  
 194 be increased by six-tenths of one per centum ( $6/10$  of 1%) over the contribu-  
 195 tion rate otherwise established under the provisions of paragraphs (3) or  
 196 (4) of this subsection; *provided*, that if on such March thirty-first, such bal-  
 197 ance is less than two and one-half per centum ( $2\frac{1}{2}\%$ ) of such total taxable  
 198 wages, the contribution rate so effective, of any employer, shall be not less  
 199 than two and seven-tenths per centum ( $2\frac{7}{10}\%$ ); *provided, further*, that the  
 200 contribution rate of any employer increased pursuant to the provisions of  
 201 this subparagraph, when so increased, shall not exceed three and six-tenths  
 202 per centum ( $3\frac{6}{10}\%$ ).

203 (B) If on March thirty-first of any calendar year the balance in the Un-  
 204 employment Trust Fund equals or exceeds ten per centum (10%) but is less  
 205 than twelve and one-half per centum ( $12\frac{1}{2}\%$ ) of the total taxable wages  
 206 reported to the Division of Employment Security as of that date in respect  
 207 to employment during the preceding calendar year, the contribution rate,  
 208 effective July first following, of each employer eligible for a contribu-  
 209 tion rate calculation based upon benefit experience, shall be reduced  
 210 by three-tenths of one per centum ( $3/10$  of 1%) under the contribution

211 rate otherwise established under the provisions of paragraphs (3) and (4)  
 212 of this subsection; *provided*, that in no event shall the contribution rate  
 213 of any employer be reduced to less than three-tenths of one per centum  
 214 ( $\frac{3}{10}$  of 1%). If on March thirty-first of any calendar year the bal-  
 215 ance in the Unemployment Trust Fund equals or exceeds twelve and one-  
 216 half per centum ( $12\frac{1}{2}\%$ ) of the total taxable wages reported to the  
 217 division as of that date in respect to employment during the preceding  
 218 calendar year, the contribution rate, effective July first following, of each  
 219 employer eligible for a contribution rate calculation based upon benefit ex-  
 220 perience, shall be reduced by six-tenths of one per centum ( $\frac{6}{10}$  of 1%) if  
 221 his account reflects an excess of contributions paid over total benefits charged  
 222 of three per centum (3%) or more of his average annual payroll, otherwise  
 223 by three-tenths of one per centum ( $\frac{3}{10}$  of 1%) under the contribution rate  
 224 otherwise established under the provisions of paragraphs (3) and (4) of this  
 225 subsection; *provided*, that in no event shall the contribution rate of any em-  
 226 ployer be reduced to less than three-tenths of one per centum ( $\frac{3}{10}$  of 1%).

227 (6) Additional contributions.

228 Notwithstanding any other provision of law, any employer who has been  
 229 assigned a contribution rate pursuant to subsection (c) of this section for the  
 230 year commencing July first, one thousand nine hundred and forty-eight, and  
 231 for any year commencing July first thereafter, may voluntarily make pay-  
 232 ment of additional contributions, and upon such payment shall receive a  
 233 recomputation of the experience rate applicable to such employer including  
 234 in the calculation the additional contribution so made. Any such additional  
 235 contribution shall be made during the thirty-day period following the date of  
 236 the mailing to the employer of the notice of his contribution rate as prescribed  
 237 in this section, unless, for good cause, the time for payment has been extended  
 238 by the director for not to exceed an additional sixty days; *provided*, that in  
 239 no event may such payments which are made later than one hundred twenty  
 240 days after the beginning of the year for which such rates are effective be  
 241 considered in determining the experience rate for the year in which the pay-

242 ment is made. Any employer receiving any extended period of time within  
243 which to make such additional payment and failing to make such payment  
244 timely shall pay, in addition to the required amount of additional payment,  
245 a penalty of five per centum (5%) thereof or five dollars (\$5.00), whichever  
246 is greater, not to exceed fifty dollars (\$50.00). Any adjustment under this  
247 subsection shall be made only in the form of credits against accrued or future  
248 contributions.

249 (7) Transfers.

250 An employer, who transfers his or its organization, trade, assets or busi-  
251 ness, in whole or in part, to a successor in interest, whether by merger, consoli-  
252 dation, sale, transfer, descent or otherwise, may jointly make application with  
253 such successor in interest for transfer of the employment experience of the  
254 predecessor employer to the successor in interest, including credit for past  
255 years, contributions paid, annual payrolls, benefit charges, et cetera, applicable  
256 to such predecessor employer. The Division of Employment Security may  
257 allow such transfer of employment experience pursuant to regulations adopted  
258 by the division, only if it finds that the employment experience of the pre-  
259 decessor employer with respect to the organization, trade, assets or business,  
260 or part thereof, as the case may be, which has been transferred, may be  
261 considered indicative of the future employment experience of the successor  
262 in interest. In the event of a part transfer of an employer's organization,  
263 trade, assets or business, only that portion of the employment experience  
264 relating to the portion of the organization, trade, assets or business trans-  
265 ferred shall be transferred, and credit shall be given to the successor in  
266 interest only for the years during which contributions were paid by the pre-  
267 decessor employer with respect to that part of the organization, trade, assets  
268 or business transferred. A transfer of the employment experience in whole  
269 or in part having been applied for and approved by the Division of Employ-  
270 ment Security, the predecessor employer thereafter shall not be entitled to  
271 consideration for an adjusted rate based upon his or its experience or the  
272 part thereof, as the case may be, which has thus been transferred. A suc-

273 cessor in interest to whom employment experience or a part thereof is trans-  
274 ferred pursuant to this subsection shall, as of the date of the transfer of  
275 the organization, trade, assets or business, or part thereof, immediately be-  
276 come an employer if not theretofore an employer subject to this chapter.

277 (d) (1) Contribution of workers; transfer to temporary disability bene-  
278 fit fund.

279 **[(1)]** (A) Each worker shall contribute to the fund one per centum  
280 (1%) of his wages paid by an employer with respect to his employment which  
281 occurs after December thirty-first, one thousand nine hundred and thirty-  
282 seven, and prior to January first, one thousand nine hundred and fifty-three,  
282A and after such employer has satisfied the conditions set forth in subsection  
283 (h) of section 43:21-19 of this Title with respect to becoming an employer;  
284 *provided, however,* that such contribution shall be at the rate of one-fourth  
285 of one per centum ( $\frac{1}{4}$  of 1%) of wages paid with respect to employment on  
286 and after January first, one thousand nine hundred and forty-nine, while the  
287 worker is covered by an approved private plan under the Temporary Dis-  
288 ability Benefits Law or while the worker is exempt from the provisions of  
289 the Temporary Disability Benefits Law under section seven of that law. Each  
290 employer shall, notwithstanding any provisions of the law in this State to the  
291 contrary, withhold in trust the amount of his workers' contributions from  
292 their wages at the time such wages are paid, shall show such deduction of  
293 his payroll records, shall furnish such evidence thereof to his workers as the  
294 division may prescribe, and shall transmit all such contributions, in addi-  
295 tion to his own contributions, to the office of the Division of Employment  
296 Security in such manner and at such times as may be prescribed. If  
297 any employer fails to deduct the contributions of any of his workers at the  
298 time their wages are paid, or fails to make a deduction therefor at the  
299 time wages are paid for the next succeeding payroll period, he alone shall  
300 thereafter be liable for such contributions, and for the purposes of section  
301 43:21-14 of this Title, such contributions shall be treated as employer's con-  
302 tributions required from him. As used in this chapter, except when the

303 context clearly requires otherwise, the term "contributions" shall include  
 304 the contributions of workers pursuant to this section.

305       (B) Each worker shall contribute to the fund three-fourths of one per  
 306 centum ( $\frac{3}{4}$  of 1%) of his wages paid by an employer with respect to his em-  
 307 ployment which occurs on and after January first, one thousand nine hundred  
 308 and fifty-three, and after such employer has satisfied the conditions set forth  
 309 in subsection (h) of section 43:21-19 of this Title with respect to becoming an  
 310 employer; *provided, however*, that such contribution shall be at the rate of  
 311 one-fourth of one per centum ( $\frac{1}{4}$  of 1%) of wages paid with respect to em-  
 312 ployment while the worker is covered by an approved private plan under the  
 313 Temporary Disability Benefits Law or while the worker is exempt from the  
 314 provisions of the Temporary Disability Benefits Law under section seven of  
 315 that law. Each employer shall, notwithstanding any provisions of law in this  
 316 State to the contrary, withhold in trust the amount of his workers' contribu-  
 317 tions from their wages at the time such wages are paid, shall show such  
 318 deduction of his payroll records, shall furnish such evidence thereof to his  
 319 workers as the division may prescribe, and shall transmit all such contribu-  
 320 tions, in addition to his own contributions, to the office of the Division of Em-  
 321 ployment Security in such manner and at such times as may be prescribed.  
 322 If any employer fails to deduct the contributions of any of his workers at the  
 323 time their wages are paid, or fails to make a deduction therefor at the time  
 324 wages are paid for the next succeeding payroll period, he alone shall there-  
 325 after be liable for such contributions, and for the purpose of section 43:21-14  
 326 of this Title, such contributions shall be treated as employer's contributions  
 327 required from him. As used in this chapter, except when the context clearly  
 328 requires otherwise, the term "contributions" shall include the contributions  
 329 of workers pursuant to this section.

330       (2) (A) There shall be deposited in and credited to the State disability  
 331 benefits fund, as the same shall be established by law, three-quarters of all

332 worker contributions, received by the Division of Employment Security pur-  
 333 suant to subparagraph (A) of paragraph (1) above on and after [April]  
 334 June first, one thousand nine hundred and forty-eight, [or the date this sub-  
 335 paragraph takes effect, whichever is later,] with respect to wages upon which  
 336 the rate of contributions is one per centum (1%) as provided in subparagraph  
 337 (A) of paragraph (1) above.

338 (B) There shall be deposited in and credited to the State disability bene-  
 339 fits fund, as the same shall be established by law, two-thirds of all worker  
 340 contributions, received by the Division of Employment Security pursuant to  
 341 subparagraph (B) of paragraph (1) above after December thirty-first, one  
 342 thousand nine hundred and fifty-two, with respect to wages upon which the  
 343 rate of contributions is three-fourths of one per centum ( $\frac{3}{4}$  of 1%) as pro-  
 344 vided in subparagraph (B) of paragraph (1) above.

345 (3) (A) If an employee receives wages from more than one employer  
 346 during any calendar year after the calendar year one thousand nine hundred  
 347 and fifty and prior to the calendar year one thousand nine hundred and fifty-  
 348 three, and either the sum of his contributions deposited in and credited to the  
 349 State disability benefits fund (in accordance with subparagraph [(d)] (A)  
 350 of paragraph (2) [hereof] of this subsection) plus the amount of his con-  
 351 tributions, if any, required towards the cost of benefits under one or more  
 352 approved private plans under the provisions of section nine of the "Tem-  
 353 porary Disability Benefits Law" and deducted from his wages, or the sum  
 354 of such latter contributions if the employee is covered, during such calendar  
 355 year, only by two or more private plans, exceeds twenty-two dollars and fifty  
 356 cents (\$22.50), the employee shall be entitled to a refund of the excess if he  
 357 makes claim to the Division of Employment Security within two years after  
 358 the end of the calendar year in which the wages are received with respect to  
 359 which the refund is claimed and establishes his right to such refund. Such  
 360 refund shall be made by the Division of Employment Security from the State  
 361 disability benefits fund. No interest shall be allowed or paid with respect to

362 any such refund. The division shall, in accordance with prescribed regula-  
 363 tions, determine the portion of the aggregate amount of such refunds made  
 364 during any calendar year which is applicable to private plans for which de-  
 365 ductions were made under section nine of the "Temporary Disability Bene-  
 366 fits Law," such determination to be based upon the ratio of the amount of  
 367 such wages exempt from contributions to such fund as provided in subpara-  
 368 graph [(d)] (A) of paragraph (1) of this subsection with respect to coverage  
 369 under private plans to the total wages so exempt plus the amount of such  
 370 wages subject to contributions to the disability benefits fund as provided in  
 371 subparagraph [(d)] (A) of paragraph (2) of this subsection. The division  
 372 shall, in accordance with prescribed regulations, prorate the amount so deter-  
 373 mined among the applicable private plans in the proportion that the wages  
 374 covered by each plan bears to the total private plan wages involved in such  
 375 refunds, and shall assess against and recover from the employer, or the  
 376 insurer if the insurer has indemnified the employer with respect thereto, the  
 377 amount so prorated. The provisions of Revised Statutes, section 43:21-14  
 378 with respect to collection of employer contributions shall apply to such assess-  
 379 ments. The amounts so recovered by the division shall be paid into the State  
 380 disability benefits fund.

381 (B) If an employee receives wages from more than one employer during  
 382 any calendar year commencing with the calendar year one thousand nine hun-  
 383 dred and fifty-three, and either the sum of his contributions deposited in and  
 384 credited to the State disability benefits fund (in accordance with subpara-  
 385 graph (B) of paragraph (2) of this subsection) plus the amount of his con-  
 386 tributions, if any, required towards the cost of benefits under one or more  
 387 approved private plans under the provisions of section nine of the Temporary  
 388 Disability Benefits Law and deducted from his wages, or the sum of such  
 389 latter contributions if the employee is covered, during such calendar year,  
 390 only by two or more private plans, exceeds fifteen dollars (\$15.00), the em-  
 391 ployee shall be entitled to a refund of the excess if he makes claim to the



392 Division of Employment Security within two years after the end of the calen-  
393 dar year in which the wages are received with respect to which the refund is  
394 claimed and establishes his right to such refund. Such refund shall be made  
395 by the Division of Employment Security from the State disability benefits  
396 fund. No interest shall be allowed or paid with respect to any such refund.  
397 The division shall, in accordance with prescribed regulations, determine the  
398 portion of the aggregate amount of such refunds made during any calendar  
399 year which is applicable to private plans for which deductions were made  
400 under section nine of the "Temporary Disability Benefits Law," such deter-  
401 mination to be based upon the ratio of the amount of such wages exempt from  
402 contributions to such fund as provided in subparagraph (B) of paragraph (1)  
403 of this subsection with respect to coverage under private plans to the total  
404 wages so exempt plus the amount of such wages subject to contributions to  
405 the disability benefits fund as provided in subparagraph (B) of paragraph  
406 (2) of this subsection. The division shall, in accordance with prescribed  
407 regulations, prorate the amount so determined among the applicable private  
408 plans in the proportion that the wages covered by each plan bears to the  
409 total private plan wages involved in such refunds, and shall assess against  
410 and recover from the employer, or the insurer if the insurer has indemnified  
411 the employer with respect thereto, the amount so prorated. The provisions  
412 of Revised Statutes, section 43:21-14, with respect to collection of employer  
413 contributions shall apply to such assessments. The amounts so recovered by  
414 the division shall be paid into the State disability benefits fund.

415       (4) If an individual does not receive any wages from the employing  
416 unit which for the purposes of this chapter is treated as his employer, or  
417 receives his wages from some other employing unit, such employer shall  
418 nevertheless be liable for such individual's contributions in the first instance;  
419 and after payment thereof such employer may deduct the amount of such  
420 contributions from any sums payable by him to such employing unit, or may

421 recover the amount of such contributions from such employing unit or, in  
422 the absence of such an employing unit, from such individual, in a civil action  
423 for debt; *provided*, proceedings therefor are instituted within three months  
424 after the date on which such contributions are payable. General rules shall  
425 be prescribed whereby such an employing unit may recover the amount of  
426 such contributions from such individuals in the same manner as if it were the  
427 employer.

428       (5) Every employer who has elected to become an employer subject to  
429 this chapter or to cease to be an employer subject to this chapter, pursuant  
430 to the provisions of section 43:21-8 of this Title, shall post and maintain  
431 printed notices of such election on his premises, of such design, in such  
432 numbers, and at such places as the director may determine to be necessary to  
433 give notice thereof to persons in his service.

434       (6) Contributions by workers, payable to the Division of Employment  
435 Security as herein provided, shall be exempt from garnishment, attachment,  
436 execution, or any other remedy for the collection of debts.

437       (e) Contributions by employers to State disability benefits fund.

438       (1) Except as hereinafter provided, each employer shall, in addition to  
439 the contributions required by subsections (a), (b), and (c) of this section,  
440 contribute one-quarter of one per centum ( $\frac{1}{4}$  of 1%) of the wages paid by  
441 such employer to workers with respect to employment after January first,  
442 one thousand nine hundred and forty-nine. Such contributions shall become  
443 due and be paid by each employer to the Division of Employment Security  
444 for the State disability benefits fund as established by law, in accordance  
445 with such regulations as may be prescribed, and shall not be deducted, in  
446 whole or in part, from the remuneration of individuals in his employ. In  
447 the payment of any contributions, a fractional part of a cent shall be dis-  
448 regarded unless it amounts to one-half cent (\$0.005) or more, in which case  
449 it shall be increased to one cent (\$0.01).

450       (2) During the continuance of coverage of a worker by an approved  
451 private plan of disability benefits under the Temporary Disability Benefits

452 Law, the employer shall be exempt from the contribution required by sub-  
453 paragraph (1) above with respect to wages paid to such worker.

454 (3) (A) The rates of contribution as specified in subparagraph (1)  
455 above shall be subject to modification as provided herein with respect to  
456 employer contributions due on and after July first, one thousand nine hun-  
457 dred and fifty-one.

458 (B) A separate disability benefits account shall be maintained for each  
459 employer required to contribute to the State disability benefits fund and such  
460 account shall be credited with contributions deposited in and credited to such  
461 fund with respect to employment occurring on and after January first, one  
462 thousand nine hundred and forty-nine. Each employer's account shall be  
463 credited with all contributions paid on or before January thirty-first of any  
464 calendar year on his own behalf and on behalf of individuals in his service  
465 with respect to employment occurring in preceding calendar years. But  
466 nothing in this act shall be construed to grant any employer or individuals  
467 in his service prior claims or rights to the amounts paid by him to the fund  
468 either on his own behalf or on behalf of such individuals. Benefits paid to  
469 any covered individual in accordance with Article III of the Temporary Dis-  
470 ability Benefits Law on or before January thirty-first of any calendar year  
471 with respect to disability in preceding calendar years shall be charged  
472 against the account of the employer by whom such individual was employed  
473 at the commencement of such disability or by whom he was last employed if  
474 out of employment.

475 (C) The division may prescribe regulations for the establishment, main-  
476 tenance, and dissolution of joint accounts by two or more employers, and  
477 shall, in accordance with such regulations and upon application by two or  
478 more employers to establish such an account, or to merge their several  
479 individual accounts in a joint account, maintain such joint account as if it  
480 constituted a single employer's account.

481 (D) Prior to July first of each calendar year, the Division of Employ-  
482 ment Security shall make a preliminary determination of the rate of contribu-

483 tion for the twelve months commencing on such July first for each employer  
484 subject to the contribution requirements of this subsection (E).

485 (1) Such preliminary rate shall be one-quarter of one per centum ( $\frac{1}{4}$  of  
486 1%) unless on the preceding **December thirty-first** January first of such  
487 year such employer shall have been a covered employer who has paid con-  
488 tributions to the State disability benefits fund for at least **two** three full  
489 years and his account shall have been credited with at least fifteen hundred  
490 dollars (\$1,500.00) of employer and employee contributions.

491 (2) If the minimum requirements in (1) above have been fulfilled and  
492 the credited contributions exceed the benefits charged by more than five hun-  
493 dred dollars (\$500.00), such preliminary rate shall be as follows:

494 (1) Two-tenths of one per centum ( $\frac{2}{10}$  of 1%) if such excess over  
495 five hundred dollars (\$500.00) exceeds one per centum (1%) but is less  
496 than one and one-quarter per centum ( $1\frac{1}{4}\%$ ) of his average annual pay-  
498 roll (as defined in this chapter);

498 (ii) Fifteen one hundredths of one per centum ( $\frac{15}{100}$  of 1%) if  
499 such excess over five hundred dollars (\$500.00) equals or exceeds one  
500 and one-quarter per centum ( $1\frac{1}{4}\%$ ) but is less than one and one-half per  
501 centum ( $1\frac{1}{2}\%$ ) of his average annual payroll.

502 (iii) One-tenth of one per centum ( $\frac{1}{10}$  of 1%) if such excess over  
503 five hundred dollars (\$500.00) equals or exceeds one and one-half per  
504 centum ( $1\frac{1}{2}\%$ ) of his average annual payroll.

505 (3) If the minimum requirements in (1) above have been fulfilled and the  
506 contributions credited exceed the benefits charged but by not more than five  
507 hundred dollars (\$500.00) plus one per centum (1%) of his average annual  
508 payroll, or if the benefits charged exceed the contributions credited but by not  
509 more than five hundred dollars (\$500.00), the preliminary rate shall be one-  
510 quarter of one per centum ( $\frac{1}{4}$  of 1%).

511 (4) If the minimum requirements in (1) above have been fulfilled and  
512 the benefits charged exceed the contributions credited by more than five hun-  
513 dred dollars (\$500.00), such preliminary rate shall be as follows:

514 (i) Thirty-five one hundredths of one per centum ( $35/100$  of 1%) if  
 515 such excess over five hundred dollars (\$500.00) is less than one-quarter  
 516 of one per centum ( $1/4$  of 1%) of his average annual payroll;

517 (ii) Forty-five one hundredths of one per centum ( $45/100$  of 1%) if  
 518 such excess over five hundred dollars (\$500.00) equals or exceeds one-  
 519 quarter of one per centum ( $1/4$  of 1%) but is less than one-half of one  
 520 per centum ( $1/2$  of 1%) of his average annual payroll;

521 (iii) Fifty-five one hundredths of one per centum ( $55/100$  of 1%) if  
 522 such excess over five hundred dollars (\$500.00) equals or exceeds one-  
 523 half of one per centum ( $1/2$  of 1%) but is less than three-quarters of one  
 524 per centum ( $3/4$  of 1%) of his average annual payroll;

525 (iv) Sixty-five one hundredths of one per centum ( $65/100$  of 1%) if  
 526 such excess over five hundred dollars (\$500.00) equals or exceeds three-  
 527 quarters of one per centum ( $3/4$  of 1%) but is less than one per centum  
 528 (1%) of his average annual payroll;

529 (v) Seventy-five one hundredths of one per centum ( $75/100$  of 1%)  
 530 if such excess over five hundred dollars (\$500.00) equals or exceeds  
 531 one per centum (1%) of his average annual payroll.

532 (5) Determination of the preliminary rate as specified in (2), (3) and  
 533 (4) above shall be subject, however, to the condition that it shall in no event  
 534 be decreased by more than one-tenth of one per centum ( $1/10$  of 1%) of  
 535 wages or increased by more than two-tenths of one per centum ( $2/10$  of 1%)  
 536 of wages from the preliminary rate determined for the preceding year in  
 537 accordance with (1), (2), (3) or (4), whichever shall have been applicable.

538 (E) (1) Prior to July first of each calendar year the Division of Em-  
 539 ployment Security shall determine the amount of the State disability bene-  
 540 fits fund as of December thirty-first of the preceding calendar year increased  
 541 by the contributions paid thereto during January of the current calendar year  
 542 with respect to employment occurring in preceding calendar years and de-  
 543 creased by the benefits paid during January of the current calendar year  
 544 with respect to disability in preceding calendar years. If such amount exceeds

545 the total of the amounts withdrawn from the unemployment trust fund pursu-  
 546 ant to section twenty-three of the Temporary Disability Benefits Law plus  
 547 the amount at the end of such preceding calendar year of the unemployment  
 548 disability account (as defined in section twenty-two of said law), such excess  
 549 shall be expressed as a percentage of the wages on which contributions were  
 550 paid to the State disability benefits fund on or before January thirty-first  
 551 with respect to employment in the preceding calendar year.

552 (2) The Division of Employment Security shall then make a final de-  
 553 termination of the rates of contribution for the twelve months commencing  
 554 July first of such year for employers whose preliminary rates are determined  
 555 as provided in (D) hereof, as follows:

556 (i) If the percentage determined in accordance with paragraph (1)  
 557 of this subsection equals or exceeds one and one-quarter per centum  
 558 ( $1\frac{1}{4}\%$ ) the final employer rates shall be the preliminary rates deter-  
 559 mined as provided in (D) hereof, except that if the employer's prelimi-  
 560 nary rate is determined as provided in (D) (2) or (D) (3) hereof, the  
 561 final employer rate shall be the preliminary employer rate decreased by  
 562 such percentage of excess taken to the nearest five one hundredths of  
 563 one per centum ( $5/100$  of  $1\%$ ), but in no case shall such final rate be less  
 564 than one-tenth of one per centum ( $1/10$  of  $1\%$ ).

565 (ii) If the percentage determined in accordance with paragraph (1)  
 566 of this subsection equals or exceeds three-quarters of one per centum  
 567 ( $\frac{3}{4}$  of  $1\%$ ) and is less than one and one-quarter of one per centum ( $1\frac{1}{4}$   
 568 of  $1\%$ ), the final employer rates shall be the preliminary employer rates.

569 (iii) If the percentage determined in accordance with paragraph (1)  
 570 of this subsection is less than three-quarters of one per centum ( $\frac{3}{4}$  of  
 571  $1\%$ ), the final employer rates shall be the preliminary employer rates  
 572 determined as provided in (D) hereof increased by the difference  
 573 between three-quarters of one per centum ( $\frac{3}{4}$  of  $1\%$ ) and such percent-  
 574 age taken to the nearest five one hundredths of one per centum ( $5/100$   
 575 of  $1\%$ ); *provided, however*, that no such final rate shall be more than

576 one-quarter of one per centum ( $\frac{1}{4}$  of 1%) in the case of an employer  
 577 whose preliminary rate is determined as provided in (D) (2) hereof,  
 578 more than one-half of one per centum ( $\frac{1}{2}$  of 1%) in the case of an em-  
 579 ployer whose preliminary rate is determined as provided in (D) (1) and  
 580 (D) (3) hereof, nor more than three-quarters of one per centum ( $\frac{3}{4}$  of  
 581 1%) in the case of an employer whose preliminary rate is determined as  
 582 provided in (D) (4) hereof.

583 (iv) If the amount of the State disability benefits fund determined  
 584 as provided in paragraph (1) of this subsection is equal to or less than  
 585 the total of the amounts withdrawn from the unemployment trust fund  
 586 pursuant to section twenty-three of the Temporary Disability Benefits  
 587 Law plus the amount at the end of the preceding calendar year of the  
 588 unemployment disability account, then the final rate shall be three-quar-  
 589 ters of one per centum ( $\frac{3}{4}$  of 1%) for all employers.

1 5. Section 43:21-11 of the Revised Statutes is amended to read as  
 2 follows:

3 43:21-11. (a) Duties and powers of the **[commission]** division. It shall  
 4 be the duty of the **[commission]** division to determine all matters of policy;  
 5 and it shall have power and authority to adopt, amend, or rescind such rules  
 6 and regulations, require such reports, make such investigations, and take such  
 7 other action as it deems necessary or suitable to that end or to administer this  
 8 chapter; *provided*, that the **[commission]** division may delegate such power  
 9 and authority to the **[executive]** director subject to their ultimate super-  
 10 vision and control. Such rules and regulations shall be effective upon publica-  
 11 tion in the manner, not inconsistent with the provisions of this chapter, which  
 12 the **[commission]** division shall prescribe. The **[commission]** division shall  
 13 determine its own organization and methods of procedure in accordance with  
 14 the provisions of this chapter, and shall have an official seal which shall be  
 15 judicially noticed. Not later than the first day of February of each year, the  
 16 **[commission]** division shall submit to the Governor a report covering the ad-  
 17 ministration and operation of this chapter during the preceding calendar

18 year and shall make such recommendations for amendments to this chapter as  
 19 the **commission** division deems proper. Such report shall include a balance  
 20 sheet of the moneys in the fund in which there shall be provided, if possible, a  
 21 reserve against the liability in future years to pay benefits in excess of the  
 22 then current contributions, which reserve shall be set up by the **commission**  
 23 division in accordance with accepted actuarial principles on the basis of sta-  
 24 tistics of employment, business activity, and other relevant factors for the  
 25 longest possible period. Whenever the **commission** division believes that a  
 26 change in contribution or benefit rates will become necessary to protect the  
 27 solvency of the fund, it shall promptly so inform the Governor and the Leg-  
 28 islature, and make recommendations with respect thereto. The **commis-**  
 29 **sion** division shall make a study of the problem of paying partial benefits  
 30 for partial unemployment.

31 (b) Regulations and general and special rules. General and spe-  
 32 cial rules may be adopted, amended, or rescinded by the **commission**  
 33 division. General rules shall become effective ten days after filing  
 34 with the Secretary of State and publication in one or more newspapers  
 35 of general circulation in this State. Special rules shall become effective ten  
 36 days after notification to or mailing to the last known address of the indi-  
 37 viduals or concerns affected thereby. Regulations may be adopted, amended,  
 38 or rescinded by the **commission** division and shall become effective in the  
 39 manner and at the time prescribed by the **commission** division.

40 (c) Publication. The **commission** division shall cause to be printed for  
 41 distribution to the public the text of this chapter, the **commission's** divi-  
 42 sion's regulations and general rules, its annual reports to the Governor, and  
 43 any other material the **commission** division deems relevant and suitable  
 44 and shall furnish the same to any person upon application therefor.

45 (d) Personnel. Subject to other provisions of this chapter, the **com-**  
 46 **mission** division is authorized to appoint (subject to the provisions of Title  
 47 11, Civil Service), fix the compensation, and prescribe the duties and powers



48 of such officers, accountants, attorneys, experts, and other persons as may be  
 49 necessary in the performance of its duties. All positions shall be filled by  
 50 persons selected and appointed on a nonpartisan merit basis from lists of  
 51 eligible persons prepared by the Civil Service Commission, in accordance  
 52 with the provisions of Title 11, Civil Service, except that any attorney, now  
 53 or hereafter in office or position of legal assistant for the **【commission】** di-  
 54 vision, shall be placed in the exempt class of the civil service and thereafter  
 55 shall not be subject to removal except for cause and then only in accordance  
 56 with the provisions of Title 11, Civil Service; *provided, however*, that noth-  
 57 ing herein shall be construed to apply to any attorney designated as special  
 58 counsel in accordance with the provisions of sections 43:21-6, subsection (h),  
 59 and 43:21-17. The **【commission】** division shall not employ or pay any per-  
 60 son who is an officer or committee member of any political party organiza-  
 61 tion. The **【commission】** division may delegate to any such person so ap-  
 62 pointed such power and authority as it deems reasonable and proper for the  
 63 effective administration of this chapter, and may in its discretion bond any  
 64 person handling moneys or signing checks hereunder.

65 (e) Advisory councils. The **【commission】** division shall appoint a  
 66 State advisory council of six members and local advisory councils of four  
 67 members each, composed in each case of an equal number of employer repre-  
 68 sentatives and employee representatives who may fairly be regarded as rep-  
 69 resentative because of their vocation, employment, or affiliations, and of such  
 70 members representing the general public as the **【commission】** division may  
 71 designate. Such councils shall aid the **【commission】** division in formulating  
 72 policies and discussing problems related to the administration of this chap-  
 73 ter and in assuring impartiality and freedom from political influence in the  
 74 solution of such problems. Such advisory councils shall serve without com-  
 75 pensation, but shall be reimbursed for any necessary expenses.

76 (f) Employment stabilization. The **【commission】** division, with the ad-  
 77 vice and aid of its advisory councils, and through its appropriate divisions,

78 shall take all appropriate steps to reduce and prevent unemployment; to en-  
 79 courage and assist in the adoption of practical methods of vocational train-  
 80 ing, retraining and vocational guidance; to investigate, recommend, advise,  
 81 and assist in the establishment and operation, by municipalities, counties,  
 82 school districts, and the State, of reserves for public works to be used in  
 83 times of business depression and unemployment; to promote the re-employ-  
 84 ment of unemployed workers throughout the State in every other way that  
 85 may be feasible, and to these ends to carry on and publish the results of in-  
 86 vestigations and research studies.

87 (g) Records and reports. Each employing unit shall keep true and ac-  
 88 curate employment records, containing such information as may be pre-  
 89 scribed. Such records shall be open to inspection and be subject to being  
 90 copied by the commission director of the division or its his authorized  
 91 representatives at any reasonable time. The executive director may re-  
 92 quire from any employing unit any sworn or unsworn reports, with respect  
 93 to persons employed by it, which is deemed necessary for the effective ad-  
 94 ministration of this chapter. Under such rules and regulations as may be  
 95 adopted by the division reports relative to wages and separation from em-  
 96 ployment may be required from any employer or employing unit at the time  
 97 such employer or employing unit suspends business operations in this State,  
 98 or from any employer or employing unit which fails to co-operate in submit-  
 99 ting promptly the wage and employment data which may be required under  
 100 paragraph (2) of subsection (b) of section 43:21-6 of this Title. If the nature  
 101 of such suspension is temporary or in the nature of a transfer, then the di-  
 102 rector may excuse the employer or employing unit from furnishing such a  
 103 termination report upon assurances that proper arrangements have been  
 104 made to supply any information which may be required under paragraph  
 105 (2) of subsection (b) of section 43:21-6 of this Title. The director may, in  
 105A discretion, require from any employer or employing unit, reports relative to  
 105B wages and separation in such manner and at such time as he may deem neces-

105c sary for the effective administration of this chapter. Information thus ob-  
 106 tained shall not be published or be open to public inspection (other than to  
 107 public employees in the performance of their public duties) in any manner  
 108 revealing the employing unit's identity, but any claimant at a hearing before  
 109 an appeal tribunal, the **【commission】** division or the board of review, shall  
 110 be supplied with information from such records to the extent necessary for  
 111 the proper presentation of his claim. Any employee or member of the **【com-**  
 112 **mission】** division who violates any provision of this section shall be liable to  
 113 a fine of not less than twenty dollars (\$20.00) nor more than two hundred  
 114 dollars (\$200.00), to be recovered in **【an】** a civil action **【of debt】** in the name  
 115 of the **【commission】** division, said fine when recovered to be paid to the  
 116 unemployment compensation fund for the use of said fund.

117 (h) Oaths and witnesses. In the discharge of the duties imposed by this  
 118 chapter, the chairman of an appeal tribunal and any duly authorized repre-  
 119 sentative or member of the **【commission】** division, the **【executive】** director  
 120 or any deputy director thereof or member of the board of review shall have  
 121 power to administer oaths and affirmations, take depositions, certify to official  
 122 acts, and issue subpoenas to compel the attendance of witnesses and the pro-  
 123 duction of books, papers, correspondence, memoranda and other records  
 124 deemed necessary as evidence in connection with a disputed claim or the ad-  
 125 ministration of this chapter. Witnesses subpoenaed pursuant to this section  
 126 shall in the discretion of the **【commission】** division be allowed fees at a rate  
 127 to be fixed by it. Such fees shall be deemed a part of the expense of admin-  
 128 istering this chapter.

129 (i) Subpoenas. In case of contumacy by or refusal to obey a subpoena  
 130 issued to any person, any court of this State within the jurisdiction of which  
 131 the inquiry is carried on or within the jurisdiction of which said person  
 132 guilty of contumacy or refusal to obey is found or resides or transacts busi-  
 133 ness, upon application by the **【commission】** division or its duly authorized  
 134 representative, or the board of review, shall have jurisdiction to issue to such

135 person an order requiring such person to appear before the board of review or  
136 a member thereof, [a commissioner,] the [commission] division, the [execu-  
137 tive] director, or his duly authorized representative, there to produce evidence  
138 if so ordered or there to give testimony touching the matter under investi-  
139 gation or in question; and any failure to obey such order of the court may  
140 be punished by said court as a contempt thereof. Any person who shall  
141 without just cause fail or refuse to attend and testify or to answer any lawful  
142 inquiry or to produce books, papers, correspondence, memoranda, and other  
143 records, if it is in his power so to do, in obedience to a subpoena of the [com-  
144 mission] division or of the board of review shall be punished by a fine of  
145 not more than two hundred dollars (\$200.00) or by imprisonment for not  
146 longer than sixty days, or by both such fine and imprisonment, and each day  
147 such violation continues shall be deemed to be a separate offense.

148 (j) Protection against self-incrimination. No person shall be excused  
149 from attending and testifying or from producing books, papers, correspond-  
150 ence, memoranda and other records before the [commission] division or the  
151 board of review or in obedience to the subpoena of a member of the [com-  
152 mission] division or the [executive] director thereof, the board of review or a  
153 member thereof, or any duly authorized representative of the [commission]  
154 division in any cause or proceeding before the [commission] division, the  
155 board of review or a member thereof, on the ground that the testimony or  
156 evidence, documentary or otherwise, required of him may tend to incrimi-  
157 nate him or subject him to a penalty or forfeiture; but no individual shall  
158 be prosecuted or subjected to any penalty or forfeiture for or on account of  
159 any transaction, matter, or thing concerning which he is compelled, after hav-  
160 ing claimed his privilege against self-incrimination, to testify or produce  
161 evidence, documentary or otherwise, except that such individual so testify-  
162 ing shall not be exempt from prosecution and punishment for perjury com-  
163 mitted in so testifying.

164 (k) State-Federal co-operation. In the administration of this chapter  
165 the [commission] division shall co-operate to the fullest extent consistent

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166 with the provisions of this chapter, with the Social Security Board, created  
 167 by the social security act, approved August fourteenth, one thousand nine  
 168 hundred and thirty-five as amended; shall make such reports, in such form  
 169 and containing such information as the Social Security Board may from  
 170 time to time require, and shall comply with such provisions as the Social Se-  
 171 curity Board may from time to time find necessary to assure the correctness  
 172 and verification of such reports, and shall comply with the regulations pre-  
 173 scribed by the Social Security Board governing the expenditures of such  
 174 sums as may be allotted and paid to this State under Title III of the social  
 174A security act for the purpose of assisting in the administration of this chapter.

175     Upon request therefor the **[executive]** director shall furnish to any agency  
 176 of the United States charged with the administration of public works or  
 177 assistance through public employment, the name, address, ordinary occupa-  
 178 tion and employment status of each recipient of benefits and such recipient's  
 179 rights to further benefits under this chapter.

180     The **[commission]** division may make the State's records relating to the  
 181 administration of this chapter available to the Railroad Retirement Board  
 182 and may furnish the Railroad Retirement Board, at the expense of such  
 183 board, such copies thereof as the Railroad Retirement Board deems neces-  
 184 sary for its purposes.

185     The **[commission]** division may afford reasonable co-operation with  
 186 every agency of the United States charged with the administration of any  
 187 unemployment insurance law.

1     6. Section 43:21-14 of the Revised Statutes is amended to read as follows:

2     43:21-14. Collection of Contributions.

3     (a) In addition to such reports as the executive director may require  
 4 under the provisions of subsection (g) of section 43:21-11 of this Title, every  
 5 employer shall file with the **[commission]** division periodical contribution  
 6 reports on such forms and at such times as the executive director, with the  
 7 approval of the **[commission]** division, shall prescribe, to disclose the em-  
 8 ployer's liability for contributions under the provisions of this chapter, and

9 at the time of filing each contribution report shall pay the contributions re-  
10 quired by this chapter for the period covered by such report. The [com-  
11 mission] division may require that such reports shall be under oath of the  
12 employer. Any employer who shall fail to file any report, required by the  
13 [commission] division or the [executive] director, on or before the last day  
14 for the filing thereof shall pay a penalty of one dollar (\$1.00) for each day  
15 of delinquency until and including the tenth day following such last day and,  
16 for any period of delinquency after such tenth day, a penalty of one dollar  
17 (\$1.00) a day or twenty per centum (20%) of the amount of the contribu-  
18 tions due and payable by the employer for the period covered by the report,  
19 whichever is the lesser. If there be no liability for contributions for the  
20 period covered by any contribution report or in the case of any report other  
21 than a contribution report, the employer or employing unit shall pay a pen-  
22 alty of one dollar (\$1.00) a day for each day of delinquency in filing or fifteen  
23 dollars (\$15.00), whichever is the lesser. Any employer who shall fail to pay  
24 the contributions due for any period on or before the date they are required  
25 by the [commission] division to be paid, shall pay interest at the rate of one  
26 per centum (1%) a month on the amount thereof from such date until the  
27 date of payment thereof. Upon the written request of any employer or em-  
28 ploying unit, filed with the [commission] division on or before the due date  
29 of any report or contribution payment, the [commission] division, for good  
30 cause shown, may grant, in writing, an extension of time for the filing of such  
31 report or the paying of such contribution with interest at the rate of one  
32 per centum (1%) a month on the amount thereof; *provided*, no such exten-  
33 sion shall exceed thirty days and that no such extension shall postpone  
34 payment of any contribution for any period beyond the day preceding the  
35 last day for filing tax returns under Title IX of the Federal Social Security  
36 Act for the year in which such period occurs.

37 (b) The contributions, penalties, and interest due from any employer  
38 under the provisions of this chapter, from the time they shall be due, shall  
39 be a personal debt of the employer to the State of New Jersey, recoverable

40 in any court of competent jurisdiction in an action at law in the name of the  
 41 State of New Jersey[.]; provided, however, that except in the event of  
 42 fraud, no employer shall be liable for contributions, penalties, or interest un-  
 43 less assessed before four years have elapsed from the time when the con-  
 44 tributions were due.

45 (c) If any employer shall fail to make any report as required by the  
 46 rules and regulations of the [commission] division pursuant to the provi-  
 47 sions of this chapter, the [commission] division may make an estimate of  
 48 the liability of such employer from any information it may obtain and, ac-  
 49 cording to such estimate so made, assess such employer for the contributions,  
 50 penalties, and interest due the State from him, give notice of such assess-  
 51 ment to the employer, and make demand upon him for payment.

52 (d) After a report is filed under the provisions of this chapter and the  
 53 rules and regulations of the [commission] division, the [commission] divi-  
 54 sion, shall cause the report to be examined and shall make such further audit  
 55 and investigation as it may deem necessary, and if therefrom there shall be  
 56 determined that there is a deficiency with respect to the payment of the con-  
 57 tributions due from such employer, the [commission] division shall assess  
 58 the additional contributions, penalties, and interest due the State from such  
 59 employer, give notice of such assessment to the employer, and make demand  
 60 upon him for payment.

61-62 (e) As an additional remedy, the [commission] division may issue to  
 63 the clerk of the Supreme Court of New Jersey a certificate stating the  
 64 amount of the employer's indebtedness under this chapter and describing the  
 65 liability, and thereupon the clerk shall immediately enter upon his record of  
 66 docketed judgments such certificates or an abstract thereof and duly index  
 67 the same. Such certificate or abstract from the time of such docketing shall  
 68 have the same force and effect as a judgment obtained in the Supreme Court  
 69 of New Jersey, and the [commission] division shall have all the remedies  
 70 and may take all the proceedings for the collection thereof which may be

71 had or taken upon the recovery of such a judgment in an action at law upon  
72 contract in said court. Such debt, from the time of the docketing thereof,  
73 shall be a lien on and bind the lands, tenements, and hereditaments of the  
74 debtor.

75       The clerk of the Supreme Court shall be entitled to receive for docketing  
76 such certificate fifty cents (\$0.50), and for a certified transcript of such  
77 docket fifty cents (\$0.50). If the amount set forth in said certificate as a  
78 debt shall be modified or reversed by any court, the clerk of the Supreme  
79 Court shall, when an order of modification or reversal is filed, enter in the  
80 margin of the docket opposite the entry of the judgment the word "modi-  
81 fied" or "reversed," as the case may be, and the date of such modification  
82 or reversal.

83       The employer, or any other person having an interest in the property  
84 upon which the debt is a lien, may deposit the amount claimed in the certi-  
85 ficate with the clerk of the Supreme Court of New Jersey, together with  
86 fifty dollars (\$50.00) to cover interest and the costs of court, or in lieu of  
87 depositing the amount in cash, may give a bond to the State of New Jersey  
88 in double the amount claimed in the certificate, and file the same with the  
89 clerk of the Supreme Court. Said bond shall have such surety and shall be  
90 approved in the manner now required by section 2:27-369 of the Revised  
91 Statutes.

92       After the deposit of said money or the filing of said bond, the employer or  
93 any other person having an interest in the said property may review the  
94 legality or validity of the indebtedness or the amount thereof by certiorari,  
95 and the said deposit of cash shall be as security for and the bond shall be  
96 conditioned to prosecute the certiorari with effect and to pay and satisfy, if  
97 the debt be sustained, the amount adjudged by the court and all interest and  
98 costs.

99       Upon the deposit of said money or the filing of the said bond with the clerk  
100 of the Supreme Court, all proceedings on such judgment shall be stayed until  
101 the final determination of the cause, and the moneys so deposited shall be



102 subject to the lien of the indebtedness and costs and interest thereon, and  
103 the lands, tenements, and hereditaments of said debtor shall forthwith be  
104 discharged from the lien of the State of New Jersey and no execution shall  
105 issue against the same by virtue of said judgment.

106 (f) If not later than two years after the calendar year in which any  
107 moneys were erroneously paid to, or collected by the [commission] divi-  
108 sion, whether such payments were voluntarily or involuntarily made or  
109 made under mistake of law or of fact, an employer or an employee who has  
110 paid such moneys shall make application for an adjustment of his own con-  
111 tribution in connection with subsequent contribution payments, or for a  
112 refund of his own contribution because such adjustment cannot be made,  
113 and the [commission] division or [executive] director shall determine that  
114 such moneys or any portion thereof was so erroneously paid or collected,  
115 such employer or employee shall be allowed to make an adjustment thereof,  
116 without interest, in connection with subsequent contribution payments, or  
117 if such adjustments cannot be made the said amount shall be refunded,  
118 without interest, from the fund. For a like cause and within the same  
119 period, adjustment or refund may be so made on the initiative of the [com-  
120 mission] division through the [executive] director.

121 (g) All interest and penalties collected pursuant to this section shall be  
122 paid into a special fund to be known as the unemployment compensation  
123 auxiliary fund; all moneys in this special fund shall be deposited, admin-  
124 istered and disbursed, in the same manner and under the same conditions  
125 and requirements as is provided by law for other special funds in the State  
126 treasury, and shall be expended, under legislative appropriation, solely for  
127 the purpose of aiding in defraying the cost of the administration of this  
128 chapter and for essential and necessary expenditures in connection here-  
129 with not provided in or by grants of the Federal Government. The Treas-  
130 urer of the State shall be ex-officio the treasurer and custodian of this  
131 special fund and, subject to legislative appropriation, shall administer the  
132 fund in accordance with the directions of the [commission] division. Any

133 balances in this fund shall not lapse at any time, but shall be continuously  
 134 available, subject to legislative appropriation, to the 【commission】 division  
 135 for expenditure. The State Treasurer shall give a separate and additional  
 136 bond conditioned upon the faithful performance of his duties in connection  
 137 with the unemployment compensation auxiliary fund in an amount to be  
 138 fixed by the 【commission】 division, the premiums for such bond to be paid  
 139 from the moneys in the said special fund.

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

3        43:21-16. (a) Whoever makes a false statement or representation know-  
 4 ing it to be false or knowingly fails to disclose a material fact, to obtain or  
 5 increase any benefit or other payment under this chapter (R. S. 43:21-1  
 6 et seq.), or under an employment security law of any other State or of the  
 7 Federal Government, either for himself or for any other person, shall be  
 8 liable to a fine of twenty dollars (\$20.00) for each offense, to be recovered in  
 9 an action at law in the name of the Division of Employment Security of the  
 10 Department of Labor and Industry of the State of New Jersey or as pro-  
 11 vided in subsection (e) of section 43:21-14, said fine when recovered to be  
 12 paid to the unemployment compensation auxiliary fund for the use of said  
 13 fund; and each such false statement or representation or failure to disclose  
 14 a material fact shall constitute a separate offense. Any penalties imposed  
 15 by this subsection shall be in addition to those otherwise prescribed in this  
 16 chapter (R. S. 43:21-1 et seq.).

17        (b) (1) Any employing unit or any officer or agent of an employing unit  
 18 or any other person who makes a false statement or representation knowing  
 19 it to be false, or who knowingly fails to disclose a material fact, to prevent or  
 20 reduce the payment of benefits to any individual entitled thereto, or to avoid  
 21 becoming or remaining subject hereto or to avoid or reduce any contribution  
 22 or other payment required from an employing unit under this chapter (R. S.  
 23 43:21-1 et seq.), or under an employment security law of any other State or

24 of the Federal Government, or who wilfully fails or refuses to furnish any  
 25 reports required hereunder (except for such reports as may be required  
 26 under paragraph 43:21-6 (b) (2) of this Title) or to produce or permit the  
 27 inspection or copying of records as required hereunder, shall be liable to a  
 28 fine of fifty dollars (\$50.00), to be recovered in an action at law in the name  
 29 of the Division of Employment Security of the Department of Labor and In-  
 30 dustry of the State of New Jersey or as provided in subsection (e) of section  
 31 43:21-14, said fine when recovered to be paid to the unemployment compen-  
 32 sation auxiliary fund for the use of said fund; and each such false statement  
 33 or representation or failure to disclose a material fact, and each day of such  
 34 failure or refusal shall constitute a separate offense. Any penalties imposed  
 35 by this **[subsection]** paragraph shall be in addition to those otherwise pre-  
 36 scribed in this chapter (R. S. 43:21-1 et seq.).

37       (2) Any employing unit or any officer or agent of an employing unit or  
 38 any other person who fails to submit any report required under paragraph  
 39 43:21-6 (b) (2) of this Title shall be subject to a penalty of five dollars  
 40 (\$5.00) for each such report not submitted within seven days after the  
 41 mailing of a request for such report, and an additional five dollars (\$5.00)  
 42 penalty may be assessed for each seven-day period which may elapse after the  
 43 end of the initial seven-day period and before the report is filed; *provided,*  
 44 that when such report or reports are not filed within the prescribed time but  
 45 it is shown to the satisfaction of the director that the failure was due to a  
 46 reasonable cause, no such penalty shall be imposed.

47-50       (c) Any person who shall willfully violate any provision of this chapter  
 51 (R. S. 43:21-1 et seq.) or any rule or regulation thereunder, the violation of  
 52 which is made unlawful or the observance of which is required under the  
 53 terms of this chapter (R. S. 43:21-1 et seq.), and for which a penalty is  
 54 neither prescribed herein nor provided by any other applicable statute, shall  
 55 be liable to a fine of fifty dollars (\$50.00), to be recovered in an action at law  
 56 in the name of the Division of Employment Security of the Department of

57 Labor and Industry of the State of New Jersey or as provided in subsec-  
 58 tion (e) of section 43:21-14, said fine when recovered to be paid to the un-  
 59 employment compensation auxiliary fund for the use of said fund; and each  
 60 day such violation continues shall be deemed to be a separate offense.

61 (d) When it is determined by a representative or representatives desig-  
 62 nated by the director of the Division of Employment Security of the Depart-  
 63 ment of Labor and Industry of the State of New Jersey that any person,  
 64 whether (i) by reason of the nondisclosure or misrepresentation by him or  
 65 by another, of a material fact (whether or not such nondisclosure or mis-  
 66 representation was known or fraudulent), or (ii) for any other reason, has  
 67 received any sum as benefits under this chapter (R. S. 43:21-1 et seq.)  
 68 while any conditions for the receipt of benefits imposed by this chapter  
 69 (R. S. 43:21-1 et seq.) were not fulfilled in his case, or while he was dis-  
 70 qualified from receiving benefits, or while otherwise not entitled to receive  
 71 such sum as benefits, such person shall be liable, if the director in his  
 72 discretion directs recovery, either to have such sum deducted from any  
 73 future benefits payable to him under this chapter (R. S. 43:21-1  
 73A et seq.) or to repay to the division for the unemployment compensation  
 74B fund, a sum equal to the amount so received by him, and such sum  
 74 shall be collectible in the manner provided in subsection (e) of section  
 75 43:21-14 of this chapter (R. S. 43:21-1 et seq.) for the collection of past-  
 76 due contributions[.]; provided, however, that, except in the event of fraud,  
 77 no person shall be liable for any such refunds or deductions against future  
 78 benefits unless so notified before four years have elapsed from the time  
 79 the benefits in question were paid. Such person shall be promptly notified  
 80 of the determination and the reasons therefor. Unless such person, within  
 81 five calendar days after the delivery of such determination, or within seven  
 82 calendar days after such notification was mailed to his last-known address,  
 83 files an appeal for such determination, such determination shall be final.

84 (e) Any employing unit[.] or any officer or agent of an employing unit,  
 85 employer or person failing to remit, when payable, any employer contribu-

86 tions, or worker contributions (if withheld or deducted) or the amount of such  
 87 worker contributions (if not withheld or deducted), or **[files]** filing or  
 88 **[causes]** causing to be filed with the Division of Employment Security of  
 89 the Department of Labor and Industry of the State of New Jersey, any false  
 90 or fraudulent report or statement, and any person who aids or abets an em-  
 91 ploying unit, employer, or any person in the preparation or filing of any false  
 92 or fraudulent report or statement with the aforesaid division with intent to  
 93 defraud the aforesaid division or the State of New Jersey or an employment  
 94 security agency of any other State or of the Federal Government, or with  
 95 intent to evade the payment of any contributions, interest or penalties, or any  
 96 part thereof, which shall be due under the provisions of this chapter (R. S.  
 97 43:21-1 et seq.), shall be liable for each offense upon conviction before any  
 98 County Court, county district court, criminal judicial district court, or magis-  
 99 trate's court, to a fine not to exceed two hundred fifty dollars (\$250.00) or by  
 100 imprisonment for a term not to exceed ninety days, or both, at the discretion  
 101 of the court. The fine upon conviction shall be payable to the unemployment  
 102 compensation auxiliary fund of the Division of Employment Security of the  
 103 Department of Labor and Industry of the State of New Jersey. Any penalties  
 104 imposed by this subsection shall be in addition to those otherwise prescribed  
 105 in this chapter (R. S. 43:21-1 et seq.).

106 (f) There shall be created in the Division of Employment Security of  
 107 the Department of Labor and Industry of the State of New Jersey an investi-  
 108 gating staff for the purpose of investigating violations referred to in this  
 109 section and enforcing the provisions thereof.

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

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

5 (a) (1) "Annual payroll" means the total amount of wages **[payable**  
 6 by an employer for employment during a calendar year ending with the  
 7 calendar year one thousand nine hundred and forty-six which are paid prior

8 to January first, one thousand nine hundred and forty-seven, and in respect  
 9 to the calendar year one thousand nine hundred and forty-seven and each  
 10 calendar year thereafter means the total amount of wages] paid during a  
 11 calendar year (regardless of when earned) by an employer for employment.

12 (2) "Average annual payroll" means the average of the annual pay-  
 13 rolls of any employer for the last three or five preceding calendar years,  
 14 whichever average is higher [;], except that any year or years throughout  
 15 which an employer has had no "annual payroll" because of military service  
 16 shall be deleted from the reckoning; the "average annual payroll" in such  
 17 case is to be determined on the basis of the prior three or five calendar years  
 18 in each of which the employer had an "annual payroll" in the operation of  
 19 his business, if the employer resumes his business within twelve months  
 20 after separation, discharge or release from such service, under conditions  
 21 other than dishonorable, and makes application to have his "average annual  
 22 payroll" determined on the basis of such deletion within twelve months  
 23 after he resumes his business; provided, however, that "average annual  
 24 payroll" solely for the purposes of paragraph (3) of subsection (e) of  
 25 section 43:21-7 of this Title means the average of the annual payrolls of any  
 26 employer, on which he paid contributions to the State disability benefits fund,  
 27 for the last three or five preceding calendar years, whichever average is  
 28 higher; provided [, however] further, that only those wages be included on  
 29 which employer contributions have been paid on or before January thirty-  
 30 first [of the calendar year] immediately preceding the beginning of the  
 31 twelve-months' period for which the employer's contribution rate is com-  
 32 puted.

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

35 (c) (1) The term "base year" with respect to benefit years commenc-  
 36 ing prior to January first, one thousand nine hundred and fifty-three, means  
 37 the first four of the last five completed calendar quarters immediately pre-

ceding the first day of an individual's benefit year; *provided*, that no calendar quarter shall comprise a part of more than one base year.

(2) "Base year" with respect to benefit years commencing on or after January first, one thousand nine hundred and fifty-three, shall mean the fifty-two calendar weeks ending with the second week immediately preceding an individual's benefit year.

(d) "Benefit year" with respect to any individual means the three hundred sixty-four consecutive calendar days beginning with the day on, or as of, which he first files a valid claim for benefits, and thereafter beginning with the day on, or as of, which the individual next files a valid claim for benefits after the termination of his last preceding benefit year. Any claim for benefits made in accordance with subsection (a) of section 43:21-6 of this Title shall be deemed to be a "valid claim" for the purpose of this subsection if the individual is, in fact, partially or totally unemployed and has fulfilled the conditions imposed by subsection (e) of section 43:21-4 of this Title.

(e) ["Commission" means the unemployment compensation commission established by section 43:21-10 of this Title, and for purposes of this chapter any transaction or exercise of authority by the executive director shall be deemed to be performed by the commission.] "Division" means the Division of Employment Security of the Department of Labor and Industry established by Chapter 446, P. L. 1948, and any transaction or exercise of authority by the director of the division thereunder, or under this chapter (R. S. 43:21-1 et seq.), shall be deemed to be performed by the division.

(f) "Contributions" means the money payments to the State unemployment compensation fund required by this chapter.

(g) "Employing unit" means any individual or type of organization, including any partnership, association, trust, estate, joint-stock company, insurance company or corporation, whether domestic or foreign, or the receiver, trustee in bankruptcy, trustee or successor thereof, or the legal representative of a deceased person, which has or subsequent to January first,

70 one thousand nine hundred and thirty-six, had in its employ one or more  
 71 individuals performing services for it within this State. All individuals  
 72 performing services within this State for any employing unit which main-  
 73 tains two or more separate establishments within this State shall be deemed  
 74 to be employed by a single employing unit for all the purposes of this  
 75 chapter. Whenever any employing unit contracts with or has under it any  
 76 contractor or subcontractor for any employment which is part of its usual  
 77 trade, occupation, profession, or business, unless the employing unit as well  
 78 as each such contractor or subcontractor is an employer by reason of sub-  
 79 section (c) of section 43:21-8 of this Title or subsection (h) of this section,  
 80 the employing unit shall for all the purposes of this chapter be deemed  
 81 to employ each individual in the employ of each such contractor or subcon-  
 82 tractor for each day during which such individual is engaged in performing  
 83 such employment; except that each such contractor or subcontractor who  
 84 is an employer by reason of subsection (c) of section 43:21-8 of this Title  
 85 or subsection (h) of this section, shall alone be liable for the contribu-  
 86 tions measured by wages payable to individuals in his employ, and except  
 87 that any employing unit who shall become liable for and pay contributions  
 88 with respect to individuals in the employ of any such contractor or sub-  
 89 contractor who is not an employer by reason of subsection (c) of section  
 90 43:21-8 of this Title or subsection (h) of this section, may recover the  
 91 same from such contractor or subcontractor. Each individual employed to  
 92 perform or to assist in performing the work of any agent or employee of  
 93 an employing unit shall be deemed to be employed by such employing unit  
 94 for all the purposes of this chapter, whether such individual was hired or  
 95 paid directly by such employing unit or by such agent or employee; *pro-*  
 96 *vided*, the employing unit had actual or constructive knowledge of the work.

97 (h) "Employer" means:

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



101 ceding calendar year, has or had in employment four or more individuals  
 102 (irrespective of whether the same individuals are or were employed in each  
 103 such day);

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

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

111 (4) Any employing unit which together with one or more other em-  
 112 ploying units, is owned or controlled (by legally enforceable means or other-  
 113 wise), directly or indirectly by the same interests, or which owns or con-  
 114 trols one or more other employing units (by legally enforceable means or  
 115 otherwise), and which, if treated as a single unit with such other employ-  
 116 ing unit or interest, would be an employer under paragraph (1) of this  
 117 subsection;

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

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

124 (i) (1) "Employment" means service, including service in interstate  
 125 commerce performed for remuneration or under any contract of hire, writ-  
 126 ten or oral, express or implied.

127 (2) The term "employment" shall include an individual's entire serv-  
 128 ice, performed within or both within and without this State if:

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

130 (B) The service is not localized in any State but some of the serv-  
 131 ice is performed in this State, and (i) the base of operations, or, if there

132 is no base of operations, then the place from which such service is di-  
 133 rected or controlled, is in this State; or (ii) the base of operations  
 134 or place from which such service is directed or controlled is not in  
 135 any State in which some part of the service is performed, but the indi-  
 136 vidual's residence is in this State.

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

142 (4) Services not covered under paragraph (2) of this subsection, and  
 143 performed entirely without this State, with respect to no part of which con-  
 144 tributions are required and paid under an unemployment compensation law  
 145 of any other State or of the Federal Government, shall be deemed to be  
 146 employment subject to this chapter if the individual performing such serv-  
 147 ices is a resident of this State and the [commission] division approves the  
 148 election of the employing unit for whom such services are performed that the  
 149 entire service of such individual shall be deemed to be employment subject to  
 150 this chapter; *provided*, written objections on the part of a substantial pro-  
 151 portion of such individuals affected are not presented to the [commission]  
 152 division within ten days following the filing of such election.

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

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

155 (B) the service is performed both within and without such State,  
 156 but the service performed without such State is incidental to the indi-  
 157 vidual's service within the State, for example, is temporary or transi-  
 158 tory in nature or consists of isolated transactions.

159 (6) Services performed by an individual for remuneration shall be  
 160 deemed to be employment subject to this chapter unless and until it is  
 161 shown to the satisfaction of the [commission] division that

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

165           (B) such service is either outside the usual course of the business  
166           for which such service is performed, or that such service is performed  
167           outside of all the places of business of the enterprise for which such  
168           service is performed; and

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

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

172           (A) Agricultural labor;

173           (B) Domestic service in a private home;

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

177           (D) Service performed in the employ of this State or of any politi-  
178           cal subdivision thereof or of any instrumentality of this State or its  
179           political subdivisions;

180           (E) Service performed in the employ of any other State or its  
181           political subdivisions, or of the United States Government, or of an  
182           instrumentality of any other State or States or their political subdivi-  
183           sions or of the United States;

184           (F) Services performed in the employ of a corporation, commu-  
185           nity chest, fund, or foundation, organized and operated exclusively for  
186           religious, charitable, scientific, literary, hospital, benevolent, philan-  
187           thropic, or educational purposes, or for the prevention of cruelty to  
188           children or animals, no part of the net earnings of which inures to the  
189           benefit of any private shareholder or individual;

190           (G) Services performed in the employ of fraternal beneficiary so-  
191           cieties, orders, or associations operating under the lodge system or for  
192           the exclusive benefit of the members of a fraternity itself operating  
193           under the lodge system and providing for the payment of life, sick,

194 accident or other benefits to the members of such society, order, or  
 195 association, or their dependents;

196 (H) Services performed as an officer or other employee of any build-  
 197 ing and loan association of this State, except where such services con-  
 198 stitute the principal employment of the individual; services performed  
 199 as an officer or other employee of any building and loan association  
 200 where such association is a member of the Federal Home Loan Bank  
 201 System; services performed as an officer or other employee of any bank  
 202 which is a member of the Federal Reserve System;

203 (I) Service performed after June thirtieth, one thousand nine hun-  
 204 dred and thirty-nine, with respect to which unemployment compensa-  
 205 tion is payable under the Railroad Unemployment Insurance Act (52  
 206 Stat. 1094).

207 (J) Service performed by agents of insurance companies, exclu-  
 208 sive of industrial insurance agents, or by agents of investment com-  
 209 panies, who are compensated wholly on a commission basis.

210 (K) Services performed by real estate salesmen or brokers who are  
 211 compensated wholly on a commission basis.

212 (L) Services performed in the employ of any veterans' organiza-  
 213 tion chartered by Act of Congress or of any auxiliary thereof, no part  
 214 of the net earnings of which organization, or auxiliary thereof, inures  
 215 to the benefit of any private shareholder or individual.

216 (M) Service heretofore or hereafter performed for or in behalf of  
 217 the owner or operator of any theatre, ballroom, amusement hall or  
 218 other place of entertainment, not in excess of ten weeks in any calen-  
 219 dar year for the same owner or operator, by any leader or musician of  
 220 a band or orchestra, commonly called a "name band," entertainer,  
 221 vaudeville artist, actor, actress, singer or other entertainer.

222 (N) Services performed by an individual for a labor union organiza-  
 223 tion, known and recognized as a union local, as a member of a committee  
 224 or committees reimbursed by the union local for time lost from regular  
 225 employment, or as a part-time officer of a union local and the remunera-

226 tion for such services is less than two hundred fifty dollars (\$250.00)  
227 in a calendar year.

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

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

234 (l) "State" includes, in addition to the States of the United States of  
235 America, Alaska, Hawaii, and the District of Columbia.

236 (m) Unemployment.

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

240 (2) The term "remuneration," with respect to benefit years commenc-  
241 ing prior to January first, one thousand nine hundred and fifty-three, and as  
242 used in this subsection, shall include only that part of the same which exceeds  
243 three dollars (\$3.00) for any one week.

244 (3) An individual's week of unemployment shall be deemed to com-  
245 mence only after his registration at an employment office, except as the  
246 **[commission]** division may by regulation otherwise prescribe.

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

250 (o) "Wages" means remuneration payable by employers for employ-  
251 ment prior to January first, one thousand nine hundred and forty-seven,  
252 and paid prior to such date; and means remuneration paid subsequent to  
253 December thirty-first, one thousand nine hundred and forty-six, by employ-  
254 ers for employment; *provided, however,* that for eligibility and benefit pur-  
255 poses wages earned but not paid when the amount thereof has been calcu-  
256 lated and is due as determined by the established and customary practices  
257 of the employer shall be construed as having been paid when earned.

258 (p) "Remuneration" means all compensation for personal services, in-  
 259 cluding commissions and bonuses and the cash value of all compensation in  
 260 any medium other than cash.

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

263 (r) "Calendar quarter" means the period of three consecutive calen-  
 264 dar months ending on March thirty-first, June thirtieth, September thir-  
 265 tieth, or December thirty-first[, excluding, however, any calendar quarter  
 266 or portion thereof which occurs prior to January first, one thousand nine  
 267 hundred and thirty-seven, or the equivalent thereof as the commission may  
 268 by regulation prescribe].

269 (s) "Investment company" means any company as defined in para-  
 270 graph 1-a of chapter three hundred twenty-two of the laws of one thousand  
 271 nine hundred and thirty-eight, entitled "An act concerning investment com-  
 272 panies, and supplementing Title 17 of the Revised Statutes by adding  
 273 thereto a new chapter entitled 'investment companies.' "

274 (t) "Base week" means any calendar week of an individual's base year  
 275 during which he earned in employment from an employer remuneration  
 276 equal to not less than fifteen dollars (\$15.00).

277 (u) "Average weekly wage" means the amount derived by dividing an  
 278 individual's total wages received during his base year base weeks from  
 279 that most recent base year employer with whom he had established at least  
 280 seventeen base weeks, by the number of base weeks in which such wages were  
 281 earned. In the event that such claimant had no employer in his base year with  
 282 whom he had established at least seventeen base weeks, then such individual's  
 283 average weekly wage shall be computed as if all of his base week wages were  
 284 received from one employer and as if all his base weeks of employment had  
 285 been performed in the employ of one employer.

286 If on application of a claimant it is determined that he has been em-  
 287 ployed during at least the four weeks immediately preceding his separa-

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

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

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### STATEMENT

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

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

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

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

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

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

#### 4. Prompt payment of benefits.

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

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



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

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

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

[OFFICIAL COPY REPRINT]

SENATE, No. 270

# STATE OF NEW JERSEY

INTRODUCED MAY 3, 1954

By Messrs. DUMONT and SHERSHIN

Referred to Committee on Labor and Industrial Relations

AN ACT concerning unemployment compensation and temporary disability benefits, and amending section 43:21-3 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  
2 follows:

3 43:21-3. (a) Payment of benefits. All benefits shall be *promptly* paid  
4 from the fund through **[the]** *local* employment offices **[, or such other agen-**  
5 **cies as may be designated]** in accordance with such regulations as may be  
6 prescribed hereunder.

7 (b) Weekly benefits for unemployment.

8 (1) With respect to an individual's benefit year commencing prior to  
9 January 1, 1953, such individual, if eligible and unemployed (as defined in  
10 subsection (m) of section 43:21-19 of this Title) in any week, shall be paid  
11 with respect to such week (except as to final payment) an amount equal to  
12 his weekly benefit rate less any remuneration in excess of \$3.00 paid or  
13 payable to him for such week; provided, that such amount shall be com-  
14 puted to the next highest multiple of \$1.00, if not already a multiple thereof.

15 (2) With respect to an individual's benefit year commencing on or after  
16 January 1, 1953, such individual, if eligible and unemployed (as defined in

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

17 subsection (m) of section 43:21-19 of this Title), shall be paid an amount  
 18 (except as to final payment) equal to his weekly benefit rate with respect  
 19 to any week in which he has earned no remuneration or remuneration equal  
 20 to less than  $\frac{1}{2}$  said rate, or shall be paid an amount equal to  $\frac{1}{2}$  his weekly  
 21 benefit rate with respect to any week in which he has earned remuneration  
 22 equal to or more than  $\frac{1}{2}$  said rate but less than said rate.

23 (c) Weekly benefit rate.

24 (1) With respect to an individual to whom benefits shall be payable as  
 25 provided in paragraph (1) of subsection (b) of this section, the weekly  
 26 benefit rate shall be  $\frac{1}{22}$  of his total wages in that calendar quarter in which  
 27 said total wages were highest during his base year; provided, that such rate  
 28 shall be computed to the next highest multiple of \$1.00 if not already a  
 29 multiple thereof, and shall not be more than \$30.00 nor less than \$10.00.

29A (2) With respect to an individual to whom benefits shall be payable as  
 29B provided in paragraph (2) of subsection (b) of this section, his weekly ben-  
 29C efit rate under each benefit determination shall be  $\frac{2}{3}$  of his average weekly  
 29D wage; provided, that such rate shall be computed to the next highest mul-  
 29E tiple of \$1.00 if not already a multiple thereof, and shall not be more than  
 29F \$30.00 nor less than \$10.00.

30 (d) Maximum total benefits.

31 (1) With respect to an individual to whom weekly benefits for unem-  
 32 ployment shall be payable as provided in paragraph (1) of subsection (b) of  
 33 this section, the maximum total amount of benefits payable to any eligible  
 34 individual under either of subsections (c) and (f) of section 43:21-4 of this  
 35 Title during any benefit year shall be either  $\frac{1}{3}$  of his total wages during  
 36 his base year, computed to the next highest multiple of \$1.00, if not already  
 37 a multiple thereof, or 26 times his weekly benefit rate, whichever is the  
 38 lesser; in no event, however, are such total benefits under either of said  
 39 subsections (c) and (f) to be less than 10 times his weekly benefit rate. In  
 40 the event that an individual qualified for benefits under both of said sub-  
 41 sections during any benefit year, the maximum total amount of benefits pay-

42 able under said subsections combined to such individual during the benefit  
 43 year shall be  $1\frac{1}{2}$  times the maximum amount of benefits payable under one  
 44 of said subsections.

45 (2) With respect to an individual to whom benefits shall be payable as  
 46 provided in paragraph (2) of subsection (b) of this section:

47 (A) Such individual shall be entitled to receive, under each suc-  
 48 cessive benefit determination relating to each of his base year employ-  
 49 ers, a total amount of benefits equal to  $\frac{3}{4}$  of his base weeks from the  
 50 employer in question multiplied by his weekly benefit rate; but the  
 51 amount of benefits thus resulting under any determination made with  
 52 respect to an employer shall be adjusted to the next higher multiple  
 53 of  $\frac{1}{2}$  of said weekly benefit rate, if not already a multiple thereof.

54 (B) No such individual shall be entitled to receive benefits under  
 55 this Title for more than 26 weeks in any benefit year under either of  
 56 subsections (c) and (f) of section 43:21-4 of this Title. In the event  
 57 that any individual qualified for benefits under both of said subsections  
 58 during any benefit year, the maximum total amount of benefits pay-  
 59 able under said subsections combined to such individual during the  
 60 benefit year shall be  $1\frac{1}{2}$  times the maximum amount of benefits pay-  
 61 able under 1 of said subsections. For the purposes of this paragraph,  
 62 any week for which an individual receives a half-payment as provided  
 63 in paragraph (2) of subsection (b) of this section shall be counted as  
 64  $\frac{1}{2}$  of a week.

65 (C) If the full weekly benefit rate cannot be paid to an individual  
 66 who is otherwise entitled thereto because the amount of unused bene-  
 67 fits remaining under the applicable benefit determination is only  $\frac{1}{2}$  of  
 68 said rate, he shall be paid that amount; but if such individual is en-  
 69 titled to additional benefits under a successive determination, he shall  
 70 also be paid for the week in question an amount equal to  $\frac{1}{2}$  of his weekly  
 71 benefit rate under said successive determination.

1 2. This act shall take effect with respect to initial claims and continued  
 2 claims filed on and after January 1, 1955.

SENATE, No. 270

# STATE OF NEW JERSEY

INTRODUCED MAY 3, 1954

By Mr. DUMONT

Referred to Committee on Labor and Industrial Relations

AN ACT concerning unemployment compensation and temporary disability benefits, and amending section 43:21-3 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  
2 follows:

3 43:21-3. (a) Payment of benefits. All benefits shall be paid from the  
4 fund through *the local* employment offices **],** or such other agencies as may  
5 be designated**]** in accordance with such regulations as may be prescribed  
6 hereunder.

7 (b) Weekly benefits for unemployment.

8 (1) With respect to an individual's benefit year commencing prior to  
9 January 1, 1953, such individual, if eligible and unemployed (as defined in  
10 subsection (m) of section 43:21-19 of this Title) in any week, shall be paid  
11 with respect to such week (except as to final payment) an amount equal to  
12 his weekly benefit rate less any remuneration in excess of \$3.00 paid or  
13 payable to him for such week; provided, that such amount shall be com-  
14 puted to the next highest multiple of \$1.00, if not already a multiple thereof.

15 (2) With respect to an individual's benefit year commencing on or after  
16 January 1, 1953, such individual, if eligible and unemployed (as defined in

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

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185 W. State Street  
Trenton, N. J.

17 subsection (m) of section 43:21-19 of this Title), shall be paid an amount  
 18 (except as to final payment) equal to his weekly benefit rate with respect  
 19 to any week in which he has earned no remuneration or remuneration equal  
 20 to less than  $\frac{1}{2}$  said rate, or shall be paid an amount equal to  $\frac{1}{2}$  his weekly  
 21 benefit rate with respect to any week in which he has earned remuneration  
 22 equal to or more than  $\frac{1}{2}$  said rate but less than said rate.

23 (c) Weekly benefit rate.

24 (1) With respect to an individual to whom benefits shall be payable as  
 25 provided in paragraph (1) of subsection (b) of this section, the weekly  
 26 benefit rate shall be  $\frac{1}{22}$  of his total wages in that calendar quarter in which  
 27 said total wages were highest during his base year; provided, that such rate  
 28 shall be computed to the next highest multiple of \$1.00 if not already a  
 29 multiple thereof, and shall not be more than \$30.00 nor less than \$10.00.

29A (2) With respect to an individual to whom benefits shall be payable as  
 29B provided in paragraph (2) of subsection (b) of this section, his weekly ben-  
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 29D wage; provided, that such rate shall be computed to the next highest mul-  
 29E tiple of \$1.00 if not already a multiple thereof, and shall not be more than  
 29F \$30.00 nor less than \$10.00.

30 (d) Maximum total benefits.

31 (1) With respect to an individual to whom weekly benefits for unem-  
 32 ployment shall be payable as provided in paragraph (1) of subsection (b) of  
 33 this section, the maximum total amount of benefits payable to any eligible  
 34 individual under either of subsections (c) and (f) of section 43:21-4 of this  
 35 Title during any benefit year shall be either  $\frac{1}{3}$  of his total wages during  
 36 his base year, computed to the next highest multiple of \$1.00, if not already  
 37 a multiple thereof, or 26 times his weekly benefit rate, whichever is the  
 38 lesser; in no event, however, are such total benefits under either of said  
 39 subsections (c) and (f) to be less than 10 times his weekly benefit rate. In  
 40 the event that an individual qualified for benefits under both of said sub-  
 41 sections during any benefit year, the maximum total amount of benefits pay-

42 able under said subsections combined to such individual during the benefit  
 43 year shall be  $1\frac{1}{2}$  times the maximum amount of benefits payable under one  
 44 of said subsections.

45 (2) With respect to an individual to whom benefits shall be payable as  
 46 provided in paragraph (2) of subsection (b) of this section:

47 (A) Such individual shall be entitled to receive, under each suc-  
 48 cessive benefit determination relating to each of his base year employ-  
 49 ers, a total amount of benefits equal to  $\frac{3}{4}$  of his base weeks from the  
 50 employer in question multiplied by his weekly benefit rate; but the  
 51 amount of benefits thus resulting under any determination made with  
 52 respect to an employer shall be adjusted to the next higher multiple  
 53 of  $\frac{1}{2}$  of said weekly benefit rate, if not already a multiple thereof.

54 (B) No such individual shall be entitled to receive benefits under  
 55 this Title for more than 26 weeks in any benefit year under either of  
 56 subsections (c) and (f) of section 43:21-4 of this Title. In the event  
 57 that any individual qualified for benefits under both of said subsections  
 58 during any benefit year, the maximum total amount of benefits pay-  
 59 able under said subsections combined to such individual during the  
 60 benefit year shall be  $1\frac{1}{2}$  times the maximum amount of benefits pay-  
 61 able under 1 of said subsections. For the purposes of this paragraph,  
 62 any week for which an individual receives a half-payment as provided  
 63 in paragraph (2) of subsection (b) of this section shall be counted as  
 64  $\frac{1}{2}$  of a week.

65 (C) If the full weekly benefit rate cannot be paid to an individual  
 66 who is otherwise entitled thereto because the amount of unused bene-  
 67 fits remaining under the applicable benefit determination is only  $\frac{1}{2}$  of  
 68 said rate, he shall be paid that amount; but if such individual is en-  
 69 titled to additional benefits under a successive determination, he shall  
 70 also be paid for the week in question an amount equal to  $\frac{1}{2}$  of his weekly  
 71 benefit rate under said successive determination.

1 2. This act shall take effect with respect to initial claims and continued  
 2 claims filed on and after January 1, 1955.

## STATEMENT

The purpose of this bill is to provide speedier payment of unemployment benefits to claimants who are out of work through no fault of their own.

Under present procedures of the Division of Employment Security, an unemployed worker files a claim for benefits at one of the agency's 36 local employment offices. The local office then makes eligibility and monetary determinations as to the claimant's benefit status. Copies of these determinations are forwarded to the agency's central office at Trenton. Subsequently the claimant receives through the mail his unemployment benefits coupon booklet. When the claimant appears at the local office on his second assigned reporting date he signs a coupon which is transmitted to Trenton where a benefit check is drawn and mailed to the claimant's home address.

The present arrangement of decentralized local office determination of benefit status and central office check writing necessarily results in a delay of benefit payments to claimants. There is no good reason why the entire operation should not be consolidated at the local employment office level. Therefore, it is the intent of this bill that unemployment benefit checks should be drawn in the local employment offices and paid to eligible claimants when appearing on their assigned reporting dates. Failure to pay benefits at the local office precludes the "request reporting" system of unemployment insurance administration from operating at maximum effectiveness in speeding benefit checks to claimants.



SENATE COMMITTEE AMENDMENTS TO

**SENATE, No. 270**

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# STATE OF NEW JERSEY

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ADOPTED MAY 24, 1954

Amend page 1, section 1, line 3, before the word "paid" insert "promptly".

Amend page 1, section 1, line 4, before the word "local" delete "the".

[THIRD OFFICIAL COPY REPRINT]

ASSEMBLY, No. 264

STATE OF NEW JERSEY

INTRODUCED MARCH 7, 1955

By Messrs. MOSCH and MINTZ

Referred to Committee on Labor and Industrial Relations

[AN ACT concerning unemployment compensation, and amending section 43:21-3 of the Revised Statutes.] *An act concerning unemployment compensation, and amending sections 43:21-3, 43:21-6 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  
2 follows:

3 43:21-3. (a) Payment of benefits. All benefits shall be *promptly* paid  
4 from the fund through *local* employment offices[, or such other agencies as  
5 may be designated] in accordance with such regulations as may be pre-  
5A scribed hereunder.

6 (b) Weekly benefits for unemployment.

7 [(1) With respect to an individual's benefit year commencing prior to  
8 January 1, 1953, such individual, if eligible and unemployed (as defined in  
9 subsection (m) of section 43:21-19 of this Title) in any week, shall be paid  
10 with respect to such week (except as to final payment) an amount equal to  
11 his weekly benefit rate less any remuneration in excess of \$3.00 paid or pay-  
12 able to him for such week; provided, that such amount shall be computed to  
13 the next highest multiple of \$1.00, if not already a multiple thereof.

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

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

22 (c) Weekly benefit rate.

22A (1) *With respect to an individual whose benefit year commences prior to*  
 22B *October 1, 1955, his weekly benefit rate under each benefit determination*  
 22C *shall be  $\frac{2}{3}$  of his average weekly wage; provided, that such rate shall be*  
 22D *computed to the next highest multiple of \$1.00 if not already a multiple*  
 22E *thereof, and shall not be more than \$30.00 nor less than \$10.00.*

23 [(1) With respect to an individual to whom benefits shall be payable as  
 24 provided in paragraph (1) of subsection (b) of this section, the weekly bene-  
 25 fit rate shall be  $\frac{1}{22}$  of his total wages in that calendar quarter in which  
 26 said total wages were highest during his base year; provided, that such rate  
 27 shall be computed to the next highest multiple of \$1.00 if not already a mul-  
 28 tiple thereof, and shall not be more than \$30.00 nor less than \$10.00.

29 [(2)] With respect to an individual to whom benefits shall be payable as  
 30 provided in [paragraph (2) of subsection (b) of] this section, his weekly  
 31 benefit rate under each benefit determination shall be  $\frac{2}{3}$  of his average  
 32 weekly wage; provided, that such rate shall be computed to the next highest  
 33 multiple of \$1.00 if not already a multiple thereof, and shall not be more than  
 34 [\$30.00] \$35.00 nor less than \$10.00.]

34A [(1)] (2) *With respect to an individual whose benefit year commences*  
 34B *on or after October 1, 1955, and whose average weekly wage [(as defined in*  
 34C *subsection (u) of section 43:21-19 of this Title)] does not exceed \$45.00, his*  
 34D *weekly benefit rate under each benefit determination shall be  $\frac{2}{3}$  of his*  
 34E *average weekly wage; provided, that such rate shall be computed to the next*

34F highest multiple of \$1.00 if not already a multiple thereof, and shall not be  
34G more than \$30.00 nor less than \$10.00.

34H **[(2)]** (3) With respect to an individual whose benefit year commences  
34I on or after October 1, 1955, and whose average weekly wage **[(as defined in**  
34J subsection (u) of section 43:21-19 of this Title)**]** exceeds \$45.00, his weekly  
34K benefit rate under each benefit determination shall be \$30.00 plus **[1/5]**  
34L  $2/5$  of the amount by which his average weekly wage exceeds \$45.00; pro-  
34M vided, that such rate shall be computed to be the next highest multiple of  
34N \$1.00 if not already a multiple thereof, and shall not be more than \$35.00.

35 (d) Maximum total benefits.

36 **[(1)** With respect to an individual to whom weekly benefits for unem-  
37 ployment shall be payable as provided in paragraph (1) of subsection (b)  
38 of this section, the maximum total amount of benefits payable to any  
39 eligible individual under either of subsections (c) and (f) of section 43:21-4  
40 of this Title during any benefit year shall be either  $1/3$  of his total wages  
41 during his base year, computed to the next highest multiple of \$1.00, if not  
42 already a multiple thereof, or 26 times his weekly benefit rate, whichever  
43 is the lesser; in no event, however, are such total benefits under either of  
44 said subsections (c) and (f) to be less than 10 times his weekly benefit rate.  
45 In the event that an individual qualified for benefits under both of said sub-  
46 sections during any benefit year, the maximum total amount of benefits pay-  
47 able under said subsections combined to such individual during the benefit  
48 year shall be  $1\frac{1}{2}$  times the maximum amount of benefits payable under 1  
49 of said subsections.

50 **(2)]** With respect to an individual to whom benefits shall be payable as  
51 provided in **[paragraph (2) of subsection (b) of]** this section:

52 **[(A)]** (1) Such individual shall be entitled to receive, under each suc-  
53 cessive benefit determination relating to each of his base year employers,  
54 a total amount of benefits equal to  $3/4$  of his base weeks from the em-  
55 ployer in question multiplied by his weekly benefit rate; but the amount  
56 of benefits thus resulting under any determination made with respect

57 to an employer shall be adjusted to the next higher multiple of  $\frac{1}{2}$  of  
 58 said weekly benefit rate, if not already a multiple thereof.

59 **[(B)]** (2) No such individual shall be entitled to receive benefits  
 60 under this Title for more than 26 weeks in any benefit year under either  
 61 of subsections (c) and (f) of section 43:21-4 of this Title. In the event  
 62 that any individual qualifies for benefits under both of said subsections  
 63 during any benefit year, the maximum total amount of benefits payable  
 64 under said subsections combined to such individual during the benefit  
 65 year shall be  $1\frac{1}{2}$  times the maximum amount of benefits payable under  
 66 1 of said subsections. For the purposes of this paragraph, any week  
 67 for which an individual receives a half-payment as provided in **[para-**  
 68 **graph (2) of]** subsection (b) of this section shall be counted as  $\frac{1}{2}$  of a  
 69 week.

70 **[(C)]** (3) If the full weekly benefit rate cannot be paid to an indi-  
 71 vidual who is otherwise entitled thereto because the amount of unused  
 72 benefits remaining under the applicable benefit determination is only  $\frac{1}{2}$  of  
 73 said rate, he shall be paid that amount; but if such individual is entitled  
 74 to additional benefits under a successive determination, he shall also be  
 75 paid for the week in question an amount equal to  $\frac{1}{2}$  of his weekly bene-  
 76 fit rate under said successive determination.

1 **[2. This act shall take effect [July] October 1, 1955.]**

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

3 43:21-6. (a) *Filing. Claims for benefits shall be made in accordance*  
 4 *with such regulations as the Director of the Division of Employment Secu-*  
 5 *rity of the Department of Labor and Industry of the State of New Jersey*  
 6 *may approve. Each employer shall post and maintain on his premises printed*  
 7 *notices of his subject status, of such design, in such numbers, and at such*  
 8 *places as the director of the division may determine to be necessary to give*  
 9 *notice thereof to persons in the employer's service. Each employer shall give*  
 10 *to each individual at the time he becomes unemployed a printed copy of*

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11 *benefit instructions. Both the aforesaid notices and instruction shall be sup-*  
 12 *plied by the division to employers without cost to them.*

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

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

32     **(C)** *Any claimant or any interested entity or person may file an appeal*  
 33 *from any determination under paragraphs (1) and (2) of this subsection*  
 34 *within 5 calendar days after the delivery of notification, or within 7 calen-*  
 35 *dar days after the mailing of notification, of such determination. Unless*  
 36 *such an appeal is filed such determination shall be final and benefits shall*  
 37 *be paid or denied in accordance therewith. If an appeal is duly filed, benefits*  
 38 *with respect to the period covered by the appeal shall be payable only after*  
 39 *a determination of entitlement by the appellate tribunal; benefits payable for*  
 40 *periods pending an appeal and not in dispute shall be paid as such benefits*

41 accrue; provided, that insofar as any such appeal is or may be an appeal  
 42 from a determination to the effect that the claimant is disqualified under the  
 43 provisions of section 43:21-5 of the Revised Statutes or any amendments  
 44 thereof or supplements thereto, benefits pending determination of the ap-  
 45 peal shall be withheld only for the period of disqualification as provided  
 46 for in said section, and notwithstanding such appeal the benefits otherwise  
 47 provided by this act shall be paid for the period subsequent to such period  
 48 of disqualification; and provided, also, that if there are 2 determinations of  
 49 entitlement, benefits for the period covered by such determination shall be  
 50 paid regardless of any appeal which may thereafter be taken, but no em-  
 51 ployer's account shall be charged with benefits so paid if the decision is  
 52 finally reversed.

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

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

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

68       If any employer or employing unit fails to respond to the request for  
 69 information within 7 days after the mailing of such request, the deputy shall  
 70 rely entirely on information from other sources, including an affidavit to the  
 71 best of the knowledge and belief of the claimant with respect to his wages

72 and time worked. Except in the event of fraud, if it is determined that any  
73 information in such affidavit is erroneous, no penalty shall be imposed on  
74 the claimant.

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

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

94       The deputy shall issue a separate initial benefit determination with re-  
95 spect to each of the claimant's base year employers, starting with the most  
96 recent employer and continuing as necessary in the inverse chronological  
97 order of the claimant's last date of employment with each such employer.  
98 If an appeal is taken from an initial determination as hereinafter provided  
99 by any employer other than the first chargeable base-year employer, then  
100 such appeal shall be limited in scope to include only 1 or more of the follow-  
101 ing matters:



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

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

106           *(C) the refusal of suitable work offered by the chargeable em-*  
 107           *ployer filing the appeal.*

108           *The amount of benefits payable under an initial determination may be*  
 109           *reduced or canceled if necessary to avoid payment of benefits for a number*  
 110           *of weeks in excess of the maximum specified in subsection (d) of section*  
 111           *43:21-3 of this Title.*

112           *Unless the claimant or any interested party within 7 calendar days after*  
 113           *delivery of notification of an initial determination or within 10 calendar*  
 114           *days after such notification was mailed to his or their last-known address*  
 115           *and addresses, files an appeal from such decision, such decision shall be final*  
 116           *and benefits shall be paid or denied in accordance therewith, except for such*  
 117           *determinations as may be altered in benefit amounts or duration as pro-*  
 118           *vided in this paragraph. If an appeal is duly filed, benefits with respect*  
 119           *to the period covered by the appeal shall be payable only after a determina-*  
 120           *tion of entitlement by the appellate tribunal; benefits payable for periods*  
 121           *pending an appeal and not in dispute shall be paid as such benefits accrue;*  
 122           *provided, that insofar as any such appeal is or may be an appeal from a de-*  
 123           *termination to the effect that the claimant is disqualified under the provi-*  
 124           *sions of section 43:21-5 of the Revised Statutes or any amendments thereof*  
 125           *or supplements thereto, benefits pending determination of the appeal shall*  
 126           *be withheld only for the period of disqualification as provided for in said*  
 127           *section, and notwithstanding such appeal the benefits otherwise provided by*  
 128           *this act shall be paid for the period subsequent to such period of disquali-*  
 129           *fication; and provided, also, that if there are 2 determinations of entitlement,*  
 130           *benefits for the period covered by such determinations shall be paid regard-*  
 131           *less of any appeal which may thereafter be taken, but no employer's account*  
 132           *shall be charged with benefits so paid if the decision is finally reversed.*

133       (3) *Procedure for making initial determinations in certain cases of con-*  
 134 *current employment, with respect to benefit years commencing on or after*  
 135 *January 1, 1953.*

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

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

163 *determination, shall be appealable in the same manner and under the same*  
164 *limitations as is provided in the case of initial determinations.*

165       (c) *Appeals. Unless such appeal is withdrawn, an appeal tribunal, after*  
166 *affording the parties reasonable opportunity for fair hearing, shall affirm or*  
167 *modify the findings of fact and the determination. The parties shall be duly*  
168 *notified of such tribunal's decision, together with its reasons therefor, which*  
169 *shall be deemed to be the final decision of the board of review, unless within*  
170 *10 days after the date of notification or mailing of such decision, fur-*  
171-172 *ther appeal is initiated pursuant to subsection (e) of this section.*

173       (d) *Appeal tribunals. To hear and decide disputed benefit claims, in-*  
174 *cluding appeals from determinations with respect to demands for refunds of*  
175 *benefits under section 43:21-16 (d) of this chapter (R. S. 43:21-1 et seq.),*  
176 *the director with the approval of the Commissioner of Labor and Industry*  
177 *shall establish 1 or more impartial appeal tribunals consisting in each case of*  
178 *either a salaried examiner or a body, consisting of 3 members, 1 of whom*  
179 *shall be a salaried examiner, who shall serve as chairman, 1 of whom shall*  
180 *be a representative of employers and the other of whom shall be a repre-*  
181 *sentative of employees; each of the latter 2 members shall serve at the*  
182 *pleasure of the commissioner and be paid a fee of not more than \$20.00 per*  
183 *day of active service on such tribunal plus necessary expenses. No person*  
184 *shall participate on behalf of the division in any case in which he is an in-*  
185 *terested party. The director may designate alternates to serve in the ab-*  
186 *sence or disqualification of any member of an appeal tribunal. The chair-*  
187 *man shall act alone in the absence or disqualification of any other member*  
188 *and his alternates. In no case shall the hearings proceed unless the chair-*  
189 *man of the appeal tribunal is present.*

190       (e) *Board of review. The board of review may on its own motion*  
191 *affirm, modify, or set aside any decision of an appeal tribunal on the basis*  
192 *of the evidence previously submitted in such case, or direct the taking of*  
193 *additional evidence, or may permit any of the parties to such decision to*

194 *initiate further appeals before it. The board of review shall permit such*  
 195 *further appeal by any of the parties interested in a decision of an appeal*  
 196 *tribunal which is not unanimous and from any determination which has been*  
 197 *overruled or modified by any appeal tribunal. The board of review may re-*  
 198 *move to itself or transfer to another appeal tribunal the proceedings on any*  
 199 *claim pending before an appeal tribunal. Any proceeding so removed to*  
 200 *the board of review shall be heard by a quorum thereof in accordance with*  
 201 *the requirements of subsection (c) of this section. The board of review*  
 202 *shall promptly notify the interested parties of its findings and decision.*

203     *(f) Procedure. The manner in which disputed benefit claims, and ap-*  
 204 *peals from determinations with respect to (1) claims for benefits and (2)*  
 205 *demands for refunds of benefits under section 43:21-16 (d) of this chapter*  
 206 *(R. S. 43:21-1 et seq.) shall be presented, the reports thereon required from*  
 207 *the claimant and from employers, and the conduct of hearings and appeals*  
 208 *shall be in accordance with rules prescribed by the board of review for de-*  
 209 *termining the rights of the parties, whether or not such rules conform to*  
 210 *common law or statutory rules of evidence and other technical rules of pro-*  
 211 *cedure. A full and complete record shall be kept of all proceedings in con-*  
 212 *nection with a disputed claim. All testimony at any hearing upon a disputed*  
 213 *claim shall be recorded, but need not be transcribed unless the disputed*  
 214 *claim is further appealed.*

215     *(g) Witness fees. Witnesses subpoenaed pursuant to this section shall*  
 216 *be allowed fees at a rate fixed by the director. Such fees and all expenses*  
 217 *of proceedings involving disputed claims shall be deemed a part of the ex-*  
 218 *pense of administering this chapter (R. S. 43:21-1 et seq.).*

219     *(h) Court review. Any decision of the board of review shall become*  
 220 *final as to any party upon the mailing of a copy thereof to such party or to*  
 221 *his attorney, or upon the mailing of a copy thereof to such party at his last-*  
 222 *known address. The Division of Employment Security and any party to a*  
 223 *proceeding before the board of review may secure judicial review of the final*  
 224 *decision of the board of review. Any party not joining in the appeal shall*

225 be made a defendant; the board of review shall be deemed to be a party to  
 226 any judicial action involving the review of, or appeal from, any of its deci-  
 227 sions, and may be represented in any such judicial action by any qualified  
 228 attorney who may be a regular salaried employee of the board of review or  
 229 has been designated by it for that purpose, or, at the board of review's re-  
 230 quest, by the Attorney-General.

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

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

2 43:21-19. As used in this chapter, unless the context clearly requires  
 3 otherwise:

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

7 (2) "Average annual payroll" means the average of the annual pay-  
 8 rolls of any employer for the last 3 or 5 preceding calendar years, which-  
 9 ever average is higher, except that any year or years throughout which an  
 10 employer has had no "annual payroll" because of military service shall be  
 11 deleted from the reckoning; the "average annual payroll" in such case is to  
 12 be determined on the basis of the prior 3 or 5 calendar years in each of which  
 13 the employer had an "annual payroll" in the operation of his business, if the  
 14 employer resumes his business within 12 months after separation, discharge or  
 15 release from such service, under conditions other than dishonorable, and  
 16 makes application to have his "average annual payroll" determined on the

17 basis of such deletion within 12 months after he resumes his business; pro-  
 18 vided, 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 calen-  
 22 dar 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 immediately preceding the beginning of the 12-months’  
 25 period for which the employer’s contribution rate is computed.

26 (b) “Benefits” means the money payments payable to an individual, as  
 27 provided in this chapter, with respect to his unemployment.

28 (c) (1) The term “base year” with respect to benefit years commencing  
 29 prior to January 1, 1953, means the first 4 of the last 5 completed calendar  
 30 quarters immediately preceding the first day of an individual’s benefit year;  
 31 provided, that no calendar quarter shall comprise a part of more than 1 base  
 32 year.

33 (2) “Base year” with respect to benefit years commencing on or after  
 34 January 1, 1953, shall mean the 52 calendar weeks ending with the second  
 35 week immediately preceding an individual’s benefit year.

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

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

53       (f) “Contributions” means the money payments to the State unemploy-  
 54 ment compensation fund required by this chapter.

55       (g) “Employing unit” means any individual or type of organization, in-  
 56 cluding any partnership, association, trust, estate, joint-stock company, insur-  
 57 ance company or corporation, whether domestic or foreign, or the receiver,  
 58 trustee in bankruptcy, trustee or successor thereof, or the legal representative  
 59 of a deceased person, which has or subsequent to January 1, 1936, had in its  
 60 employ 1 or more individuals performing services for it within this State. All  
 61 individuals performing services within this State for any employing unit which  
 62 maintains 2 or more separate establishments within this State shall be deemed  
 63 to be employed by a single employing unit for all the purposes of this chap-  
 64 ter. Whenever any employing unit contracts with or has under it any contrac-  
 65 tor or subcontractor for any employment which is part of its usual trade,  
 66 occupation, profession, or business, unless the employing unit as well as each  
 67 such contractor or subcontractor is an employer by reason of subsection (c)  
 68 of section 43:21-8 of this Title or subsection (h) of this section, the employ-  
 69 ing unit shall for all the purposes of this chapter be deemed to employ each  
 70 individual in the employ of each such contractor or subcontractor for each  
 71 day during which such individual is engaged in performing such employment;  
 72 except that each such contractor or subcontractor who is an employer by rea-  
 73 son of subsection (c) of section 43:21-8 of this Title or subsection (h) of this  
 74 section, shall alone be liable for the contributions measured by wages payable  
 75 to individuals in his employ, and except that any employing unit who shall be-  
 76 come liable for and pay contributions with respect to individuals in the employ  
 77 of any such contractor or subcontractor who is not an employer by reason of  
 78 subsection (c) of section 43:21-8 of this Title or subsection (h) of this section,

79 may recover the same from such contractor or subcontractor. Each individ-  
 80 ual employed to perform or to assist in performing the work of any agent or  
 81 employee of an employing unit shall be deemed to be employed by such em-  
 82 ploying unit for all the purposes of this chapter, whether such individual was  
 83 hired or paid directly by such employing unit or by such agent or employee;  
 84 provided, the employing unit had actual or constructive knowledge of the  
 85 work.

86 (h) "Employer" means:

87 (1) Any employing unit which for some portion of a day, but not  
 88 necessarily simultaneously, in each of 20 different weeks, whether or not  
 89 such weeks are or were consecutive, within either the current or the preced-  
 90 ing calendar year, has or had in employment 4 or more individuals (irre-  
 91 spective of whether the same individuals are or were employed in each such  
 92 day);

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

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

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

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



109       (6) *For the effective period of its election pursuant to subsection (c) of*  
 110 *section 43:21-8 of this Title any other employing unit which has elected to be-*  
 111 *come fully subject to this chapter.*

112       (i) (1) *“Employment” means service, including service in interstate com-*  
 113 *merce performed for remuneration or under any contract of hire, written or*  
 114 *oral, express or implied.*

115       (2) *The term “employment” shall include an individual’s entire service*  
 116 *performed within or both within and without this State if:*

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

118           (B) *The service is not localized in any State but some of the service*  
 119 *is performed in this State, and (i) the base of operations, or, if there is no*  
 120 *base of operations, then the place from which such service is directed or*  
 121 *controlled, is in this State; or (ii) the base of operations or place from*  
 122 *which such service is directed or controlled is not in any State in which*  
 123 *some part of the service is performed, but the individual’s residence is in*  
 124 *this State.*

125       (3) *Services performed within this State but not covered under paragraph*  
 126 *(2) of this subsection shall be deemed to be employment subject to this chap-*  
 127 *ter if contributions are not required and paid with respect to such services*  
 128 *under an unemployment compensation law of any other State or of the Fed-*  
 129 *eral Government.*

130       (4) *Services not covered under paragraph (2) of this subsection, and*  
 131 *performed entirely without this State, with respect to no part of which con-*  
 132 *tributions are required and paid under an unemployment compensation law*  
 133 *of any other State or of the Federal Government, shall be deemed to be em-*  
 134 *ployment subject to this chapter if the individual performing such services*  
 135 *is a resident of this State and the division approves the election of the em-*  
 136 *ploying unit for whom such services are performed that the entire service of*  
 137 *such individual shall be deemed to be employment subject to this chapter;*  
 138 *provided, written objections on the part of a substantial proportion of such*

139 *individuals affected are not presented to the division within 10 days follow-*  
140 *ing the filing of such election.*

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

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

143 *(B) the service is performed both within and without such State, but*  
144 *the service performed without such State is incidental to the individual's*  
145 *service within the State, for example, is temporary or transitory in*  
146 *nature or consists of isolated transactions.*

147 *(6) Services performed by an individual for remuneration shall be*  
148 *deemed to be employment subject to this chapter unless and until it is shown*  
149 *to the satisfaction of the division that*

150 *(A) such individual has been and will continue to be free from con-*  
151 *trol or direction over the performance of such service both under his*  
152 *contract of service and in fact; and*

153 *(B) such service is either outside the usual course of the business for*  
154 *which such service is performed, or that such service is performed out-*  
155 *side of all the places of business of the enterprise for which such serv-*  
156 *ice is performed; and*

157 *(C) such individual is customarily engaged in an independently*  
158 *established trade, occupation, profession or business.*

159 *(7) The term "employment" shall not include:*

160 *(A) Agricultural labor;*

161 *(B) Domestic service in a private home;*

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

165 *(D) Service performed in the employ of this State or of any po-*  
166 *litical subdivision thereof or of any instrumentality of this State or its*  
167 *political subdivisions;*

168 *(E) Service performed in the employ of any other State or its po-*  
169 *litical subdivisions, or of the United States Government, or of an instru-*

170 *mentality of any other State or States or their political subdivisions or*  
 171 *of the United States;*

172 *(F) Services performed in the employ of a corporation, commu-*  
 173 *nity chest, fund, or foundation, organized and operated exclusively for*  
 174 *religious, charitable, scientific, literary, hospital, benevolent, philan-*  
 175 *thropic, or educational purposes, or for the prevention of cruelty to chil-*  
 176 *dren or animals, no part of the net earnings of which inures to the bene-*  
 177 *fit of any private shareholder or individual;*

178 *(G) Services performed in the employ of fraternal beneficiary*  
 179 *societies, orders, or associations operating under the lodge system or for*  
 180 *the exclusive benefit of the members of a fraternity itself operating un-*  
 181 *der the lodge system and providing for the payment of life, sick, accident*  
 182 *or other benefits to the members of such society, order, or association,*  
 183 *or their dependents;*

184 *(H) Services performed as an officer or other employee of any build-*  
 185 *ing and loan association of this State, except where such services con-*  
 186 *stitute the principal employment of the individual; services performed*  
 187 *as an officer or other employee of any building and loan association where*  
 188 *such association is a member of the Federal Home Loan Bank System;*  
 189 *services performed as an officer or other employee of any bank which is*  
 190 *a member of the Federal Reserve System;*

191 *(I) Service performed after June 30, 1939, with respect to which*  
 192 *unemployment compensation is payable under the Railroad Unemploy-*  
 193 *ment Insurance Act (52 Stat. 1094).*

194 *(J) Service performed by agents of insurance companies, exclusive*  
 195 *of industrial insurance agents, or by agents of investment companies,*  
 196 *who are compensated wholly on a commission basis.*

197 *(K) Services performed by real estate salesmen or brokers who are*  
 198 *compensated wholly on a commission basis.*

199 *(L) Services performed in the employ of any veterans' organization*  
 200 *chartered by Act of Congress or of any auxiliary thereof, no part of the*

201 *net earnings of which organization, or auxiliary thereof, inures to the*  
 202 *benefit of any private shareholder or individual.*

203 *(M) Service heretofore or hereafter performed for or in behalf of*  
 204 *the owner or operator of any theatre, ballroom, amusement hall or other*  
 205 *place of entertainment, not in excess of 10 weeks in any calendar year for*  
 206 *the same owner or operator, by any leader or musician of a band or*  
 207 *orchestra commonly called a "name band," entertainer, vaudeville art-*  
 208 *ist, actor, actress, singer or other entertainer.*

209 *(N) Services performed by an individual for a labor union organi-*  
 210 *zation, known and recognized as a union local, as a member of a com-*  
 211 *mittee or committees reimbursed by the union local for time lost from*  
 212 *regular employment, or as a part-time officer of a union local and the re-*  
 213 *muneration for such services is less than \$250.00 in a calendar year.*

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

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

220 *(l) "State" includes, in addition to the States of the United States of*  
 221 *America, Alaska, Hawaii, and the District of Columbia.*

222 *(m) Unemployment.*

223 *(1) An individual shall be deemed "unemployed" for any week during*  
 224 *which he is not engaged in full-time work and with respect to which his re-*  
 225 *muneration is less than his weekly benefit rate.*

226 *(2) The term "remuneration," with respect to benefit years commenc-*  
 227 *ing prior to January 1, 1953, and as used in this subsection, shall include*  
 228 *only that part of the same which exceeds \$3.00 for any 1 week.*

229 *(3) An individual's week of unemployment shall be deemed to com-*  
 230 *mence only after his registration at an employment office, except as the divi-*  
 231 *sion may by regulation otherwise prescribe.*

232 (n) "Unemployment compensation administration fund" means the un-  
 233 employment compensation administration fund established by this chapter  
 234 from which administrative expenses under this chapter shall be paid.

235 (o) "Wages" means remuneration payable by employers for employ-  
 236 ment prior to January 1, 1947, and paid prior to such date; and means re-  
 237 muneration paid subsequent to December 31, 1946, by employers for employ-  
 238 ment; provided, however, that for eligibility and benefit purposes wages  
 239 earned but not paid when the amount thereof has been calculated and is due  
 240 as determined by the established and customary practices of the employer  
 241 shall be construed as having been paid when earned.

242 (p) "Remuneration" means all compensation for personal services, in-  
 243 cluding commissions and bonuses and the cash value of all compensation in  
 244 any medium other than cash.

245 (q) "Week" means such period or periods of 7 consecutive days end-  
 246 ing at midnight, as the division may by regulation prescribe.

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

249 (s) "Investment company" means any company as defined in paragraph  
 250 1-a of chapter 322 of the laws of 1938, entitled "An act concerning investment  
 251 companies, and supplementing Title 17 of the Revised Statutes by adding  
 252 thereto a new chapter entitled 'investment companies.'"

253 (t) "Base week" means any calendar week of an individual's base year  
 254 during which he earned in employment from an employer remuneration equal  
 255 to not less than \$15.00; provided, if in any calendar week, an individual is in  
 256 employment with more than 1 employer, he may in such calendar week estab-  
 257 lish a base week with respect to each such employer from whom the individual  
 258 earns remuneration equal to not less than \$15.00 during such week.

259 (u) "Average weekly wage" means the amount derived by dividing an  
 260 individual's total wages received during his base year base weeks from that  
 261 most recent base year employer with whom he had established at least 17  
 262 base weeks by the number of base weeks in which such wages were earned.

263 *In the event that such claimant had no employer in his base year with whom*  
 264 *he had established at least 17 base weeks, then such individual's average*  
 265 *weekly wage shall be computed as if all of his base week wages were received*  
 266 *from 1 employer and as if all his base weeks of employment had been per-*  
 267 *formed in the employ of 1 employer.*

268 *If on application of a claimant it is determined that he has been em-*  
 269 *ployed during at least the 4 weeks immediately preceding his separation from*  
 270 *employment by an employer on a substantially reduced schedule of weekly*  
 271 *hours due to lack of work, all weeks of substantially reduced schedule within*  
 272 *the base period and his wages therefor shall be disregarded in computing*  
 273 *his average weekly wage.*

274 *(v) "Initial determination" means, subject to the provisions of R. S.*  
 275 *43:21-6 (b) and (3), a determination of benefit rights as measured by an*  
 276 *eligible individual's base year employment with a single employer covering*  
 277 *all periods of employment with that employer during the base year. Subject*  
 278 *to the provisions of R. S. 43:21-3 (d) (3) an individual has been in employ-*  
 279 *ment in his base year with more than 1 employer, no benefits shall be paid to*  
 280 *that individual under any successive initial determination until his benefit*  
 281 *rights have been exhausted under the next preceding initial determination.*

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

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

288 *4. This act shall take effect [October 1, 1955, and shall apply only with*  
 289 *respect to benefit years beginning on and after October 1, 1955] immediately.*

ASSEMBLY, No. 264

STATE OF NEW JERSEY

INTRODUCED MARCH 7, 1955

By Messrs. MOSCH and MINTZ

Referred to Committee on Labor and Industrial Relations

AN ACT concerning unemployment compensation, and amending section 43:21-3  
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  
2 follows:

3 43:21-3. (a) Payment of benefits. All benefits shall be paid from the  
4 fund through employment offices, or such other agencies as may be desig-  
5 nated in accordance with such regulations as may be prescribed hereunder.

6 (b) Weekly benefits for unemployment.

7 [(1) With respect to an individual's benefit year commencing prior to  
8 January 1, 1953, such individual, if eligible and unemployed (as defined in  
9 subsection (m) of section 43:21-19 of this Title) in any week, shall be paid  
10 with respect to such week (except as to final payment) an amount equal to  
11 his weekly benefit rate less any remuneration in excess of \$3.00 paid or pay-  
12 able to him for such week; provided, that such amount shall be computed to  
13 the next highest multiple of \$1.00, if not already a multiple thereof.

14 (2)] With respect to an individual's benefit year commencing on or after  
15 January 1, 1953, such individual, if eligible and unemployed (as defined in  
16 subsection (m) of section 43:21-19 of this Title), shall be paid an amount

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

17 (except as to final payment) equal to his weekly benefit rate with respect to  
 18 any week in which he has earned no remuneration or remuneration equal to  
 19 less than  $\frac{1}{2}$  said rate, or shall be paid an amount equal to  $\frac{1}{2}$  his weekly  
 20 benefit rate with respect to any week in which he has earned remuneration  
 21 equal to or more than  $\frac{1}{2}$  said rate but less than said rate.

22 (c) Weekly benefit rate.

23 [(1) With respect to an individual to whom benefits shall be payable as  
 24 provided in paragraph (1) of subsection (b) of this section, the weekly bene-  
 25 fit rate shall be  $\frac{1}{22}$  of his total wages in that calendar quarter in which  
 26 said total wages were highest during his base year; provided, that such rate  
 27 shall be computed to the next highest multiple of \$1.00 if not already a mul-  
 28 tiple thereof, and shall not be more than \$30.00 nor less than \$10.00.

29 (2)] With respect to an individual to whom benefits shall be payable as  
 30 provided in [paragraph (2) of subsection (b) of] this section, his weekly  
 31 benefit rate under each benefit determination shall be  $\frac{2}{3}$  of his average  
 32 weekly wage; provided, that such rate shall be computed to the next highest  
 33 multiple of \$1.00 if not already a multiple thereof, and shall not be more than  
 34 [\$30.00] ~~\$35.00~~ nor less than \$10.00.

35 (d) Maximum total benefits.

36 [(1) With respect to an individual to whom weekly benefits for unem-  
 37 ployment shall be payable as provided in paragraph (1) of subsection (b)  
 38 of this section, the maximum total amount of benefits payable to any  
 39 eligible individual under either of subsections (c) and (f) of section 43:21-4  
 40 of this Title during any benefit year shall be either  $\frac{1}{3}$  of his total wages  
 41 during his base year, computed to the next highest multiple of \$1.00, if not  
 42 already a multiple thereof, or 26 times his weekly benefit rate, whichever  
 43 is the lesser; in no event, however, are such total benefits under either of  
 44 said subsections (c) and (f) to be less than 10 times his weekly benefit rate.  
 45 In the event that an individual qualified for benefits under both of said sub-  
 46 sections during any benefit year, the maximum total amount of benefits pay-



able under said subsections combined to such individual during the benefit year shall be  $1\frac{1}{2}$  times the maximum amount of benefits payable under 1 of said subsections.

(2) With respect to an individual to whom benefits shall be payable as provided in [paragraph (2) of subsection (b) of] this section:

(A) Such individual shall be entitled to receive, under each successive benefit determination relating to each of his base year employers, a total amount of benefits equal to  $\frac{3}{4}$  of his base weeks from the employer in question multiplied by his weekly benefit rate; but the amount of benefits thus resulting under any determination made with respect to an employer shall be adjusted to the next higher multiple of  $\frac{1}{2}$  of said weekly benefit rate, if not already a multiple thereof.

(B) No such individual shall be entitled to receive benefits under this Title for more than 26 weeks in any benefit year under either of subsections (c) and (f) of section 43:21-4 of this Title. In the event that any individual qualifies for benefits under both of said subsections during any benefit year, the maximum total amount of benefits payable under said subsections combined to such individual during the benefit year shall be  $1\frac{1}{2}$  times the maximum amount of benefits payable under 1 of said subsections. For the purposes of this paragraph, any week for which an individual receives a half-payment as provided in paragraph (2) of subsection (b) of this section shall be counted as  $\frac{1}{2}$  of a week.

(C) If the full weekly benefit rate cannot be paid to an individual who is otherwise entitled thereto because the amount of unused benefits remaining under the applicable benefit determination is only  $\frac{1}{2}$  of said rate, he shall be paid that amount; but if such individual is entitled to additional benefits under a successive determination, he shall also be paid for the week in question an amount equal to  $\frac{1}{2}$  of his weekly benefit rate under said successive determination.

2. This act shall take effect July 1, 1955.

ASSEMBLY COMMITTEE AMENDMENT TO

**ASSEMBLY, No. 264**

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# STATE OF NEW JERSEY

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ADOPTED MAY 9, 1955

Amend page 3, section 2, line 1, omit "July", insert "October".

ASSEMBLY, No. 264

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# STATE OF NEW JERSEY

ADOPTED JUNE 9, 1955

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

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

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

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

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

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

(2) With respect to an individual whose average weekly wage (as defined in subsection (u) of section 43:21-19 of this Title) exceeds \$45.00, his weekly benefit rate under each benefit determination shall be \$30.00 plus  $\frac{1}{5}$  of the amount by which his average weekly wage exceeds \$45.00; provided, that such rate shall be computed to the next highest multiple of \$1.00 if not already a multiple thereof, and shall not be more than \$35.00.”.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



pealable in the same manner and under the same limitations as is provided in the case of initial determinations.

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

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

(e) Board of review. The board of review may on its own motion affirm, modify, or set aside any decision of an appeal tribunal on the basis of the evidence previously submitted in such case, or direct the taking of additional evidence, or may permit any of the parties to such decision to initiate further appeals before it. The board of review shall permit such further appeal by any of the parties interested in a decision of an appeal tribunal which is not

unanimous and from any determination which has been overruled or modified by any appeal tribunal. The board of review may remove to itself or transfer to another appeal tribunal the proceedings on any claim pending before an appeal tribunal. Any proceeding so removed to the board of review shall be heard by a quorum thereof in accordance with the requirements of subsection (c) of this section. The board of review shall promptly notify the interested parties of its findings and decision.

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

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

(h) Court review. Any decision of the board of review shall become final as to any party upon the mailing of a copy thereof to such party or to his attorney, or upon the mailing of a copy thereof to such party at his last-known address. The Division of Employment Security and any party to a proceeding before the board of review may secure judicial review of the final decision of the board of review. Any party not joining in the appeal shall be made a defendant; the board of review shall be deemed to be a party to any judicial action involving the review of, or appeal from, any of its decisions, and may be represented in any such judicial action by any qualified attorney who

may be a regular salaried employee of the board of review or has been designated by it for that purpose, or, at the board of review's request, by the Attorney-General.

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

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

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

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

(2) "Average annual payroll" means the average of the annual payrolls of any employer for the last 3 or 5 preceding calendar years, whichever average is higher, except that any year or years throughout which an employer has had no "annual payroll" because of military service shall be deleted from the reckoning; the "average annual payroll" in such case is to be determined on the basis of the prior 3 or 5 calendar years in each of which the employer had an "annual payroll" in the operation of his business, if the employer resumes his business within 12 months after separation, discharge or release from such service, under conditions other than dishonorable, and makes application to have his "average annual payroll" determined on the basis of such deletion within 12 months after he resumes his business; provided, however, that "average annual payroll" solely for the purposes of paragraph (3) of subsection (e) of section 43:21-7 of this Title means the average of the annual payrolls of any employer, on which he paid contributions to the State disability benefits fund, for the last 3 or 5 preceding calendar years, whichever average is higher; pro-

vided further, that only those wages be included on which employer contributions have been paid on or before January 31 immediately preceding the beginning of the 12-months' period for which the employer's contribution rate is computed.

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

(c) (1) The term "base year" with respect to benefit years commencing prior to January 1, 1953, means the first 4 of the last 5 completed calendar quarters immediately preceding the first day of an individual's benefit year; provided, that no calendar quarter shall comprise a part of more than 1 base year.

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

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

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

(f) "Contributions" means the money payments to the State unemployment compensation fund required by this chapter.

(g) "Employing unit" means any individual or type of organization, including any partnership, association, trust, estate, joint-stock company, insurance company or corporation, whether domestic or foreign, or the receiver, trustee in bankruptcy, trustee or successor thereof, or the legal representative of a deceased person, which has or subsequent to January 1, 1936, had in its employ 1 or more individuals performing services for it within this State. All individuals performing services within this State for any employing unit which maintains 2 or more separate establishments within this State shall be deemed to be employed by a single employing unit for all the purposes of this chapter. Whenever any employing unit contracts with or has under it any contractor or subcontractor for any employment which is part of its usual trade, occupation, profession, or business, unless the employing unit as well as each such contractor or subcontractor is an employer by reason of subsection (c) of section 43:21-8 of this Title or subsection (h) of this section, the employing unit shall for all the purposes of this chapter be deemed to employ each individual in the employ of each such contractor or subcontractor for each day during which such individual is engaged in performing such employment; except that each such contractor or subcontractor who is an employer by reason of subsection (c) of section 43:21-8 of this Title or subsection (h) of this section, shall alone be liable for the contributions measured by wages payable to individuals in his employ, and except that any employing unit who shall become liable for and pay contributions with respect to individuals in the employ of any such contractor or subcontractor who is not an employer by reason of subsection (c) of section 43:21-8 of this Title or subsection (h) of this section, may recover the same from such contractor or subcontractor. Each individual employed to perform or to assist in performing the work of any agent or employee of an employing unit shall be deemed to be employed by such employing unit for all the purposes of this chapter, whether such individual was hired

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

(h) "Employer" means:

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

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

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

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

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

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

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

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(2) The term “employment” shall include an individual’s entire service performed within or both within and without this State if:

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

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

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

(4) Services not covered under paragraph (2) of this subsection, and performed entirely without this State, with respect to no part of which contributions are required and paid under an unemployment compensation law of any other State or of the Federal Government, shall be deemed to be employment subject to this chapter if the individual performing such services is a resident of this State and the division approves the election of the employing unit for whom such services are performed that the entire service of such individual shall be deemed to be employment subject to this chapter; provided, written objections on the part of a substantial proportion of such individuals affected are not presented to the division within 10 days following the filing of such election.

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

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

(B) the service is performed both within and without such State, but the service performed without such State is incidental to the individual’s

service within the State, for example, is temporary or transitory in nature or consists of isolated transactions.

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

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

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

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

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

(A) Agricultural labor;

(B) Domestic service in a private home;

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

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

(E) Service performed in the employ of any other State or its political subdivisions, or of the United States Government, or of an instrumentality of any other State or States or their political subdivisions or of the United States;

(F) Services performed in the employ of a corporation, community chest, fund, or foundation, organized and operated exclusively for religious, charitable, scientific, literary, hospital, benevolent, philanthropic, or educational purposes, or for the prevention of cruelty to children or animals, no



part of the net earnings of which inures to the benefit of any private shareholder or individual;

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

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

(I) Service performed after June 30, 1939, with respect to which unemployment compensation is payable under the Railroad Unemployment Insurance Act (52 Stat. 1094).

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

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

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

(M) Service heretofore or hereafter performed for or in behalf of the owner or operator of any theater, ballroom, amusement hall or other place of entertainment, not in excess of 10 weeks in any calendar year for the same owner or operator, by any leader or musician of a band or orchestra,

commonly called a "name band," entertainer, vaudeville artist, actor, actress, singer or other entertainer.

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

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

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

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

(m) Unemployment.

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

(2) The term "remuneration," with respect to benefit years commencing prior to January 1, 1953, and as used in this subsection, shall include only that part of the same which exceeds \$3.00 for any 1 week.

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

(n) "Unemployment compensation administration fund" means the unemployment compensation administration fund established by this chapter from which administrative expenses under this chapter shall be paid.

(o) "Wages" means remuneration payable by employers for employment prior to January 1, 1947, and paid prior to such date; and means remuneration paid subsequent to December 31, 1946, by employers for employment; pro-

vided, however, that for eligibility and benefit purposes wages earned but not paid when the amount thereof has been calculated and is due as determined by the established and customary practices of the employer shall be construed as having been paid when earned.

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

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

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

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

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

(u) "Average weekly wage" means the amount derived by dividing an individual's total wages received during his base year base weeks from that most recent base year employer with whom he had established at least 17 base weeks, by the number of base weeks in which such wages were earned. In the event that such claimant had no employer in his base year with whom he had established at least 17 base weeks, then such individual's average weekly wage shall be computed as if all of his base week wages were received from 1 employer and as if all his base weeks of employment had been performed in the employ of 1 employer.

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

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

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

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

4. This act shall take effect October 1, 1955, and shall apply only with respect to benefit years beginning on and after October 1, 1955."



SENATE AMENDMENT TO  
**ASSEMBLY, No. 264**

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**STATE OF NEW JERSEY**

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ADOPTED JUNE 9, 1955

Amend page 2, section 1, lines 29-34, in line 14 of the insertion of the former amendment change " $\frac{1}{5}$ " to " $\frac{2}{5}$ ".

[SECOND OFFICIAL COPY REPRINT]

## ASSEMBLY, No. 264

# STATE OF NEW JERSEY

INTRODUCED MARCH 7, 1955

By Messrs. MOSCH and MINTZ

Referred to Committee on Labor and Industrial Relations

[AN ACT concerning unemployment compensation, and amending section 43:21-3 of the Revised Statutes.] *An act concerning unemployment compensation, and amending sections 43:21-3, 43:21-6 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  
2 follows:

3 43:21-3. (a) Payment of benefits. All benefits shall be *promptly* paid  
4 from the fund through *local* employment offices[, or such other agencies as  
5 may be designated] in accordance with such regulations as may be pre-  
5A scribed hereunder.

6 (b) Weekly benefits for unemployment.

7 [(1) With respect to an individual's benefit year commencing prior to  
8 January 1, 1953, such individual, if eligible and unemployed (as defined in  
9 subsection (m) of section 43:21-19 of this Title) in any week, shall be paid  
10 with respect to such week (except as to final payment) an amount equal to  
11 his weekly benefit rate less any remuneration in excess of \$3.00 paid or pay-  
12 able to him for such week; provided, that such amount shall be computed to  
13 the next highest multiple of \$1.00, if not already a multiple thereof.

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

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

22       (c) Weekly benefit rate.

23       [(1) With respect to an individual to whom benefits shall be payable as  
 24 provided in paragraph (1) of subsection (b) of this section, the weekly bene-  
 25 fit rate shall be  $\frac{1}{22}$  of his total wages in that calendar quarter in which  
 26 said total wages were highest during his base year; provided, that such rate  
 27 shall be computed to the next highest multiple of \$1.00 if not already a mul-  
 28 tiple thereof, and shall not be more than \$30.00 nor less than \$10.00.

29       [(2) With respect to an individual to whom benefits shall be payable as  
 30 provided in [paragraph (2) of subsection (b) of] this section, his weekly  
 31 benefit rate under each benefit determination shall be  $\frac{2}{3}$  of his average  
 32 weekly wage; provided, that such rate shall be computed to the next highest  
 33 multiple of \$1.00 if not already a multiple thereof, and shall not be more than  
 34 ~~[\$30.00]~~ \$35.00 nor less than \$10.00.]

34A       (1) *With respect to an individual whose average weekly wage (as de-*  
 34B *finied in subsection (u) of section 43:21-19 of this Title) does not exceed*  
 34C *\$45.00, his weekly benefit rate under each benefit determination shall be*  
 34D  *$\frac{2}{3}$  of his average weekly wage; provided, that such rate shall be computed*  
 34E *to the next highest multiple of \$1.00 if not already a multiple thereof, and*  
 34F *shall not be more than \$30.00 nor less than \$10.00.*

34G       (2) *With respect to an individual whose average weekly wage (as de-*  
 34H *finied in subsection (u) of section 43:21-19 of this Title) exceeds \$45.00, his*  
 34I *weekly benefit rate under each benefit determination shall be \$30.00 plus*  
 34J *[1/5]  $\frac{2}{5}$  of the amount by which his average weekly wage exceeds \$45.00;*

34K *provided, that such rate shall be computed to the next highest multiple of*  
 34L *\$1.00 if not already a multiple thereof, and shall not be more than \$35.00.*

35 (d) Maximum total benefits.

36 **[(1)** With respect to an individual to whom weekly benefits for unem-  
 37 ployment shall be payable as provided in paragraph (1) of subsection (b)  
 38 of this section, the maximum total amount of benefits payable to any  
 39 eligible individual under either of subsections (c) and (f) of section 43:21-4  
 40 of this Title during any benefit year shall be either  $\frac{1}{3}$  of his total wages  
 41 during his base year, computed to the next highest multiple of \$1.00, if not  
 42 already a multiple thereof, or 26 times his weekly benefit rate, whichever  
 43 is the lesser; in no event, however, are such total benefits under either of  
 44 said subsections (c) and (f) to be less than 10 times his weekly benefit rate.  
 45 In the event that an individual qualified for benefits under both of said sub-  
 46 sections during any benefit year, the maximum total amount of benefits pay-  
 47 able under said subsections combined to such individual during the benefit  
 48 year shall be  $1\frac{1}{2}$  times the maximum amount of benefits payable under 1  
 49 of said subsections.

50 **(2)]** With respect to an individual to whom benefits shall be payable as  
 51 provided in **[**paragraph (2) of subsection (b) of**]** this section:

52 **[(A)]** (1) Such individual shall be entitled to receive, under each suc-  
 53 cessive benefit determination relating to each of his base year employers,  
 54 a total amount of benefits equal to  $\frac{3}{4}$  of his base weeks from the em-  
 55 ployer in question multiplied by his weekly benefit rate; but the amount  
 56 of benefits thus resulting under any determination made with respect  
 57 to an employer shall be adjusted to the next higher multiple of  $\frac{1}{2}$  of  
 58 said weekly benefit rate, if not already a multiple thereof.

59 **[(B)]** (2) No such individual shall be entitled to receive benefits  
 60 under this Title for more than 26 weeks in any benefit year under either  
 61 of subsections (c) and (f) of section 43:21-4 of this Title. In the event  
 62 that any individual qualifies for benefits under both of said subsections  
 63 during any benefit year, the maximum total amount of benefits payable



64 under said subsections combined to such individual during the benefit  
 65 year shall be  $1\frac{1}{2}$  times the maximum amount of benefits payable under  
 66 1 of said subsections. For the purposes of this paragraph, any week  
 67 for which an individual receives a half-payment as provided in [para-  
 68 graph (2) of] subsection (b) of this section shall be counted as  $\frac{1}{2}$  of a  
 69 week.

70 [(C)] (3) If the full weekly benefit rate cannot be paid to an indi-  
 71 vidual who is otherwise entitled thereto because the amount of unused  
 72 benefits remaining under the applicable benefit determination is only  $\frac{1}{2}$  of  
 73 said rate, he shall be paid that amount; but if such individual is entitled  
 74 to additional benefits under a successive determination, he shall also be  
 75 paid for the week in question an amount equal to  $\frac{1}{2}$  of his weekly bene-  
 76 fit rate under said successive determination.

1 [2. This act shall take effect [July] October 1, 1955.]

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

3 43:21-6. (a) *Filing. Claims for benefits shall be made in accordance*  
 4 *with such regulations as the Director of the Division of Employment Secu-*  
 5 *rity of the Department of Labor and Industry of the State of New Jersey*  
 6 *may approve. Each employer shall post and maintain on his premises printed*  
 7 *notices of his subject status, of such design, in such numbers, and at such*  
 8 *places as the director of the division may determine to be necessary to give*  
 9 *notice thereof to persons in the employer's service. Each employer shall give*  
 10 *to each individual at the time he becomes unemployed a printed copy of*  
 11 *benefit instructions. Both the aforesaid notices and instruction shall be sup-*  
 12 *plied by the division to employers without cost to them.*

13 (b) (1) *Procedure for making determinations with respect to benefit*  
 14 *years commencing prior to January 1, 1953. (A) Initial determinations.*  
 15 *The director of the division shall designate a representative or representa-*  
 16 *tives to promptly examine the claims and to determine which claims do and*  
 17 *which claims do not meet the requirements of section 4 (e); and as to those*

18 claims meeting the requirements of section 4 (e) to further determine the  
19 weekly benefit rates and the maximum total benefits payable. Each claim-  
20 ant shall promptly be notified of the determination of his claim.

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

32 (C) Any claimant or any interested entity or person may file an appeal  
33 from any determination under paragraphs (1) and (2) of this subsection  
34 within 5 calendar days after the delivery of notification, or within 7 calen-  
35 dar days after the mailing of notification, of such determination. Unless  
36 such an appeal is filed such determination shall be final and benefits shall  
37 be paid or denied in accordance therewith. If an appeal is duly filed, benefits  
38 with respect to the period covered by the appeal shall be payable only after  
39 a determination of entitlement by the appellate tribunal; benefits payable for  
40 periods pending an appeal and not in dispute shall be paid as such benefits  
41 accrue; provided, that insofar as any such appeal is or may be an appeal  
42 from a determination to the effect that the claimant is disqualified under the  
43 provisions of section 43:21-5 of the Revised Statutes or any amendments  
44 thereof or supplements thereto, benefits pending determination of the ap-  
45 peal shall be withheld only for the period of disqualification as provided  
46 for in said section, and notwithstanding such appeal the benefits otherwise  
47 provided by this act shall be paid for the period subsequent to such period

48 of disqualification; and provided, also, that if there are 2 determinations of  
49 entitlement, benefits for the period covered by such determination shall be  
50 paid regardless of any appeal which may thereafter be taken, but no em-  
51 ployer's account shall be charged with benefits so paid if the decision is  
52 finally reversed.

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

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

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

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

75       The deputy shall promptly make an initial determination based upon the  
76 available information. The initial determination shall show the weekly bene-  
77 fit amount payable, the maximum duration of benefits with respect to the em-  
78 ployer to whom the determination relates, and also shall show whether the

79 claimant is ineligible or disqualified for benefits under the initial determina-  
 80 tion. The claimant and the employer whose account may be charged for  
 81 benefits payable pursuant to said determination shall be promptly notified  
 82 thereof.

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

94 The deputy shall issue a separate initial benefit determination with re-  
 95 spect to each of the claimant's base year employers, starting with the most  
 96 recent employer and continuing as necessary in the inverse chronological  
 97 order of the claimant's last date of employment with each such employer.  
 98 If an appeal is taken from an initial determination as hereinafter provided  
 99 by any employer other than the first chargeable base-year employer, then  
 100 such appeal shall be limited in scope to include only 1 or more of the follow-  
 101 ing matters:

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

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

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

108 The amount of benefits payable under an initial determination may be  
 109 reduced or canceled if necessary to avoid payment of benefits for a number

110 of weeks in excess of the maximum specified in subsection (d) of section  
 111 43:21-3 of this Title.

112 Unless the claimant or any interested party within 7 calendar days after  
 113 delivery of notification of an initial determination or within 10 calendar  
 114 days after such notification was mailed to his or their last-known address  
 115 and addresses, files an appeal from such decision, such decision shall be final  
 116 and benefits shall be paid or denied in accordance therewith, except for such  
 117 determinations as may be altered in benefit amounts or duration as pro-  
 118 vided in this paragraph. If an appeal is duly filed, benefits with respect  
 119 to the period covered by the appeal shall be payable only after a determina-  
 120 tion of entitlement by the appellate tribunal; benefits payable for periods  
 121 pending an appeal and not in dispute shall be paid as such benefits accrue;  
 122 provided, that insofar as any such appeal is or may be an appeal from a de-  
 123 termination to the effect that the claimant is disqualified under the provi-  
 124 sions of section 43:21-5 of the Revised Statutes or any amendments thereof  
 125 or supplements thereto, benefits pending determination of the appeal shall  
 126 be withheld only for the period of disqualification as provided for in said  
 127 section, and notwithstanding such appeal the benefits otherwise provided by  
 128 this act shall be paid for the period subsequent to such period of disquali-  
 129 fication; and provided, also, that if there are 2 determinations of entitlement,  
 130 benefits for the period covered by such determinations shall be paid regard-  
 131 less of any appeal which may thereafter be taken, but no employer's account  
 132 shall be charged with benefits so paid if the decision is finally reversed.

133 (3) Procedure for making initial determinations in certain cases of con-  
 134 current employment, with respect to benefit years commencing on or after  
 135 January 1, 1953.

136 Notwithstanding any other provisions of this Title, if an individual  
 137 shows to the satisfaction of the deputy that there were at least 13 weeks in  
 138 his base period in each of which he earned wages from 2 or more employ-  
 139 ers totaling \$15.00 or more but in each of which there was no single em-  
 140 ployer from whom he earned as much as \$15.00, then such individual's claim

141 shall be determined in accordance with the special provisions of this para-  
 142 graph. In such case, the deputy shall determine the individual's eligibility  
 143 for benefits, his average weekly wage, weekly benefit rate and maximum  
 144 total benefits as if all his base year employers were a single employer. Such  
 145 determination shall apportion the liability for benefit charges thereunder to  
 146 the individual's several base year employers so that each employer's maxi-  
 147 mum liability for charges thereunder bears approximately the same relation  
 148 to the maximum total benefits allowed as the wages earned by the individual  
 149 from each employer during the base year bears to his total wages earned  
 150 from all employers during the base year. Such initial determination shall  
 151 also specify the individual's last date of employment within the base year  
 152 with respect to each base year employer, and such employers shall be  
 153 charged for benefits paid under said initial determination in the inverse  
 154 chronological order of such last dates of employment.

155 (4) Procedure for making subsequent determinations with respect to  
 156 benefit years commencing on or after January 1, 1953. The deputy shall  
 157 make determinations with respect to claims for benefits thereafter in the  
 158 course of the benefit year in accordance with any initial determination al-  
 159 lowing benefits, and under which benefits have not been exhausted, and each  
 160 notification of a benefit payment shall be a notification of an affirmative  
 161 subsequent determination. The allowance of benefits by the deputy on any  
 162 such determination, or the denial of benefits by the deputy on any such  
 163 determination, shall be appealable in the same manner and under the same  
 164 limitations as is provided in the case of initial determinations.

165 (c) Appeals. Unless such appeal is withdrawn, an appeal tribunal, after  
 166 affording the parties reasonable opportunity for fair hearing, shall affirm or  
 167 modify the findings of fact and the determination. The parties shall be duly  
 168 notified of such tribunal's decision, together with its reasons therefor, which  
 169 shall be deemed to be the final decision of the board of review, unless within  
 170 10 days after the date of notification or mailing of such decision, fur-  
 171-172 ther appeal is initiated pursuant to subsection (e) of this section.

173       (d) *Appeal tribunals.* To hear and decide disputed benefit claims, in-  
174 cluding appeals from determinations with respect to demands for refunds of  
175 benefits under section 43:21-16 (d) of this chapter (R. S. 43:21-1 et seq.),  
176 the director with the approval of the Commissioner of Labor and Industry  
177 shall establish 1 or more impartial appeal tribunals consisting in each case of  
178 either a salaried examiner or a body, consisting of 3 members, 1 of whom  
179 shall be a salaried examiner, who shall serve as chairman, 1 of whom shall  
180 be a representative of employers and the other of whom shall be a repre-  
181 sentative of employees; each of the latter 2 members shall serve at the  
182 pleasure of the commissioner and be paid a fee of not more than \$20.00 per  
183 day of active service on such tribunal plus necessary expenses. No person  
184 shall participate on behalf of the division in any case in which he is an in-  
185 terested party. The director may designate alternates to serve in the ab-  
186 sence or disqualification of any member of an appeal tribunal. The chair-  
187 man shall act alone in the absence or disqualification of any other member  
188 and his alternates. In no case shall the hearings proceed unless the chair-  
189 man of the appeal tribunal is present.

190       (e) *Board of review.* The board of review may on its own motion  
191 affirm, modify, or set aside any decision of an appeal tribunal on the basis  
192 of the evidence previously submitted in such case, or direct the taking of  
193 additional evidence, or may permit any of the parties to such decision to  
194 initiate further appeals before it. The board of review shall permit such  
195 further appeal by any of the parties interested in a decision of an appeal  
196 tribunal which is not unanimous and from any determination which has been  
197 overruled or modified by any appeal tribunal. The board of review may re-  
198 move to itself or transfer to another appeal tribunal the proceedings on any  
199 claim pending before an appeal tribunal. Any proceeding so removed to  
200 the board of review shall be heard by a quorum thereof in accordance with  
201 the requirements of subsection (c) of this section. The board of review  
202 shall promptly notify the interested parties of its findings and decision.

203       (f) *Procedure.* The manner in which disputed benefit claims, and ap-  
 204 peals from determinations with respect to (1) claims for benefits and (2)  
 205 demands for refunds of benefits under section 43:21-16 (d) of this chapter  
 206 (R. S. 43:21-1 et seq.) shall be presented, the reports thereon required from  
 207 the claimant and from employers, and the conduct of hearings and appeals  
 208 shall be in accordance with rules prescribed by the board of review for de-  
 209 termining the rights of the parties, whether or not such rules conform to  
 210 common law or statutory rules of evidence and other technical rules of pro-  
 211 cedure. A full and complete record shall be kept of all proceedings in con-  
 212 nection with a disputed claim. All testimony at any hearing upon a disputed  
 213 claim shall be recorded, but need not be transcribed unless the disputed  
 214 claim is further appealed.

215       (g) *Witness fees.* Witnesses subpoenaed pursuant to this section shall  
 216 be allowed fees at a rate fixed by the director. Such fees and all expenses  
 217 of proceedings involving disputed claims shall be deemed a part of the ex-  
 218 pense of administering this chapter (R. S. 43:21-1 et seq.).

219       (h) *Court review.* Any decision of the board of review shall become  
 220 final as to any party upon the mailing of a copy thereof to such party or to  
 221 his attorney, or upon the mailing of a copy thereof to such party at his last-  
 222 known address. The Division of Employment Security and any party to a  
 223 proceeding before the board of review may secure judicial review of the final  
 224 decision of the board of review. Any party not joining in the appeal shall  
 225 be made a defendant; the board of review shall be deemed to be a party to  
 226 any judicial action involving the review of, or appeal from, any of its deci-  
 227 sions, and may be represented in any such judicial action by any qualified  
 228 attorney who may be a regular salaried employee of the board of review or  
 229 has been designated by it for that purpose, or, at the board of review's re-  
 230 quest, by the Attorney-General.

231       (i) *Failure to give notice.* The failure of any public officer or employee  
 232 at any time heretofore or hereafter to give notice of determination or de-  
 233 cision required in subsections (b), (c) and (e) of this section, as originally



234 passed or amended, shall not relieve any employer's account of any charge  
 235 by reason of any benefits paid unless and until that employer can show to  
 236 the satisfaction of the director of the division that the said benefits, in  
 237 whole or in part, would not have been charged or chargeable to his account  
 238 had such notice been given. Any determination hereunder by the director  
 239 shall be subject to court review.

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

2       43:21-19. As used in this chapter, unless the context clearly requires  
 3 otherwise:

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

7       (2) "Average annual payroll" means the average of the annual pay-  
 8 rolls of any employer for the last 3 or 5 preceding calendar years, which-  
 9 ever average is higher, except that any year or years throughout which an  
 10 employer has had no "annual payroll" because of military service shall be  
 11 deleted from the reckoning; the "average annual payroll" in such case is to  
 12 be determined on the basis of the prior 3 or 5 calendar years in each of which  
 13 the employer had an "annual payroll" in the operation of his business, if the  
 14 employer resumes his business within 12 months after separation, discharge or  
 15 release from such service, under conditions other than dishonorable, and  
 16 makes application to have his "average annual payroll" determined on the  
 17 basis of such deletion within 12 months after he resumes his business; pro-  
 18 vided, 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 calen-  
 22 dar 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 immediately preceding the beginning of the 12-months'  
 25 period for which the employer's contribution rate is computed.

26       (b) *“Benefits” means the money payments payable to an individual, as*  
 27 *provided in this chapter, with respect to his unemployment.*

28       (c) (1) *The term “base year” with respect to benefit years commencing*  
 29 *prior to January 1, 1953, means the first 4 of the last 5 completed calendar*  
 30 *quarters immediately preceding the first day of an individual’s benefit year;*  
 31 *provided, that no calendar quarter shall comprise a part of more than 1 base*  
 32 *year.*

33       (2) *“Base year” with respect to benefit years commencing on or after*  
 34 *January 1, 1953, shall mean the 52 calendar weeks ending with the second*  
 35 *week immediately preceding an individual’s benefit year.*

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

48       (e) *“Division” means the Division of Employment Security of the De-*  
 49 *partment of Labor and Industry established by chapter 446, P. L. 1948, and*  
 50 *any transaction or exercise of authority by the director of the division there-*  
 51 *under, or under this chapter (R. S. 43:21-1 et seq.), shall be deemed to be per-*  
 52 *formed by the division.*

53       (f) *“Contributions” means the money payments to the State unemploy-*  
 54 *ment compensation fund required by this chapter.*

55       (g) *“Employing unit” means any individual or type of organization, in-*  
 56 *cluding any partnership, association, trust, estate, joint-stock company, insur-*

57 *ance company or corporation, whether domestic or foreign, or the receiver,*  
58 *trustee in bankruptcy, trustee or successor thereof, or the legal representative*  
59 *of a deceased person, which has or subsequent to January 1, 1936, had in its*  
60 *employ 1 or more individuals performing services for it within this State. All*  
61 *individuals performing services within this State for any employing unit which*  
62 *maintains 2 or more separate establishments within this State shall be deemed*  
63 *to be employed by a single employing unit for all the purposes of this chap-*  
64 *ter. Whenever any employing unit contracts with or has under it any contrac-*  
65 *tor or subcontractor for any employment which is part of its usual trade,*  
66 *occupation, profession, or business, unless the employing unit as well as each*  
67 *such contractor or subcontractor is an employer by reason of subsection (c)*  
68 *of section 43:21-8 of this Title or subsection (h) of this section, the employ-*  
69 *ing unit shall for all the purposes of this chapter be deemed to employ each*  
70 *individual in the employ of each such contractor or subcontractor for each*  
71 *day during which such individual is engaged in performing such employment;*  
72 *except that each such contractor or subcontractor who is an employer by rea-*  
73 *son of subsection (c) of section 43:21-8 of this Title or subsection (h) of this*  
74 *section, shall alone be liable for the contributions measured by wages payable*  
75 *to individuals in his employ, and except that any employing unit who shall be-*  
76 *come liable for and pay contributions with respect to individuals in the employ*  
77 *of any such contractor or subcontractor who is not an employer by reason of*  
78 *subsection (c) of section 43:21-8 of this Title or subsection (h) of this section,*  
79 *may recover the same from such contractor or subcontractor. Each individ-*  
80 *ual employed to perform or to assist in performing the work of any agent or*  
81 *employee of an employing unit shall be deemed to be employed by such em-*  
82 *ploying unit for all the purposes of this chapter, whether such individual was*  
83 *hired or paid directly by such employing unit or by such agent or employee;*  
84 *provided, the employing unit had actual or constructive knowledge of the*  
85 *work.*

86 (h) “Employer” means:

87 (1) Any employing unit which for some portion of a day, but not  
 88 necessarily simultaneously, in each of 20 different weeks, whether or not  
 89 such weeks are or were consecutive, within either the current or the preced-  
 90 ing calendar year, has or had in employment 4 or more individuals (irre-  
 91 spective of whether the same individuals are or were employed in each such  
 92 day);

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

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

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

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

109 (6) For the effective period of its election pursuant to subsection (c) of  
 110 section 43:21-8 of this Title any other employing unit which has elected to be-  
 111 come fully subject to this chapter.

112 (i) (1) “Employment” means service, including service in interstate com-  
 113 merce performed for remuneration or under any contract of hire, written or  
 114 oral, express or implied.

115       (2) *The term “employment” shall include an individual’s entire service*  
 116 *performed within or both within and without this State if:*

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

118           (B) *The service is not localized in any State but some of the service*  
 119 *is performed in this State, and (i) the base of operations, or, if there is no*  
 120 *base of operations, then the place from which such service is directed or*  
 121 *controlled, is in this State; or (ii) the base of operations or place from*  
 122 *which such service is directed or controlled is not in any State in which*  
 123 *some part of the service is performed, but the individual’s residence is in*  
 124 *this State.*

125       (3) *Services performed within this State but not covered under paragraph*  
 126 *(2) of this subsection shall be deemed to be employment subject to this chap-*  
 127 *ter if contributions are not required and paid with respect to such services*  
 128 *under an unemployment compensation law of any other State or of the Fed-*  
 129 *eral Government.*

130       (4) *Services not covered under paragraph (2) of this subsection, and*  
 131 *performed entirely without this State, with respect to no part of which con-*  
 132 *tributions are required and paid under an unemployment compensation law*  
 133 *of any other State or of the Federal Government, shall be deemed to be em-*  
 134 *ployment subject to this chapter if the individual performing such services*  
 135 *is a resident of this State and the division approves the election of the em-*  
 136 *ploying unit for whom such services are performed that the entire service of*  
 137 *such individual shall be deemed to be employment subject to this chapter;*  
 138 *provided, written objections on the part of a substantial proportion of such*  
 139 *individuals affected are not presented to the division within 10 days follow-*  
 140 *ing the filing of such election.*

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

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

143           (B) *the service is performed both within and without such State, but*  
 144 *the service performed without such State is incidental to the individual’s*

145      *service within the State, for example, is temporary or transitory in*  
 146      *nature or consists of isolated transactions.*

147      *(6) Services performed by an individual for remuneration shall be*  
 148      *deemed to be employment subject to this chapter unless and until it is shown*  
 149      *to the satisfaction of the division that*

150            *(A) such individual has been and will continue to be free from con-*  
 151      *trol or direction over the performance of such service both under his*  
 152      *contract of service and in fact; and*

153            *(B) such service is either outside the usual course of the business for*  
 154      *which such service is performed, or that such service is performed out-*  
 155      *side of all the places of business of the enterprise for which such serv-*  
 156      *ice is performed; and*

157            *(C) such individual is customarily engaged in an independently*  
 158      *established trade, occupation, profession or business.*

159      *(7) The term "employment" shall not include:*

160            *(A) Agricultural labor;*

161            *(B) Domestic service in a private home;*

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

165            *(D) Service performed in the employ of this State or of any po-*  
 166      *litical subdivision thereof or of any instrumentality of this State or its*  
 167      *political subdivisions;*

168            *(E) Service performed in the employ of any other State or its po-*  
 169      *litical subdivisions, or of the United States Government, or of an instru-*  
 170      *mentality of any other State or States or their political subdivisions or*  
 171      *of the United States;*

172            *(F) Services performed in the employ of a corporation, commu-*  
 173      *nity chest, fund, or foundation, organized and operated exclusively for*  
 174      *religious, charitable, scientific, literary, hospital, benevolent, philan-*  
 175      *thropic, or educational purposes, or for the prevention of cruelty to chil-*

176 *dren or animals, no part of the net earnings of which inures to the bene-*  
177 *fit of any private shareholder or individual;*

178 *(G) Services performed in the employ of fraternal beneficiary*  
179 *societies, orders, or associations operating under the lodge system or for*  
180 *the exclusive benefit of the members of a fraternity itself operating un-*  
181 *der the lodge system and providing for the payment of life, sick, accident*  
182 *or other benefits to the members of such society, order, or association,*  
183 *or their dependents;*

184 *(H) Services performed as an officer or other employee of any build-*  
185 *ing and loan association of this State, except where such services con-*  
186 *stitute the principal employment of the individual; services performed*  
187 *as an officer or other employee of any building and loan association where*  
188 *such association is a member of the Federal Home Loan Bank System;*  
189 *services performed as an officer or other employee of any bank which is*  
190 *a member of the Federal Reserve System;*

191 *(I) Service performed after June 30, 1939, with respect to which*  
192 *unemployment compensation is payable under the Railroad Unemploy-*  
193 *ment Insurance Act (52 Stat. 1094).*

194 *(J) Service performed by agents of insurance companies, exclusive*  
195 *of industrial insurance agents, or by agents of investment companies,*  
196 *who are compensated wholly on a commission basis.*

197 *(K) Services performed by real estate salesmen or brokers who are*  
198 *compensated wholly on a commission basis.*

199 *(L) Services performed in the employ of any veterans' organization*  
200 *chartered by Act of Congress or of any auxiliary thereof, no part of the*  
201 *net earnings of which organization, or auxiliary thereof, inures to the*  
202 *benefit of any private shareholder or individual.*

203 *(M) Service heretofore or hereafter performed for or in behalf of*  
204 *the owner or operator of any theatre, ballroom, amusement hall or other*  
205 *place of entertainment, not in excess of 10 weeks in any calendar year for*  
206 *the same owner or operator, by any leader or musician of a band or*

207 orchestra commonly called a "name band," entertainer, vaudeville art-  
 208 ist, actor, actress, singer or other entertainer.

209 (N) Services performed by an individual for a labor union organi-  
 210 zation, known and recognized as a union local, as a member of a com-  
 211 mittee or committees reimbursed by the union local for time lost from  
 212 regular employment, or as a part-time officer of a union local and the re-  
 213 muneratation for such services is less than \$250.00 in a calendar year.

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

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

220 (l) "State" includes, in addition to the States of the United States of  
 221 America, Alaska, Hawaii, and the District of Columbia.

222 (m) Unemployment.

223 (1) An individual shall be deemed "unemployed" for any week during  
 224 which he is not engaged in full-time work and with respect to which his re-  
 225 muneratation is less than his weekly benefit rate.

226 (2) The term "remuneratation," with respect to benefit years commenc-  
 227 ing prior to January 1, 1953, and as used in this subsection, shall include  
 228 only that part of the same which exceeds \$3.00 for any 1 week.

229 (3) An individual's week of unemployment shall be deemed to com-  
 230 mence only after his registration at an employment office, except as the divi-  
 231 sion may by regulation otherwise prescribe.

232 (n) "Unemployment compensation administration fund" means the un-  
 233 employment compensation administration fund established by this chapter  
 234 from which administrative expenses under this chapter shall be paid.

235 (o) "Wages" means remuneratation payable by employers for employ-  
 236 ment prior to January 1, 1947, and paid prior to such date; and means re-  
 237 muneratation paid subsequent to December 31, 1946, by employers for employ-



238 *ment; provided, however, that for eligibility and benefit purposes wages*  
239 *earned but not paid when the amount thereof has been calculated and is due*  
240 *as determined by the established and customary practices of the employer*  
241 *shall be construed as having been paid when earned.*

242       *(p) "Remuneration" means all compensation for personal services, in-*  
243 *cluding commissions and bonuses and the cash value of all compensation in*  
244 *any medium other than cash.*

245       *(q) "Week" means such period or periods of 7 consecutive days end-*  
246 *ing at midnight, as the division may by regulation prescribe.*

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

249       *(s) "Investment company" means any company as defined in paragraph*  
250 *1-a of chapter 322 of the laws of 1938, entitled "An act concerning investment*  
251 *companies, and supplementing Title 17 of the Revised Statutes by adding*  
252 *thereto a new chapter entitled 'investment companies.' "*

253       *(t) "Base week" means any calendar week of an individual's base year*  
254 *during which he earned in employment from an employer remuneration equal*  
255 *to not less than \$15.00; provided, if in any calendar week, an individual is in*  
256 *employment with more than 1 employer, he may in such calendar week estab-*  
257 *lish a base week with respect to each such employer from whom the individual*  
258 *earns remuneration equal to not less than \$15.00 during such week.*

259       *(u) "Average weekly wage" means the amount derived by dividing an*  
260 *individual's total wages received during his base year base weeks from that*  
261 *most recent base year employer with whom he had established at least 17*  
262 *base weeks by the number of base weeks in which such wages were earned.*  
263 *In the event that such claimant had no employer in his base year with whom*  
264 *he had established at least 17 base weeks, then such individual's average*  
265 *weekly wage shall be computed as if all of his base week wages were received*  
266 *from 1 employer and as if all his base weeks of employment had been per-*  
267 *formed in the employ of 1 employer.*

268     *If on application of a claimant it is determined that he has been em-*  
 269 *ployed during at least the 4 weeks immediately preceding his separation from*  
 270 *employment by an employer on a substantially reduced schedule of weekly*  
 271 *hours due to lack of work, all weeks of substantially reduced schedule within*  
 272 *the base period and his wages therefor shall be disregarded in computing*  
 273 *his average weekly wage.*

274     *(v) "Initial determination" means, subject to the provisions of R. S.*  
 275 *43:21-6 (b) and (3), a determination of benefit rights as measured by an*  
 276 *eligible individual's base year employment with a single employer covering*  
 277 *all periods of employment with that employer during the base year. Subject*  
 278 *to the provisions of R. S. 43:21-3 (d) (3) an individual has been in employ-*  
 279 *ment in his base year with more than 1 employer, no benefits shall be paid to*  
 280 *that individual under any successive initial determination until his benefit*  
 281 *rights have been exhausted under the next preceding initial determination.*

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

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

288     *4. This act shall take effect October 1, 1955, and shall apply only with re-*  
 289 *spect to benefit years beginning on and after October 1, 1955.*