

October 28, 1966

LEGISLATIVE HISTORY OF R.S. 43:21-6 (b) (1)
Final paragraph.

(Unemployment Compensation - Claims for benefits)

- L. 1936, Chapter 270, § 6 - SSA 1
Introduced December 21 by Mr. Young.
Not amended during passage.
No statement on bill (copy of § 6 enclosed).

- L. 1945, Chapter 308, § 2 - A305
Introduced March 12 by Mr. Leonard.
Amended during passage (This section not amended)
Statement on bill:

The purpose of this bill is to clarify language, eliminate redundant provisions, and to simplify and facilitate administration. The changes proposed are of a technical nature and are needed to avoid duplication of effort and overlapping of administration.
(copy of § 2 of bill enclosed).

- L. 1950, Chapter 167, § 1 - S85
Introduced February 13 by Mr. Clapp.
Amended during passage.
Statement on bill (copy of original bill and statement enclosed).

- L. 1951, Chapter 338, § 1 - A549
Adds § 1, does not affect present section.

- L. 1952, Chapter 187, § 3 - S154
Introduced March 10 by Mr. Bodine.
Not amended during passage.
Statement on bill (copy of § 3 of bill and statement enclosed).

- L. 1955, Chapter 203, § 2 - A264
Introduced March 7 by Messrs. Mosch and Mintz.
No statement on bill.
Section 2 added by Senate Committee Amendments
(copy of amendments enclosed).
Bill returned by Governor (copy of Governor's message enclosed).

COPY NO. 2

PROPERTY OF
NEW JERSEY STATE LIBRARY

185 W. State Street
Trenton, N. J.

DEPOSITORY COPY
Do Not Remove From Library

L. 1961, Chapter 43, § 4 - S179
Introduced May 1 by Senators Ozzard and Haines.
Amended during passage (Section 4 not amended).
No statement on bill (copy of § 4 of bill enclosed).

Also see the following:

974.90 N.J. Social Security Commission.
U55 Report on unemployment compensation, report
1936i no. 2. December, 1936. (pp. 29, 37ff., 105ff.)

974.90 N.J. Social Security Commission.
U55 Three alternate plans for unemployment compensation.
1936g November, 1936. (pp. 49ff., 72ff.)

974.90 N.J. Social Security Commission.
U55 Memorandum by the sponsors of Plan D.
1936h (pp. 8-9).

974.90 N.J. Social Security Commission.
U55 Public hearing, December 2, 1936.
1936j (p. 32).

974.901 N.J. Unemployment Compensation Commission.
E78 Annual report, 1945 (p. 22-23).

974.90 N.J. Legislature. Special Commission to Study
U55 Employment Security Laws.
1950 Public hearing on unemployment and temporary
disability benefits, December 20, 1950 (p. 30).

974.90 N.J. Legislature. Special Commission to Study
U55 Employment Security Laws.
1951 Reports to the Governor and Legislature.
October, 1951. (pp. C-1 ff., K-1 ff.)

CK/PC

36 was last employed; *provided*, that this subsection shall not apply if it is
37 shown to the satisfaction of the board of review that—(1) He is not
38 participating in or financing or directly interested in the labor dispute which
39 caused the stoppage of work; and

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

49 (c) For any week with respect to which he is receiving or has received
50 remuneration in the form of—(1) Remuneration in lieu of notice;

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

54 (3) Old-age benefits under title II of the Social Security Act, as
55 amended, or similar payments under any act of Congress; *provided*, that if
56 such remuneration is less than the benefits which would otherwise be due
57 under this act, he shall be entitled to receive for such week, if otherwise
58 eligible, benefits reduced by the amount of such remuneration.

CLAIMS FOR BENEFITS

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

PROPERTY OF
NEW JERSEY STATE LIBRARY

8 (b) Initial determination.—A representative designated by the execu-
9 tive director, and hereinafter referred to as a deputy, shall promptly examine
10 the claim and, on the basis of the facts found by him, shall either determine
11 whether or not such claim is valid, and if valid, the week with respect to
12 which benefits shall commence, the weekly benefit amount payable and the
13 maximum duration thereof, or shall refer such claim or any question in-
14 volved therein to an appeal tribunal or to the board of review, which shall
15 make its determinations with respect thereto in accordance with the pro-
16 cedure described in subsection (c) of this section, except that in any case in
17 which the payment or denial of benefits will be determined by the provisions
18 of section five (d) of this act, the deputy shall promptly transmit his full
19 findings of fact with respect to that subsection to the board of review, which,
20 on the basis of the evidence submitted and such additional evidence as it
21 may require, shall affirm, modify, or set aside such findings of fact and
22 transmit to the deputy a decision upon the issues involved under that sub-
23 section. The deputy shall promptly notify the claimant and any other in-
24 terested party of the decision and the reasons therefor. Unless the claim-
25 ant or any such interested party, within five calendar days after the de-
26 livery of such notification, or within seven calendar days after such notifi-
27 cation was mailed to his last-known address, files an appeal from such
28 decision, such decision shall be final and benefits shall be paid or denied in
29 accordance 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 be
31 paid only after such determination; *provided*, that if an appeal tribunal
32 affirms a decision of a deputy, or the board of review affirms a decision of
33 an appeal tribunal, allowing benefits, such benefits shall be paid regardless
34 of any appeal which may thereafter be taken, but if such decision is finally
35 reversed, no employer's account shall be charged with benefits so paid.

36 (c) Appeals.—Unless such appeal is withdrawn, an appeal tribunal, after
37 affording the parties reasonable opportunity for fair hearing, shall affirm
38 or modify the findings of fact and decision of the deputy. The parties

39 shall be duly notified of such tribunal's decision, together with its reasons
40 therefor, which shall be deemed to be the final decision of the board of re-
41 view, unless within ten days after the date of notification or mailing of such
42 decision, further appeal is initiated pursuant to subsection (e) of this sec-
43 tion.

44 (d) Appeal tribunals.—To hear and decide disputed claims, the executive
45 director with the approval of the commission shall establish one or more
46 impartial appeal tribunals consisting in each case of either a salaried ex-
46½ aminer or a body consisting of three members, one of whom shall
47 be a salaried examiner, who shall serve as chairman, one of whom shall be
48 a representative of employers and the other of whom shall be a representa-
49 tive of employees; each of the latter two members shall serve at the pleas-
50 ure of the commission and be paid a fee of not more than twenty dollars
51 (\$20.00) per day of active service on such tribunal plus necessary expenses,
52 No person shall participate on behalf of the commission in any case in which
53 he is an interested party. The executive director may designate alternates
54 to serve in the absence or disqualification of any member of an appeal tri-
55 bunal. The chairman shall act alone in the absence or disqualification of
56 any other member and his alternates. In no case shall the hearings proceed
57 unless the chairman of the appeal tribunal is present.

58 (e) Board of review.—The board of review may on its own motion affirm,
59 modify, or set aside any decision of an appeal tribunal on the basis of the
60 evidence previously submitted in such case, or direct the taking of additional
61 evidence, or may permit any of the parties to such decision to initiate fur-
62 ther appeals before it. The board of review shall permit such further appeal
63 by any of the parties interested in a decision of an appeal tribunal which is
64 not unanimous and by the deputy whose decision has been overruled or
65 modified by an appeal tribunal. The board of review may remove to itself
66 or transfer to another appeal tribunal the proceedings on any claim pend-
67 ing before an appeal tribunal. Any proceeding so removed to the board of
68 review shall be heard by a quorum thereof in accordance with the require-

69 ments in subsection (c) of this section. The board of review shall
70 promptly notify the interested parties of its findings and decision.

71 (f) Procedure.—The manner in which disputed claims shall be presented,
72 the reports thereon required from the claimant and from employers, and
73 the conduct of hearings and appeals shall be in accordance with rules pre-
74 scribed by the board of review for determining the rights of the parties,
75 whether or not such rules conform to common law or statutory rules of evi-
76 dence and other technical rules of procedure. A full and complete record
77 shall be kept of all proceedings in connection with a disputed claim. All
78 testimony at any hearing upon a disputed claim shall be recorded, but need
79 not be transcribed unless the disputed claim is further appealed.

80 (g) Witness fees.—Witnesses subpoenaed pursuant to this section shall
81 be allowed fees at a rate fixed by the commission. Such fees and all expenses
82 of proceedings involving disputed claims shall be deemed a part of the ex-
83 pense of administering this act.

84 (h) Appeal to courts.—Any decision of the board of review in the ab-
85 sence of an appeal therefrom as herein provided shall become final ten days
86 after the date of notification or mailing thereof, and judicial review thereof
87 shall be permitted only after any party claiming to be aggrieved thereby
88 has exhausted his remedies before the board of review as provided by this
89 act. The board of review shall be deemed to be a party to any judicial ac-
90 tion involving any such decision, and may be represented in any such
91 judicial action by any qualified attorney who may be a regular salaried em-
92 ployee of the board of review or has been designated by it for that pur-
93 pose, or at the board of review's request, by the Attorney-General.

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

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

52 [(1) Remuneration in lieu of notice;

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

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

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

1 2. 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
9 to each employer without cost to him.

10 (b) (1) Initial determination. A representative designated by the execu-
11 tive director, and hereinafter referred to as a "deputy," shall promptly ex-
12 amine the claim and, on the basis of the facts found by him, shall either
13 determine whether or not such claim is valid, and if valid, the week with re-
14 spect to which benefits shall commence, the weekly benefit amount payable

15 and the maximum duration thereof, or shall refer such claim or any question
16 involved therein to an appeal tribunal or to the board of review, which shall
17 make its determinations with respect thereto in accordance with the procedure
18 described in subsection (c) of this section [, except that in any case in which
19 the payment or denial of benefits will be determined by the provisions of
20 subsection (d) of section 43:21-5 of this Title, the deputy shall promptly
21 transmit his full findings of fact with respect to that subsection to the board
22 of review, which, on the basis of the evidence submitted and such additional
23 evidence as it may require, shall affirm, modify, or set aside such findings of
24 fact and transmit to the deputy a decision upon the issues involved under
25 that subsection.]. The deputy shall promptly notify the claimant [and any
26 other interested party], the most recent employing unit and all employers in
27 the base year of the decision and the reasons therefor. Unless the claimant
28 or any such interested party, within five calendar days after the delivery of
28½ such notification, or within seven calendar days after such notification
29 was mailed to his and their last-known address and addresses, files
30 an appeal from such decision, such decision shall be final and benefits
31 shall be paid or denied in accordance therewith. If an appeal is duly
32 filed, benefits with respect to the period prior to the final determination of
33 the board of review, shall be paid only after such determination; *provided,*
34 that if an appeal tribunal affirms a decision of a deputy, or the board of re-
35 view affirms a decision of an appeal tribunal, allowing benefits, such benefits
36 shall be paid regardless of any appeal which may thereafter be taken, but if
37 such decision is finally reversed, no employer's account shall be charged with
38 benefits so paid.

39 (2) Subsequent determinations. The deputy shall make determinations
40 with respect to claims for benefits thereafter in the course of the benefit year
41 in accordance with any initial determination allowing benefits; *provided,* the
42 claimant is eligible and not disqualified; the allowance of benefits by the
43 deputy on any such claim (if disputed), or the denial of benefits by the deputy

L. 1950, C. 167

SENATE, No. 85

STATE OF NEW JERSEY

INTRODUCED FEBRUARY 13, 1950

By Mr. CLAPP

Referred to Committee on Labor, Industries and Social Welfare

AN ACT concerning unemployment compensation, and amending section 43:21-6
and section 43:21-16 of the Revised Statutes.

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

1 1. Section 43:21-6 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] director of the Division of Em-
5 ployment Security of the Department of Labor and Industry of the State of
6 New Jersey may approve. Each employer shall post and maintain on his
7 premises printed [statements of such regulations in places readily accessible
8 to individuals in his service and shall make available to each such individual
9 at the time he becomes unemployed, a printed statement of such regula-
10 tions] notices of his subject status, of such design, in such numbers, and at
11 such places as the director of the division may determine to be necessary to
12 give notice thereof to persons in the employer's service. Each employer
13 shall give to each individual at the time he becomes unemployed a printed
14 copy of benefit instructions. [Such printed statements shall be supplied by
15 the commission to each employer without cost to him.] Both the aforesaid
16 notices and instructions shall be supplied by the division to employers
17 without cost to them.

18 (b) (1) Initial determinations. [A representative designated by the
19 executive director, and hereinafter referred to as a "deputy," shall prompt-
20 ly examine the claim and, on the basis of the facts found by him, shall either
21 determine whether or not such claim is valid, and if valid, the week with
22 respect to which benefits shall commence, the weekly benefit amount pay-
23 able and the maximum duration thereof, or shall refer such claim or any
24 question involved therein to an appeal tribunal or to the board of review,
25 which shall make its determinations with respect thereto in accordance with
26 the procedure described in subsection (c) of this section. The deputy shall
27 promptly notify the claimant, the most recent employing unit and all em-
28 ployers in the base year of the decision and the reasons therefor. Unless
29 the claimant or any such interested party, within five calendar days after
30 the delivery of such notification, or within seven calendar days after such
31 notification was mailed to his and their last-known address and addresses,
32 files an appeal from such decision, such decision shall be final and benefits
33 shall be paid or denied in accordance therewith. If an appeal is duly filed,
34 benefits with respect to the period prior to the final determination of the
35 board of review, shall be paid only after such determination; *provided*, that
36 if an appeal tribunal affirms a decision of a deputy, or the board of review
37 affirms a decision of an appeal tribunal, allowing benefits, such benefits
38 shall be paid regardless of any appeal which may thereafter be taken, but if
39 such decision is finally reversed, no employer's account shall be charged with
40 benefits so paid.] The director of the division shall designate a representa-
41 tive or representatives to promptly examine the claims and to determine
42 which claims do and which claims do not meet the requirements of section
43 4(e); and as to those claims meeting the requirements of section 4(e) to
44 further determine the weekly benefit rates and the maximum total benefits
45 payable. Each claimant shall be promptly notified of the determination of
46 his claim.

47 (2) [Subsequent determinations. The deputy shall make determina-
48 tions with respect to claims for benefits thereafter in the course of the bene-
49 fit year in accordance with any initial determination allowing benefits; *pro-*
50 *vided*, the claimant is eligible and not disqualified; the allowance of benefits
51 by the deputy on any such claim (if disputed), or the denial of benefits by
51½ the deputy on any such claim, shall be appealable within seven calendar
52 days after the date of notification thereof.] Weekly determinations. The
53 director of the division shall assign a representative or representatives to
54 each local claims office for the purpose of making weekly determinations (ex-
55 cept those under subsections 4(f) and 5(d) in the course of the benefit year,
56 in accordance with the initial determination of a valid claim. Whenever a
57 determination of eligibility shall be made with respect to the first week of
58 the benefit year for which benefits are claimed, the claimant, the last employ-
59 ing unit and all employers in the base year shall be promptly notified of such
60 determination. Whenever a determination of ineligibility or disqualification
61 shall be made with respect to any week of the benefit year, the claimant
62 shall be promptly notified of such determination.

63 (3) Any claimant or any interested entity or person may file an appeal
64 from any determination under paragraphs (1) and (2) of this subsection
65 within five calendar days after the delivery of notification, or within seven
66 calendar days after the mailing of notification, of such determination. Un-
67 less such an appeal is filed such determination shall be final and benefits shall
68 be paid or denied in accordance therewith. If an appeal is duly filed, bene-
69 fits with respect to the period covered by the appeal shall be payable only
70 after a determination of entitlement by the appellate tribunal; benefits pay-
71 able for periods pending an appeal and not in dispute shall be paid as such
72 benefits accrue; *provided* that insofar as any such appeal is or may be an
73 appeal from a determination to the effect that the claimant is disqualified
74 under the provisions of section 43:21-5 of the Revised Statutes or any
75 amendments thereof or supplements thereto, benefits pending determination
76 of the appeal shall be withheld only for the period of disqualification as

77 provided for in said section, and notwithstanding such appeal the benefits
78 otherwise provided by this act shall be paid for the period subsequent to
79 such period of disqualification; and *provided*, also, that if there are two de-
80 terminations of entitlement, benefits for the period covered by such deter-
81 minations shall be paid regardless of any appeal which may thereafter be
82 taken, but no employer's account shall be charged with benefits so paid if the
83 decision is finally reversed.

84 (c) Appeals. Unless such appeal is withdrawn, an appeal tribunal,
85 after affording the parties reasonable opportunity for fair hearing, shall af-
86 firm or modify the findings of fact and [decision of the deputy] the deter-
87 mination. The parties shall be duly notified of such tribunal's decision,
88 together with its reasons therefor, which shall be deemed to be the final de-
89 cision of the board of review, unless within ten days after the date of noti-
90 fication or mailing of such decision, further appeal is initiated pursuant to
91 subsection (e) of this section.

92 (d) Appeal tribunals. To hear and decide disputed benefit claims, in-
93 cluding appeals from determinations with respect to demands [by the
94 deputy] for refunds of benefits under section 43:21-16(d) of this chapter
95 (R. S. 43:21-1 et seq.), the [executive] director with the approval of the
96 [commission] Commissioner of Labor and Industry shall establish one or
97 more impartial appeal tribunals consisting in each case of either a salaried
98 examiner or a body consisting of three members, one of whom shall be a sal-
99 aried examiner, who shall serve as chairman, one of whom shall be a repre-
100 sentative of employers and the other of whom shall be a representative of
101 employees; each of the latter two members shall serve at the pleasure of
102 the [commission] commissioner and be paid a fee of not more than twenty
103 dollars (\$20.00) per day of active service on such tribunal plus necessary
104 expenses. No person shall participate on behalf of the [commission] di-
105 vision in any case in which he is an interested party. The [executive]
106 director may designate alternates to serve in the absence or disqualification
107 of any member of an appeal tribunal. The chairman shall act alone in the

108 absence or disqualification of any other member and his alternates. In no
109 case shall the hearings proceed unless the chairman of the appeal tribunal
110 is present.

111 (e) Board of review. The board of review may on its own motion af-
112 firm, modify, or set aside any decision of an appeal tribunal on the basis
113 of the evidence previously submitted in such case, or direct the taking of
114 additional evidence, or may permit any of the parties to such decision to
115 initiate further appeals before it. The board of review shall permit such
116 further appeal by any of the parties interested in a decision of an appeal
117 tribunal which is not unanimous and [by the deputy whose decision] from
118 any determination which has been overruled or modified by an appeal tri-
119 bunal. The board of review may remove to itself or transfer to another
120 appeal tribunal the proceedings on any claim pending before an appeal tri-
121 bunal. Any proceeding so removed to the board of review shall be heard
122 by a quorum thereof in accordance with the requirements [in] of subsection
123 (c) of this section. The board of review shall promptly notify the inter-
124 ested parties of its findings and decision.

125 (f) Procedure. The manner in which disputed benefit claims, and ap-
126 peals from determinations with respect to (1) claims for benefits and (2) de-
127 mands [by the deputy] for refunds of benefits under section 43:21-16(d) of
128 this chapter (R. S. 43:21-1 et seq.) shall be presented, the reports thereon
129 required from the claimant and from employers, and the conduct of hear-
130 ings and appeals shall be in accordance with rules prescribed by the board
131 of review for determining the rights of the parties, whether or not such rules
132 conform to common law or statutory rules of evidence and other technical
133 rules of procedure. A full and complete record shall be kept of all pro-
134 ceedings in connection with a disputed claim. All testimony at any hearing
135 upon a disputed claim shall be recorded, but need not be transcribed unless
136 the disputed claim is further appealed.

137 (g) Witness fees. Witnesses subpoenaed pursuant to this section shall
138 be allowed fees at a rate fixed by the [commission] director. Such fees

139 and all expenses of proceedings involving disputed claims shall be deemed a
140 part of the expense of administering this chapter (R. S. 43:21-1 et seq.).

141 (h) Appeal to courts. Any decision of the board of review in the ab-
142 sence of an appeal therefrom as herein provided shall become final ten days
143 after the date of notification or mailing thereof, and judicial review thereof
144 shall be permitted only after any party claiming to be aggrieved thereby has
145 exhausted his remedies before the board of review as provided by this chap-
146 ter (R. S. 43:21-1 et seq.). The board of review shall be deemed to be a
147 party to any judicial action involving any such decision, and may be repre-
148 sented in any such judicial action by any qualified attorney who may be a
149 regular salaried employee of the board of review or has been designated by
150 it for that purpose, or at the board of review's request, by the Attorney-
151 General.

152 (i) Court review. Within ten days after the decision of the board of
153 review has become final, any party aggrieved thereby may secure judicial re-
154 view thereof by [writ of certiorari directed to the board of review] a pro-
155 ceeding in lieu of the prerogative writs, in which action any other party to
156 the proceeding before the board of review shall be made a defendant.

1 2. 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 et
6 seq.), either for himself or for any other person, shall be liable to a fine of
7 not less than twenty dollars (\$20.00) nor more than fifty dollars (\$50.00), to
8 be recovered in an action at law in the name of the [commission] Division
9 of Employment Security of the Department of Labor and Industry of the
10 State of New Jersey, said fine when recovered to be paid to the unemploy-
11 ment compensation auxiliary fund for the use of said fund; and each such
12 false statement or representation or failure to disclose a material fact shall
13 constitute a separate offense.

14 (b) Any employing unit or any officer or agent of an employing unit or
15 any other person who makes a false statement or representation knowing it
16 to be false, or who knowingly fails to disclose a material fact, to prevent or
17 reduce the payment of benefits to any individual entitled thereto, or to avoid
18 becoming or remaining subject hereto or to avoid or reduce any contribution
19 or other payment required from an employing unit under this chapter (R. S.
20 43:21-1 et seq.), or who wilfully fails or refuses to make any such contribu-
21 tions or other payment or to furnish any reports required hereunder or to
22 produce or permit the inspection or copying of records as required hereunder,
23 shall be liable to a fine of not less than twenty dollars (\$20.00) nor more
24 than two hundred dollars (\$200.00), to be recovered in an action at law in
25 the name of the [commission], Division of Employment Security of the De-
26 partment of Labor and Industry of the State of New Jersey. Said fine when
27 recovered to be paid to the unemployment compensation auxiliary fund for
28 the use of said fund; and each such false statement or representation or fail-
29 ure to disclose a material fact, and each day of such failure or refusal shall
30 constitute a separate offense.

31 (c) Any person who shall willfully violate any provision of this chap-
32 ter (R. S. 43:21-1 et seq.) or any rule or regulation thereunder, the violation
33 of which is made unlawful or the observance of which is required under the
34 terms of this chapter (R. S. 43:21-1 et seq.), and for which a penalty is
35 neither prescribed herein nor provided by any other applicable statute, shall
36 be liable to a fine of not less than twenty dollars (\$20.00) nor more than two
37 hundred dollars (\$200.00), to be recovered in an action at law in the name of
38 the [commission] Division of Employment Security of the Department of
39 Labor and Industry of the State of New Jersey, said fine when recovered
40 to be paid to the unemployment compensation auxiliary fund for the use of
41 said fund; and each day such violation continues shall be deemed to be a
42 separate offense.

43 (d) When it is determined by the deputy a representative or repre-
 44 sentatives designated by the director of the division that any person, by
 45 reason of the nondisclosure or misrepresentation by him or by another, of a
 46 material fact (irrespective of whether or not such nondisclosure or mis-
 47 representation was known or fraudulent) has received any sum as benefits
 48 under this chapter (R. S. 43:21-1 et seq.) while any conditions for the re-
 49 ceipt of benefits imposed by this chapter (R. S. 43:21-1 et seq.) were not ful-
 50 filled in his case, or while he was disqualified from receiving benefits, such
 51 person shall in the discretion of the commission, be liable, if the director
 52 in his discretion directs recovery, either be liable to have such sum de-
 53 ducted from any future benefits payable to him under this chapter (R. S.
 54 43:21-1 et seq.) or shall be liable to repay to the commission division
 55 for the unemployment compensation fund, a sum equal to the amount so re-
 56 ceived by him, and such sum shall be collectible in the manner provided in
 57 subsection (e) of section 43:21-14 of this Title chapter (R. S. 43:21-1 et
 58 seq.) for the collection of past-due contributions. The deputy shall prompt-
 59 ly notify such person of the determination and the reasons therefor. Such
 60 person shall be promptly notified of the determination and the reasons there-
 61 for. Unless such person, within five calendar days after the delivery of such
 62 determination, or within seven calendar days after such notification was
 63 mailed to his or her last-known address, files an appeal from such de-
 64 termination, such determination shall be final.

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

STATEMENT

This bill proposes to amend certain technical aspects of sections six and sixteen of the Unemployment Compensation Law. The purpose is to facilitate administration and, particularly, to speed up the payment of benefits to eligible claimants. It is to be noted that provision is made for proper notice to all interested and affected parties.

The amendment to section six enables the division to separate the basic monetary determination from the factual or weekly determination. The monetary determination simply provides the fiscal factors for the payment of benefits, including the total amount for the benefit year and the weekly benefit rate. Experience has demonstrated that about nineteen percentum (19%) of the individuals who assert claims never pick up benefits in the benefit year. As to that nineteen percentum (19%), the work of the division will be completed when the monetary determination is made and notice thereof given to the claimant. Under section six as it now stands, the agency is required to include in the initial determination some matters which are simply not determinable at the time that determination is made; for example, the week when benefits shall first commence. Under the proposed amendment to section six, determinations for compensable weeks in the benefit year are made as claimant establishes his eligibility with respect thereto. A long time may elapse between the basic monetary determination and the determination covering the first compensable week.

The separation of the basic determinations from the weekly determinations, it is felt, will eliminate a lot of misunderstanding on the part of both employers and claimants and will also eliminate a lot of unnecessary correspondence and communications which at the present time arise because of that misunderstanding.

It is the design of these amendments to have the basic monetary determination made at the central office and the weekly determinations made at local offices where the facts of eligibility, disqualifications, etc., are ascertained. It is also felt that this will cut down to a great degree the amount of intra-agency correspondence and communication.

The proposed amendment to section sixteen is to mesh in with the proposed amendments to section six.

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 and time worked.

75 The deputy shall promptly make an initial determination based upon the
76 available information. The initial determination shall show the weekly benefit
77

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

97r (C) the refusal of suitable work offered by the chargeable em-
 97r 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
 121a 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 notificat'ion 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 (c) 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

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.

STATEMENT

The purpose of this bill is to accomplish the recommendations of the com-
 mission 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 Un-
 employment Compensation Law since its adoption in 1936. It is designed to accom-
 plish the objectives long sought by those interested in establishing and develop-
 ing 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 sub-
 ject 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 accelerat-
 ing the re-employment of claimants.

5154

5154

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.

Hamilton 7 DE

c
e
r
s
ll
of
ne
ne
its
ed
py
oy-
em,
of

SENATE COMMITTEE AMENDMENTS TO

ASSEMBLY, No. 264

[OFFICIAL COPY REPRINT]

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 $\frac{1}{3}$ 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-

STATE OF NEW JERSEY
Executive Department

August 8, 1955

ASSEMBLY BILL NO. 264

To the General Assembly:

Pursuant to Article V, Section I, paragraph 14 (b) of the Constitution, I am returning herewith for reconsideration and with my objections Assembly Bill No. 264.

Assembly Bill No. 264 amends the unemployment compensation law so as to provide for an increase in the maximum rate of weekly benefits from \$30.00 to \$35.00 per week effective as to claims made on or after October 1, 1955. I heartily approve of the objective of this bill although I regret the use of the fraction $\frac{2}{5}$ instead of $\frac{2}{3}$ in determining the benefit to be paid in excess of \$30.00.

When this bill was under consideration by the Legislature, it was pointed out that if the new rate were made applicable to existing claims, there would be a serious administrative problem because in those cases in which the maximum benefit was payable under existing law, the employer's report was not required to state the actual earnings of the employee concerned. With the increase in the maximum benefit payable, this further information would be essential to determine which employees are entitled to have their rate increased to the new maximum. In order to obviate this serious practical problem, amendments were made to the bill to incorporate the October date mentioned above. The amendments, however, in accomplishing that purpose, operate to create other difficulties. As the bill now stands, it provides that the act shall take effect October 1, 1955 "and shall apply only with respect to benefit years beginning on and after October 1, 1955". The bill, in its present form, would, if approved, eliminate provisions for the continued payment with respect to claims which ante-date October 1, 1955 and eliminate rights of review with respect to such prior claimants, with perhaps a resultant conflict with the requirements of federal law. It is estimated that there are about 65,000 persons whose benefit years will extend beyond the effective date provided

STATE OF NEW JERSEY
Executive Department

Assembly Bill No. 264

-2-

in this bill.

Accordingly, I am returning herewith Assembly Bill No. 264 for reconsideration and with the recommendation that it be amended as follows:

On page 2, section 1, line 22, after the words "Weekly benefit rate." insert new paragraph reading as follows:

"(1) With respect to an individual whose benefit year commences prior to October 1, 1955, 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."

On page 2, section 1, line 34A, delete "(1)" and insert in lieu thereof "(2)".

On page 2, section 1, line 34A, after the word "individual" insert the words "whose benefit year commences on or after October 1, 1955, and".

On page 2, section 1, lines 34A and 34B, delete the words "(as defined in subsection (u) of section 43:21-19 of this Title)".

On page 2, section 1, line 34G, delete "(2)" and insert in lieu thereof "(3)".

On page 2, section 1, line 34G, after the word "individual" insert the words "whose benefit year commences on or after October 1, 1955, and".

On page 2, section 1, lines 34G and 34H, delete the words "(as defined in subsection (u) of section 43:21-19 of this Title)".

On page 21, section 4, lines 288 and 289, delete the words "October 1, 1955, and shall apply only with respect to benefit years beginning on and after October 1, 1955" and insert in lieu thereof the word "immediately".

Respectfully,

ROBERT B. MEYNER

GOVERNOR

(SEAL)

Attest:

ROBERT J. BURKHARDT

Secretary to the Governor

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

2 43:21-6. Claims for Benefits.

3 (a) Filing. Claims for benefits shall be made in accordance with such
4 regulations as the Director of the Division of Employment Security of the
5 Department of Labor and Industry of the State of New Jersey may approve.
6 Each employer shall post and maintain on his premises printed notices of
7 his subject status, of such design, in such numbers, and at such places as the
8 director of the division may determine to be necessary to give notice thereof
9 to persons in the employer's service. Each employer shall give to each indi-
10 vidual at the time he becomes unemployed a printed copy of benefit instruc-
11 tions. Both the aforesaid notices and instructions shall be supplied by the
12 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.

15 (A) Initial determinations. The director of the division shall designate
16 a representative or representatives to promptly examine the claims and to de-
17 termine which claims do and which claims do not meet the requirements of
18 section 4(e); and as to those claims meeting the requirements of section 4(e)
19 to further determine the weekly benefit rates and the maximum total benefits
20 payable. Each claimant shall promptly be notified of the determination of
21 his claim.

22 (B) Weekly determinations. The director of the division shall assign a
23 representative or representatives to each local claims office for the purpose of
24 making weekly determinations (except those under subsections 4(f) and 5(d)
25 in the course of the benefit year, in accordance with the initial determination
26 of a valid claim. Whenever a determination of eligibility shall be made with
27 respect to the first week of the benefit year for which benefits are claimed, the
28 claimant, the last employing unit and all employers in the base year shall be
29 promptly notified of such determination. Whenever a determination of ineli-
30 gibility or disqualification shall be made with respect to any week of the bene-
31 fit year, the claimant shall be promptly notified of such 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 calendar
35 days after the mailing of notification, of such determination. Unless such
36 an appeal is filed such determination shall be final and benefits shall be paid
37 or denied in accordance therewith. If an appeal is duly filed, benefits with
38 respect to the period covered by the appeal shall be payable only after a
39 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 appeal
45 shall be withheld only for the period of disqualification as provided for in
46 said section, and notwithstanding such appeal the benefits otherwise provided
47 by this act shall be paid for the period subsequent to such period of disquali-
48 fication; and provided, also that if there are 2 determinations of entitlement,
49 benefits for the period covered by such determination shall be paid regardless
50 of any appeal which may thereafter be taken, but no employer's account shall
51 be charged with benefits so paid if the decision is finally reversed.

52 (2) Procedure for making initial determinations with respect to benefit
53 years commencing on or after January 1, 1953.

54 A representative or representatives designated by the director of the
55 division and hereafter referred to as a "deputy" shall promptly examine
56 the claim, and shall notify the most recent employing unit and, successively
57 as necessary, each employer in inverse chronological order during the base
58 year. Such notification shall require said employing unit and employer to
59 furnish such information to the deputy as may be necessary to determine
60 the claimant's eligibility and his benefit rights with respect to the employer
61 in question, and such notification shall also provide the most recent charge-
62 able employer in the base year with the name and address of the most recent
63 employing unit of the claimant.

64 In his discretion, the director may appoint special deputies to make initial
65 or subsequent determinations under subsections 4(f) and 5(d) of this chapter.

66 If any employer or employing unit fails to respond to the request for
67 information within 7 days after the mailing of such request, the deputy shall
68 rely entirely on information from other sources, including an affidavit to the
69 best of the knowledge and belief of the claimant with respect to his wages and
70 time worked. Except in the event of fraud, if it is determined that any in-
71 formation in such affidavit is erroneous, no penalty shall be imposed on the
72 claimant.

73 The deputy shall promptly make an initial determination based upon
74 the available information. The initial determination shall show the weekly
75 benefit amount payable, the maximum duration of benefits with respect to the
76 employer to whom the determination relates, and also shall show whether
77 the claimant is ineligible or disqualified for benefits under the initial determi-
78 nation. The claimant and the employer whose account may be charged for
79 benefits payable pursuant to said determination shall be promptly notified
80 thereof.

81 Whenever an initial determination is based upon information other than
82 that supplied by an employer because such employer failed to respond to the
83 deputy's request for information, such initial determination and any subse-
84 quent determination thereunder shall be incontestable by the noncomplying
85 employer, as to any charges to his employer's account because of benefits
86 paid prior to the close of the calendar week following the receipt of his re-
87 ply. Such initial determination shall be altered if necessary upon receipt of
88 information from the employer, and any benefits paid or payable with respect
89 to weeks occurring subsequent to the close of the calendar week following the
90 receipt of the employer's reply shall be paid in accordance with such altered
91 initial determination.

92 The deputy shall issue a separate initial benefit determination with re-
93 spect to each of the claimant's base year employers, starting with the most
94 recent employer and continuing as necessary in the inverse chronological

95 order of the claimant's last date of employment with each such employer.
96 If an appeal is taken from an initial determination as hereinafter provided
97 by any employer other than the first chargeable base-year employer, then
98 such appeal shall be limited in scope to include only 1 or more of the following
99 matters:

100 (A) the correctness of the benefit payments authorized to be made
101 under the determination;

102 (B) fraud in connection with the claim pursuant to which the initial
103 determination is issued; or

104 (C) the refusal of suitable work offered by the chargeable employer
105 filing the appeal.

106 The amount of benefits payable under an initial determination may be
107 reduced or canceled if necessary to avoid payment of benefits for a number of
108 weeks in excess of the maximum specified in subsection (d) of section 43:21-3
109 of this Title.

110 Unless the claimant or any interested party within 7 calendar days after
111 delivery of notification of an initial determination or within 10 calendar days
112 after such notification was mailed to his or their last-known address and
113 addresses, files an appeal from such decision, such decision shall be final
114 and benefits shall be paid or denied in accordance therewith, except for such
115 determinations as may be altered in benefit amounts or duration as pro-
116 vided in this paragraph. If an appeal is duly filed, benefits with respect to
117 the period covered by the appeal shall be payable only after a determina-
118 tion of entitlement by the appellate tribunal; benefits payable for periods
119 pending an appeal and not in dispute shall be paid as such benefits accrue;
120 provided, that insofar as any such appeal is or may be an appeal from a
121 determination to the effect that the claimant is disqualified under the pro-
122 visions of section 43:21-5 of the Revised Statutes or any amendments thereof
123 or supplements thereto, benefits pending determination of the appeal shall be
124 withheld only for the period of disqualification as provided for in said
125 section, and notwithstanding such appeal the benefits otherwise provided by

126 this act shall be paid for the period subsequent to such period of disqualifica-
127 tion; and provided, also, that if there are 2 determinations of entitlement,
128 benefits for the period covered by such determinations shall be paid regard-
129 less of any appeal which may thereafter be taken, but no employer's account
130 shall be charged with benefits so paid if the decision is finally reversed.

131 (2) [(3)] Procedure for making initial determinations in certain cases
132 of concurrent employment, with respect to benefit years commencing on or
133 after January 1, 1953.

134 Notwithstanding any other provisions of this Title, if an individual shows
135 to the satisfaction of the deputy that there were at least 13 weeks in his base
136 period in each of which he earned wages from 2 or more employers totaling
137 \$15.00 or more but in each of which there was no single employer from
138 whom he earned as much as \$15.00, then such individual's claim shall be
139 determined in accordance with the special provisions of this paragraph. In
140 such case, the deputy shall determine the individual's eligibility for benefits,
141 his average weekly wage, weekly benefit rate and maximum total benefits as
142 if all his base year employers were a single employer. Such determination
143 shall apportion the liability for benefit charges thereunder to the individual's
144 several base year employers so that each employer's maximum liability for
145 charges thereunder bears approximately the same relation to the maximum
146 total benefits allowed as the wages earned by the individual from each em-
147 ployer during the base year bears to his total wages earned from all em-
148 ployers during the base year. Such initial determination shall also specify
149 the individual's last date of employment within the base year with respect
150 to each base year employer, and such employers shall be charged for bene-
151 fits paid under said initial determination in the inverse chronological order
152 of such last dates of employment.

153-175 (3) [(4)] Procedure for making subsequent determinations with respect
176 to benefit years commencing on or after January 1, 1953. The deputy shall
177 make determinations with respect to claims for benefits thereafter in the
178 course of the benefit year in accordance with any initial determination allow-

179 ing benefits, and under which benefits have not been exhausted, and each
180 notification of a benefit payment shall be a notification of an affirmative sub-
181 sequent determination. The allowance of benefits by the deputy on any such
182 determination, or the denial of benefits by the deputy on any such deter-
183 mination, shall be appealable in the same manner and under the same limi-
184 tations as is provided in the case of initial determinations.

185 (c) Appeals. Unless such appeal is withdrawn, an appeal tribunal, after
186 affording the parties reasonable opportunity for fair hearing, shall affirm or
187 modify the findings of fact and the determination. The parties shall be duly
188 notified of such tribunal's decision, together with its reasons therefor, which
189 shall be deemed to be the final decision of the board of review, unless within
190 10 days after the date of notification or mailing of such decision, further
191 appeal is initiated pursuant to subsection (e) of this section.

192 (d) Appeal tribunals. To hear and decide disputed benefit claims, includ-
193 ing appeals from determinations with respect to demands for refunds of
194 benefits under section 43:21-16 (d) of this chapter (R. S. 43:21-1 et seq.),
195 the director with the approval of the Commissioner of Labor and Industry
196 shall establish 1 or more impartial appeal tribunals consisting in each case
197 of either a salaried examiner or a body, consisting of 3 members, 1 of whom
198 shall be a salaried examiner, who shall serve as chairman, 1 of whom shall be
199 a representative of employers and the other of whom shall be a representative
200 of employees; each of the latter 2 members shall serve at the pleasure of the
201 commissioner and be paid a fee of not more than \$20.00 per day of active
202 service on such tribunal plus necessary expenses. No person shall partici-
203 pate on behalf of the division in any case in which he is an interested party.
204 The director may designate alternates to serve in the absence or disqualifica-
205 tion of any member of an appeal tribunal. The chairman shall act alone in
206 the absence or disqualification of any other member and his alternates. In
207 no case shall the hearings proceed unless the chairman of the appeal tribunal
208 is present.

209 (e) Board of review. The board of review may on its own motion affirm,
210 modify, or set aside any decision of an appeal tribunal on the basis of the
211 evidence previously submitted in such case, or direct the taking of additional
212 evidence, or may permit any of the parties to such decision to initiate further
213 appeals before it. The board of review shall permit such further appeal by
214 any of the parties interested in a decision of an appeal tribunal which is not
215 unanimous and from any determination which has been overruled or modified
216 by any appeal tribunal. The board of review may remove to itself or transfer
217 to another appeal tribunal the proceedings on any claim pending before an
218 appeal tribunal. Any proceeding so removed to the board of review shall be
219 heard by a quorum thereof in accordance with the requirements of subsec-
220 tion (c) of this section. The board of review shall promptly notify the in-
221 terested parties of its findings and decision.

222 (f) Procedure. The manner in which disputed benefit claims, and ap-
223 peals from determinations with respect to (1) claims for benefits and (2)
224 demands for refunds of benefits under section 43:21-16 (d) of this chapter
225 (R. S. 43:21-1 et seq.) shall be presented, the reports thereon required from
226 the claimant and from employers, and the conduct of hearings and appeals
227 shall be in accordance with rules prescribed by the board of review for de-
228 termining the rights of the parties, whether or not such rules conform to
229 common law or statutory rules of evidence and other technical rules of pro-
230 cedure. A full and complete record shall be kept of all proceedings in connec-
231 tion with a disputed claim. All testimony at any hearing upon a disputed
232 claim shall be recorded, but need not be transcribed unless the disputed claim
233 is further appealed.

234 (g) Witness fees. Witnesses subpoenaed pursuant to this section shall be
235 allowed fees at a rate fixed by the director. Such fees and all expenses of
236 proceedings involving disputed claims shall be deemed a part of the expense
237 of administering this chapter (R. S. 43:21-1 et seq.).

238 (h) Court review. Any decision of the board of review shall become
239 final as to any party upon the mailing of a copy thereof to such party or to

240 his attorney, or upon the mailing of a copy thereof to such party at his last-
241 known address. The Division of Employment Security and any party to a
242 proceeding before the board of review may secure judicial review of the
243 final decision of the board of review. Any party not joining in the appeal
244 shall be made a defendant; the board of review shall be deemed to be a party
245 to any judicial action involving the review of, or appeal from, any of its
246 decisions, and may be represented in any such judicial action by any quali-
247 fied attorney who may be a regular salaried employee of the board of
248 review or has been designated by it for that purpose, or, at the board of
249 review's request, by the Attorney General.

250 (i) Failure to give notice. The failure of any public officer or employee
251 at any time heretofore or hereafter to give notice of determination or de-
252 cision required in subsections (b), (c) and (e) of this section, as originally
253 passed or amended, shall not relieve any employer's account of any charge
254 by reason of any benefits paid unless and until that employer can show to
255 the satisfaction of the director of the division that the said benefits, in whole
256 or in part, would not have been charged or chargeable to his account had
257 such notice been given. Any determination hereunder by the director shall
258 be subject to court review.

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

2 43:21-7. Contributions.

3 (a) Payment

4 (1) Contributions shall accrue and become payable by each employer for
5 each calendar year in which he is subject to this chapter (R. S. 43:21-1 et
6 seq.), with respect to having individuals in his employ during such calendar
7 year at the rates and on the basis hereinafter set forth. Such contributions
8 shall become due and be paid by each employer to the Division of Employ-
9 ment Security for the fund in accordance with such regulations as may be
10 prescribed, and shall not be deducted, in whole or in part, from the remun-
11 eration of individuals in his employ.

Legislative History of 43:21-5a

(Unemployment Compensation -- Disqualification for Benefits --
Addition of Phrase "Attributable to Such Work")

Laws 1961 - Chapter 43, section 3 - S-179. Introduced May 1st by Senators Ozzard & Haines. No statement on bill. The phrase "attributable to such work" appears in the bill as originally introduced. This section (43:21-5a) was not amended during passage.

The passage of S-179 in 1961 came after more than three years of controversy over revision of the Unemployment Compensation laws. Senator Ozzard was co-sponsor of revision bills in 1959, 1960 and 1961.

- S-255 - Introduced May, 18, 1959 - This section not changed from previous form. (no statement)
- S-101 - Introduced January 25, 1960. This section not changed from previous form. (no statement)
- S-293 - Introduced December 19, 1960 - This section read as follows:

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

(a) For the week in which he has left work voluntarily without good cause, and for each week thereafter until he has earned in employment (which may be with an employing unit having in employment 1 or more individuals) at least 4 times his weekly benefit rate, as determined in each case. A disqualification under this subsection shall also apply to an individual (1) who has left work voluntarily to accompany or follow his or her spouse to a new locality; (2) who has left work voluntarily because of the cost of travel to and from work; (3) who has left the jurisdiction of this state to obtain a divorce.

Witnesses before the Legislative Forum held December 15, 1959 discussed revision of the Unemployment Compensation laws:

974.90 New Jersey. Legislature. Assembly.
L514 Legislative forum (re Legislative proposals for 1960
1959a session of New Jersey Legislature. Held ... December 15,
 1959. See p. 3, 9, 17, 69A

The C IO representative does not mention this section. The New Jersey State Chamber of Commerce, however, in a Statement ... submitted to ... the Employment Security Council, recommends this change (see p. 78A of Legislative Forum) and cites individual cases where benefits were granted under the existing law, but would be denied benefits under their recommended amendment.

Senator Lance in December 1959 charged that the administration of the law in respect to disqualification for benefits was "lax". See:

"Lance in blast at jobless pay" - Newark Sunday News, 12-6-59

DEPOSITORY COPY

Do Not Remove From Library

"Lance demands probe of state jobless grants" - Trenton Times 12-6-59

"Labor head says state rejects third of jobless claims" - Philadelphia Inquirer 5-4-60

Other articles dealing with this amendment are:

"Senate votes boost in jobless payments" - Trenton Times 5-20-60

"Job benefits compromise is talked of" - Trenton Times 12-16-60

This amendment is not among the changes in the law recommended by the Employment Security Council in its Annual Reports for the years 1957-1961.

RS/jmg

Dr - 9.1.61

N. J. Legislature Assembly

LEGISLATIVE FORUM

(Re LEGISLATIVE PROPOSALS FOR 1960
SESSION OF NEW JERSEY LEGISLATURE)

PROPERTY OF
RECEIVED
JAN 6 1960
Division of State Library
Archives and History
TRENTON

Held:
Assembly Chamber
State House
Trenton, New Jersey
December 15, 1959

PRESIDING:

Maurice V. Brady, Speaker Elect,
General Assembly

Joseph Wm. Cowgill, Minority Leader Elect,
Senate

LeRoy J. D'Aloia, Majority Leader Elect,
General Assembly

* * * * *

974.90

L514

1959a

copy 2

It is with this background of information on New Jersey's unemployment compensation program that we would now like to proceed with specific comments and recommendations on proposed changes in the program.

Disqualification Provisions Need Strengthening

As the maximum weekly unemployment benefit rate is increased there is greater inducement for malingering, abuse and unwarranted benefit collections. While there has been no revision of the disqualification provisions in New Jersey's Unemployment Compensation Law since July 1, 1950, the maximum weekly benefit rate has been increased from \$26 to \$35, a hike of 35 per cent. Realistic revision of the disqualification section, 43:21-5, is urgently needed if New Jersey's Unemployment Compensation Fund is to be adequately protected against unjustified benefit drains. Accordingly, we repeat recommendations previously made to this Council:

(1) A worker who quits his job voluntarily is disqualified from receiving unemployment benefits for the week in which he quits and for subsequent weeks until he earns in employment at least four times his weekly benefit rate. However, this disqualification is not imposed if the worker quit his job for so-called "good cause", which includes personal reasons.

In our previous statements before this Council, we referred to the extremely liberal administrative construction placed upon "good cause" in New Jersey as published in the March 17, 1956, issue of The Saturday Evening Post. We also listed these examples of what has been determined to be "good cause" for leaving work in New Jersey. A female claimant quit her job to get married. She then moved to another state. It was held that marriage is socially desirable; therefore, it is a "good cause" for quitting work. (B.R.-15764-C) A male claimant quit his job in order to establish a legal residence in Florida for the purpose

of bringing action for divorce. It was held that his quit was with "good cause". (BR-24853) A female claimant quit her job to accompany her soldier husband to another state to which he had been transferred. This was deemed to be "good cause". (CCH-33,225)

A claimant who quit to go into business but who immediately changed his mind and started looking for another job was held to have "good cause" for leaving. (B.R.-9793)

A claimant who quit because her employer failed to accede to her request that he elect coverage under the unemployment compensation law was held to have "good cause" for leaving work. (B.R.-33292)

We cannot see on what grounds employers should be charged benefit payments made to individuals who quit their jobs voluntarily for any personal reason. We urge that the "voluntary quit" disqualification be amended to provide that a worker who quits his job is ineligible for benefits unless such quit was for good cause attributable to employment. Twenty-one states have already adopted such a provision.

(2) As indicated above, New Jersey's Unemployment Compensation Law presently provides that a worker who quits his job voluntarily "without good cause" is ineligible for benefits until he gets subsequent employment and earns four times his weekly benefit rate. On the other hand, persons discharged for misconduct and persons who refuse offers of suitable work are disqualified for periods of five weeks and three weeks, respectively. Yet, misconduct and refusal of a suitable job offer are just as much actions of individual volition as is a voluntary quit. For this reason, we believe that all three of these disqualification provisions should be uniform.

We recommend that the voluntary quit, discharge for misconduct, and refusal of suitable work provisions be amended to require disqualification pending

reattachment to the labor market and earnings of at least eight times the claimant's weekly benefit rate. This would mean a maximum earnings requirement of \$280 which we believe is not unduly burdensome.

We further recommend that the amendment to the voluntary quit, discharge for misconduct, and refusal of suitable work provisions of the unemployment compensation law require disqualification until the individual earns in employment (which may be with an employing unit having in employment one or more individuals) at least eight times his weekly benefit rate.

In shaping the unemployment compensation law the Legislature has provided that a worker can establish benefit eligibility by earning wage credits in certain types of employment. Other types of employment (such as farming, housework and other casual employment) which do not lend themselves to a system of wage reporting, have been specifically excluded from coverage. It would be inconsistent, therefore, to permit an individual who has left work of his own volition to reestablish benefit eligibility in a type of employment in which eligibility could not have been established in the first place. For that reason, and because of administrative unfeasibility, we recommend that the above mentioned disqualifications be tolled only by earnings in employment.

The regulations of the Division of Employment Security require that all employing units having workers in employment shall keep complete payroll records including the names and remuneration of each employee. In addition, such employing units must keep records of the date an individual was hired, the date he was separated, and the reason for separation. Since this information is available to the Agency it is not unfeasible to secure from such employing units facts necessary to administer the disqualification provisions of the law, both current and proposed. On the other hand, non-covered employment does not come within

the purview of the statute and regulations, and therefore it would be impossible in many cases to tell if the individual had, in fact, earned eight times his weekly benefit amount. Furthermore, it also would be impossible to determine whether the individual was separated from his later work under circumstances which would be disqualifying.

The administrative unfeasibility of permitting earnings in any type of service to toll disqualifications can be shown by further examples. A disqualified individual could requalify for benefit payments by earning eight times his weekly benefit amount in non-covered employment such as working on a farm, working for a spouse, son or daughter, or working for himself (cutting grass, shining shoes, etc.). Obviously, the agency would face an impossible task in attempting to administer such a provision of the law.

(3) Unemployment compensation benefits are designed to tide a worker over during temporary periods of involuntary unemployment; benefits should not supplement other wage related payments that a claimant is receiving directly or indirectly from his employer.

We recommend amendment of the U. C. Law to protect against a duplication of benefits in the form of any separation payment, vacation payment, dismissal allowance, and pension payment. If such duplicate payments equal or exceed a claimant's weekly benefit rate he should get no U. C. benefits; if duplicate payments are less than a claimant's weekly benefit amount he should get the difference.

(4) There is no specific provision in New Jersey's U. C. Law relating to unemployment resulting from pregnancy. Such unemployment is neither involuntary nor the type of economic hazard that the unemployment compensation program was designed to protect against. Nevertheless we sincerely believe that a claimant

in such circumstances should not be barred from collecting benefits for so long as she is honestly attached to the employment market. As an equitable solution to this situation, we recommend that the disqualification provisions of the law be revised to provide that no unemployment benefits shall be payable for the period after the sixth month of pregnancy and, following resulting childbirth, miscarriage or abortion, until the claimant has earned in employment at least eight times her weekly benefit rate. Thirty-four states, including such major industrial states as Connecticut, Delaware, Illinois, Indiana, Massachusetts, Michigan, Ohio and Pennsylvania, have already enacted legislative clarification of this pregnancy problem. Such clarification in New Jersey is long overdue.

(5) Like other states, New Jersey prohibits the payment of unemployment compensation benefits to claimants out of work because of their participation in a labor dispute. This disqualification is imposed only on those workers employed in the plant or location at which the labor dispute originates; it does not apply to workers unemployed at other plants or locations of the same employer which are idled as a direct result of the same labor dispute. Limiting a labor dispute disqualification only to those employees of the "place" at which the dispute is called is not in conformity with the economic and industrial realities of today's methods of doing business. Modern production and marketing techniques have made it necessary for many employers to manufacture and distribute their product in two or more coordinated but geographically separated facilities. Thus, while an employer's operations may be housed in separate physical plants they are just as much inter-related and synchronized as they would be if housed under a single roof.

The unreality of New Jersey's labor dispute provision can easily be demonstrated. Suppose an employer operates two plants and a strike in Plant A results

in a shut down of Plant A and B. The dispute is concerned with wage and/or conditions of employment in which the employees in Plant B are interested and stand to benefit, either by force of contract or precedent, if concessions are won from the employer. Under present law, all the employees in Plant A would be disqualified for benefits. On the other hand, all the employees in Plant B would qualify for benefits simply because they were not employed directly in the plant at which the labor dispute originated.

New Jersey's present labor dispute provision works an injustice on both employees and employers. By permitting benefit payments to certain geographically preferred individuals engaged in a labor dispute, New Jersey's fund balance is subjected to an unjustified benefit drain of monies that would otherwise be available to meet unquestioned claims. Then too, an employer is placed in the position of having his unemployment compensation tax contributions subsidize a labor dispute against him.

We recommend that the labor dispute provision in New Jersey's U. C. Law be amended to extend to all plant locations of a multi-plant employer which are shut down as a direct result of a labor dispute at any one of the employer's plants. Such states as Texas, Wisconsin, Oregon, and Virginia have already taken action along these lines.

8 [commission] *Division of Employment Security* in excess of the contribu-
9 tions required on \$3,000.00 of such wages paid *during any calendar year prior*
10 *to January 1, 1961, or \$3,300.00 during any calendar year commencing on or*
11 *after January 1, 1961*]. Refund under this act may be made in accordance
12 with the provisions of law applicable in the case of erroneous or illegal col-
13 lection of the contribution]; except that no such refund shall be made unless
14 the [employee] *worker* makes a claim, establishing his right thereto, within
15 2 years after the calendar year in which the wages are paid with respect to
16 which refund of contributions is claimed. No interest shall be allowed or
17 paid with respect to any such refund.

1 11. This act shall take effect on January 1, 1961.

STATEMENT

S-293, 1960

The bill is designed to improve the benefit structure, to accomplish savings and prevent abuses, to enhance the financial soundness of the unemployment compensation fund, and to improve the operation of the law.

The bill will:

- (1) Raise the tax base from \$3,000.00 to \$3,300.00.
- (2) Change the formula for determining the contribution rate of employers with deficit balances.
- (3) Revise eligibility and disqualification provisions.
- (4) Change the benefit formula for both total and partial unemployment.
- (5) Increase the weekly benefit ceiling to \$50.00, effective April 1, 1961.
- (6) Make information submitted to the division privileged and
- (7) Accomplish a number of technical changes desirable for purposes of clarity and better administration.

MEMORANDUMS TO THE NEW JERSEY ASSEMBLY COMMITTEE ON LABOR:

974.90

U55

1958 New Jersey. Legislature. Assembly. Committee on Labor. Memorandum re: New Jersey Disability Insurance Law. (1958)

974.90

U55

1958a New Jersey. Legislature. Assembly. Committee on Labor. Memorandum re: Unemployment Compensation in Extended Strikes. (1958)

974.90

U55

1958b New Jersey. Legislature. Assembly. Committee on Labor. Memorandum re: Temporary Disability Insurance. (1958)

974.90

U55

1958c New Jersey. Legislature. Assembly. Committee on Labor. Memorandum re: Unemployment Insurance. (1958)

974.90

U55

1958d New Jersey. Legislature. Assembly. Committee on Labor. Memorandum re: Workmen's Compensation Law. (1958)

LAW

SENATE, No. 179

STATE OF NEW JERSEY

INTRODUCED MAY 1, 1961

By Senators OZZARD and HAINES

Referred to Committee on Labor and Industrial Relations

AN Act concerning unemployment compensation and temporary disability benefits, and amending sections 43:21-3, 43:21-4, 43:21-5, 43:21-6, 43:21-7, 43:21-8, 43:21-11, 43:21-16, and 43:21-19 of the Revised Statutes, and sections 5, 15 and 16 of chapter 110 of the laws of 1948.

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

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

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

6 (b) Weekly benefits for unemployment.

7 (1) With respect to an individual's benefit year commencing on or
8 after January 1, 1953, and prior to July 1, 1961, such individual, if eli-
9 gible and unemployed (as defined in subsection (m) of section 43:21-19
10 of [this Title] *the Revised Statutes*), shall be paid an amount (except as
11 to final payment) equal to his weekly benefit rate with respect to any
12 week in which he has earned no remuneration or remuneration equal to
13 less than ½ said rate, or shall be paid an amount equal to ½ his weekly
14 benefit rate with respect to any week in which he has earned remunera-
15 tion equal to or more than ½ said rate but less than said rate.

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

16 (2) *With respect to an individual's benefit year commencing on or*
17 *after July 1, 1961, such individual, if eligible and unemployed (as defined*
18 *in subsection (m) of section 43:21-19 of the Revised Statutes), shall be*
19 *paid an amount (except as to final payment) equal to his weekly benefit*
20 *rate less any remuneration paid or payable to him for such week in*
21 *excess of 20% of his weekly benefit rate (fractional part of a dollar*
22 *omitted) or \$5.00, whichever is the greater; provided that such amount*
23 *shall be computed to the next higher multiple of \$1.00 if not already a*
24 *multiple thereof.*

25 (c) Weekly benefit rate.

26 [(1) With respect to an individual whose benefit year commences
27 prior to October 1, 1955, his weekly benefit rate under each benefit de-
28 termination shall be $\frac{2}{3}$ of his average weekly wage; provided, that such
29 rate shall be computed to the next highest multiple of \$1.00 if not already
30 a multiple thereof, and shall not be more than \$30.00 nor less than \$10.00.]

31 [(2)] (1) With respect to an individual whose benefit year com-
32 mences on or after October 1, 1955, and prior to July 1, 1961, and whose
33 average weekly wage does not exceed \$45.00, his weekly benefit rate
34 under each benefit determination shall be $\frac{2}{3}$ of his average weekly wage;
35 provided, that such rate shall be computed to the next [highest] higher
36 multiple of \$1.00 if not already a multiple thereof, and shall not be more
37 than \$30.00 nor less than \$10.00.

38 [(3)] (2) With respect to an individual whose benefit year com-
39 mences on or after October 1, 1955, and prior to July 1, 1961, and whose
40 average weekly wage exceeds \$45.00, his weekly benefit rate under each
41 benefit determination shall be \$30.00 plus $\frac{2}{3}$ of the amount by which his
42 average weekly wage exceeds \$45.00; provided, that such rate shall be
43 computed to [be] the next [highest] higher multiple of \$1.00 if not
44 already a multiple thereof, and shall not be more than \$35.00.

45 (3) *With respect to an individual whose benefit year commences on*
46 *and after July 1, 1961, his weekly benefit rate under each benefit deter-*

47 mination shall be an amount equal to the weekly benefit rate set forth in
 48 Column B of the table in this paragraph on the line in which in Column A
 49 there appears his average weekly wage:

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

	<i>Column A</i> <i>Average Weekly Wage</i>	<i>Column B</i> <i>Weekly Benefit Rate</i>
69	<i>66.01 but not more than 69.00</i>	<i>37.00</i>
70	<i>69.01 but not more than 73.50</i>	<i>38.00</i>
71	<i>73.51 but not more than 76.00</i>	<i>39.00</i>
72	<i>76.01 but not more than 79.00</i>	<i>40.00</i>
73	<i>79.01 but not more than 82.00</i>	<i>41.00</i>
74	<i>82.01 but not more than 84.00</i>	<i>42.00</i>
75	<i>84.01 but not more than 86.00</i>	<i>43.00</i>
76	<i>86.01 but not more than 88.00</i>	<i>44.00</i>
77	<i>88.01 but not more than 90.00</i>	<i>45.00</i>
78	<i>90.01 but not more than 92.00</i>	<i>46.00</i>
79	<i>92.01 but not more than 94.00</i>	<i>47.00</i>
80	<i>94.01 but not more than 96.00</i>	<i>48.00</i>
81	<i>96.01 but not more than 98.00</i>	<i>49.00</i>
82-86	<i>98.01 or more</i>	<i>50.00</i>

87 (d) Maximum total benefits.

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

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

97 (2) No such individual shall be entitled to receive benefits under
98 this [Title] chapter (*R. S. 43:21-1 et seq.*) for more than 26 weeks in any
99 benefit year under either of subsections (c) and (f) of section 43:21-4
100 of this [Title] chapter (*R. S. 43:21-1 et seq.*). In the event that
101 any individual qualifies for benefits under both of said subsections
102 during any benefit year, the maximum total amount of benefits payable

103 under said subsections combined to such individual during the benefit
104 year shall be $1\frac{1}{2}$ times the maximum amount of benefits payable under
105 1 of said subsections. [For the purposes of this paragraph, any week for
106 which an individual receives a half-payment as provided in subsection
107 (b) of this section shall be counted as $\frac{1}{2}$ of a week.]

108 [(3) If the full weekly benefit rate cannot be paid to an individual
109 who is otherwise entitled thereto because the amount of unused benefits
110 remaining under the applicable benefit determination is only $\frac{1}{2}$ of said
111 rate, he shall be paid that amount; but if such individual is entitled to
112 additional benefits under a successive determination, he shall also be
113 paid for the week in question an amount equal to $\frac{1}{2}$ of his weekly bene-
114 fit rate under said successive determination.]

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

122 [(4) *The maximum total benefits payable from the Unemployment*
123 *Compensation Fund to any woman who received benefits from the State*
124 *Disability Benefits Fund during or following a period of pregnancy shall*
125 *be reduced by the amount of benefits so received; provided, however,*
126 *that such reduction shall apply only to a benefit year in existence at the*
127 *time the benefits were received and to a benefit year established within 1*
128 *year from the last date with respect to which such benefits were paid*
129 *from the State Disability Benefits Fund.*]

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

3 43:21-4. An unemployed individual shall be eligible to receive benefits
4 with respect to any week only if it appears 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 division
 7 may prescribe, except that the division may, by regulation, waive or alter
 8 either or both of the requirements of this subsection as to individuals at-
 9 tached to regular jobs, and as to such other types of cases or situations with
 10 respect to which the division finds that compliance with such requirements
 11 would be oppressive, or would be inconsistent with the purpose of this act;
 12 provided, that no such regulation shall conflict with subsection (a) of section
 13 43:21-3 of [this Title] *the Revised Statutes*.

14 (b) He has made a claim for benefits in accordance with the provisions
 15 of subsection (a) of section 43:21-6 of [this Title] *the Revised Statutes*.

16 (c) He is able to work, is available for work, and has demonstrated that
 17 he is actively seeking work, except as *hereinafter* provided in *this subsection*
 17A *or in* subsection (f) of this section [; provided, that the]:

18 (1) *No woman shall be deemed to be able or available for work dur-*
 19 *ing the [60 days] 4 weeks immediately before the expected birth of her*
 20 *child or the [30 days] 4 weeks immediately following the birth of her*
 21 *child, in either of which cases the division may require the production of*
 22 *a doctor's certificate to establish such dates;*

23 (2) *The director may, in his discretion, modify the requirement of*
 24 *actively seeking work if, in his judgment, such modification of this re-*
 25 *quirement is warranted by economic conditions;*
 26 *but no individual, who is otherwise eligible, shall be deemed ineligible, or un-*
 27 *available for work, because he is on vacation, without pay, during said week,*
 28 *if said vacation is not the result of his own action as distinguished from any*
 29 *collective action of a collective bargaining agent or other action beyond his*
 29A *individual control.*

30 (d) He has been totally or partially unemployed for a waiting period of
 31 1 week in the benefit year which includes that week. When benefits become
 32 payable with respect to the third consecutive week next following the wait-
 33 ing period, he shall be eligible to receive benefits as appropriate with respect

34 to the waiting period. No week shall be counted as a week of unemployment
35 for the purposes of this subsection:

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

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

42 (3) unless the individual fulfills the requirements of subsections (a)
43 and (c) of this section;

44 (4) if it has constituted a week with respect to which it is found
45 that his unemployment was due to a stoppage of work which exists be-
46 cause of a labor dispute, in accordance with the provisions of subsec-
47 tion (d) of section 43:21-5 of [this Title] *the Revised Statutes*.

48 (e) [With respect to a base year as defined in paragraph (1) of subsec-
49 tion (c) of section 43:21-19 of this Title, his wages within such base year
50 were not less than 25 times his weekly benefit amount.] With respect to a base
51 year as defined in [paragraph (2) of] subsection (c) of section 43:21-19 of
52 [this Title] *the Revised Statutes* he has established at least 17 base weeks as
53 defined in subsection (t) (1) of section 43:21-19 of [this Title] *the Revised*
53A *Statutes*.

54 (f) (1) He has suffered any accident or sickness not compensable under the
55 Workmen's Compensation Law (Title 34 of the Revised Statutes) and result-
56 ing in his total disability to perform any work for remuneration, and would
57 be eligible to receive benefits under this chapter (*R. S. 43:21-1 et seq.*) (with-
58 out regard to the maximum amount of benefits payable during any benefit
59 year) except for his inability to work and has furnished notice and proof
60 of claim to the division, in accordance with its rules and regulations, and
61 payment is not precluded by the provisions of [subsection (g) hereof or of]
62 section 43:21-3(d) of [this Title] *the Revised Statutes* [. Such benefit pay-
63 ments shall be charged to and paid from the State Disability Benefits Fund

64 established by the Temporary Disability Benefits Law, and shall not be charged
65 to any employer account in computing any employer's experience rate for
66 contributions payable under this chapter.] ; *provided, however, that [(g)*
67 *No] no benefits shall be payable under this subsection [(f) above] to any*
68 *individual:*

69 **[(1)] (A)** for any period during which such individual is not under
70 the care of a legally licensed physician, dentist or chiroprapist;

71 **[(2)] (B)** for any period of disability due to pregnancy or result-
72 ing childbirth, miscarriage, or abortion, *except for disability existing*
72A *during the [60 days] 4 weeks immediately before the expected birth of*
72B *child, and the [30 days] 4 weeks following the termination of the preg-*
72C *nancy;*

73 **[(3)] (C)** for any period of disability due to willfully or inten-
74 tionally self-inflicted injury, or to injuries sustained in the perpetration
75 by the individual of a high misdemeanor;

76 **[(4)] (D)** for any week with respect to which or a part of which
77 he has received or is seeking benefits under any unemployment compensa-
78 tion or disability benefit law of any other State or of the United States;
79 provided, that if the appropriate agency of such other State or of the
80 United States finally determines that he is not entitled to such benefits,
81 this disqualification shall not apply;

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

84 **[(6)] (F)** for any week with respect to which or part of which he
85 has received or is seeking disability benefits under the Temporary
86 Disability Benefits Law;

87 **[(7)] (G)** [for any period of disability commencing prior to
88 January 1, 1949, or] for any period of disability commencing while such
89 individual is a "covered individual" as defined in subsection 3 (b) of the
90 Temporary Disability Benefits Law (chapter 110, P. L. 1948) [, or after
91 the expiration of 26 consecutive weeks during which the individual has
92 been unemployed].

93 (2) *Benefit payments under this subsection shall be charged to and*
94 *paid from the State Disability Benefits Fund established by the Temporary*
95 *Disability Benefits Law, and shall not be charged to any employer account*
96 *in computing any employer's experience rate for contributions payable*
97 *under this chapter.*

98 **[(h)]** (g) Notwithstanding any other provision of this chapter, the
99 director may, to the extent that he deems efficient and economical provide for
100 consolidated administration by 1 or more representatives or deputies of
101 claims made pursuant to subsection (f) of this section with those made pursu-
102 ant to 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 *attributable to such work*, and for each week thereafter until he has
5 earned in employment (which may be with an employing unit having in
6 employment 1 or more individuals) at least 4 times his weekly benefit rate,
7 as determined in each case; *provided, however, that no disqualification shall*
8 *be applicable to a woman who left or was separated from her work solely*
9-11 *by reason of her pregnancy.*

12 (b) For the week in which he has been discharged for misconduct con-
13 nected with his work, and for the 5 weeks which immediately follow such week
13A (in addition to the waiting period), as determined in each case.

14 (c) If it is found that he has failed, without good cause, either to ap-
15 ply for available, suitable work when so directed by the employment office or
16 the director or to accept suitable work when offered him, or to return to his
17 customary self-employment (if any) when so directed by the director. Such
17A disqualification shall continue for the week in which such failure occurred
17B and for the 3 weeks which immediately follow such week (in addition to the
17C waiting period), as determined:

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

20 health, safety and [morale] *morals*, his physical fitness and prior train-
21 ing, his experience and prior earnings, his length of unemployment and
22 prospects for securing local work in his customary occupation, and the
23 distance of the available work from his residence.

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

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

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

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

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

51 (f) For any week with respect to which or a part of which he has re-
52 ceived or is seeking unemployment benefits under an unemployment compen-
53 sation law of any other State or of the United States; provided, that if the
54 appropriate agency of such other State or of the United States finally de-
55 termines that he is not entitled to such unemployment benefits, this disquali-
56 fication shall not apply.

57 (g) For the 2 weeks immediately following detachment from any mari-
58 time services performed under shipping articles.

59 (h) (1) *For a period of 17 weeks from the date of the discovery by the*
60 *division of the illegal receipt of benefits contrary to the provisions of this*
61 *chapter as the result of any false or fraudulent representation and his max-*
61A *imum total benefits shall be reduced by an amount equal to 17 times his weekly*
61B *benefit rate in the benefit year in existence at the time of the discovery and*
61C *in a benefit year established within 1 year thereafter, but the maximum re-*
61D *duction shall not exceed 17 times the weekly benefit rate; provided, that*
62 *any such disqualification may be appealed in the same manner as any*
63 *other disqualification imposed hereunder; and, provided further, that a con-*
64 *viction in the courts of this State arising out of the illegal receipt of such*
65 *benefits in any proceeding instituted against him, under the provisions of this*
66 *chapter or any other law of this State, shall be conclusive upon the appeals*
67 *tribunal and the board of review.*

68 (2) *A disqualification under this subsection shall not preclude the prose-*
69 *cution of any civil, criminal or administrative action or proceeding to enforce*
70 *other provisions of this chapter for the assessment and collection of penalties*
71 *or the refund of any amounts collected as benefits under the provisions of*
72 *section 43:21-16 of the Revised Statutes, or to enforce any other law where*
73 *an individual obtains or attempts to obtain by theft or robbery or false state-*
74 *ments or representations any money from any fund created or established*
75 *under this chapter or any negotiable or nonnegotiable instrument for the*
76 *payment of money from such funds, or to recover money erroneously or il-*
77 *legally obtained by an individual from any fund created or established under*
78 *this chapter.*

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

2 43:21-6. Claims for Benefits.

3 (a) Filing. Claims for benefits shall be made in accordance with such
4 regulations as the Director of the Division of Employment Security of the
5 Department of Labor and Industry of the State of New Jersey may approve.
6 Each employer shall post and maintain on his premises printed notices of
7 his subject status, of such design, in such numbers, and at such places as the
8 director of the division may determine to be necessary to give notice thereof
9 to persons in the employer's service. Each employer shall give to each indi-
10 vidual at the time he becomes unemployed a printed copy of benefit instruc-
11 tions. Both the aforesaid notices and instructions shall be supplied by the
12 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.

15 (A) Initial determinations. The director of the division shall designate
16 a representative or representatives to promptly examine the claims and to de-
17 termine which claims do and which claims do not meet the requirements of
18 section 4(e); and as to those claims meeting the requirements of section 4(e)
19 to further determine the weekly benefit rates and the maximum total benefits
20 payable. Each claimant shall promptly be notified of the determination of
21 his claim.

22 (B) Weekly determinations. The director of the division shall assign a
23 representative or representatives to each local claims office for the purpose of
24 making weekly determinations (except those under subsections 4(f) and 5(d)
25 in the course of the benefit year, in accordance with the initial determination
26 of a valid claim. Whenever a determination of eligibility shall be made with
27 respect to the first week of the benefit year for which benefits are claimed, the
28 claimant, the last employing unit and all employers in the base year shall be
29 promptly notified of such determination. Whenever a determination of ineli-
30 gibility or disqualification shall be made with respect to any week of the bene-
31 fit year, the claimant shall be promptly notified of such 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 calendar
35 days after the mailing of notification, of such determination. Unless such
36 an appeal is filed such determination shall be final and benefits shall be paid
37 or denied in accordance therewith. If an appeal is duly filed, benefits with
38 respect to the period covered by the appeal shall be payable only after a
39 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 appeal
45 shall be withheld only for the period of disqualification as provided for in
46 said section, and notwithstanding such appeal the benefits otherwise provided
47 by this act shall be paid for the period subsequent to such period of disquali-
48 fication; and provided, also that if there are 2 determinations of entitlement,
49 benefits for the period covered by such determination shall be paid regardless
50 of any appeal which may thereafter be taken, but no employer's account shall
51 be charged with benefits so paid if the decision is finally reversed.

52 (2)] Procedure for making initial determinations with respect to benefit
53 years commencing on or after January 1, 1953.

54 A representative or representatives designated by the director of the
55 division and hereafter referred to as a "deputy" shall promptly examine
56 the claim, and shall notify the most recent employing unit and, successively
57 as necessary, each employer in inverse chronological order during the base
58 year. Such notification shall require said employing unit and employer to
59 furnish such information to the deputy as may be necessary to determine
60 the claimant's eligibility and his benefit rights with respect to the employer
61 in question, and such notification shall also provide the most recent charge-
62 able employer in the base year with the name and address of the most recent
63 employing unit of the claimant.

64 In his discretion, the director may appoint special deputies to make initial
65 or subsequent determinations under subsections 4(f) and 5(d) of this chapter.

66 If any employer or employing unit fails to respond to the request for
67 information within 7 days after the mailing of such request, the deputy shall
68 rely entirely on information from other sources, including an affidavit to the
69 best of the knowledge and belief of the claimant with respect to his wages and
70 time worked. Except in the event of fraud, if it is determined that any in-
71 formation in such affidavit is erroneous, no penalty shall be imposed on the
72 claimant.

73 The deputy shall promptly make an initial determination based upon
74 the available information. The initial determination shall show the weekly
75 benefit amount payable, the maximum duration of benefits with respect to the
76 employer to whom the determination relates, and also shall show whether
77 the claimant is ineligible or disqualified for benefits under the initial determi-
78 nation. The claimant and the employer whose account may be charged for
79 benefits payable pursuant to said determination shall be promptly notified
80 thereof.

81 Whenever an initial determination is based upon information other than
82 that supplied by an employer because such employer failed to respond to the
83 deputy's request for information, such initial determination and any subse-
84 quent determination thereunder shall be incontestable by the noncomplying
85 employer, as to any charges to his employer's account because of benefits
86 paid prior to the close of the calendar week following the receipt of his re-
87 ply. Such initial determination shall be altered if necessary upon receipt of
88 information from the employer, and any benefits paid or payable with respect
89 to weeks occurring subsequent to the close of the calendar week following the
90 receipt of the employer's reply shall be paid in accordance with such altered
91 initial determination.

92 The deputy shall issue a separate initial benefit determination with re-
93 spect to each of the claimant's base year employers, starting with the most
94 recent employer and continuing as necessary in the inverse chronological

95 order of the claimant's last date of employment with each such employer.
96 If an appeal is taken from an initial determination as hereinafter provided
97 by any employer other than the first chargeable base-year employer, then
98 such appeal shall be limited in scope to include only 1 or more of the following
99 matters:

100 (A) the correctness of the benefit payments authorized to be made
101 under the determination;

102 (B) fraud in connection with the claim pursuant to which the initial
103 determination is issued; or

104 (C) the refusal of suitable work offered by the chargeable employer
105 filing the appeal.

106 The amount of benefits payable under an initial determination may be
107 reduced or canceled if necessary to avoid payment of benefits for a number of
108 weeks in excess of the maximum specified in subsection (d) of section 43:21-3
109 of this Title.

110 Unless the claimant or any interested party within 7 calendar days after
111 delivery of notification of an initial determination or within 10 calendar days
112 after such notification was mailed to his or their last-known address and
113 addresses, files an appeal from such decision, such decision shall be final
114 and benefits shall be paid or denied in accordance therewith, except for such
115 determinations as may be altered in benefit amounts or duration as pro-
116 vided in this paragraph. If an appeal is duly filed, benefits with respect to
117 the period covered by the appeal shall be payable only after a determina-
118 tion of entitlement by the appellate tribunal; benefits payable for periods
119 pending an appeal and not in dispute shall be paid as such benefits accrue;
120 provided, that insofar as any such appeal is or may be an appeal from a
121 determination to the effect that the claimant is disqualified under the pro-
122 visions of section 43:21-5 of the Revised Statutes or any amendments thereof
123 or supplements thereto, benefits pending determination of the appeal shall be
124 withheld only for the period of disqualification as provided for in said
125 section, and notwithstanding such appeal the benefits otherwise provided by

126 this act shall be paid for the period subsequent to such period of disqualifica-
 127 tion; and provided, also, that if there are 2 determinations of entitlement,
 128 benefits for the period covered by such determinations shall be paid regard-
 129 less of any appeal which may thereafter be taken, but no employer's account
 130 shall be charged with benefits so paid if the decision is finally reversed.

131 (2) ~~[(3)]~~ Procedure for making initial determinations in certain cases
 132 of concurrent employment, with respect to benefit years commencing on or
 133 after January 1, 1953.

134 Notwithstanding any other provisions of this Title, if an individual shows
 135 to the satisfaction of the deputy that there were at least 13 weeks in his base
 136 period in each of which he earned wages from 2 or more employers totaling
 137 \$15.00 or more but in each of which there was no single employer from
 138 whom he earned as much as \$15.00, then such individual's claim shall be
 139 determined in accordance with the special provisions of this paragraph. In
 140 such case, the deputy shall determine the individual's eligibility for benefits,
 141 his average weekly wage, weekly benefit rate and maximum total benefits as
 142 if all his base year employers were a single employer. Such determination
 143 shall apportion the liability for benefit charges thereunder to the individual's
 144 several base year employers so that each employer's maximum liability for
 145 charges thereunder bears approximately the same relation to the maximum
 146 total benefits allowed as the wages earned by the individual from each em-
 147 ployer during the base year bears to his total wages earned from all em-
 148 ployers during the base year. Such initial determination shall also specify
 149 the individual's last date of employment within the base year with respect
 150 to each base year employer, and such employers shall be charged for bene-
 151 fits paid under said initial determination in the inverse chronological order
 152 of such last dates of employment.

153-175 (3) ~~[(4)]~~ Procedure for making subsequent determinations with respect
 176 to benefit years commencing on or after January 1, 1953. The deputy shall
 177 make determinations with respect to claims for benefits thereafter in the
 178 course of the benefit year in accordance with any initial determination allow

179 ing benefits, and under which benefits have not been exhausted, and each
180 notification of a benefit payment shall be a notification of an affirmative sub-
181 sequent determination. The allowance of benefits by the deputy on any such
182 determination, or the denial of benefits by the deputy on any such deter-
183 mination, shall be appealable in the same manner and under the same limi-
184 tations as is provided in the case of initial determinations.

185 (c) Appeals. Unless such appeal is withdrawn, an appeal tribunal, after
186 affording the parties reasonable opportunity for fair hearing, shall affirm or
187 modify the findings of fact and the determination. The parties shall be duly
188 notified of such tribunal's decision, together with its reasons therefor, which
189 shall be deemed to be the final decision of the board of review, unless within
190 10 days after the date of notification or mailing of such decision, further
191 appeal is initiated pursuant to subsection (e) of this section.

192 (d) Appeal tribunals. To hear and decide disputed benefit claims, includ-
193 ing appeals from determinations with respect to demands for refunds of
194 benefits under section 43:21-16 (d) of this chapter (R. S. 43:21-1 et seq.),
195 the director with the approval of the Commissioner of Labor and Industry
196 shall establish 1 or more impartial appeal tribunals consisting in each case
197 of either a salaried examiner or a body, consisting of 3 members, 1 of whom
198 shall be a salaried examiner, who shall serve as chairman, 1 of whom shall be
199 a representative of employers and the other of whom shall be a representative
200 of employees; each of the latter 2 members shall serve at the pleasure of the
201 commissioner and be paid a fee of not more than \$20.00 per day of active
202 service on such tribunal plus necessary expenses. No person shall partici-
203 pate on behalf of the division in any case in which he is an interested party.
204 The director may designate alternates to serve in the absence or disqualifica-
205 tion of any member of an appeal tribunal. The chairman shall act alone in
206 the absence or disqualification of any other member and his alternates. In
207 no case shall the hearings proceed unless the chairman of the appeal tribunal
208 is present.

209 (e) Board of review. The board of review may on its own motion affirm,
210 modify, or set aside any decision of an appeal tribunal on the basis of the
211 evidence previously submitted in such case, or direct the taking of additional
212 evidence, or may permit any of the parties to such decision to initiate further
213 appeals before it. The board of review shall permit such further appeal by
214 any of the parties interested in a decision of an appeal tribunal which is not
215 unanimous and from any determination which has been overruled or modified
216 by any appeal tribunal. The board of review may remove to itself or transfer
217 to another appeal tribunal the proceedings on any claim pending before an
218 appeal tribunal. Any proceeding so removed to the board of review shall be
219 heard by a quorum thereof in accordance with the requirements of subsec-
220 tion (c) of this section. The board of review shall promptly notify the in-
221 terested parties of its findings and decision.

222 (f) Procedure. The manner in which disputed benefit claims, and ap-
223 peals from determinations with respect to (1) claims for benefits and (2)
224 demands for refunds of benefits under section 43:21-16 (d) of this chapter
225 (R. S. 43:21-1 et seq.) shall be presented, the reports thereon required from
226 the claimant and from employers, and the conduct of hearings and appeals
227 shall be in accordance with rules prescribed by the board of review for de-
228 termining the rights of the parties, whether or not such rules conform to
229 common law or statutory rules of evidence and other technical rules of pro-
230 cedure. A full and complete record shall be kept of all proceedings in connec-
231 tion with a disputed claim. All testimony at any hearing upon a disputed
232 claim shall be recorded, but need not be transcribed unless the disputed claim
233 is further appealed.

234 (g) Witness fees. Witnesses subpoenaed pursuant to this section shall be
235 allowed fees at a rate fixed by the director. Such fees and all expenses of
236 proceedings involving disputed claims shall be deemed a part of the expense
237 of administering this chapter (R. S. 43:21-1 et seq.).

238 (h) Court review. Any decision of the board of review shall become
239 final as to any party upon the mailing of a copy thereof to such party or to

240 his attorney, or upon the mailing of a copy thereof to such party at his last-
241 known address. The Division of Employment Security and any party to a
242 proceeding before the board of review may secure judicial review of the
243 final decision of the board of review. Any party not joining in the appeal
244 shall be made a defendant; the board of review shall be deemed to be a party
245 to any judicial action involving the review of, or appeal from, any of its
246 decisions, and may be represented in any such judicial action by any quali-
247 fied attorney who may be a regular salaried employee of the board of
248 review or has been designated by it for that purpose, or, at the board of
249 review's request, by the Attorney General.

250 (i) Failure to give notice. The failure of any public officer or employee
251 at any time heretofore or hereafter to give notice of determination or de-
252 cision required in subsections (b), (c) and (e) of this section, as originally
253 passed or amended, shall not relieve any employer's account of any charge
254 by reason of any benefits paid unless and until that employer can show to
255 the satisfaction of the director of the division that the said benefits, in whole
256 or in part, would not have been charged or chargeable to his account had
257 such notice been given. Any determination hereunder by the director shall
258 be subject to court review.

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

2 43:21-7. Contributions.

3 (a) Payment

4 (1) Contributions shall accrue and become payable by each employer for
5 each calendar year in which he is subject to this chapter (R. S. 43:21-1 et
6 seq.), with respect to having individuals in his employ during such calendar
7 year at the rates and on the basis hereinafter set forth. Such contributions
8 shall become due and be paid by each employer to the Division of Employ-
9 ment Security for the fund in accordance with such regulations as may be
10 prescribed, and shall not be deducted, in whole or in part, from the remu-
11 nation of individuals in his employ.

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

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

17 (1) For the calendar year 1947, and each calendar year thereafter,
18 $2\frac{7}{10}\%$ of wages paid by him during each such calendar year, except as other-
19 wise prescribed by subsection (c) of this section.

20 (2) The "wages" of any individual, with respect to any 1 employer as
21 the term is used in this subsection (b) and in subsections (c), (d) and (e)
22 of this section 7, shall include the first \$3,000.00 paid during [the] each
23 calendar year *commencing on or after January 1, 1947* [and during each
24 calendar year thereafter] for services either within or without this State;
25 provided, that no contribution shall be required by this State with respect
26 to services performed in another State if such other State imposes contri-
27 bution liability with respect thereto. If an employer (hereinafter referred
28 to as successor employer) during any calendar year acquires substantially
29 all the property used in a trade or business of another employer (herein-
30 after referred to as a predecessor), or used in a separate unit of a trade
31 or business of a predecessor, and immediately after the acquisition employs
32 in his trade or business an individual who immediately prior to the acquisi-
33 tion was employed in the trade or business of such predecessor, then, for
34 the purpose of determining whether the successor employer has paid wages
35 with respect to employment equal to \$3,000.00 to such individual during
36-38 such calendar year, any wages paid to such individual by such
39 predecessor during such calendar year and prior to such acquisition shall be
40 considered as having been paid by such successor employer.

41 (c) Future rates based on benefit experience:

42 (1) a separate account for each employer shall be maintained and this
43 shall be credited with all the contributions which he has paid on his own be-
44 half on or before January 31 of any calendar year with respect to employ-

45 ment occurring in preceding calendar years; *provided, however, that if*
46 *January 31 of any calendar year falls on a Saturday or Sunday, an em-*
47 *ployer's account shall be credited as of January 31 of such calendar year*
48 *with all the contributions which he has paid on or before the next succeed-*
49 *ing day which is not a Saturday or Sunday.* But nothing in this chapter
50 (R. S. 43:21-1 et seq.) shall be construed to grant any employer or individ-
51 uals in his service prior claims or rights to the amounts paid by him into
52 the fund either on his own behalf or on behalf of such individuals. [Bene-
53 fits paid with respect to benefit years commencing prior to January 1, 1953,
54 to any individual on or before January 31 of any calendar year with respect
55 to unemployment in preceding calendar years shall be charged against the
56 account of each of the employers with whom such individual accrued the
57 wage credits constituting the basis of such benefits, in the same proportion
58 as such wage credits with each such employer bear to such wage credits
59 with all such employers. The Division of Employment Security shall fur-
60 nish to each employer at such frequency as the division shall, by regulation,
61 prescribe, but in no case less frequently than annually, a detailed statement
62 of benefits charged to his account.] Benefits paid with respect to benefit years
63 commencing on and after January 1, 1953, to any individual on or before
64 [January] *December 31 of any calendar year with respect to unemployment*
65 *in such calendar year and in preceding calendar years shall be charged*
66 *against the account or accounts of the employer or employers in whose em-*
67 *ployment such individual established base weeks constituting the basis of*
68 *such benefits. Benefits paid under a given benefit determination shall be*
69 *charged against the account of the employer to whom such determination re-*
70 *lates. When each benefit payment is made the division shall promptly send*
71 *either a copy of the benefit check or other form of notification to the em-*
72 *ployer against whose account the benefits are to be charged. Such copy [of]*
73 *or notification shall identify the employer against whose account the amount*
74 *of such payment is being charged, shall show at least the name and social*
75 *security account number of the claimant and shall specify the period of un-*

76 employment to which said check applies. If the total amount of benefits paid
77 to a claimant and charged to the account of the appropriate employer ex-
78 ceeds 50% of the total base-year base week wages paid to the claimant by
79 that employer, then such employer may apply to the division to have canceled
80 from his account such excess benefit charges as specified above. Any such
81 application for the cancellation of excess charges shall be submitted by the
82 employer within 6 months from the date of the benefit check, payment of
83 which creates such charges. In no event will the erasure of such charges
84 affect a contribution rate already assigned to the employer with respect to
85 any fiscal year commencing prior to the date the application is received
86 by the division.

87 The division shall furnish to each employer an annual summary state-
88 ment of benefits charged to his account.

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

95 (3) Each employer's rate shall be ~~2 7/10~~ 2 8/10%, except as otherwise
96 provided in the following provisions: No employer's rate shall be other than
97 ~~2 7/10~~ 2 8/10% unless and until there shall have been 3 calendar years
98 throughout which any individual in his employ could have received benefits if
99 eligible. No employer's rate shall be lower than 2 7/10% unless assignment of
100 such lower rate is consistent with the conditions applicable to additional
101 credit allowance for such year under section 1602 (a) (1) of the Internal
102 Revenue Code (U. S. Code Title 26, section 1602 (a) (1)), any other pro-
103-107 vision of this section to the contrary notwithstanding.

108 (4) (A) Each employer's rate for the 12 months commencing July 1 of
109 any calendar year shall be determined on the basis of his record up to the
110 beginning of such calendar year. If, at the beginning of such calendar year,

111 the total of all his contributions, paid on his own behalf, for all past years
 112 exceeds the total benefits charged to his account for all such years, his
 113 contribution rate shall be:

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

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

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

121 [(D)] (4) [$1\frac{5}{10}$] $1\frac{5}{10}\%$, if such excess equals or exceeds 7%,
 122 but is less than 8%, of his average annual payroll;

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

125 [(F)] (6) [$\frac{9}{10}$ of] 1%, if such excess equals or exceeds 9%, but
 126 is less than 10%, of his average annual payroll;

127 [(G)] (7) [$\frac{7}{10}$] $\frac{7}{10}$ of 1%, if such excess equals or exceeds 10%,
 128 but is less than 11%, of his average *annual* payroll;

129 [(H)] (8) [$\frac{4}{10}$] $\frac{4}{10}$ of 1%, if such excess equals or exceeds 11%,
 130 of his average annual payroll.

131 (B) If the total of [his] *an employer's* contributions, paid on his own be-
 132 half, for all past periods[, or for the past 120 consecutive calendar months,
 133 whichever period is more advantageous to such employer] for the purposes
 134 of this paragraph (4), is less than the total benefits charged against his ac-
 135 count during the same period, his rate shall be [3] $3\frac{6}{10}\%$; *provided, how-*
 136 *ever, if the total of the contributions of such an employer for the past 120*
 137 *consecutive calendar months is more than the total benefits charged against*
 137A *his account during the same period, his rate shall be $2\frac{8}{10}\%$.*

137B (C) *The contribution rates prescribed by subparagraphs (A) and (B)*
 137C *of this paragraph (4) shall be increased or decreased in accordance with the*
 137D *provisions of paragraph (5) of this subsection (c).*

138 (5) (A) If on March 31 of any calendar year the balance in the Unemploy-
 139 ment Trust Fund equals or exceeds 4% but is less than 7% of the total tax-
 140 able wages reported to the division as of that date in respect to employ-
 141 ment during the preceding calendar year, the contribution rate, effective
 142 July 1 following, of each employer eligible for a contribution rate calcula-
 143 tion based upon benefit experience, shall be increased by $\frac{3}{10}$ of 1% over the
 144 contribution rate otherwise established under the provisions of paragraphs
 145 (3) or (4) of this subsection. If on March 31 of any calendar year the bal-
 146 ance of the Unemployment Trust Fund is less than 4% of the total taxable
 147 wages reported to the Division of Employment Security as of that date in
 148 respect to employment during the preceding calendar year, the contribution
 149 rate, effective July 1 following, of each employer eligible for a contribution
 150 rate calculation based upon benefit experience, shall be increased by $\frac{1}{10}$ of
 151 1% over the contribution rate otherwise established under the provisions of
 152 paragraphs (3) or (4) of this subsection; provided, that if on such March
 153 31, such balance is less than $2\frac{1}{2}\%$ of such total taxable wages, the contribu-
 154 tion rate so effective, of any employer, shall be not less than $[\frac{2}{10}] 2\frac{8}{10}\%$;
 155 provided, further, that the contribution rate of any employer increased
 156 pursuant to the provisions of this subparagraph, when so increased, shall not
 157 exceed $[\frac{3}{10}\%] 4\frac{2}{10}\%$.

158 (B) If on March 31 of any calendar year the balance in the Unemploy-
 159 ment Trust Fund equals or exceeds 10% but is less than $12\frac{1}{2}\%$ of the
 160 total taxable wages reported to the Division of Employment Security as of
 161 that date in respect to employment during the preceding calendar year, the
 162 contribution rate, effective July 1 following, of each employer eligible for
 163 a contribution rate calculation based upon benefit experience, shall be re-
 164 duced by $\frac{3}{10}$ of 1% under the contribution rate otherwise established under
 165 the provisions of paragraphs (3) and (4) of this subsection; provided, that
 166 in no event shall the contribution rate of any employer be reduced to less
 167 than $[\frac{3}{10}] \frac{4}{10}$ of 1%. If on March 31 of any calendar year the balance in the
 168 Unemployment Trust Fund equals or exceeds $12\frac{1}{2}\%$ of the total taxable wages

169 reported to the division as of that date in respect to employment during the
170 preceding calendar year, the contribution rate, effective July 1 following, of
171 each employer eligible for a contribution rate calculation based upon benefit
172 experience, shall be reduced by $\frac{1}{10}$ of 1% if his account *for all past periods*
173 reflects an excess of contributions paid over total benefits charged of 3% or
174 more of his average annual payroll, otherwise by $\frac{3}{10}$ of 1% under the con-
175 tribution rate otherwise established under the provisions of paragraphs (3)
176 and (4) of this subsection; provided, that in no event shall the contribution
177 rate of any employer be reduced to less than [$\frac{3}{10}$] $\frac{4}{10}$ of 1%.

178 (6) Additional contributions.

179 Notwithstanding any other provision of law, any employer who has been
180 assigned a contribution rate pursuant to subsection (c) of this section for the
181 year commencing July 1, 1948, and for any year commencing July 1 there-
182 after, may voluntarily make payment of additional contributions, and upon
183 such payment shall receive a recomputation of the experience rate applica-
184 ble to such employer including in the calculation the additional contribution
185 so made. Any such additional contribution shall be made during the 30-day
186 period following the date of the mailing to the employer of the notice of his
187 contribution rate as prescribed in this section, unless, for good cause, the time
188 for payment has been extended by the director for not to exceed an additional
189 60 days; provided, that in no event may such payments which are made later
190 than 120 days after the beginning of the year for which such rates are ef-
191 fective be considered in determining the experience rate for the year in
192 which the payment is made. Any employer receiving any extended period of
193 time within which to make such additional payment and failing to make such
194 payment timely shall pay, in addition to the required amount of additional
195 payment, a penalty of 5% thereof or \$5.00, whichever is greater, not to ex-
196 ceed \$50.00. Any adjustment under this subsection shall be made only in the
197 form of credits against accrued or future contributions.

198 (7) Transfers.

199 (A) Upon the transfer of the organization, trade or business, or substan-
200 tially all the assets of an employer to a successor in interest, whether by

201 merger, consolidation, sale, transfer, descent or otherwise, the Division of
202 Employment Security shall transfer the employment experience of the pred-
203 ecessor employer to the successor in interest, including credit for past
204 years, contributions paid, annual payrolls, benefit charges, et cetera, appli-
205 cable to such predecessor employer, pursuant to regulations adopted by the
206 division, if the division finds that the employment experience of the prede-
207 cessor employer with respect to the organization, trade, assets or business,
208 which has been transferred, may be considered indicative of the future em-
209 ployment experience of the successor in interest [;]. [provided, however,
209A that] *Unless the predecessor employer was owned or controlled (by legally*
209B *enforcible means or otherwise), directly or indirectly, by the successor in*
209C *interest, or the predecessor employer and the successor in interest were*
209D *owned or controlled (by legally enforcible means or otherwise), directly or*
209E *indirectly, by the same interest or interests,* the transfer of the employment
210 experience of the predecessor shall not be effective if such successor in
211 interest, within 4 months of the date of such transfer of the organization,
212 trade, assets or business, or thereafter upon good cause shown, files a written
213 notice with the division protesting the transfer of the employment experience
214 of the predecessor employer.

215 (B) An employer, who transfers part of his or its organization, trade,
216 assets or business to a successor in interest, whether by merger, consolida-
217 tion, sale, transfer, descent or otherwise, may jointly make application with
218 such successor in interest for transfer of that portion of the employment
219 experience of the predecessor employer relating to the portion of the or-
220 ganization, trade, assets, or business transferred to the successor in interest,
221 including credit for past years, contributions paid, annual payrolls, benefit
222 charges, et cetera, applicable to such predecessor employer. The Division of
223 Employment Security may allow such transfer of employment experience
224 pursuant to regulations adopted by the division, only if it finds that the em-
225 ployment experience of the predecessor employer with respect to the portion
226 of the organization, trade, assets or business which has been transferred may

227 be considered indicative of the future employment experience of the successor
228 in interest. Credit shall be given to the successor in interest only for the
229 years during which contributions were paid by the predecessor employer with
230 respect to that part of the organization, trade, assets or business transferred.

231 (C) A transfer of the employment experience in whole or in part having
232 become final, the predecessor employer thereafter shall not be entitled to
233 consideration for an adjusted rate based upon his or its experience or the
234 part thereof, as the case may be, which has thus been transferred. A suc-
235 cessor in interest to whom employment experience or a part thereof is trans-
236 ferred pursuant to this subsection shall, as of the date of the transfer of
237 the organization, trade, assets or business, or part thereof, immediately be-
238 come an employer if not theretofore an employer subject to this chapter
239 (R. S. 43:21-1 et seq.).

240 (d) (1) Contribution of workers; transfers to temporary disability bene-
241 fit fund.

242 [(A) Each worker shall contribute to the fund 1% of his wages paid by
243 an employer with respect to his employment which occurs after December
244 31, 1937, and prior to January 1, 1953, and after such employer has satis-
245 fied the conditions set forth in subsection (h) of section 43:21-19 of this
246 Title with respect to becoming an employer; provided, however, that such
247 contribution shall be at the rate of $\frac{1}{4}$ of 1% of wages paid with respect to
248 employment on and after January 1, 1949, while the worker is covered by an
249 approved private plan under the Temporary Disability Benefits Law or while
250 the worker is exempt from the provisions of the Temporary Disability Bene-
251 fits Law under section 7 of that law. Each employer shall, notwithstanding
252 any provisions of the law in this State to the contrary, withhold in trust the
253 amount of his workers' contributions from their wages at the time such
254 wages are paid, shall show such deduction on his payroll records, shall fur-
255 nish such evidence thereof to his workers as the division may prescribe, and
256 shall transmit all such contributions, in addition to his own contributions, to
257 the office of the Division of Employment Security in such manner and at

258 such times as may be prescribed. If any employer fails to deduct the con-
259 tributions of any of his workers at the time their wages are paid, or fails to
260 make a deduction therefor at the time wages are paid for the next succeed-
261 ing payroll period, he alone shall thereafter be liable for such contributions,
262 and for the purposes of section 43:21-14 of this Title, such contributions shall
263 be treated as employer's contributions required from him. As used in this
264 chapter (R. S. 43:21-1 et seq.), except when the context clearly requires
265 otherwise, the term "contributions" shall include the contributions of work-
266 ers pursuant to this section.

267 (B) Each worker shall contribute to the fund $\frac{3}{4}$ of 1% of his wages
268 paid by an employer with respect to his employment which occurs on and
269 after January 1, 1953, and after such employer has satisfied the conditions
270 set forth in subsection (h) of section 43:21-19 of this Title with respect to
271 becoming an employer; provided, however, that such contribution shall be at
272 the rate of $\frac{1}{4}$ of 1% of wages paid with respect to employment while the
273 worker is covered by an approved private plan under the Temporary Disa-
274 bility Benefits Law or while the worker is exempt from the provisions of
275 the Temporary Disability Benefits Law under section 7 of that law. Each
276 employer shall, notwithstanding any provisions of law in this State to the
277 contrary, withhold in trust the amount of his workers' contributions from
278 their wages at the time such wages are paid, shall show such deduction on
279 his payroll records, shall furnish such evidence thereof to his workers as the
280 division may prescribe, and shall transmit all such contributions, in addition
281 to his own contributions, to the office of the Division of Employment Se-
282 curity in such manner and at such times as may be prescribed. If any em-
283 ployer fails to deduct the contributions of any of his workers at the time
284 their wages are paid, or fails to make a deduction therefor at the time wages
285 are paid for the next succeeding payroll period, he alone shall thereafter be
286 liable for such contributions, and for the purpose of section 43:21-14 of this
287 Title, such contributions shall be treated as employer's contributions re-
288 quired from him. As used in this chapter (R. S. 43:21-1 et seq.), except

289 when the context clearly requires otherwise, the term "contributions" shall
290 include the contributions of workers pursuant to this section.

291 (2) (A) There shall be deposited in and credited to the State disability
292 benefits fund, as [the same shall be] established by law, $\frac{3}{4}$ of all worker
293 contributions, received by the Division of Employment Security [pursuant
294 to subparagraph (A) of paragraph (1) above on and after June 1, 1948,] with
295 respect to wages *paid prior to January 1, 1953, and* upon which the rate of
296 contributions is 1% [as provided in subparagraph (A) of paragraph (1)
297 above].

298 (B) There shall be deposited in and credited to the State disability bene-
299 fits fund, as [the same shall be] established by law, $\frac{2}{3}$ of all worker contri-
300 butions, received by the Division of Employment Security pursuant to
301 [subparagraph (B) of] paragraph (1) above after December 31, 1952, with
302 respect to wages *paid on and after January 1, 1953, and* upon which the rate
303 of contributions is $\frac{3}{4}$ of 1% [as provided in subparagraph (B) of para-
304 graph (1) above].

305 (3) [(A) If an employee receives wages from more than 1 employer
306 during any calendar year after the calendar year 1950 and prior to the calen-
307 dar year 1953, and either the sum of his contributions deposited in and
308 credited to the State disability benefits fund (in accordance with subpara-
309 graph (A) of paragraph (2) of this subsection) plus the amount of his con-
310 tributions, if any, required towards the cost of benefits under 1 or more
311 approved private plans under the provisions of section 9 of the "Temporary
312 Disability Benefits Law" and deducted from his wages, or the sum of such
313 latter contributions if the employee is covered, during such calendar year,
314 only by 2 or more private plans, exceeds \$22.50, the employee shall be en-
315 titled to a refund of the excess if he makes claim to the Division of Em-
316 ployment Security within 2 years after the end of the calendar year in which
317 the wages are received with respect to which the refund is claimed and estab-
318 lishes his right to such refund. Such refund shall be made by the Division
319 of Employment Security from the State disability benefits fund. No interest

320 shall be allowed or paid with respect to any such refund. The division shall,
321 in accordance with prescribed regulations, determine the portion of the ag-
322 gregate amount of such refunds made during any calendar year which is
323 applicable to private plans for which deductions were made under section 9
324 of the "Temporary Disability Benefits Law," such determination to be based
325 upon the ratio of the amount of such wages exempt from contributions to
326 such fund as provided in subparagraph (A) of paragraph (1) of this sub-
327 section with respect to coverage under private plans to the total wages
328 so exempt plus the amount of such wages subject to contributions to the
329 disability benefits fund as provided in subparagraph (A) of paragraph (2)
330 of this subsection. The division shall, in accordance with prescribed regu-
331 lations, prorate the amount so determined among the applicable private
332 plans in the proportion that the wages covered by each plan bears to the total
333 private plan wages involved in such refunds, and shall assess against and re-
334 cover from the employer, or the insurer if the insurer has indemnified the
335 employer with respect thereto, the amount so prorated. The provisions of
336 Revised Statutes, section 43:21-14 with respect to collection of employer con-
337 tributions shall apply to such assessments. The amounts so recovered by the
338 division shall be paid into the State disability benefits fund.

339 (B)] If an employee receives wages from more than 1 employer during
340 any calendar year commencing with the calendar year 1953, and either the sum
341 of his contributions deposited in and credited to the State disability bene-
342 fits fund (in accordance with subparagraph (B) of paragraph (2) of this
343 subsection) plus the amount of his contributions, if any, required towards the
344 cost of benefits under 1 or more approved private plans under the provisions
345 of section 9 of the Temporary Disability Benefits Law and deducted from his
346 wages, or the sum of such latter contributions if the employee is covered,
347 during such calendar year, only by 2 or more private plans, exceeds \$15.00
348 *in any calendar year commencing on or after January 1, 1953*, the
349-350 employee shall be entitled to a refund of the excess if he
351 makes claim to the Division of Employment Security within 2 years after

352 the end of the calendar year in which the wages are received with respect to
353 which the refund is claimed and establishes his right to such refund. Such
354 refund shall be made by the Division of Employment Security from the
355 State disability benefits fund. No interest shall be allowed or paid with re-
356 spect to any such refund. The division shall, in accordance with prescribed
357 regulations, determine the portion of the aggregate amount of such refunds
358 made during any calendar year which is applicable to private plans for
359 which deductions were made under section 9 of the "Temporary Disability
360 Benefits Law," such determination to be based upon the ratio of the amount
361 of such wages exempt from contributions to such fund as provided in sub-
362 paragraph (B) of paragraph (1) of this subsection with respect to coverage
363 under private plans to the total wages so exempt plus the amount of such
364 wages subject to contributions to the disability benefits fund as provided in
365 subparagraph (B) of paragraph (2) of this subsection. The division shall, in
366 accordance with prescribed regulations, prorate the amount so determined
367 among the applicable private plans in the proportion that the wages covered
368 by each plan bears to the total private plan wages involved in such re-
369 funds, and shall assess against and recover from the employer, or the insurer
370 if the insurer has indemnified the employer with respect thereto, the amount
371 so prorated. The provisions of Revised Statutes, section 43:21-14, with re-
372 spect to collection of employer contributions shall apply to such assessments.
373 The amounts so recovered by the division shall be paid into the State dis-
374 ability benefits fund.

375 (4) If an individual does not receive any wages from the employing
376 unit which for the purposes of this chapter (R. S. 43:21-1 et seq.) is treated
377 as his employer, or receives his wages from some other employing unit, such
378 employer shall nevertheless be liable for such individual's contributions in
379 the first instance; and after payment thereof such employer may deduct the
380 amount of such contributions from any sums payable by him to such employ-
381 ing unit, or may recover the amount of such contributions from such em-
382 ploying unit, or, in the absence of such an employing unit, from such

383 individual, in a civil action [for debts]; provided, proceedings therefor are
384 instituted within 3 months after the date on which such contributions are pay-
385 able. General rules shall be prescribed whereby such an employing unit may
386 recover the amount of such contributions from such individuals in the same
387 manner as if it were the employer.

388 (5) Every employer who has elected to become an employer subject to
389 this chapter (R. S. 43:21-1 et seq.); or to cease to be an employer subject to
390 this chapter (R. S. 43:21-1 et seq.), pursuant to the provisions of section
391 43:21-8 of this Title, shall post and maintain printed notices of such election
392 on his premises, of such design, in such numbers, and at such places as the
393 director may determine to be necessary to give notice thereof to persons in
394 his service.

395 (6) Contributions by workers, payable to the Division of Employment
396 Security as herein provided, shall be exempt from garnishment, attachment,
397 execution, or any other remedy for the collection of debts.

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

399 (1) Except as hereinafter provided, each employer shall, in addition to
400 the contributions required by subsections (a), (b), and (c) of this section,
401 contribute $\frac{1}{4}$ of 1% of the wages paid by such employer to workers with re-
402 spect to employment after January 1, 1949. Such contributions shall become
403 due and be paid by each employer to the Division of Employment Security
404 for the State disability benefits fund as established by law, in accordance
405 with such regulations as may be prescribed, and shall not be deducted, in
406 whole or in part, from the remuneration of individuals in his employ. In the
407 payment of any contributions, a fractional part of a cent shall be disre-
408 garded unless it amounts to $\frac{1}{2}$ cent or more, in which case it shall be in-
409 creased to 1 cent.

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

414 (3) (A) The rates of contribution as specified in subparagraph (1)
415 above shall be subject to modification as provided herein with respect to em-
416 ployer contributions due on and after July 1, 1951.

417 (B) A separate disability benefits account shall be maintained for each
418 employer required to contribute to the State disability benefits fund and such
419-420 account shall be credited with contributions deposited in and credited to
421 such fund with respect to employment occurring on and after January 1,
422 1949. Each employer's account shall be credited with all contributions paid
423 on or before January 31 of any calendar year on his own behalf and on behalf
424 of individuals in his service with respect to employment occurring in preced-
425 ing calendar years; *provided, however, that if January 31, of any calendar*
426 *year falls on a Saturday or Sunday an employer's account shall be credited*
427 *as of January 31 of such calendar year with all the contributions which he*
428 *has paid on or before the next succeeding day which is not a Saturday or*
429 *Sunday. But nothing in this act shall be construed to grant any employer or*
430 *individuals in his service prior claims or rights to the amounts paid by him*
431 *to the fund either on his own behalf or on behalf of such individuals. Benefits*
432 *paid to any covered individual in accordance with article III of the Tem-*
433 *porary Disability Benefits Law on or before [January] December 31 of any*
434 *calendar year with respect to disability in such calendar year and in pre-*
435 *ceding calendar years shall be charged against the account of the employer*
436 *by whom such individual was employed at the commencement of such disa-*
437 *bility or by whom he was last employed if out of employment.*

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

444 (D) Prior to July 1 of each calendar year, the Division of Employment
445 Security shall make a preliminary determination of the rate of contribution

446 for the 12 months commencing on such July 1 for each employer subject to the
447 contribution requirements of this subsection (e).

448 (1) Such preliminary rate shall be $\frac{1}{4}$ of 1% unless on the preceding
449 January 31 of such year such employer shall have been a covered employer
450 who has paid contributions to the State disability benefits fund with respect
451 to employment in the 3 calendar years immediately preceding such year.

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

455 (i) $\frac{2}{10}$ of 1% if such excess over \$500.00 exceeds 1% but is less than
456 $1\frac{1}{4}$ % of his average annual payroll (as defined in this chapter (R. S.
457 43:21-1 et seq.));

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

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

462 (3) If the minimum requirements in (1) above have been fulfilled and
463 the contributions credited exceed the benefits charged but by not more than
464 \$500.00 plus 1% of his average annual payroll, or if the benefits charged
465 exceed the contributions credited but by not more than \$500.00, the prelim-
466 inary rate shall be $\frac{1}{4}$ of 1%.

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

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

472 (ii) $\frac{45}{100}$ of 1% if such excess over \$500.00 equals or exceeds $\frac{1}{4}$ of
473 1% but is less than $\frac{1}{2}$ of 1% of his average annual payroll;

474 (iii) $\frac{55}{100}$ of 1% if such excess over \$500.00 equals or exceeds $\frac{1}{2}$ of
475 1% but is less than $\frac{3}{4}$ of 1% of his average annual payroll;

476 (iv) $\frac{65}{100}$ of 1% if such excess over \$500.00 equals or exceeds $\frac{3}{4}$ of
477 1% but is less than 1% of his average annual payroll;

478 (v) $7\frac{1}{100}$ of 1% if such excess over \$500.00 equals or exceeds 1%
479 of his average annual payroll.

480 (5) Determination of the preliminary rate as specified in (2), (3) and
481 (4) above shall be subject, however, to the condition that it shall in no event
482 be decreased by more than $\frac{1}{10}$ of 1% of wages or increased by more than
483 $\frac{2}{10}$ of 1% of wages from the preliminary rate determined for the preceding
484 year in accordance with (1), (2), (3) or (4), whichever shall have been ap-
485 plicable.

486 (E) (1) Prior to July 1 of each calendar year the Division of Employ-
487 ment Security shall determine the amount of the State disability benefits
488 fund as of December 31 of the preceding calendar year increased by the con-
489 tributions paid thereto during January of the current calendar year with
490 respect to employment occurring in preceding calendar years [and decreased
491 by the benefits paid during January of the current calendar year with re-
492 spect to disability in preceding calendar years]. If such amount exceeds
493 the total of the amounts withdrawn from the unemployment trust fund pur-
494 suant to section 23 of the Temporary Disability Benefits Law plus the
495 amount at the end of such preceding calendar year of the unemployment
496 disability account (as defined in section 22 of said law), such excess shall
497 be expressed as a percentage of the wages on which contributions were
498 paid to the State disability benefits fund on or before January 31 with re-
499 spect to employment in the preceding calendar year.

500 (2) The Division of Employment Security shall then make a final deter-
501 mination of the rates of contribution for the 12 months commencing July 1
502 of such year for employers whose preliminary rates are determined as pro-
503 vided in (D) hereof, as follows:

504 (i) If the percentage determined in accordance with paragraph (1)
505 of this subsection equals or exceeds $1\frac{1}{4}\%$ the final employer rates shall
506 be the preliminary rates determined as provided in (D) hereof, except
507 that if the employer's preliminary rate is determined as provided in (D)
508 (2) or (D) (3) hereof, the final employer rate shall be the preliminary

509 employer rate decreased by such percentage of excess taken to the near-
510 est $\frac{5}{100}$ of 1%, but in no case shall such final rate be less than $\frac{1}{10}$ of 1%.

511 (ii) If the percentage determined in accordance with paragraph (1)
512 of this subsection equals or exceeds $\frac{3}{4}$ of 1% and is less than $1\frac{1}{4}$ of 1%,
513 the final employer rates shall be the preliminary employer rates.

514 (iii) If the percentage determined in accordance with paragraph
515 (1) of this subsection is less than $\frac{3}{4}$ of 1%, the final employer rates
516 shall be the preliminary employer rates determined as provided in (D)
517 hereof increased by the difference between $\frac{3}{4}$ of 1% and such percent-
518 age taken to the nearest $\frac{5}{100}$ of 1%; provided, however, that no such
519 final rate shall be more than $\frac{1}{4}$ of 1% in the case of an employer whose
520 preliminary rate is determined as provided in (D) (2) hereof, more than
521 $\frac{1}{2}$ of 1% in the case of an employer whose preliminary rate is deter-
522 mined as provided in (D) (1) and (D) (3) hereof, nor more than $\frac{3}{4}$ of
523 1% in the case of an employer whose preliminary rate is determined as
523A provided in (D) (4) hereof.

523B (iv) If the amount of the State disability benefits fund determined
524 as provided in paragraph (1) of this subsection is equal to or less than
525 the total of the amounts withdrawn from the unemployment trust fund
526 pursuant to section 23 of the Temporary Disability Benefits Law plus
527 the amount at the end of the preceding calendar year of the unemploy-
528 ment disability account, then the final rate shall be $\frac{3}{4}$ of 1% for all
529 employers.

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

3 43:21-8. (a) Any employing unit which is or becomes an employer subject
4 to this chapter (R. S. 43:21-1 et seq.) within any calendar year shall be sub-
5 ject to this chapter (R. S. 43:21-1 et seq.) during the whole of such calendar
6 year.

7 (b) Except as otherwise provided in subsection (c) of this section, an
8 employing unit shall cease to be an employer subject to this chapter (R. S.
9 43:21-1 et seq.) only as of January 1 of any calendar year, if

10 (1) The employing unit files with the Division of Employment Security
11 prior to February 1 of such year, a written application for termination of
12 coverage, and the division finds [that there were no 20 different days, each
13 day being in a different week within the preceding calendar year, within
14 which such employing unit employed 4 or more individuals in employment
15 subject to this chapter (R. S. 43:21-1 et seq.)] *that there were no 20 different*
15A *days, each day being in a different week within the preceding calendar year,*
15B *within which such employing unit employed 4 or more individuals in employ-*
15C *ment subject to this chapter (R. S. 43:21-1 et seq.):*

16 [(A) *As to such applications filed prior to February 1, 1962, for termina-*
17 *tion of coverage as of January 1, 1962, that there were no 20 different days*
18 *within the preceding calendar year, within which such employing unit em-*
19 *ployed 4 or more individuals in employment subject to this chapter (R. S.*
20 *43:21-1 et seq.), or*

21 (B) *As to such applications filed prior to February 1, 1963 for termina-*
22 *tion of coverage as of January 1, 1963, that during the calendar year 1962*
23 *there were no 20 different days, each day being in a different calendar week,*
24 *within which such employing unit employed 3 or more individuals in em-*
25 *ployment subject to this chapter (R. S. 43:21-1 et seq.); or*

26 (C) *As to such applications filed prior to February 1, 1964 for termina-*
27 *tion of coverage as of January 1, 1964, that during the calendar year 1963*
28 *there were no 20 different days, each day being in a different calendar week,*
29 *within which such employing unit employed 2 or more individuals in employ-*
30 *ment subject to this chapter (R. S. 43:21-1 et seq.); or*

31 (D) *As to such applications filed after February 1, 1964, for termina-*
32 *tion of coverage as of January 1 of any calendar year subsequent to 1963,*
33 *that there were no 20 different days, each day being in a different calendar*
34 *week, within the preceding calendar year, within which such employing unit*
35 *employed 1 or more individuals in employment subject to this chapter (R. S.*
36 *43:21-1 et seq.); or]*

37 (2) The division finds that during the 2 calendar years preceding such
38 January 1, there was no day on which such employing unit employed 1 or
39 more individuals in employment subject to this chapter (R. S. 43:21-1 et seq.).

40 For the purpose of this subsection, the [2 or more] employing units
41 mentioned in [paragraph (2) or (3) or (4) of subsection (h) of section
42 43:21-19 of this Title] *section 43:21-19 (h) (2) or (3) of the Revised Stat-*
43 *utes* shall be treated as a single employing unit.

44 (c) (1) An employing unit, not otherwise subject to this chapter (R. S.
45 43:21-1 et seq.), which files with the division its written election to become
46 an employer subject hereto for less than 2 calendar years shall, with the
47 written approval of such election by the division, become an employer sub-
48 ject hereto, to the same extent as all other employers, as of the date stated
49 in such approval; provided, that the division shall not approve such election
50 by such employing unit to become an employer subject hereto if written ob-
51 jections on the part of a substantial proportion of the individuals in the
52 employ of such unit are presented to the division within 10 days following
53 the filing of such election, and shall cease to be subject [hereto] *to this*
54 *chapter (R. S. 43:21-1 et seq.)* as of January 1 of any calendar year sub-
55 sequent to such [2 calendar years] *period of election*, only, if [at least 30
56 days prior to such January 1, it has filed with the division a written notice
57 to that effect], *(a) prior to February 1, of such calendar year, such employ-*
58 *ing unit has filed with the division a written notice to that effect; and it meets*
59 *the conditions for termination of coverage set forth in subsection (b) hereof.*

60 (2) Any employing unit for which services do not constitute employment
61 as defined in this chapter (R. S. 43:21-1 et seq.) are performed, may file
62 with the division a written notice that all such services performed by indi-
63 viduals in its employ in 1 or more distinct establishments or places of busi-
64 ness shall be deemed to constitute employment for all purposes of this chapter
65 (R. S. 43:21-1 et seq.) for not less than 2 calendar years; provided written
66 objections on the part of a substantial proportion of such individuals af-
67 fected are not presented to the division within 10 days following the filing of

68 such election. Upon the written approval of such election by the division,
69 such services shall be deemed to constitute employment subject to this chap-
70 ter (R. S. 43:21-1 et seq.) from and after the date stated in such approval
71 such services shall be deemed employment subject [hereto] *to this chapter*
72 *(R. S. 43:21-1 et seq.)* as of January 1 of any calendar year subsequent to
73 such [2 calendar years] period of election, only, if, [at least 30 days prior
74 to such January 1,] *(A) prior to February 1 of such calendar year, such*
75 *employing unit has filed with the division a written notice to that effect, or*
76 *(B) the division finds that during the 2 calendar years preceding such Jan-*
77 *uary 1, there was no day on which such services were performed for the em-*
78 *ploying unit.*

1 7. 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 division. It shall be the duty
4 of the division to determine all matters of policy; and it shall have power
5 and authority to adopt, amend, or rescind such rules and regulations, require
6 such reports, make such investigations, and take such other action as it deems
7 necessary or suitable to that end or to administer this chapter; provided,
8 that the division may delegate such power and authority to the director
9 subject to their ultimate supervision and control. Such rules and regulations
10 shall be effective upon publication in the manner, not inconsistent with the
11 provisions of this chapter, which the division shall prescribe. The division
12 shall determine its own organization and methods of procedure in accordance
13 with the provisions of this chapter, and shall have an official seal which shall
14 be judicially noticed. Not later than [February 1] *March 1* of each year, the
15 division shall submit to the Governor a report covering the administration
16 and operation of this chapter during the preceding calendar year and shall
17 make such recommendations for amendments to this chapter as the division
18 deems proper. Such report shall include a balance sheet of the moneys in
19 the fund in which there shall be provided, if possible, a reserve against the
20 liability in future years to pay benefits in excess of the then current contribu-

21 tions, which reserve shall be set up by the division in accordance with
22 accepted actuarial principles on the basis of statistics of employment, business
23 activity, and other relevant factors for the longest possible period. When-
24 ever the division believes that a change in contribution or benefit rates will
25 become necessary to protect the solvency of the fund, it shall promptly so
26 inform the Governor and the Legislature, and make recommendations with
27 respect thereto. The division shall make a study of the problem of paying
28 partial benefits for partial unemployment.

29 (b) Regulations and general and special rules. General and special rules
30 may be adopted, amended, or rescinded by the division. General rules shall
31 become effective 10 days after filing with the Secretary of State and publi-
32 cation in 1 or more newspapers of general circulation in this State. Special
33 rules shall become effective 10 days after notification to or mailing to the
34 last known address of the individuals or concerns affected thereby. Regu-
35 lations may be adopted, amended, or rescinded by the division and shall be-
36 come effective in the manner and at the time prescribed by the division.

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

42 (d) Personnel. Subject to other provisions of this chapter, the division
43 is authorized to appoint (subject to the provisions of Title 11, Civil Serv-
44 ice), fix the compensation, and prescribe the duties and powers of such offi-
45 cers, accountants, attorneys, experts, and other persons as may be necessary
46 in the performance of its duties. All positions shall be filled by persons se-
47 lected and appointed on a nonpartisan merit basis from lists of eligible per-
48 sons prepared by the Civil Service Commission, in accordance with the pro-
49 visions of Title 11, Civil Service, except that any attorney, now or hereafter
50 in office or position of legal assistant for the division, shall be placed in the
51 exempt class of the civil service and thereafter shall not be subject to re-

52 moval except for cause and then only in accordance with the provisions of
53 Title 11, Civil Service; provided, however, that nothing herein shall be con-
54 strued to apply to any attorney designated as special counsel in accordance
55 with the provisions of sections 43:21-6, subsection (h), and 43:21-17. The
56 division shall not employ or pay any person who is an officer or committee
57 member of any political party organization. The division may delegate to any
58 such person so appointed such power and authority as it deems reasonable
59 and proper for the effective administration of this chapter, and may in its
60 discretion bond any person handling moneys or signing checks hereunder.

61 (e) *Employment Security Council*. [Advisory councils. The division
62 shall appoint a State advisory council of 6 members and local advisory
63 councils of 4 members each, composed in each case of an equal number of
64 employer representatives and employee representatives who may fairly be
65 regarded as representative because of their vocation, employment, or affilia-
66 tions, and of such members representing the general public as the division
67 may designate. Such councils shall aid the division in formulating policies
68 and discussing problems related to the administration of this chapter and in
69 assuring impartiality and freedom from political influence in the solution of
70 such problems. Such advisory councils shall serve without compensation,
71 but shall be reimbursed for any necessary expenses.] *There shall be within*
71A *the Division of Employment Security, an Employment Security Council, as*
71B *established and constituted under the Department of Labor and Industry*
71C *Act of 1948 (P. L. 1948, c. 446; N. J. S. 34:1A-1 et seq.)*

72 (f) Employment stabilization. The division, with the advice and aid of
73 the *Employment Security Council* [its advisory councils, and through its
74 appropriate divisions] shall take all appropriate steps to reduce and prevent
75 unemployment; to encourage and assist in the adoption of practical methods
76 of vocational training, retraining and vocation guidance; to investigate,
77 recommend, advise, and assist in the establishment and operation, by munici-
78 palities, counties, school districts, and the State, of reserves for public works
79 to be used in times of business depression and unemployment; to promote the

80 re-employment of unemployed workers throughout the State in every other
81 way that may be feasible, and to these ends to carry on and publish the
82 results of investigations and research studies.

83 (g) Records and reports. Each employing unit shall keep true and ac-
84 curate employment records, containing such information as may be prescribed.
85 Such records shall be open to inspection and be subject to being copied by
86 the director of the division or his authorized representatives at any reason-
87 able time. The director may require from any employing unit any sworn or
88 unsworn reports, with respect to persons employed by it, which [is] are
89 deemed necessary for the effective administration of this chapter. Under
90 such rules and regulations as may be adopted by the division reports relative
91 to wages and separation from employment may be required from any employer
92 or employing unit at the time such employer or employing unit suspends
93 business operations in this State, or from any employer or employing unit
94 which fails to co-operate in submitting promptly the wage and employment
95 data which may be required under paragraph (2) of subsection (b) of sec-
96 tion 43:21-6 of this Title. If the nature of such suspension is temporary or
97 in the nature of a transfer, then the director may excuse the employer or
98 employing unit from furnishing such a termination report upon assurances
99 that proper arrangements have been made to supply any information which
100 may be required under paragraph (2) of subsection (b) of section 43:21-6
101 of this Title. The director may, in his discretion, require from any employer
102 or employing unit, reports relative to wages and separation in such manner
103 and at such time as he may deem necessary for the effective administration
104 of this chapter. [Information thus obtained shall not be published or be open
105 to public inspection (other than to public employees in the performance of
106 their public duties) in any manner revealing the employing unit's identity,
107 but any claimant at a hearing before an appeal tribunal, the division or the
108 board of review, shall be supplied with information from such records to the
109 extent necessary for the proper presentation of his claim.]

110 [(h) Information contained in letters, reports, and other communications,
111 oral or written, submitted by any individual or employing unit to the division
112 or another pursuant to the provisions of this chapter or any regulation
113 thereunder, shall be privileged and shall not be admissible as evidence in
114 any civil, criminal, or administrative action or proceeding, but such infor-
115 mation shall be admissible in any such action or proceeding to enforce this
116 chapter or on the part of the division or State where the division or the
117 State has been made a defendant by reason of the administration of this
118 chapter, or to enforce any law where an individual obtains or attempts to
119 obtain by theft or robbery or false statements or representations any money
120 from any fund created or established under this chapter or any negotiable
121 or nonnegotiable instrument for the payment of money from such funds,
122 or embezzles or misapplies any money held in trust under this chapter, or to
123 recover money erroneously or illegally obtained by an individual from any
124 fund created or established under this chapter. Such information shall be
124A supplied or made available (1) to a claimant (or his duly authorized rep-
124B resentative) to the extent necessary for the proper presentation of his claim
124C in any proceeding under this chapter, under an unemployment compensation
124D law of another State or of the Federal Government; (2) to any agency of
124E this or any other State, or any Federal agency, charged with the adminis-
124F tration of an unemployment insurance program or the maintenance of a
124G system of public employment offices, or for the purposes of the Federal Un-
124H employment Tax Act to the Internal Revenue Service of the United States
124I Department of the Treasury, but only for purposes reasonably necessary for
124J the proper administration of such laws; (3) to any agency of a State or of
124K the Federal Government lawfully charged with the administration of a law
124L providing for old-age assistance, or other public assistance, work relief,
125 pension, retirement, or other benefit payments, but only for purposes rea-
125A sonably necessary for the proper administration of such law. Information
125B obtained in connection with the administration of the employment service
125C shall be made available to persons or agencies to the extent necessary for

125D *the proper and efficient operation of a public employment service. The*
 125E *director may request the Comptroller of the Currency of the United States*
 125F *to cause an examination of the correctness of any return or report of any*
 125G *national banking association rendered pursuant to the provisions of this*
 125H *chapter, and may in connection with such request transmit any such report*
 125I *or return to the Comptroller of the Currency of the United States as pro-*
 125J *vided in section 1606 of the Federal Unemployment Tax Act.] Information*
 125K *thus obtained shall not be published or be open to public inspection (other*
 125L *than to public employees in the performance of their public duties) in any*
 125M *manner revealing the employing unit's identity, but any claimant at a hear-*
 125N *ing before an appeal tribunal, the division or the board of review, shall be*
 125O *supplied with information from such records to the extent necessary for the*
 125P *proper presentation of his claim. Any officer or employee [or member] of*
 125Q *the division who violates any provision of this section shall be liable to a fine*
 126 *of [not less than \$20.00 nor more than] \$200.00, to be recovered in a civil*
 126A *action in the name of the division, said fine when recovered to be paid to the*
 126B *unemployment compensation fund for the use of said fund.*

126C *[(i) The director may cause to be made such summaries, compilations,*
 126D *photographs, duplications, or reproductions of any records, reports, or tran-*
 126E *scripts thereof as he may deem advisable for the effective and economical*
 126F *preservation of the information contained therein, and such summaries, com-*
 126G *pilations, photographs, duplications, or reproductions duly authenticated,*
 126H *shall be admissible in any proceedings under this chapter if the original*
 126I *record or records would have been admissible therein.]*

127 *[(j)] [(h)] (h) Oaths and witnesses. In the discharge of the duties im-*
 128 *posed by this chapter, the chairman of an appeal tribunal and any duly au-*
 129 *thorized representative or member of the division, the director or any deputy*
 130 *director thereof or member of the board of review shall have power to admin-*
 131 *ister oaths and affirmations, take depositions, certify to official acts, and issue*
 132 *subpœnas to compel the attendance of witnesses and the production of books,*
 133 *papers, correspondence, memoranda and other records deemed necessary as*

134 evidence in connection with a disputed claim or the administration of this
135 chapter. Witnesses subpoenaed pursuant to this section shall in the discre-
136 tion of the division be allowed fees at a rate to be fixed by it. Such fees shall
137 be deemed a part of the expense of administering this chapter.

138 [(k)] [(i)] (i) Subpoenas. In case of contumacy by or refusal to obey a
139 subpoena issued to any person, any court of this State within the jurisdiction of
140 which the inquiry is carried on or within the jurisdiction of which said person
141 guilty of contumacy or refusal to obey is found or resides or transacts busi-
142 ness, upon application by the division or its duly authorized representative,
143 or the board of review, shall have jurisdiction to issue to such person an order
144 requiring such person to appear before the board of review or a member
145 thereof, the division, the director, or his duly authorized representative,
146 there to produce evidence if so ordered or there to give testimony touching
147 the matter under investigation or in question; and any failure to obey such
148 order of the court may be punished by said court as a contempt thereof.
149 Any person who shall without just cause fail or refuse to attend and testify
150 or to answer any lawful inquiry or to produce books, papers, correspond-
151 ence, memoranda, and other records, if it is in his power so to do, in obedience
152 to a subpoena of the division or of the board of review shall be punished by
153 a fine of not more than \$200.00 or by imprisonment for not longer than 60
154 days, or by both such fine and imprisonment, and each day such violation
155 continues shall be deemed to be a separate offense.

156 [(l)] [(j)] (j) Protection against self-incrimination. No person shall be
157 excused from attending and testifying or from producing books, papers, corre-
158 spondence, memoranda and other records before the division or the board of re-
159 view or in obedience to the subpoena of a member of the division or the director
160 thereof, the board of review or a member thereof, or any duly authorized
161 representative of the division in any cause or proceeding before the division,
162 the board of review or a member thereof, on the ground that the testimony
163 or evidence, documentary or otherwise, required of him may tend to incrim-
164 inate him or subject him to a penalty or forfeiture; but no individual shall

165 be prosecuted or subjected to any penalty or forfeiture for or on account of
166 any transaction, matter, or thing concerning which he is compelled, after
167 having claimed his privilege against self-incrimination, to testify or produce
168 evidence, documentary or otherwise, except that such individual so testifying
169 shall not be exempt from prosecution and punishment for perjury committed
170 in so testifying.

171 [(m)] [(k)] (k) State-Federal co-operation. In the administration of
172 this chapter the division shall co-operate to the fullest extent consistent with
173 the provisions of this chapter, with the [Social Security Board, created by the
174 Social Security Act, approved August 14, 1935, as amended] *United States*
175 *Department of Labor to secure to this State and its citizens all advantages*
176 *available under the provisions of the Social Security Act (42 U. S. C. 301*
177 *et seq.), as amended, the Federal Unemployment Tax Act (26 U. S. C. 3301*
178 *et seq.), as amended, and the Wagner-Peyser Act (29 U. S. C. 49 et seq.),*
179 *as amended;* shall make such reports, in such form and containing such
180 information as the [Social Security Board] *United States Secretary of Labor*
181 may from time to time require, and shall comply with such provisions as the
182 [Social Security Board] *United States Secretary of Labor* may from time
183 to time find necessary to assure the correctness and verification of such
184 reports, and shall comply with the regulations prescribed by the [Social
185 Security Board] *United States Secretary of Labor* governing the expendi-
186 ture of such sums as may be allotted and paid to this State under [Title III
187 of the Social Security Act for the purpose of assisting in the administration
188 of this chapter] *any of such Federal acts.*

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

194 [The division may make the State's records relating to the administra-
195 tion of this chapter available to the Railroad Retirement Board and may

196 furnish the Railroad Retirement Board, at the expense of such board, such
197 copies thereof as the Railroad Retirement Board deems necessary for its
198 purposes.]

199 The division may afford reasonable co-operation with every agency of
200 the United States charged with the administration of any unemployment
201 insurance law.

202 *The division is authorized to make such investigations and exercise such*
203 *of the other powers provided herein with respect to the administration of*
204 *this chapter and to transmit such information and make available such serv-*
205 *ices and facilities to the agency charged with the administration of any State*
206 *or Federal unemployment insurance or public employment service law as it*
207 *deems necessary or appropriate to facilitate the administration of such law*
208 *and to accept and utilize information, services and facilities made available*
209 *to this State by such agency.*

1 8. 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
5 or 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 \$20.00 for each offense, to be recovered in an action at
9 law in the name of the Division of Employment Security of the Department
10 of Labor and Industry of the State of New Jersey or as provided in subsec-
11 tion (e) of section 43:21-14, said fine when recovered to be paid to the
12 unemployment compensation auxiliary fund for the use of said fund; and each
13 such false statement or representation or failure to disclose a material
14 fact shall constitute a separate offense. Any penalties imposed by this sub-
15 section shall be in addition to those otherwise prescribed in this chapter
16 (R. S. 43:21-1 et seq.).

17 (b) (1) An employing unit or any officer or agent of an employing unit or
18 any other person who makes a false statement or representation knowing it to
19 be false, or who knowingly fails to disclose a material fact, to prevent or re-
20 duce the payment of benefits to any individual entitled thereto or to avoid be-
21 coming or remaining subject hereto or to avoid or reduce any contribution or
22 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 willfully fails or refuses to furnish any
25 reports required hereunder (except for such reports as may be required under
26 paragraph 43:21-6(b) (2) of this Title) or to produce or permit the inspec-
27 tion or copying of records as required hereunder, shall be liable to a fine of
28 \$50.00, to be recovered in an action at law in the name of the Division of Em-
29 ployment Security of the Department of Labor and Industry of the State of
30 New Jersey or as provided in subsection (e) of section 43:21-14, said fine
31 when recovered to be paid to the unemployment compensation auxiliary
32 fund for the use of said fund; and each such false statement or representation
33 or failure to disclose a material fact, and each day of such failure or refusal
34 shall constitute a separate offense. Any penalties imposed by this paragraph
35 shall be in addition to those otherwise prescribed in this chapter (R. S.
36 43:21-1 et seq.).

37 Any employing unit or any officer or agent of an employing unit or any
38 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 \$5.00 for each
40 such report not submitted within 7 days after the mailing of a request for
41 such report, and an additional \$5.00 penalty may be assessed for each 7-day
42 period which may elapse after the end of the initial 7-day period and before
43 the report is filed; provided, that when such report or reports are not filed
44 within the prescribed time but it is shown to the satisfaction of the director
45 that the failure was due to a reasonable cause, no such penalty shall be im-
46 posed. Any penalties imposed by this paragraph shall be recovered as pro-
47 vided in subsection (e) of section 43:21-14 of this Title, and when recovered

48 shall be paid to the unemployment compensation auxiliary fund for the use of
49 said fund.

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 terms
53 of this chapter (R. S. 43:21-1 et seq.), and for which a penalty is neither pre-
54 scribed herein nor provided by any other applicable statute, shall be liable to
55 a fine of \$50.00, to be recovered in an action at law in the name of the Division
56 of Employment Security of the Department of Labor and Industry of the
57 State of New Jersey or as provided in subsection (e) of section 43:21-14, said
58 fine when recovered to be paid to the unemployment compensation auxiliary
59 fund for the use of said fund; and each day such violation continues shall be
60 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-
66-67 representation was known or fraudulent), or (ii) for any other
68 reason, has received any sum as benefits under this chapter (R. S.
69 43:21-1 et seq.) while any conditions for the receipt of benefits imposed by
70 this chapter (R. S. 43:21-1 et seq.) were not fulfilled in his case, or while he
71 was disqualified from receiving benefits, or while otherwise not entitled to
72 receive such sum as benefits, such person shall be liable, if the director in his dis-
73 cretion directs recovery, either to have such sum deducted from any future
74 benefits payable to him under this chapter (R. S. 43:21-1 et seq.) or to repay to
75 the division for the unemployment compensation fund, a sum equal to the
76 amount so received by him, and such sum shall be collectible in the manner
77 provided in subsection (e) of section 43:21-14 of this chapter (R. S. 43:21-1
78 et seq.) for the collection of past-due contributions; provided, however, that,
79 except in the event of fraud, no person shall be liable for any such refunds or

80 deductions against future benefits unless so notified before 4 years have
81 elapsed from the time the benefits in question were paid. Such person shall be
82 promptly notified of the determination and the reasons therefor. Unless such
83 person, within 5 calendar days after the delivery of such determination, or
84 within 7 calendar days after such notification was mailed to his last-known ad-
85 dress, files an appeal from such determination, such determination shall be
85a final.

86 (e) Any employing unit or any officer or agent of an employing unit, em-
87 ployer or person failing to remit, when payable, any employer contributions,
88 or worker contributions (if withheld or deducted), or the amount of such
89 worker contributions (if not withheld or deducted), or filing or causing to be
90 filed with the Division of Employment Security of the Department of Labor
91 and Industry of the State of New Jersey, any false or fraudulent report or
92 statement, and any person who aids or abets an employing unit, employer, or
93 any person in the preparation or filing of any false or fraudulent report or
94 statement with the aforesaid division with intent to defraud the aforesaid di-
95 vision or the State of New Jersey or an employment security agency of any
96 other State or of the Federal Government, or with intent to evade the pay-
97 ment of any contributions, interest or penalties, or any part thereof, which
98 shall be due under the provisions of this chapter (R. S. 43:21-1 et seq.), shall
99 be liable for each offense upon conviction before any County Court, county
100 district court, criminal judicial district court, or magistrate's court, to a fine
101 not to exceed ~~[\$250.00]~~ \$1,000.00 or by imprisonment for a term not to ex-
102 ceed 90 days, or both, at the discretion of the court. The fine upon conviction
103 shall be payable to the unemployment compensation auxiliary fund of the
104 Division of Employment Security of the Department of Labor and Industry
105 of the State of New Jersey. Any penalties imposed by this subsection shall
106 be in addition to those otherwise prescribed in this chapter (R. S. 43:21-1
107 et seq.).

108 (f) Any employing unit or any officer or agent of an employing unit or
109 any other person who aids and abets any person to obtain any sum of bene-

110 fits under this chapter to which he is not entitled, or a larger amount as
 111 benefits than that to which he is justly entitled, shall be liable for each offense
 112 upon conviction before any County Court, county district court, criminal judi-
 113 cial district court, or magistrate's court, to a fine not to exceed \$1,000.00 or by
 114 imprisonment for a term not to exceed 90 days or both, at the discretion of
 115 the court. The fine upon conviction shall be payable to the unemployment com-
 116 pensation auxiliary fund of the Division of Employment Security of the De-
 117 partment of Labor and Industry of New Jersey. Any penalties imposed by
 118 this subsection shall be in addition to those otherwise prescribed in this chap-
 119 ter (R. S. 43:21-1 et seq.).

120 **[(f)]** (g) There shall be created in the Division of Employment Security
 121 of the Department of Labor and Industry of the State of New Jersey an in-
 122 vestigating staff for the purpose of investigating violations referred to in
 123 this section and enforcing the provisions thereof.

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

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

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

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

18 ness; provided, however, that "average annual payroll" solely for the pur-
19 poses of paragraph (3) of subsection (e) of section 43:21-7 of this Title
20 means the average of the annual payrolls of any employer, on which he paid
21 contributions to the State disability benefits fund, for the last 3 or 5
22 preceding calendar years, whichever average is higher; provided further,
23 that only those wages be included on which employer contributions have been
24 paid on or before January 31 (*or the next succeeding day if such January*
25 *31 is a Saturday or Sunday*) immediately preceding the beginning of the 12
26 months' period for which the employer's contribution rate is computed.

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

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

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

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

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

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

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

80 by reason of subsection (c) of section 43:21-8 of this Title or subsection (h)
 81 of this section, may recover the same from such contractor or subcontractor.
 82 Each individual employed to perform or to assist in performing the work of
 83 any agent or employee of an employing unit shall be deemed to be employed
 84 by such employing unit for all the purposes of this chapter (*R. S. 43:21-1 et*
 85 *seq.*), whether such individual was hired or paid directly by such employing
 86 unit or by such agent or employee; provided, the employing unit had ac-
 87 tual or constructive knowledge of the work.

88 (h) "Employer" means:

89 (1) Any employing unit which for some portion of a day, but not ne-
 90 cessarily simultaneously, in each of 20 different weeks, whether or not such
 91 weeks are or were consecutive, [within either the current or the preceding
 91A calendar year,] *within either the current or the preceding calendar year* has
 91B or had in employment [4 or more individuals (irrespective of whether the
 91C same individuals are or were employed in each such day)] *4 or more indi-*
 91D *viduals (irrespective of whether the same individuals are or were employed*
 91E *in each such day)*

91F [(A) *During the calendar year 1961, 4 or more individuals (irrespec-*
 91G *tive of whether the same individuals are or were employed in each such*
 91H *day); or*

91I (B) *During the calendar year 1962, 3 or more individuals (irrespec-*
 91J *tive of whether the same individuals are or were employed in each day);*
 91K *or*

91L (C) *During the calendar year 1963, 2 or more individuals (irrespec-*
 91M *tive of whether the same individuals are or were employed in each such*
 91N *day); or*

91O (D) *During the calendar year 1964, or any calendar year there-*
 91P *after, 1 or more individuals (irrespective of whether the same individ-*
 91Q *ual is or was employed in each such day);]*

92 (2) Any employing unit (*whether or not an employing unit at the time*
 93 *of acquisition*) which acquired the organization, trade or business, or sub-

94. substantially all the assets thereof, of another which at the time of such acquisition was an employer subject to this chapter (*R. S. 43:21-1 et seq.*);

95. (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;

99. [(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;]

104A. (4) *Any employing unit which is an instrumentality of the United States (except such as are wholly or partially owned by the United States, or exempt from the tax imposed by section 3301 of the Federal Unemployment Tax Act (26 U. S. C. 3301), as amended, by virtue of any other provisions of law), and which for some portion of a day 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 the number of individuals required to become an employer under paragraph (1) of this subsection, subject, however, to section 5240 of the Revised Statutes of the United States (12 U. S. C. 484), as amended and modified by subsection (c) of section 3305 of said Federal Unemployment Tax Act as amended; if in any year, this State shall not be certified under section 3304 of said Federal Unemployment Tax Act (26 U. S. C. 3304), as amended, any contributions, penalties and interest required under this chapter (R. S. 43:21-1 et seq.) from any such instrumentality of the United States, or its employees, with respect to such year shall be refunded without interest upon application not later than 2 years after the calendar year in which the contributions, penalties and interest were paid to, or collected by, the division;*

105 (5) Any employing unit which, having become an employer under para-
106 graphs (1), (2), (3) or (4) has not, under section 43:21-8 of this [Title]
107 chapter (*R. S. 43:21-1 et seq.*) ceased to be an employer subject to this
107A chapter (*R. S. 43:21-1 et seq.*); or

108 (6) For the effective period of its election pursuant to subsection
109 (c) of section 43:21-8 of this [Title] chapter (*R. S. 43:21-1 et seq.*) any
110 other employing unit which has elected to become fully subject to this chap-
110A ter (*R. S. 43:21-1 et seq.*).

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

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

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

117 (B) The service is not localized in any State but some of the service
118 is performed in this State, and (i) the base of operations, or, if there is
119 no base of operations, then the place from which such service is directed
120 or controlled, is in this State; or (ii) the base of operations or place
121 from which such service is directed or controlled is not in any State in
122 which some part of the service is performed, but the individual's resi-
123 dence is in this State.

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

129 (4) Services not covered under paragraph (2) of this subsection, and
130 performed entirely without this State, with respect to no part of which con-
131 tributions are required and paid under an unemployment compensation law
132 of any other State or of the Federal Government, shall be deemed to be em-
133 ployment subject to this chapter (*R. S. 43:21-1 et seq.*) if the individual

134 performing such services is a resident of this State and the division approves
135 the election of the employing unit for whom such services are performed
136 that the entire service of such individual shall be deemed to be employment
137 subject to this chapter (*R. S. 43:21-1 et seq.*); provided, written objections
138 on the part of a substantial proportion of such individuals affected are not
139 presented to the division within 10 days following the filing of such election.

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

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

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

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

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

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

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

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

159 (A) Agricultural labor;

160 (B) Domestic service in a private home;

161 (C) Service performed by an individual in the employ of his son,
162 daughter or spouse, and service performed by a child under the age of
163 21 in the employ of his father or mother;

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

167 (E) Service performed in the employ of any other State or its
168 political subdivisions, or of the United States Government, or of an
169 instrumentality of any other State or States or their political subdivi-
170 sions or of the United States, *but this subparagraph shall not apply to an*
170A *instrumentality of the United States which may become an employer*
170B *under R. S. 43:21-19 (h) (5) hereof;*

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

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

183 (H) [Services performed as an officer or other employee of any
184 building and loan association of this State, except where such services
185 constitute the principal employment of the individual; services performed
186 as an officer or other employee of any building and loan association
187 where such association is a member of the Federal Home Loan Bank
188 System; services performed as an officer or other employee of any bank
189 which is a member of the Federal Reserve System;

190 (I)] *Services performed as an officer or other employee of any*
190A *building and loan association of this State, except where such services*
190B *constitute the principal employment of the individual; services per-*

190c performed as an officer or other employee of any building and loan associa-
 190D tion where such association is a member of the Federal Home Loan Bank
 190E System; services performed as an officer or other employee of any bank
 190F which is a member of the Federal Reserve System;

190G (I) Service [performed after June 30, 1939,] with respect to which
 191 unemployment insurance [compensation] is payable under [the Railroad
 192 Unemployment Insurance Act (52 Stat. 1094)] an unemployment insur-
 193 ance program established by an Act of Congress;

194 [(I)] [(J)] (J) Service performed by agents of insurance com-
 195 panies, exclusive of industrial insurance agents, or by agents of invest-
 196 ment companies, who are compensated wholly on a commission basis;

197 [(J)] [(K)] (K) Services performed by real estate salesmen or
 198 brokers who are compensated wholly on a commission basis;

199 [(K)] [(L)] (L) Services performed in the employ of any veterans'
 200 organization chartered by Act of Congress or of any auxiliary thereof, no
 201 part of the net earnings of which organization, or auxiliary thereof, inures
 202 to the benefit of any private shareholder or individual;

203 [(L)] [(M)] (M) Service heretofore or hereafter performed for or
 204 in behalf of the owner or operator of any theatre, ballroom, amusement
 205 hall or other place of entertainment, not in excess of 10 weeks in any
 206 calendar year for the same owner or operator, by any leader or musician
 207 of a band or orchestra, commonly called a "name band," entertainer,
 208 vaudeville artist, actor, actress, singer or other entertainer;

209 [(M)] [(N)] (N) Services performed by an individual for a labor
 210 union organization, known and recognized as a union local, as a member
 211 of a committee or committees reimbursed by the union local for time lost
 212 from regular employment, or as a part-time officer of a union local and the
 213 remuneration 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 (*R. S. 43:21-1 et seq.*), to which all contributions required and
219 from which all benefits provided under this chapter (*R. S. 43:21-1 et seq.*)
219A 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
225 remuneration is less than his weekly benefit rate, including any week during
226 which he is on vacation without pay; provided, such vacation is not the result
227 of the individual's voluntary action.

228 (2) The term "remuneration," with respect to *any individual for benefit*
229 years commencing [prior to January 1, 1953,] *on or after July 1, 1961*, and as
230 used in this subsection, shall include only that part of the same which *in any*
231 *week exceeds 20% of his weekly benefit rate (fractional parts of a dollar omit-*
232 *ted) or [\$3.00] \$5.00 [for any 1 week], whichever is the larger.*

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

236 (n) "Unemployment compensation administration fund" means the un-
237 employment compensation administration fund established by this chapter
238 (*R. S. 43:21-1 et seq.*), from which administrative expenses under this chap-
238A ter (*R. S. 43:21-1 et seq.*) shall be paid.

239 (o) "Wages" means remuneration [payable by employers for employ-
240 ment prior to January 1, 1947, and paid prior to such date; and means
241 remuneration] paid subsequent to December 31, 1946, by employers for em-
242 ployment; provided, however, that for eligibility and benefit purposes wages
243 earned but not paid when the amount thereof has been calculated and is due
244 as determined by the established and customary practices of the employer
245 shall be construed as having been paid when earned.

246 (p) "Remuneration" means all compensation for personal services, in-
247 cluding commissions and bonuses and the cash value of all compensation in
248 any medium other than cash.

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

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

253 (s) "Investment company" means any company as defined in paragraph
254 1-a of chapter 322 of the laws of 1938, entitled "An act concerning invest-
255 ment companies, and supplementing Title 17 of the Revised Statutes by
256 adding thereto a new chapter entitled 'investment companies.'"

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

263 (u) "Average weekly wage" means the amount derived by dividing an
264 individual's total wages received during his base year base weeks (*as defined*
265 *in subsection (t) of this section*) from that most recent base year employer
266 with whom he had established at least 17 base weeks, by the number of base
267 weeks in which such wages were earned. In the event that such claimant had
268 no employer in his base year with whom he had established at least 17 base
269 weeks, then such individual's average weekly wage shall be computed as
270 if all of his base week wages were received from 1 employer and as if all his
271 base weeks of employment had been performed in the employ of 1 employer.

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

278 (v) "Initial determination" means, subject to the provisions of R. S.
279 43:21-6 (b) (2) and (3), a determination of benefit rights as measured by an
280 eligible individual's base year employment with a single employer covering
281 all periods of employment with that employer during the base year. Subject
282 to the provisions of R. S. 43:21-3 (d) (3) if an individual has been in employ-
283 ment in his base year with more than 1 employer, no benefits shall be paid to
284 that individual under any successive initial determination until his benefit
285 rights have been exhausted under the next preceding initial determination.

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

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

1 10. Section 5 of chapter 110 of the laws of 1948 is amended to read as
2 follows:

3 5. Compensable disability. Disability shall be compensable subject to
4 the limitations of this act, where a covered individual suffers any accident or
5 sickness not arising out of and in the course of his employment or if so aris-
6 ing not compensable under the workmen's compensation law (Title 34 of the
7 Revised Statutes), and resulting in his total inability to perform the duties of
8 his employment. *For the purposes of this act, pregnancy may be deemed to*
9 *be a sickness during the [60 days] 4 weeks immediately preceding the ex-*
10 *pected birth of child and the [30 days] 4 weeks immediately following the*
11 *termination of the pregnancy.*

1 11. Section 15 of chapter 110 of the laws of 1948 is amended to read as
2 follows:

3 15. Limitation of benefits.

4 Notwithstanding any other provision of this act, no benefits shall be pay-
5 able under the State plan to any person:

6 (a) for the first 7 consecutive days of each period of disability, or for
7 more than 26 weeks with respect to any 1 period of disability, or for any

8 period of disability which did not commence while the claimant was a
9 covered individual;

10 (b) for any period during which a claimant is not under the care of a
11 legally licensed physician;

12 (c) for any period of disability due to pregnancy or resulting child-
13 birth, miscarriage, or abortion, *except for disability existing during the* [60
14 days] *4 weeks immediately before the expected birth of child, and the* [30
15 days] *4 weeks following the termination of the pregnancy;*

15A (d) for any period of disability due to willfully and intentionally self-
16 inflicted injury, or to injury sustained in the perpetration by the claimant of
17 a high misdemeanor;

18 (e) for any period during which the claimant performs any work for
19 remuneration or profit;

20 (f) in a weekly amount which together with any remuneration he con-
21 tinues to receive from his employer would exceed his regular weekly wages
22 immediately prior to disability;

23 (g) for any period during which a covered individual would be dis-
24 qualified for unemployment compensation benefits under subsection (d) of
25 section 43:21-5 of the Revised Statutes unless the disability commenced prior
26 to such disqualification;

27 (h) for any period of disability commencing prior to January 1, 1949;
28 and there shall be no other cause of disqualification or ineligibility to re-
29 ceive disability benefits hereunder except as may be specifically provided in
30 this act.

1 12. Section 16 of chapter 110 of the laws of 1948 is amended to read
2 as follows:

3 16. Weekly and daily benefit amounts.

4 (a) [With respect to periods of disability commencing prior to October
5 1, 1955, the weekly benefit amount shall be determined as $\frac{2}{3}$ of an individual's
6 average weekly wage; provided, that such amount shall be computed in the
7 next higher multiple of \$1.00 if not already a multiple thereof, and shall

8 not be more than \$30.00 nor less than \$10.00. The amount of the benefits
9 for each day of the disability for which benefits are payable shall be $\frac{1}{7}$ of
10 the corresponding weekly benefit amount; provided, that the total benefits
11 for a fractional part of a week shall be computed in the next higher multiple
12 of \$1.00 if not already a multiple thereof.]

13 [(b)] With respect to periods of disability commencing *prior to July 1,*
14 *1961* [on or after October 1, 1955]:

15 (1) The weekly benefit amount of an individual whose average weekly
16 wage does not exceed \$45.00 shall be determined as $\frac{2}{3}$ of his average weekly
17 wage; provided, that such amount shall be computed [in] *to* the next higher
18 multiple of \$1.00 if not already a multiple thereof, and shall not be more
19 than \$30.00 nor less than \$10.00.

20 (2) The weekly benefit amount of an individual whose average weekly
21 wage exceeds \$45.00 shall be determined as \$30.00 plus $\frac{2}{3}$ of the amount by
22 which his average weekly wage exceeds \$45.00; provided that such rate shall
23 be computed [in] *to* the next higher multiple of \$1.00 if not already a mul-
24 tiple thereof, and shall not be more than \$35.00. The amount of the benefits
25 for each day of the disability for which benefits are payable shall be $\frac{1}{7}$ of
26 the corresponding weekly benefit amount; provided, that the total benefits
27 for a fractional part of a week shall be computed in the next higher multiple
28 of \$1.00 if not already a multiple thereof.

29 (b) *With respect to periods of disability commencing on or after July*
30 *1, 1961, an individual's weekly benefit amount shall be determined and com-*
31 *puted by the division on the same basis as the weekly benefit rate is deter-*
32 *mined and computed pursuant to section 43:21-3 (c) (3) of the Revised*
33 *Statutes. The amount of benefits for each day of disability for which benefits*
34 *are payable shall be $\frac{1}{7}$ of the corresponding weekly benefit amount; pro-*
35 *vided, that the total benefits for a fractional part of a week shall be computed*
36 *to the next higher multiple of \$1.00 if not already a multiple thereof.*

1 13. This act shall take effect on July 1, 1961.

SENATE COMMITTEE AMENDMENTS TO

SENATE, No. 179

STATE OF NEW JERSEY

ADOPTED MAY 8, 1961

Amend page 5, section 1, lines 122 through 129, omit.

Amend page 37, section 6, line 15, before “:”, insert “that there were no 20 different days, each day being in a different week within the preceding calendar year, within which such employing unit employed 4 or more individuals in employment subject to this chapter (R. S. 43:21-1 et seq.)”.

Amend page 37, section 6, lines 16 through 36, omit.

Amend page 53, section 9, line 91A, before “has”, insert “within either the current or the preceding calendar year,”.

Amend page 53, section 9, line 91B, at end insert “4 or more individuals (irrespective of whether the same individuals are or were employed in each such day)”.

Amend page 54, section 9, lines 91C through 91N, omit.

SENATE COMMITTEE AMENDMENTS TO

SENATE, No. 179

[OFFICIAL COPY REPRINT]

STATE OF NEW JERSEY

ADOPTED MAY 22, 1961

Amend page 6, section 2, line 19, omit "60 days", insert "4 weeks".

Amend page 6, section 2, line 20, omit "30 days", insert "4 weeks".

Amend page 8, section 2, line 72A, omit "60 days", insert "4 weeks".

Amend page 8, section 2, line 72B, omit "30 days", insert "4 weeks".

Amend pages 43 and 44, section 7, lines 110-125I, omit.

Amend page 44, section 7, line 125J, omit "vided in section 1606 of the Federal Unemployment Tax Act."; insert "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 division or the board of review, shall be supplied with information from such records to the extent necessary for the proper presentation of his claim.".

Amend page 44, section 7, lines 126c-126I, omit.

Amend page 44, section 7, line 127, omit "(j)", reinsert "(h)".

Amend page 45, section 7, line 138, omit "(k)", reinsert "(i)".

Amend page 45, section 7, line 156, omit "(l)", reinsert "(j)".

Amend page 46, section 7, line 171, omit "(m)", reinsert "(k)".

Amend page 58, section 9, line 190, after "(I)"]", insert "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

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

of any bank which is a member of the Federal Reserve System;" and before the word "Service" commence a new paragraph and insert "(I)".

Amend page 58, section 9, line 194, delete "(I)", after "[J]" insert "(J)".

Amend page 58, section 9, line 197, delete "(J)", after "[K]" insert "(K)".

Amend page 59, section 9, line 199, delete "(K)", after "[L]" insert "(L)".

Amend page 59, section 9, line 203, delete "(L)", after "[M]" insert "(M)".

Amend page 59, section 9, line 209, delete "(M)", after "[N]" insert "(N)".

Amend page 62, section 10, line 9, omit "60 days", insert "4 weeks".

Amend page 62, section 10, line 10, omit "30 days", insert "4 weeks".

Amend page 62, section 11, lines 13 and 14, omit "60 days", insert "4 weeks".

Amend page 62, section 11, line 14, omit "30 days", insert "4 weeks".