

ASSEMBLY, No. 14

STATE OF NEW JERSEY

INTRODUCED JANUARY 16, 1956

By Mr. LAZZIO

Referred to Committee on Labor and Industrial Relations

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

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

1. 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

18 the purposes of paragraph (3) of subsection (e) of section 43:21-7 of this
19 Title means the average of the annual payrolls of any employer, on which
20 he paid contributions to the State disability benefits fund, for the last 3 or
21 5 preceding calendar years, whichever average is higher; provided, further,
22 that only those wages be included on which employer contributions have been
23 paid on or before January 31 immediately preceding the beginning of the
24 12-months' period for which the employer's contribution rate is computed.

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

27 (c) (1) The term "base year" with respect to benefit years commenc-
28 ing prior to January 1, 1953, means the first 4 of the last 5 completed cal-
29 endar quarters immediately preceding the first day of an individual's benefit
30 year; provided, that no calendar quarter shall comprise a part of more
31 than 1 base year.

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

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

47 (e) "Division" means the Division of Employment Security of the De-
48 partment of Labor and Industry established by chapter 446, P. L. 1948, and

49 any transaction or exercise of authority by the director of the division there-
50 under, or under this chapter (R. S. 43:21-1 et seq.), shall be deemed to be
51 performed by the division.

52 (f) "Contributions" means the money payments to the State unemploy-
53 ment compensation fund required by this chapter.

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

80 perform or to assist in performing to be employed by such employing unit
81 an employing unit shall be deemed the work of any agent or employee of
82 for all the purposes of this chapter, whether such individual was hired or
83 paid directly by such employing unit or by such agent or employee; pro-
84 vided, the employing unit had actual or constructive knowledge of the work.

85 (h) "Employer" means:

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

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

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

99 (4) Any employing unit which together with 1 or more other em-
100 ploying units is owned or controlled (by legally enforceable means or other-
101 wise), directly or indirectly by the same interests, or which owns or con-
102 trols 1 or more other employing units (by legally enforceable means or
103 otherwise), and which, if treated as a single unit with such other employ-
104 ing unit or interest, would be an employer under paragraph (1) of this
105 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,
108 ceased to be an employer subject to this chapter; or

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

112 (i) (1) "Employment" means service, including service in interstate
113 commerce performed for remuneration or under any contract of hire, writ-
114 ten or oral, express or implied.

115 (2) The term "employment" shall include an individual's entire serv-
116 ice, 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 serv-
119 ice is performed in this State, and (i) the base of operation, or, if there
120 is no base of operations, then the place from which such service is di-
121 rected or controlled, is in this State; or (ii) the base of operations
122 or place from which such service is directed or controlled is not in
123 any State in which some part of the service is performed, but the indi-
124 vidual's residence is in this State.

125 (3) Services performed within this State but not covered under para-
126 graph (2) of this subsection shall be deemed to be employment subject to
127 this chapter if contributions are not required and paid with respect to such
128 services under an unemployment compensation law of any other State or of
129 the Federal 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
134 employment subject to this chapter if the individual performing such serv-
135 ices is a resident of this State and the division approves the election of the
136 employing unit for whom such services are performed that the entire service
137 of 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,
144 but the service performed without such State is incidental to the indi-
145 vidual's service within the State, for example, is temporary or transi-
146 tory in 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
149 shown to the satisfaction of the division that

150 (A) such individual has been and will continue to be free from
151 control 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
154 for which such service is performed, or that such service is performed
155 outside of all the places of business of the enterprise for which such
156 service 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
164 21 in the employ of his father or mother;

165 (D) Service performed in the employ of this State or of any political
166 subdivision thereof or of any instrumentality of this State or its political
167 subdivisions;

168 (E) Service performed in the employ of any other State or its
169 political subdivisions, or of the United States Government, or of an
170 instrumentality of any other State or States or their political subdivi-
171 sions or 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
176 children or animals, no part of the net earnings of which inures to the
177 benefit of any private shareholder or individual;

178 (G) Services performed in the employ of fraternal beneficiary so-
179 cieties, orders, or associations operating under the lodge system or for
180 the exclusive benefit of the members of a fraternity itself operating
181 under the lodge system and providing for the payment of life, sick,
182 accident or other benefits to the members of such society, order, or
183 association, or their dependents;

184 (H) Services performed as an officer or other employee of any
185 building and loan association of this State, except where such services
186 constitute the principal employment of the individual; services performed
187 as an officer or other employee of any building and loan association
188 where such association is a member of the Federal Home Loan Bank
189 System; services performed as an officer or other employee of any bank
190 which is 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, exclu-
195 sive of industrial insurance agents, or by agents of investment com-
196 panies, 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' organiza-
200 tion chartered by Act of Congress or of any auxiliary thereof, no part
201 of the net earnings of which organization, or auxiliary thereof, inures
202 to the 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

205 other place of entertainment, not in excess of 10 weeks in any calen-
206 dar year for the same owner or operator, by any leader or musician of
207 a band or orchestra, commonly called a "name band," entertainer,
208 vaudeville artist, actor, actress, singer or other entertainer;

209 (N) Services performed by an individual for a labor union organiza-
210 tion, known and recognized as a union local, as a member of a committee
211 or committees reimbursed by the union local for time lost from regular
212 employment, or as a part-time officer of a union local and the remunera-
213 tion for such services is less than \$250.00 in a calendar year.

214 (j) "Employment office" means a free public employment office, or
215 branch thereof operated by this State or maintained as a part of a State
216 controlled 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.

222A (1) An individual shall be deemed "unemployed" for any week during
223 which he is not engaged in full-time work and with respect to which his
224 remuneration is less than his weekly benefit rate, *including any week during*
225 *which he is on vacation without pay.*

226 (2) The term "remuneration," with respect to benefit years commene-
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 one 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
231 division 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 ending
246 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 para-
250 graph 1-a of chapter 322 of the laws of 1938, entitled "An act concerning in-
251 vestment companies, and supplementing Title 17 of the Revised Statutes by
252 adding 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
255 equal to not less than \$15.00; provided, if in any calendar week, an
256 individual is in employment with more than 1 employer, he may in such
257 calendar week establish a base week with respect to each such employer
258 from whom the individual earns remuneration equal to not less than \$15.00
259 during such week.

260 (u) "Average weekly wage" means the amount derived by dividing an
261 individual's total wages received during his base year base weeks from that
262 most recent base year employer with whom he had established at least
263 17 base weeks, by the number of base weeks in which such wages were
264 earned. In the event that such claimant had no employer in his base year
265 with whom he had established at least 17 base weeks, then such indi

266 vidual's average weekly wage shall be computed as if all of his base week
267 wages were received from 1 employer and as if all his base weeks of em-
268 ployment had been performed in the employ of 1 employer.

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

275 (v) "Initial determination" means, subject to the provision of R. S.
276 43:21-6 (b) and (3), a determination of benefit rights as measured by an
277 eligible individual's base year employment with a single employer covering
278 all periods of employment with that employer during the base year. Sub-
279 ject to the provisions of R. S. 43:21-3 (d) (3) if an individual has been in
280 employment in his base year with more than 1 employer, no benefits shall be
281 paid to that individual under any successive initial determination until his
282 benefit rights have been exhausted under the next preceding initial determina-
283 tion.

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

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

1 2. This act shall take effect immediately.

STATEMENT

The purpose of this bill is to provide unemployment compensation for an employee otherwise qualified who is required to accept a vacation without pay. The existing law has been construed to preclude unemployment compensation benefits in such cases.

COMM

SENATE/AMENDMENT TO
ASSEMBLY, No. 14

STATE OF NEW JERSEY

ADOPTED MAY 24, 1956

Amend page 8, section 1, line 225, delete the "." and substitute "; provided, such vacation is not the result of the individual's voluntary action."

ASSEMBLY, No. 14

STATE OF NEW JERSEY

INTRODUCED JANUARY 16, 1956

By Mr. LAZZIO

Referred to Committee on Labor and Industrial Relations

An Act concerning unemployment compensation, and amending section 43:21-19
of the Revised Statutes.

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

1 1. Section 43:21-19 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 employment.

6 (2) "Average annual payroll" means the average of the annual pay-
7 rolls of any employer for the last 3 or 5 preceding calendar years,
8 whichever average is higher, except that any year or years throughout which
9 an employer has had no "annual payroll" because of military service shall
10 be deleted from the reckoning; the "average annual payroll" in such case
11 is to be determined on the basis of the prior 3 or 5 calendar years in each
12 of which the employer had an "annual payroll" in the operation of his busi-
13 ness, if the employer resumes his business within 12 months after separa-
14 tion, discharge or release from such service, under conditions other than
15 dishonorable, and makes application to have his "average annual payroll"
16 determined on the basis of such deletion within 12 months after he resumes
17 his business; provided, however, that "average annual payroll" solely for

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

18 the purposes of paragraph (3) of subsection (e) of section 43:21-7 of this
19 Title means the average of the annual payrolls of any employer, on which
20 he paid contributions to the State disability benefits fund, for the last 3 or
21 5 preceding calendar years, whichever average is higher; provided, further,
22 that only those wages be included on which employer contributions have been
23 paid on or before January 31 immediately preceding the beginning of the
24 12-months' period for which the employer's contribution rate is computed.

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

27 (c) (1) The term "base year" with respect to benefit years commene-
28 ing prior to January 1, 1953, means the first 4 of the last 5 completed cal-
29 endar quarters immediately preceding the first day of an individual's benefit
30 year; provided, that no calendar quarter shall comprise a part of more
31 than 1 base year.

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

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

47 (e) "Division" means the Division of Employment Security of the De-
48 partment of Labor and Industry established by chapter 446, P. L. 1948, and

49 any transaction or exercise of authority by the director of the division there-
50 under, or under this chapter (R. S. 43:21-1 et seq.), shall be deemed to be
51 performed by the division.

52 (f) "Contributions" means the money payments to the State unemploy-
53 ment compensation fund required by this chapter.

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

80 perform or to assist in performing to be employed by such employing unit
81 an employing unit shall be deemed the work of any agent or employee of

82 for all the purposes of this chapter, whether such individual was hired or
83 paid directly by such employing unit or by such agent or employee; pro-
84 vided, the employing unit had actual or constructive knowledge of the work.

85 (h) "Employer" means:

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

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

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

99 (4) Any employing unit which together with 1 or more other em-
100 ploying units is owned or controlled (by legally enforceable means or other-
101 wise), directly or indirectly by the same interests, or which owns or con-
102 trols 1 or more other employing units (by legally enforceable means or
103 otherwise), and which, if treated as a single unit with such other employ-
104 ing unit or interest, would be an employer under paragraph (1) of this
105 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,
108 ceased to be an employer subject to this chapter; or

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

112 (i) (1) "Employment" means service, including service in interstate
113 commerce performed for remuneration or under any contract of hire, writ-
114 ten or oral, express or implied.

115 (2) The term "employment" shall include an individual's entire serv-
116 ice, 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 serv-
119 ice is performed in this State, and (i) the base of operation, or, if there
120 is no base of operations, then the place from which such service is di-
121 rected or controlled, is in this State; or (ii) the base of operations
122 or place from which such service is directed or controlled is not in
123 any State in which some part of the service is performed, but the indi-
124 vidual's residence is in this State.

125 (3) Services performed within this State but not covered under para-
126 graph (2) of this subsection shall be deemed to be employment subject to
127 this chapter if contributions are not required and paid with respect to such
128 services under an unemployment compensation law of any other State or of
129 the Federal 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
134 employment subject to this chapter if the individual performing such serv-
135 ices is a resident of this State and the division approves the election of the
136 employing unit for whom such services are performed that the entire service
137 of 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

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146 tory in nature or consists of isolated transactions.

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148 deemed to be employment subject to this chapter unless and until it is
149 shown to the satisfaction of the division that

150 (A) such individual has been and will continue to be free from
151 control 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
154 for which such service is performed, or that such service is performed
155 outside of all the places of business of the enterprise for which such
156 service 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;

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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
164 21 in the employ of his father or mother;

165 (D) Service performed in the employ of this State or of any political
166 subdivision thereof or of any instrumentality of this State or its political
167 subdivisions;

168 (E) Service performed in the employ of any other State or its
169 political subdivisions, or of the United States Government, or of an
170 instrumentality of any other State or States or their political subdivi-
171 sions or of the United States;

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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
176 children or animals, no part of the net earnings of which inures to the
177 benefit of any private shareholder or individual;

178 (G) Services performed in the employ of fraternal beneficiary so-
179 cieties, orders, or associations operating under the lodge system or for
180 the exclusive benefit of the members of a fraternity itself operating
181 under the lodge system and providing for the payment of life, sick,
182 accident or other benefits to the members of such society, order, or
183 association, or their dependents;

184 (H) Services performed as an officer or other employee of any
185 building and loan association of this State, except where such services
186 constitute the principal employment of the individual; services performed
187 as an officer or other employee of any building and loan association
188 where such association is a member of the Federal Home Loan Bank
189 System; services performed as an officer or other employee of any bank
190 which is 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, exclu-
195 sive of industrial insurance agents, or by agents of investment com-
196 panies, 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' organiza-
200 tion chartered by Act of Congress or of any auxiliary thereof, no part
201 of the net earnings of which organization, or auxiliary thereof, inures
202 to the 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

205 other place of entertainment, not in excess of 10 weeks in any calen-
206 dar year for the same owner or operator, by any leader or musician of
207 a band or orchestra, commonly called a "name band," entertainer,
208 vaudeville artist, actor, actress, singer or other entertainer;

209 (N) Services performed by an individual for a labor union organiza-
210 tion, known and recognized as a union local, as a member of a committee
211 or committees reimbursed by the union local for time lost from regular
212 employment, or as a part-time officer of a union local and the remunera-
213 tion for such services is less than \$250.00 in a calendar year.

214 (j) "Employment office" means a free public employment office, or
215 branch thereof operated by this State or maintained as a part of a State
216 controlled 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.

222A (1) An individual shall be deemed "unemployed" for any week during
223 which he is not engaged in full-time work and with respect to which his
224 remuneration is less than his weekly benefit rate, *including any week during*
225 *which he is on vacation without pay[.]; provided, such vacation is not the*
225A *result of the individual's voluntary action.*

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 one 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
231 division 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 ending
246 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 para-
250 graph 1-a of chapter 322 of the laws of 1938, entitled "An act concerning in-
251 vestment companies, and supplementing Title 17 of the Revised Statutes by
252 adding 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
255 equal to not less than \$15.00; provided, if in any calendar week, an
256 individual is in employment with more than 1 employer, he may in such
257 calendar week establish a base week with respect to each such employer
258 from whom the individual earns remuneration equal to not less than \$15.00
259 during such week.

260 (u) "Average weekly wage" means the amount derived by dividing an
261 individual's total wages received during his base year base weeks from that
262 most recent base year employer with whom he had established at least
263 17 base weeks, by the number of base weeks in which such wages were
264 earned. In the event that such claimant had no employer in his base year
265 with whom he had established at least 17 base weeks, then such indi

266 vidual's average weekly wage shall be computed as if all of his base week
267 wages were received from 1 employer and as if all his base weeks of em-
268 ployment had been performed in the employ of 1 employer.

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

275 (v) "Initial determination" means, subject to the provision of R. S.
276 43:21-6 (b) and (3), a determination of benefit rights as measured by an
277 eligible individual's base year employment with a single employer covering
278 all periods of employment with that employer during the base year. Sub-
279 ject to the provisions of R. S. 43:21-3 (d) (3) if an individual has been in
280 employment in his base year with more than 1 employer, no benefits shall be
281 paid to that individual under any successive initial determination until his
282 benefit rights have been exhausted under the next preceding initial determina-
283 tion.

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

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

1 2. This act shall take effect immediately.