

43:21-4

LEGISLATIVE HISTORY CHECKLIST

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LAWS OF: 2001 **CHAPTER:** 17
NJSA: 43:21-4 (Temporary disability and unemployment)
BILL NO: A2614

SPONSOR(S): Gregg and Thompson

DATE INTRODUCED: June 19, 2000

COMMITTEE: **ASSEMBLY:** Labor
SENATE: Commerce

AMENDED DURING PASSAGE: Yes

DATE OF PASSAGE: **ASSEMBLY:** November 20, 2000
SENATE: December 18, 2000

DATE OF APPROVAL: January 29, 2001

FOLLOWING ARE ATTACHED IF AVAILABLE:

FINAL TEXT OF BILL (1st reprint enacted)

(Amendments during passage denoted by superscript numbers)

SPONSORS STATEMENT: (Begins on p. 30 of original bill) Yes

COMMITTEE STATEMENT: **ASSEMBLY:** Yes

SENATE: Yes

FLOOR AMENDMENT STATEMENTS: No

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ASSEMBLY, No. 2614

STATE OF NEW JERSEY

209th LEGISLATURE

INTRODUCED JUNE 19, 2000

Sponsored by:

Assemblyman GUY R. GREGG

District 24 (Sussex, Hunterdon and Morris)

Assemblyman SAMUEL D. THOMPSON

District 13 (Middlesex and Monmouth)

SYNOPSIS

Modifies eligibility for temporary disability and unemployment benefits.

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT concerning eligibility for unemployment compensation and
2 temporary disability benefits and amending R.S.43:21-4, R.S.43:21-
3 19 and P.L.1948, c.110.

4

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

7

8 1. R.S.43:21-4 is amended to read as follows:

9 43:21-4. Benefit eligibility conditions. An unemployed individual
10 shall be eligible to receive benefits with respect to any week only if:

11 (a) The individual has filed a claim at an unemployment insurance
12 claims office and thereafter continues to report at an employment
13 service office or unemployment insurance claims office, as directed by
14 the division in accordance with such regulations as the division may
15 prescribe, except that the division may, by regulation, waive or alter
16 either or both of the requirements of this subsection as to individuals
17 attached to regular jobs, and as to such other types of cases or
18 situations with respect to which the division finds that compliance with
19 such requirements would be oppressive, or would be inconsistent with
20 the purpose of this act; provided that no such regulation shall conflict
21 with subsection (a) of R.S.43:21-3.

22 (b) The individual has made a claim for benefits in accordance with
23 the provisions of subsection (a) of R.S.43:21-6.

24 (c) (1) The individual is able to work, and is available for work, and
25 has demonstrated to be actively seeking work, except as hereinafter
26 provided in this subsection or in subsection (f) of this section.

27 (2) The director may modify the requirement of actively seeking
28 work if such modification of this requirement is warranted by
29 economic conditions.

30 (3) No individual, who is otherwise eligible, shall be deemed
31 ineligible, or unavailable for work, because the individual is on
32 vacation, without pay, during said week, if said vacation is not the
33 result of the individual's own action as distinguished from any
34 collective action of a collective bargaining agent or other action
35 beyond the individual's control.

36 (4) (A) Subject to such limitations and conditions as the division
37 may prescribe, an individual, who is otherwise eligible, shall not be
38 deemed unavailable for work or ineligible because the individual is
39 attending a training program approved for the individual by the
40 division to enhance the individual's employment opportunities or
41 because the individual failed or refused to accept work while attending
42 such program.

43 (B) For the purpose of this paragraph (4), any training program

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

Matter underlined thus is new matter.

1 shall be regarded as approved by the division for the individual if the
2 program and the individual meet the following requirements:

3 (i) The training is for a labor demand occupation and is likely to
4 enhance the individual's marketable skills and earning power;

5 (ii) The training is provided by a competent and reliable private or
6 public entity approved by the Commissioner of Labor pursuant to the
7 provisions of section 8 of the "1992 New Jersey Employment and
8 Workforce Development Act," P.L.1992, c.43 (C.34:15D-8);

9 (iii) The individual can reasonably be expected to complete the
10 program, either during or after the period of benefits;

11 (iv) The training does not include on the job training or other
12 training under which the individual is paid by an employer for work
13 performed by the individual during the time that the individual receives
14 benefits; and

15 (v) The individual enrolls in vocational training, remedial education
16 or a combination of both on a full-time basis.

17 (C) If the requirements of subparagraph (B) of this paragraph (4)
18 are met, the division shall not withhold approval of the training
19 program for the individual for any of the following reasons:

20 (i) The training includes remedial basic skills education necessary
21 for the individual to successfully complete the vocational component
22 of the training;

23 (ii) The training is provided in connection with a program under
24 which the individual may obtain a college degree, including a
25 post-graduate degree;

26 (iii) The length of the training period under the program; or

27 (iv) The lack of a prior guarantee of employment upon completion
28 of the training.

29 (D) For the purpose of this paragraph (4), "labor demand
30 occupation" means an occupation for which there is or is likely to be
31 an excess of demand over supply for adequately trained workers,
32 including, but not limited to, an occupation designated as a labor
33 demand occupation by the New Jersey Occupational Information
34 Coordinating Committee pursuant to the provisions of subsection h.
35 of section 1 of P.L.1987, c.457 (C.34:1A-76) or section 12 of
36 P.L.1992, c.43 (C.34:1A-78).

37 (5) An unemployed individual, who is otherwise eligible, shall not
38 be deemed unavailable for work or ineligible solely by reason of the
39 individual's attendance before a court in response to a summons for
40 service on a jury.

41 (6) An unemployed individual, who is otherwise eligible, shall not
42 be deemed unavailable for work or ineligible solely by reason of the
43 individual's attendance at the funeral of an immediate family member,
44 provided that the duration of the attendance does not extend beyond
45 a two-day period.

46 For purposes of this paragraph, "immediate family member"

1 includes any of the following individuals: father, mother,
2 mother-in-law, father-in-law, grandmother, grandfather, grandchild,
3 spouse, child, foster child, sister or brother of the unemployed
4 individual and any relatives of the unemployed individual residing in
5 the unemployed individual's household.

6 (7) No individual, who is otherwise eligible, shall be deemed
7 ineligible or unavailable for work with respect to any week because,
8 during that week, the individual fails or refuses to accept work while
9 the individual is participating on a full-time basis in self-employment
10 assistance activities authorized by the division, whether or not the
11 individual is receiving a self-employment allowance during that week.

12 (8) Any individual who is determined to be likely to exhaust
13 regular benefits and need reemployment services based on information
14 obtained by the worker profiling system shall not be eligible to receive
15 benefits if the individual fails to participate in available reemployment
16 services to which the individual is referred by the division or in similar
17 services, unless the division determines that:

18 (A) The individual has completed the reemployment services; or

19 (B) There is justifiable cause for the failure to participate, which
20 shall include participation in employment and training,
21 self-employment assistance activities or other activities authorized by
22 the division to assist reemployment or enhance the marketable skills
23 and earning power of the individual and which shall include any other
24 circumstance indicated pursuant to this section in which an individual
25 is not required to be available for and actively seeking work to receive
26 benefits.

27 (d) The individual has been totally or partially unemployed for a
28 waiting period of one week in the benefit year which includes that
29 week. When benefits become payable with respect to the third
30 consecutive week next following the waiting period, the individual
31 shall be eligible to receive benefits as appropriate with respect to the
32 waiting period. No week shall be counted as a week of unemployment
33 for the purposes of this subsection:

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

38 (2) If it has constituted a waiting period week under the
39 "Temporary Disability Benefits Law," P.L.1948, c.110 (C.43:21-25 et
40 seq.);

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

43 (4) If with respect thereto, claimant was disqualified for benefits
44 in accordance with the provisions of subsection (d) of R.S.43:21-5.

45 (e) (1) [With respect to a base year as defined in subsection (c) of
46 R.S.43:21-19, the individual has established at least 20 base weeks as

1 defined in subsection (t) of R.S.43:21-19, or, in those instances in
2 which the individual has not established 20 base weeks, except as
3 otherwise provided in paragraph (3) of this subsection, for benefit
4 years commencing on or after October 1, 1984 and before January 1,
5 1996, the individual has earned 12 times the Statewide average weekly
6 remuneration paid to workers, as determined under R.S.43:21-3(c),
7 raised to the next higher multiple of \$100.00 if not already a multiple
8 thereof, or more in the individual's base year.] (Deleted by
9 amendment, P.L. _____, c. _____)

10 (2) With respect to benefit years commencing on or after January
11 1, 1996 and before January 7, 2001, except as otherwise provided in
12 paragraph (3) of this subsection, the individual has, during his base
13 year as defined in subsection (c) of R.S.43:21-19:

14 (A) Established at least 20 base weeks as defined in paragraph (2)
15 of subsection (t) of R.S.43:21-19; or

16 (B) If the individual has not met the requirements of subparagraph
17 (A) of this paragraph (2), earned remuneration not less than an amount
18 12 times the Statewide average weekly remuneration paid to workers,
19 as determined under R.S.43:21-3(c), which amount shall be adjusted
20 to the next higher multiple of \$100.00 if not already a multiple thereof;
21 or

22 (C) If the individual has not met the requirements of subparagraph
23 (A) or (B) of this paragraph (2), earned remuneration not less than an
24 amount 1,000 times the minimum wage in effect pursuant to section
25 5 of P.L.1966, c.113 (C.34:11-56a4) on October 1 of the calendar
26 year preceding the calendar year in which the benefit year commences,
27 which amount shall be adjusted to the next higher multiple of \$100.00
28 if not already a multiple thereof.

29 (3) [Notwithstanding] With respect to benefit years commencing
30 before January 7, 2001, notwithstanding the provisions of paragraph
31 [(1) or paragraph] (2) of this subsection, an unemployed individual
32 claiming benefits on the basis of service performed in the production
33 and harvesting of agricultural crops shall, subject to the limitations of
34 subsection (i) of R.S.43:21-19, be eligible to receive benefits if during
35 his base year, as defined in subsection (c) of R.S.43:21-19, the
36 individual:

37 (A) Has established at least 20 base weeks as defined in paragraph
38 [(1)](2) of subsection (t) of R.S.43:21-19; or

39 (B) Has earned 12 times the Statewide average weekly
40 remuneration paid to workers, as determined under R.S.43:21-3(c),
41 raised to the next higher multiple of \$100.00 if not already a multiple
42 thereof, or more; or

43 (C) Has performed at least 770 hours of service in the production
44 and harvesting of agricultural crops.

45 (4) With respect to benefit years commencing on or after January
46 7, 2001, except as otherwise provided in paragraph (5) of this

1 subsection, the individual has, during his base year as defined in
2 subsection (c) of R.S.43:21-19:

3 (A) Established at least 20 base weeks as defined in paragraph (3)
4 of subsection (t) of R.S.43:21-19; or

5 (B) If the individual has not met the requirements of subparagraph
6 (A) of this paragraph (4), earned remuneration not less than an amount
7 1,000 times the minimum wage in effect pursuant to section 5 of
8 P.L.1966, c.113 (C.34:11-56a4) on October 1 of the calendar year
9 preceding the calendar year in which the benefit year commences,
10 which amount shall be adjusted to the next higher multiple of \$100 if
11 not already a multiple thereof.

12 (5) With respect to benefit years commencing on or after January
13 7, 2001, notwithstanding the provisions of paragraph (4) of this
14 subsection, an unemployed individual claiming benefits on the basis of
15 service performed in the production and harvesting of agricultural
16 crops shall, subject to the limitations of subsection (i) of R.S.43:21-19,
17 be eligible to receive benefits if during his base year, as defined in
18 subsection (c) of R.S.43:21-19, the individual:

19 (A) Has established at least 20 base weeks as defined in paragraph
20 (3) of subsection (t) of R.S.43:21-19; or

21 (B) Has earned remuneration not less than an amount 1,000 times
22 the minimum wage in effect pursuant to section 5 of P.L.1966, c.113
23 (C.34:11-56a4) on October 1 of the calendar year preceding the
24 calendar year in which the benefit year commences, which amount
25 shall be adjusted to the next higher multiple of \$100 if not already a
26 multiple thereof; or

27 (C) Has performed at least 770 hours of service in the production
28 and harvesting of agricultural crops.

29 (6) The individual applying for benefits in any successive benefit
30 year has earned at least six times his previous weekly benefit amount
31 and has had four weeks of employment since the beginning of the
32 immediately preceding benefit year. This provision shall be in addition
33 to the earnings requirements specified in paragraph [(1),] (2), [or]
34 (3), (4) or (5) of this subsection, as applicable.

35 (f) (1) The individual has suffered any accident or sickness not
36 compensable under the workers' compensation law, R.S.34:15-1 et
37 seq. and resulting in the individual's total disability to perform any
38 work for remuneration, and would be eligible to receive benefits under
39 this chapter (R.S.43:21-1 et seq.) (without regard to the maximum
40 amount of benefits payable during any benefit year) except for the
41 inability to work and has furnished notice and proof of claim to the
42 division, in accordance with its rules and regulations, and payment is
43 not precluded by the provisions of R.S.43:21-3(d); provided, however,
44 that benefits paid under this subsection (f) shall be computed on the
45 basis of only those base year wages earned by the claimant as a
46 "covered individual," as defined in R.S.43:21-27(b); provided further

1 that no benefits shall be payable under this subsection to any
2 individual:

3 (A) For any period during which such individual is not under the
4 care of a legally licensed physician, dentist, optometrist, podiatrist,
5 practicing psychologist or chiropractor;

6 (B) (Deleted by amendment, P.L.1980, c.90.)

7 (C) For any period of disability due to willfully or intentionally
8 self-inflicted injury, or to injuries sustained in the perpetration by the
9 individual of a crime of the first, second or third degree;

10 (D) For any week with respect to which or a part of which the
11 individual has received or is seeking benefits under any unemployment
12 compensation or disability benefits law of any other state or of the
13 United States; provided that if the appropriate agency of such other
14 state or the United States finally determines that the individual is not
15 entitled to such benefits, this disqualification shall not apply;

16 (E) For any week with respect to which or part of which the
17 individual has received or is seeking disability benefits under the
18 "Temporary Disability Benefits Law," P.L.1948, c.110 (C.43:21-25 et
19 seq.);

20 (F) For any period of disability commencing while such individual
21 is a "covered individual," as defined in subsection (b) of section 3 of
22 the "Temporary Disability Benefits Law," P.L.1948, c.110
23 (C.43:21-27).

24 (2) Benefit payments under this subsection (f) shall be charged to
25 and paid from the State disability benefits fund established by the
26 "Temporary Disability Benefits Law," P.L.1948, c.110 (C.43:21-25 et
27 seq.), and shall not be charged to any employer account in computing
28 any employer's experience rate for contributions payable under this
29 chapter.

30 (g) Benefits based on service in employment defined in
31 subparagraphs (B) and (C) of R.S.43:21-19(i)(1) shall be payable in
32 the same amount and on the terms and subject to the same conditions
33 as benefits payable on the basis of other service subject to the
34 "unemployment compensation law"; except that, notwithstanding any
35 other provisions of the "unemployment compensation law":

36 (1) With respect to service performed after December 31, 1977, in
37 an instructional research, or principal administrative capacity for an
38 educational institution, benefits shall not be paid based on such
39 services for any week of unemployment commencing during the period
40 between two successive academic years, or during a similar period
41 between two regular terms, whether or not successive, or during a
42 period of paid sabbatical leave provided for in the individual's contract,
43 to any individual if such individual performs such services in the first
44 of such academic years (or terms) and if there is a contract or a
45 reasonable assurance that such individual will perform services in any
46 such capacity for any educational institution in the second of such

1 academic years or terms;

2 (2) With respect to weeks of unemployment beginning after
3 September 3, 1982, on the basis of service performed in any other
4 capacity for an educational institution, benefits shall not be paid on the
5 basis of such services to any individual for any week which commences
6 during a period between two successive academic years or terms if
7 such individual performs such services in the first of such academic
8 years or terms and there is a reasonable assurance that such individual
9 will perform such services in the second of such academic years or
10 terms, except that if benefits are denied to any individual under this
11 paragraph (2) and the individual was not offered an opportunity to
12 perform these services for the educational institution for the second of
13 any academic years or terms, the individual shall be entitled to a
14 retroactive payment of benefits for each week for which the individual
15 filed a timely claim for benefits and for which benefits were denied
16 solely by reason of this clause;

17 (3) With respect to those services described in paragraphs (1) and
18 (2) above, benefits shall not be paid on the basis of such services to
19 any individual for any week which commences during an established
20 and customary vacation period or holiday recess if such individual
21 performs such services in the period immediately before such vacation
22 period or holiday recess, and there is a reasonable assurance that such
23 individual will perform such services in the period immediately
24 following such period or holiday recess;

25 (4) With respect to any services described in paragraphs (1) and
26 (2) above, benefits shall not be paid as specified in paragraphs (1), (2),
27 and (3) above to any individual who performed those services in an
28 educational institution while in the employ of an educational service
29 agency, and for this purpose the term "educational service agency"
30 means a governmental agency or governmental entity which is
31 established and operated exclusively for the purpose of providing
32 those services to one or more educational institutions.

33 (h) Benefits shall not be paid to any individual on the basis of any
34 services, substantially all of which consist of participating in sports or
35 athletic events or training or preparing to so participate, for any week
36 which commences during the period between two successive sports
37 seasons (or similar periods) if such individual performed such services
38 in the first of such seasons (or similar periods) and there is a
39 reasonable assurance that such individual will perform such services in
40 the later of such seasons (or similar periods).

41 (i) (1) Benefits shall not be paid on the basis of services performed
42 by an alien unless such alien is an individual who was lawfully admitted
43 for permanent residence at the time the services were performed and
44 was lawfully present for the purpose of performing the services or
45 otherwise was permanently residing in the United States under color
46 of law at the time the services were performed (including an alien who

1 is lawfully present in the United States as a result of the application of
2 the provisions of [section 203(a)(7) (8 U.S.C. 1153 (a)(7)) or] section
3 212(d)(5) (8 U.S.C. s.1182 (d)(5)) of the Immigration and Nationality
4 Act (8 U.S.C. s.1101 et seq.); provided that any modifications of the
5 provisions of section 3304(a)(14) of the Federal Unemployment Tax
6 Act (26 U.S.C. s.3304 (a)(14)), as provided by Pub.L.94-566, which
7 specify other conditions or other effective dates than stated herein for
8 the denial of benefits based on services performed by aliens and which
9 modifications are required to be implemented under State law as a
10 condition for full tax credit against the tax imposed by the Federal
11 Unemployment Tax Act, shall be deemed applicable under the
12 provisions of this section.

13 (2) Any data or information required of individuals applying for
14 benefits to determine whether benefits are not payable to them because
15 of their alien status shall be uniformly required from all applicants for
16 benefits.

17 (3) In the case of an individual whose application for benefits
18 would otherwise be approved, no determination that benefits to such
19 individual are not payable because of alien status shall be made except
20 upon a preponderance of the evidence.

21 (j) Notwithstanding any other provision of this chapter, the
22 director may, to the extent that it may be deemed efficient and
23 economical, provide for consolidated administration by one or more
24 representatives or deputies of claims made pursuant to subsection (f)
25 of this section with those made pursuant to Article III (State plan) of
26 the "Temporary Disability Benefits Law," P.L.1948, c.110
27 (C.43:21-25 et seq.).

28 (cf: P.L.1995, c.394, s.7)

29

30 2. R.S.43:21-19 is amended to read as follows:

31 43:21-19. Definitions. As used in this chapter (R.S.43:21-1 et
32 seq.), unless the context clearly requires otherwise:

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

36 (2) "Average annual payroll" means the average of the annual
37 payrolls of any employer for the last three or five preceding calendar
38 years, whichever average is higher, except that any year or years
39 throughout which an employer has had no "annual payroll" because of
40 military service shall be deleted from the reckoning; the "average
41 annual payroll" in such case is to be determined on the basis of the
42 prior three or five calendar years in each of which the employer had an
43 "annual payroll" in the operation of his business, if the employer
44 resumes his business within 12 months after separation, discharge or
45 release from such service, under conditions other than dishonorable,
46 and makes application to have his "average annual payroll" determined

1 on the basis of such deletion within 12 months after he resumes his
2 business; provided, however, that "average annual payroll" solely for
3 the purposes of paragraph (3) of subsection (e) of R.S.43:21-7 means
4 the average of the annual payrolls of any employer on which he paid
5 contributions to the State disability benefits fund for the last three or
6 five preceding calendar years, whichever average is higher; provided
7 further that only those wages be included on which employer
8 contributions have been paid on or before January 31 (or the next
9 succeeding day if such January 31 is a Saturday or Sunday)
10 immediately preceding the beginning of the 12-month period for which
11 the employer's contribution rate is computed.

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

15 (c) (1) "Base year" with respect to benefit years commencing on or
16 after July 1, 1986, shall mean the first four of the last five completed
17 calendar quarters immediately preceding an individual's benefit year.

18 With respect to a benefit year commencing on or after July 1, 1995,
19 if an individual does not have sufficient qualifying weeks or wages in
20 his base year to qualify for benefits, the individual shall have the option
21 of designating that his base year shall be the "alternative base year,"
22 which means the last four completed calendar quarters immediately
23 preceding the individual's benefit year; except that, with respect to a
24 benefit year commencing on or after October 1, 1995, if the individual
25 also does not have sufficient qualifying weeks or wages in the last four
26 completed calendar quarters immediately preceding his benefit year to
27 qualify for benefits, "alternative base year" means the last three
28 completed calendar quarters immediately preceding his benefit year
29 and, of the calendar quarter in which the benefit year commences, the
30 portion of the quarter which occurs before the commencing of the
31 benefit year.

32 The division shall inform the individual of his options under this
33 section as amended by P.L.1995, c.234. If information regarding
34 weeks and wages for the calendar quarter or quarters immediately
35 preceding the benefit year is not available to the division from the
36 regular quarterly reports of wage information and the division is not
37 able to obtain the information using other means pursuant to State or
38 federal law, the division may base the determination of eligibility for
39 benefits on the affidavit of an individual with respect to weeks and
40 wages for that calendar quarter. The individual shall furnish payroll
41 documentation, if available, in support of the affidavit. A
42 determination of benefits based on an alternative base year shall be
43 adjusted when the quarterly report of wage information from the
44 employer is received if that information causes a change in the
45 determination.

46 (2) With respect to a benefit year commencing on or after June 1,

1 1990 for an individual who immediately preceding the benefit year was
2 subject to a disability compensable under the provisions of the
3 "Temporary Disability Benefits Law," P.L.1948, c.110 (C.43:21-25 et
4 seq.), "base year" shall mean the first four of the last five completed
5 calendar quarters immediately preceding the individual's period of
6 disability, if the employment held by the individual immediately
7 preceding the period of disability is no longer available at the
8 conclusion of that period and the individual files a valid claim for
9 unemployment benefits after the conclusion of that period. For the
10 purposes of this paragraph, "period of disability" means the period
11 defined as a period of disability by section 3 of the "Temporary
12 Disability Benefits Law," P.L.1948, c.110 (C.43:21-27). An individual
13 who files a claim under the provisions of this paragraph (2) shall not
14 be regarded as having left work voluntarily for the purposes of
15 subsection (a) of R.S.43:21-5.

16 (3) With respect to a benefit year commencing on or after June 1,
17 1990 for an individual who immediately preceding the benefit year was
18 subject to a disability compensable under the provisions of the
19 workers' compensation law (chapter 15 of Title 34 of the Revised
20 Statutes), "base year" shall mean the first four of the last five
21 completed calendar quarters immediately preceding the individual's
22 period of disability, if the period of disability was not longer than two
23 years, if the employment held by the individual immediately preceding
24 the period of disability is no longer available at the conclusion of that
25 period and if the individual files a valid claim for unemployment
26 benefits after the conclusion of that period. For the purposes of this
27 paragraph, "period of disability" means the period from the time at
28 which the individual becomes unable to work because of the
29 compensable disability until the time that the individual becomes able
30 to resume work and continue work on a permanent basis. An
31 individual who files a claim under the provisions of this paragraph (3)
32 shall not be regarded as having left work voluntarily for the purposes
33 of subsection (a) of R.S.43:21-5.

34 (d) "Benefit year" with respect to any individual means the 364
35 consecutive calendar days beginning with the day on, or as of, which
36 he first files a valid claim for benefits, and thereafter beginning with
37 the day on, or as of, which the individual next files a valid claim for
38 benefits after the termination of his last preceding benefit year. Any
39 claim for benefits made in accordance with subsection (a) of
40 R.S.43:21-6 shall be deemed to be a "valid claim" for the purpose of
41 this subsection if (1) he is unemployed for the week in which, or as of
42 which, he files a claim for benefits; and (2) he has fulfilled the
43 conditions imposed by subsection (e) of R.S.43:21-4.

44 (e) (1) "Division" means the Division of Unemployment and
45 Temporary Disability Insurance of the Department of Labor, and any
46 transaction or exercise of authority by the director of the division

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

3 (2) "Controller" means the Office of the Assistant Commissioner
4 for Finance and Controller of the Department of Labor, established by
5 the 1982 Reorganization Plan of the Department of Labor.

6 (f) "Contributions" means the money payments to the State
7 Unemployment Compensation Fund, required by R.S.43:21-7.
8 "Payments in lieu of contributions" means the money payments to the
9 State Unemployment Compensation Fund by employers electing or
10 required to make payments in lieu of contributions, as provided in
11 section 3 or section 4 of P.L.1971, c.346 (C.43:21-7.2 or 43:21-7.3).

12 (g) "Employing unit" means the State or any of its instrumentalities
13 or any political subdivision thereof or any of its instrumentalities or
14 any instrumentality of more than one of the foregoing or any
15 instrumentality of any of the foregoing and one or more other states
16 or political subdivisions or any individual or type of organization, any
17 partnership, association, trust, estate, joint-stock company, insurance
18 company or corporation, whether domestic or foreign, or the receiver,
19 trustee in bankruptcy, trustee or successor thereof, or the legal
20 representative of a deceased person, which has or subsequent to
21 January 1, 1936, had in its employ one or more individuals performing
22 services for it within this State. All individuals performing services
23 within this State for any employing unit which maintains two or more
24 separate establishments within this State shall be deemed to be
25 employed by a single employing unit for all the purposes of this
26 chapter (R.S.43:21-1 et seq.). Each individual employed to perform
27 or to assist in performing the work of any agent or employee of an
28 employing unit shall be deemed to be employed by such employing unit
29 for all the purposes of this chapter (R.S.43:21-1 et seq.), whether such
30 individual was hired or paid directly by such employing unit or by such
31 agent or employee; provided the employing unit had actual or
32 constructive knowledge of the work.

33 (h) "Employer" means:

34 (1) Any employing unit which in either the current or the preceding
35 calendar year paid remuneration for employment in the amount of
36 \$1,000.00 or more;

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

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

46 (4) Any employing unit which together with one or more other

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

7 (5) Any employing unit for which service in employment as defined
8 in R.S.43:21-19 (i) (1) (B) (i) is performed after December 31, 1971;
9 and as defined in R.S.43:21-19 (i) (1) (B) (ii) is performed after
10 December 31, 1977;

11 (6) Any employing unit for which service in employment as defined
12 in R.S.43:21-19 (i) (1) (C) is performed after December 31, 1971 and
13 which in either the current or the preceding calendar year paid
14 remuneration for employment in the amount of \$1,000.00 or more;

15 (7) Any employing unit not an employer by reason of any other
16 paragraph of this subsection (h) for which, within either the current or
17 preceding calendar year, service is or was performed with respect to
18 which such employing unit is liable for any federal tax against which
19 credit may be taken for contributions required to be paid into a state
20 unemployment fund; or which, as a condition for approval of the
21 "unemployment compensation law" for full tax credit against the tax
22 imposed by the Federal Unemployment Tax Act, is required pursuant
23 to such act to be an employer under this chapter (R.S.43:21-1 et seq.);

24 (8) (Deleted by amendment; P.L.1977, c.307.)

25 (9) (Deleted by amendment; P.L.1977, c.307.)

26 (10) (Deleted by amendment; P.L.1977, c.307.)

27 (11) Any employing unit subject to the provisions of the Federal
28 Unemployment Tax Act within either the current or the preceding
29 calendar year, except for employment hereinafter excluded under
30 paragraph (7) of subsection (i) of this section;

31 (12) Any employing unit for which agricultural labor in
32 employment as defined in R.S.43:21-19 (i) (1) (I) is performed after
33 December 31, 1977;

34 (13) Any employing unit for which domestic service in employment
35 as defined in R.S.43:21-19 (i) (1) (J) is performed after December 31,
36 1977;

37 (14) Any employing unit which having become an employer under
38 the "unemployment compensation law" (R.S.43:21-1 et seq.), has not
39 under R.S.43:21-8 ceased to be an employer; or for the effective
40 period of its election pursuant to R.S.43:21-8, any other employing
41 unit which has elected to become fully subject to this chapter
42 (R.S.43:21-1 et seq.).

43 (i) (1) "Employment" means:

44 (A) Any service performed prior to January 1, 1972, which was
45 employment as defined in the "unemployment compensation law"
46 (R.S.43:21-1 et seq.) prior to such date, and, subject to the other

1 provisions of this subsection, service performed on or after January 1,
2 1972, including service in interstate commerce, performed for
3 remuneration or under any contract of hire, written or oral, express or
4 implied.

5 (B) (i) Service performed after December 31, 1971 by an individual
6 in the employ of this State or any of its instrumentalities or in the
7 employ of this State and one or more other states or their
8 instrumentalities for a hospital or institution of higher education
9 located in this State, if such service is not excluded from
10 "employment" under paragraph (D) below.

11 (ii) Service performed after December 31, 1977, in the employ of
12 this State or any of its instrumentalities or any political subdivision
13 thereof or any of its instrumentalities or any instrumentality of more
14 than one of the foregoing or any instrumentality of the foregoing and
15 one or more other states or political subdivisions, if such service is not
16 excluded from "employment" under paragraph (D) below.

17 (C) Service performed after December 31, 1971 by an individual in
18 the employ of a religious, charitable, educational, or other
19 organization, which is excluded from "employment" as defined in the
20 Federal Unemployment Tax Act, solely by reason of section 3306 (c)
21 (8) of that act, if such service is not excluded from "employment"
22 under paragraph (D) below.

23 (D) For the purposes of paragraphs (B) and (C), the term
24 "employment" does not apply to services performed

25 (i) In the employ of (I) a church or convention or association of
26 churches, or (II) an organization, or school which is operated primarily
27 for religious purposes and which is operated, supervised, controlled or
28 principally supported by a church or convention or association of
29 churches;

30 (ii) By a duly ordained, commissioned, or licensed minister of a
31 church in the exercise of his ministry or by a member of a religious
32 order in the exercise of duties required by such order;

33 (iii) Prior to January 1, 1978, in the employ of a school which is
34 not an institution of higher education, and after December 31, 1977,
35 in the employ of a governmental entity referred to in R.S.43:21-19 (i)
36 (1) (B), if such service is performed by an individual in the exercise of
37 duties

38 (aa) as an elected official;

39 (bb) as a member of a legislative body, or a member of the
40 judiciary, of a state or political subdivision;

41 (cc) as a member of the State National Guard or Air National
42 Guard;

43 (dd) as an employee serving on a temporary basis in case of fire,
44 storm, snow, earthquake, flood or similar emergency;

45 (ee) in a position which, under or pursuant to the laws of this
46 State, is designated as a major nontenured policy making or advisory

1 position, or a policy making or advisory position, the performance of
2 the duties of which ordinarily does not require more than eight hours
3 per week; or

4 (iv) By an individual receiving rehabilitation or remunerative work
5 in a facility conducted for the purpose of carrying out a program of
6 rehabilitation of individuals whose earning capacity is impaired by age
7 or physical or mental deficiency or injury or providing remunerative
8 work for individuals who because of their impaired physical or mental
9 capacity cannot be readily absorbed in the competitive labor market;

10 (v) By an individual receiving work-relief or work-training as part
11 of an unemployment work-relief or work-training program assisted in
12 whole or in part by any federal agency or an agency of a state or
13 political subdivision thereof; or

14 (vi) Prior to January 1, 1978, for a hospital in a State prison or
15 other State correctional institution by an inmate of the prison or
16 correctional institution and after December 31, 1977, by an inmate of
17 a custodial or penal institution.

18 (E) The term "employment" shall include the services of an
19 individual who is a citizen of the United States, performed outside the
20 United States after December 31, 1971 (except in Canada and in the
21 case of the Virgin Islands, after December 31, 1971) and prior to
22 January 1 of the year following the year in which the U.S. Secretary
23 of Labor approves the unemployment compensation law of the Virgin
24 Islands, under section 3304 (a) of the Internal Revenue Code of 1986
25 (26 U.S.C. s.3304 (a)) in the employ of an American employer (other
26 than the service which is deemed employment under the provisions of
27 R.S.43:21-19 (i) (2) or (5) [of] or the parallel provisions of another
28 state's unemployment compensation law), if

29 (i) The American employer's principal place of business in the
30 United States is located in this State; or

31 (ii) The American employer has no place of business in the United
32 States, but (I) the American employer is an individual who is a resident
33 of this State; or (II) the American employer is a corporation which is
34 organized under the laws of this State; or (III) the American employer
35 is a partnership or trust and the number of partners or trustees who are
36 residents of this State is greater than the number who are residents of
37 another state; or

38 (iii) None of the criteria of divisions (i) and (ii) of this subparagraph
39 (E) is met but the American employer has elected to become an
40 employer subject to the "unemployment compensation law"
41 (R.S.43:21-1 et seq.) in this State, or the American employer having
42 failed to elect to become an employer in any state, the individual has
43 filed a claim for benefits, based on such service, under the law of this
44 State;

45 (iv) An "American employer," for the purposes of this subparagraph
46 (E), means (I) an individual who is a resident of the United States; or

1 (II) a partnership, if two-thirds or more of the partners are residents
2 of the United States; or (III) a trust, if all the trustees are residents of
3 the United States; or (IV) a corporation organized under the laws of
4 the United States or of any state.

5 (F) Notwithstanding R.S.43:21-19 (i) (2), all service performed
6 after January 1, 1972 by an officer or member of the crew of an
7 American vessel or American aircraft on or in connection with such
8 vessel or aircraft, if the operating office from which the operations of
9 such vessel or aircraft operating within, or within and without, the
10 United States are ordinarily and regularly supervised, managed,
11 directed, and controlled, is within this State.

12 (G) Notwithstanding any other provision of this subsection, service
13 in this State with respect to which the taxes required to be paid under
14 any federal law imposing a tax against which credit may be taken for
15 contributions required to be paid into a state unemployment fund or
16 which as a condition for full tax credit against the tax imposed by the
17 Federal Unemployment Tax Act is required to be covered under the
18 "unemployment compensation law" (R.S.43:21-1 et seq.).

19 (H) The term "United States" when used in a geographical sense in
20 subsection R.S.43:21-19 (i) includes the states, the District of
21 Columbia, the Commonwealth of Puerto Rico and, effective on the day
22 after the day on which the U.S. Secretary of Labor approves for the
23 first time under section 3304 (a) of the Internal Revenue Code of 1986
24 (26 U.S.C. s.3304 (a)) an unemployment compensation law submitted
25 to the Secretary by the Virgin Islands for such approval, the Virgin
26 Islands.

27 (I) (i) Service performed after December 31, 1977 in agricultural
28 labor in a calendar year for an entity which is an employer as defined
29 in the "unemployment compensation law," (R.S.43:21-1 et seq.) as of
30 January 1 of such year; or for an employing unit which

31 (aa) during any calendar quarter in either the current or the
32 preceding calendar year paid remuneration in cash of \$20,000.00 or
33 more for individuals employed in agricultural labor, or

34 (bb) for some portion of a day in each of 20 different calendar
35 weeks, whether or not such weeks were consecutive, in either the
36 current or the preceding calendar year, employed in agricultural labor
37 10 or more individuals, regardless of whether they were employed at
38 the same moment in time.

39 (ii) for the purposes of this subsection any individual who is a
40 member of a crew furnished by a crew leader to perform service in
41 agricultural labor for any other entity shall be treated as an employee
42 of such crew leader

43 (aa) if such crew leader holds a certification of registration under
44 the Migrant and Seasonal Agricultural Worker Protection Act,
45 Pub.L.97-470 (29 U.S.C. s.1801 et seq.), or P.L.1971, c.192
46 (C.34:8A-7 et seq.); or substantially all the members of such crew

1 operate or maintain tractors, mechanized harvesting or cropdusting
2 equipment, or any other mechanized equipment, which is provided by
3 such crew leader; and

4 (bb) if such individual is not an employee of such other person for
5 whom services were performed.

6 (iii) For the purposes of subparagraph (I) (i) in the case of any
7 individual who is furnished by a crew leader to perform service in
8 agricultural labor or any other entity and who is not treated as an
9 employee of such crew leader under (I) (ii)

10 (aa) such other entity and not the crew leader shall be treated as
11 the employer of such individual; and

12 (bb) such other entity shall be treated as having paid cash
13 remuneration to such individual in an amount equal to the amount of
14 cash remuneration paid to such individual by the crew leader (either on
15 his own behalf or on behalf of such other entity) for the service in
16 agricultural labor performed for such other entity.

17 (iv) For the purpose of subparagraph (I) ~~[(i)]~~ (ii), the term "crew
18 leader" means an individual who

19 (aa) furnishes individuals to perform service in agricultural labor
20 for any other entity;

21 (bb) pays (either on his own behalf or on behalf of such other
22 entity) the individuals so furnished by him for the service in
23 agricultural labor performed by them; and

24 (cc) has not entered into a written agreement with such other entity
25 under which such individual is designated as an employee of such other
26 entity.

27 (J) Domestic service after December 31, 1977 performed in the
28 private home of an employing unit which paid cash remuneration of
29 \$1,000.00 or more to one or more individuals for such domestic
30 service in any calendar quarter in the current or preceding calendar
31 year.

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

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

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

42 (3) Services performed within this State but not covered under
43 paragraph (2) of this subsection shall be deemed to be employment
44 subject to this chapter (R.S.43:21-1 et seq.) if contributions are not
45 required and paid with respect to such services under an
46 unemployment compensation law of any other state or of the federal

1 government.

2 (4) Services not covered under paragraph (2) of this subsection and
3 performed entirely without this State, with respect to no part of which
4 contributions are required and paid under an unemployment
5 compensation law of any other state or of the federal government,
6 shall be deemed to be employment subject to this chapter (R.S.43:21-1
7 et seq.) if the individual performing such services is a resident of this
8 State and the employing unit for whom such services are performed
9 files with the division an election that the entire service of such
10 individual shall be deemed to be employment subject to this chapter
11 (R.S.43:21-1 et seq.).

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

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

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

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

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

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

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

30 (7) Provided that such services are also exempt under the Federal
31 Unemployment Tax Act, as amended, or that contributions with
32 respect to such services are not required to be paid into a state
33 unemployment fund as a condition for a tax offset credit against the
34 tax imposed by the Federal Unemployment Tax Act, as amended, the
35 term "employment" shall not include:

36 (A) Agricultural labor performed prior to January 1, 1978; and after
37 December 31, 1977, only if performed in a calendar year for an entity
38 which is not an employer as defined in the "unemployment
39 compensation law," (R.S.43:21-1 et seq.) as of January 1 of such
40 calendar year; or unless performed for an employing unit which

41 (i) during a calendar quarter in either the current or the preceding
42 calendar year paid remuneration in cash of \$20,000.00 or more to
43 individuals employed in agricultural labor, or

44 (ii) for some portion of a day in each of 20 different calendar
45 weeks, whether or not such weeks were consecutive, in either the
46 current or the preceding calendar year, employed in agricultural labor

1 10 or more individuals, regardless of whether they were employed at
2 the same moment in time;

3 (B) Domestic service in a private home performed prior to January
4 1, 1978; and after December 31, 1977, unless performed in the private
5 home of an employing unit which paid cash remuneration of \$1,000.00
6 or more to one or more individuals for such domestic service in any
7 calendar quarter in the current or preceding calendar year;

8 (C) Service performed by an individual in the employ of his son,
9 daughter or spouse, and service performed by a child under the age of
10 18 in the employ of his father or mother;

11 (D) Service performed prior to January 1, 1978, in the employ of
12 this State or of any political subdivision thereof or of any
13 instrumentality of this State or its political subdivisions, except as
14 provided in R.S.43:21-19 (i) (1) (B) above, and service in the employ
15 of the South Jersey Port Corporation or its successors;

16 (E) Service performed in the employ of any other state or its
17 political subdivisions or of an instrumentality of any other state or
18 states or their political subdivisions to the extent that such
19 instrumentality is with respect to such service exempt under the
20 Constitution of the United States from the tax imposed under the
21 Federal Unemployment Tax Act, as amended, except as provided in
22 R.S.43:21-19 (i) (1) (B) above;

23 (F) Service performed in the employ of the United States
24 Government or of any instrumentality of the United States except
25 under the Constitution of the United States from the contributions
26 imposed by the "unemployment compensation law," except that to the
27 extent that the Congress of the United States shall permit states to
28 require any instrumentalities of the United States to make payments
29 into an unemployment fund under a state unemployment compensation
30 law, all of the provisions of this act shall be applicable to such
31 instrumentalities, and to service performed for such instrumentalities,
32 in the same manner, to the same extent and on the same terms as to all
33 other employers, employing units, individuals and services; provided
34 that if this State shall not be certified for any year by the Secretary of
35 Labor of the United States under section 3304 of the federal Internal
36 Revenue Code of 1986 (26 U.S.C. s.3304), the payments required of
37 such instrumentalities with respect to such year shall be refunded by
38 the division from the fund in the same manner and within the same
39 period as is provided in R.S.43:21-14 (f) with respect to contributions
40 erroneously paid to or collected by the division;

41 (G) Services performed in the employ of fraternal beneficiary
42 societies, orders, or associations operating under the lodge system or
43 for the exclusive benefit of the members of a fraternity itself operating
44 under the lodge system and providing for the payment of life, sick,
45 accident, or other benefits to the members of such society, order, or
46 association, or their dependents;

1 (H) Services performed as a member of the board of directors, a
2 board of trustees, a board of managers, or a committee of any bank,
3 building and loan, or savings and loan association, incorporated or
4 organized under the laws of this State or of the United States, where
5 such services do not constitute the principal employment of the
6 individual;

7 (I) Service with respect to which unemployment insurance is
8 payable under an unemployment insurance program established by an
9 Act of Congress;

10 (J) Service performed by agents of mutual fund brokers or dealers
11 in the sale of mutual funds or other securities, by agents of insurance
12 companies, exclusive of industrial insurance agents or by agents of
13 investment companies, if the compensation to such agents for such
14 services is wholly on a commission basis;

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

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

21 (M) Service performed for or in behalf of the owner or operator of
22 any theatre, ballroom, amusement hall or other place of entertainment,
23 not in excess of 10 weeks in any calendar year for the same owner or
24 operator, by any leader or musician of a band or orchestra, commonly
25 called a "name band," entertainer, vaudeville artist, actor, actress,
26 singer or other entertainer;

27 (N) Services performed after January 1, 1973 by an individual for
28 a labor union organization, known and recognized as a union local, as
29 a member of a committee or committees reimbursed by the union local
30 for time lost from regular employment, or as a part-time officer of a
31 union local and the remuneration for such services is less than
32 \$1,000.00 in a calendar year;

33 (O) Services performed in the sale or distribution of merchandise
34 by home-to-home salespersons or in-the-home demonstrators whose
35 remuneration consists wholly of commissions or commissions and
36 bonuses;

37 (P) Service performed in the employ of a foreign government,
38 including service as a consular, nondiplomatic representative, or other
39 officer or employee;

40 (Q) Service performed in the employ of an instrumentality wholly
41 owned by a foreign government if (i) the service is of a character
42 similar to that performed in foreign countries by employees of the
43 United States Government or of an instrumentality thereof, and (ii) the
44 division finds that the United States Secretary of State has certified to
45 the United States Secretary of the Treasury that the foreign
46 government, with respect to whose instrumentality exemption is

1 claimed, grants an equivalent exemption with respect to similar
2 services performed in the foreign country by employees of the United
3 States Government and of instrumentalities thereof;

4 (R) Service in the employ of an international organization entitled
5 to enjoy the privileges, exemptions and immunities under the
6 International Organizations Immunities Act (22 U.S.C. s.288 et seq.);

7 (S) Service covered by an election duly approved by an agency
8 charged with the administration of any other state or federal
9 unemployment compensation or employment security law, in
10 accordance with an arrangement pursuant to R.S.43:21-21 during the
11 effective period of such election;

12 (T) Service performed in the employ of a school, college, or
13 university if such service is performed (i) by a student enrolled at such
14 school, college, or university on a full-time basis in an educational
15 program or completing such educational program leading to a degree
16 at any of the severally recognized levels, or (ii) by the spouse of such
17 a student, if such spouse is advised at the time such spouse commences
18 to perform such service that (I) the employment of such spouse to
19 perform such service is provided under a program to provide financial
20 assistance to such student by such school, college, or university, and
21 (II) such employment will not be covered by any program of
22 unemployment insurance;

23 (U) Service performed by an individual who is enrolled at a
24 nonprofit or public educational institution which normally maintains a
25 regular faculty and curriculum and normally has a regularly organized
26 body of students in attendance at the place where its educational
27 activities are carried on, as a student in a full-time program, taken for
28 credit at such institution, which combines academic instruction with
29 work experience, if such service is an integral part of such program,
30 and such institution has so certified to the employer, except that this
31 subparagraph shall not apply to service performed in a program
32 established for or on behalf of an employer or group of employers;

33 (V) Service performed in the employ of a hospital, if such service
34 is performed by a patient of the hospital; service performed as a
35 student nurse in the employ of a hospital or a nurses' training school
36 by an individual who is enrolled and regularly attending classes in a
37 nurses' training school approved under the laws of this State; and
38 service performed as an intern in the employ of a hospital by an
39 individual who has completed a four-year course in a medical school
40 approved pursuant to the laws of this State;

41 (W) Services performed after the effective date of this amendatory
42 act by agents of mutual benefit associations if the compensation to
43 such agents for such services is wholly on a commission basis;

44 (X) Services performed by operators of motor vehicles weighing
45 18,000 pounds or more, licensed for commercial use and used for the
46 highway movement of motor freight, who own their equipment or who

1 lease or finance the purchase of their equipment through an entity
2 which is not owned or controlled directly or indirectly by the entity for
3 which the services were performed and who were compensated by
4 receiving a percentage of the gross revenue generated by the
5 transportation move or by a schedule of payment based on the distance
6 and weight of the transportation move;

7 (Y) Services performed by a certified shorthand reporter certified
8 pursuant to P.L.1940, c.175 (C.45:15B-1 et seq.), provided to a third
9 party by the reporter who is referred to the third party pursuant to an
10 agreement with another certified shorthand reporter or shorthand
11 reporting service, on a freelance basis, compensation for which is
12 based upon a fee per transcript page, flat attendance fee, or other flat
13 minimum fee, or combination thereof, set forth in the agreement;

14 (Z) Services performed, using facilities provided by a travel agent,
15 by a person, commonly known as an outside travel agent, who acts as
16 an independent contractor, is paid on a commission basis, sets his own
17 work schedule and receives no benefits, sick leave, vacation or other
18 leave from the travel agent owning the facilities.

19 (8) If one-half or more of the services in any pay period performed
20 by an individual for an employing unit constitutes employment, all the
21 services of such individual shall be deemed to be employment; but if
22 more than one-half of the service in any pay period performed by an
23 individual for an employing unit does not constitute employment, then
24 none of the service of such individual shall be deemed to be
25 employment. As used in this paragraph, the term "pay period" means
26 a period of not more than 31 consecutive days for which a payment for
27 service is ordinarily made by an employing unit to individuals in its
28 employ.

29 (9) Services performed by the owner of a limousine franchise
30 (franchisee) shall not be deemed to be employment subject to the
31 "unemployment compensation law," R.S.43:21-1 et seq., with regard
32 to the franchisor if:

33 (A) The limousine franchisee is incorporated;

34 (B) The franchisee is subject to regulation by the Interstate
35 Commerce Commission;

36 (C) The limousine franchise exists pursuant to a written franchise
37 arrangement between the franchisee and the franchisor as defined by
38 section 3 of P.L.1971, c.356 (C.56:10-3); and

39 (D) The franchisee registers with the Department of Labor and
40 receives an employer registration number.

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

44 (k) (Deleted by amendment, P.L.1984, c.24.)

45 (l) "State" includes, in addition to the states of the United States
46 of America, the District of Columbia, the Virgin Islands and Puerto

1 Rico.

2 (m) "Unemployment."

3 (1) An individual shall be deemed "unemployed" for any week
4 during which:

5 (A) The individual is not engaged in full-time work and with
6 respect to which his remuneration is less than his weekly benefit rate,
7 including any week during which he is on vacation without pay;
8 provided such vacation is not the result of the individual's voluntary
9 action, except that for benefit years commencing on or after July 1,
10 1984, an officer of a corporation, or a person who has more than a 5%
11 equitable or debt interest in the corporation, whose claim for benefits
12 is based on wages with that corporation shall not be deemed to be
13 unemployed in any week during the individual's term of office or
14 ownership in the corporation; or

15 (B) The individual is eligible for and receiving a self-employment
16 assistance allowance pursuant to the requirements of P.L.1995, c.394
17 (C.43:21-67 et al.).

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

23 (3) An individual's week of unemployment shall be deemed to
24 commence only after the individual has filed a claim at an
25 unemployment insurance claims office, except as the division may by
26 regulation otherwise prescribe.

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

31 (o) "Wages" means remuneration paid by employers for
32 employment. If a worker receives gratuities regularly in the course of
33 his employment from other than his employer, his "wages" shall also
34 include the gratuities so received, if reported in writing to his
35 employer in accordance with regulations of the division, and if not so
36 reported, his "wages" shall be determined in accordance with the
37 minimum wage rates prescribed under any labor law or regulation of
38 this State or of the United States, or the amount of remuneration
39 actually received by the employee from his employer, whichever is the
40 higher.

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

44 (q) "Week" means for benefit years commencing on or after
45 October 1, 1984, the calendar week ending at midnight Saturday, or
46 as the division may by regulation prescribe.

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

4 (s) "Investment company" means any company as defined in
5 subsection a. of section 1 of P.L.1938, c.322 (C.17:16A-1).

6 (t) (1) ["Base week" for a benefit year commencing on or after
7 October 1, 1985 and before January 1, 1996 means any calendar week
8 of an individual's base year during which the individual earned in
9 employment from an employer remuneration equal to not less than
10 20% of the Statewide average weekly remuneration defined in
11 subsection (c) of R.S.43:21-3 which shall be adjusted to the next
12 higher multiple of \$1.00 if not already a multiple thereof; provided if
13 in any calendar week an individual is in employment with more than
14 one employer, he may in such calendar week establish a base week
15 with respect to each such employer from whom the individual earns
16 remuneration equal to not less than the amount defined in this
17 paragraph (1) during such week.] (Deleted by amendment, P.L. _____,
18 c.)

19 (2) "Base week," for a benefit year commencing on or after
20 January 1, 1996 and before January 7, 2001, means:

21 (A) Any calendar week of an individual's base year during which
22 the individual earned in employment from an employer remuneration
23 not less than an amount which is 20% of the Statewide average weekly
24 remuneration defined in subsection (c) of R.S.43:21-3 which amount
25 shall be adjusted to the next higher multiple of \$1.00 if not already a
26 multiple thereof, except that if in any calendar week an individual
27 subject to this subparagraph (A) is in employment with more than one
28 employer, the individual may in that calendar week establish a base
29 week with respect to each of the employers from whom the individual
30 earns remuneration equal to not less than the amount defined in this
31 subparagraph (A) during that week; or

32 (B) If the individual does not establish in his base year 20 or more
33 base weeks as defined in subparagraph (A) of this paragraph (2), any
34 calendar week of an individual's base year during which the individual
35 earned in employment from an employer remuneration not less than an
36 amount 20 times the minimum wage in effect pursuant to section 5 of
37 P.L.1966, c.113 (C.34:11-56a4) on October 1 of the calendar year
38 preceding the calendar year in which the benefit year commences,
39 which amount shall be adjusted to the next higher multiple of \$1.00 if
40 not already a multiple thereof, except that if in any calendar week an
41 individual subject to this subparagraph (B) is in employment with more
42 than one employer, the individual may in that calendar week establish
43 a base week with respect to each of the employers from whom the
44 individual earns remuneration not less than the amount defined in this
45 subparagraph (B) during that week.

46 (3) "Base week," for a benefit year commencing on or after

1 January 7, 2001, means any calendar week of an individual's base year
2 during which the individual earned in employment from an employer
3 remuneration not less than an amount 20 times the minimum wage in
4 effect pursuant to section 5 of P.L.1966, c.113 (C.34:11-56a4) on
5 October 1 of the calendar year preceding the calendar year in which
6 the benefit year commences, which amount shall be adjusted to the
7 next higher multiple of \$1.00 if not already a multiple thereof, except
8 that if in any calendar week an individual subject to this paragraph (3)
9 is in employment with more than one employer, the individual may in
10 that calendar week establish a base week with respect to each of the
11 employers from whom the individual earns remuneration equal to not
12 less than the amount defined in this paragraph (3) during that week.

13 (u) "Average weekly wage" means the amount derived by dividing
14 an individual's total wages received during his base year base weeks
15 (as defined in subsection (t) of this section) from that most recent base
16 year employer with whom he has established at least 20 base weeks,
17 by the number of base weeks in which such wages were earned. In the
18 event that such claimant had no employer in his base year with whom
19 he had established at least 20 base weeks, then such individual's
20 average weekly wage shall be computed as if all of his base week
21 wages were received from one employer and as if all his base weeks of
22 employment had been performed in the employ of one employer.

23 For the purpose of computing the average weekly wage, the
24 monetary alternative in subparagraph (B) of paragraph (2) of
25 subsection (e) of R.S.43:21-4 shall only apply in those instances where
26 the individual did not have at least 20 base weeks in the base year. For
27 benefit years commencing on or after July 1, 1986, "average weekly
28 wage" means the amount derived by dividing an individual's total base
29 year wages by the number of base weeks worked by the individual
30 during the base year; provided that for the purpose of computing the
31 average weekly wage, the maximum number of base weeks used in the
32 divisor shall be 52.

33 (v) "Initial determination" means, subject to the provisions of
34 R.S.43:21-6(b)(2) and (3), a determination of benefit rights as
35 measured by an eligible individual's base year employment with a
36 single employer covering all periods of employment with that employer
37 during the base year. For benefit years commencing prior to July 1,
38 1986, subject to the provisions of R.S.43:21-3(d)(3), if an individual
39 has been in employment in his base year with more than one employer,
40 no benefits shall be paid to that individual under any successive initial
41 determination until his benefit rights have been exhausted under the
42 next preceding initial determination.

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

46 (x) "Most recent base year employer" means that employer with

1 whom the individual most recently, in point of time, performed service
2 in employment in the base year.

3 (y) (1) "Educational institution" means any public or other
4 nonprofit institution (including an institution of higher education):

5 (A) In which participants, trainees, or students are offered an
6 organized course of study or training designed to transfer to them
7 knowledge, skills, information, doctrines, attitudes or abilities from,
8 by or under the guidance of an instructor [(s)] or teacher [(s)];

9 (B) Which is approved, licensed or issued a permit to operate as a
10 school by the State Department of Education or other government
11 agency that is authorized within the State to approve, license or issue
12 a permit for the operation of a school; and

13 (C) Which offers courses of study or training which may be
14 academic, technical, trade, or preparation for gainful employment in
15 a recognized occupation.

16 (2) "Institution of higher education" means an educational
17 institution which:

18 (A) Admits as regular students only individuals having a certificate
19 of graduation from a high school, or the recognized equivalent of such
20 a certificate;

21 (B) Is legally authorized in this State to provide a program of
22 education beyond high school;

23 (C) Provides an educational program for which it awards a
24 bachelor's or higher degree, or provides a program which is acceptable
25 for full credit toward such a degree, a program of post-graduate or
26 post-doctoral studies, or a program of training to prepare students for
27 gainful employment in a recognized occupation; and

28 (D) Is a public or other nonprofit institution.

29 Notwithstanding any of the foregoing provisions of this subsection,
30 all colleges and universities in this State are institutions of higher
31 education for purposes of this section.

32 (z) "Hospital" means an institution which has been licensed,
33 certified or approved under the law of this State as a hospital.

34 (cf: P.L.1995, c.394, s.9)

35

36 3. Section 3 of P.L.1948, c.110 (C.43:21-27) is amended to read
37 as follows:

38 3. As used in this act, unless the context clearly requires otherwise:

39 (a)(1) "Covered employer" means any individual or type of
40 organization, including any partnership, association, trust, estate,
41 joint-stock company, insurance company or corporation, whether
42 domestic or foreign, or the receiver, trustee in bankruptcy, trustee or
43 successor thereof, or the legal representative of a deceased person,
44 who is an employer subject to the chapter to which this act is a
45 supplement, designated as the [Unemployment Compensation Law]
46 "unemployment compensation law" (R.S. 43:21-1 et seq.), except the

1 State, its political subdivisions, and any instrumentality of the State
2 unless such governmental entity elects to become a covered employer
3 under the [Temporary Disability Benefits Law] "Temporary Disability
4 Benefits Law"; provided, however, that commencing with the effective
5 date of this act the State of New Jersey, including Rutgers, The State
6 University, the University of Medicine and Dentistry of New Jersey
7 and the New Jersey Institute of Technology, shall be deemed a
8 covered employer, as defined herein.

9 (2) Any governmental entity or instrumentality which is an
10 employer under R.S. 43:21-19(h)(5) may elect to become a "covered
11 employer" under this subsection beginning with the date on which its
12 coverage under subsection 19(h)(5) begins or as of January 1 of any
13 year thereafter by filing written notice of such election with the
14 division within at least 30 days of the effective date. Such election
15 shall remain in effect for at least two full calendar years and may be
16 terminated as of January 1 of any year thereafter by filing with the
17 division a written notice of termination at least 30 days prior to the
18 termination date.

19 (b) "Covered individual" means any person who is in employment,
20 as defined in the chapter to which this act is a supplement, for which
21 [he] the individual is entitled to remuneration from a covered
22 employer, or who has been out of such employment for less than two
23 weeks. However, a "covered individual" who is employed by the
24 State of New Jersey, including Rutgers, The State University, the
25 University of Medicine and Dentistry of New Jersey and the New
26 Jersey Institute of Technology, or by any governmental entity or
27 instrumentality which elects to [becoming] become a "covered
28 employer" pursuant to this amendatory act, shall not be eligible to
29 receive any benefits under the [Temporary Disability Benefits Law]
30 "Temporary Disability Benefits Law" until such individual has
31 exhausted all sick leave accumulated as an employee in the classified
32 service of the State or accumulated under terms and conditions similar
33 to classified employees or accumulated under the terms and
34 conditions pursuant to the laws of this State or as the result of a
35 negotiated contract with any governmental entity or instrumentality
36 which elects to become a "covered employer."

37 "Covered individual" shall not mean any member of the Division of
38 State Police in the Department of Law and Public Safety.

39 (c) "Division" or "commission" means the Division of
40 Unemployment and Temporary Disability Insurance of the Department
41 of Labor, and any transaction or exercise of authority by the director
42 of the division shall be deemed to be performed by the division.

43 (d) "Day" shall mean a full calendar day beginning and ending at
44 midnight.

45 (e) "Disability" shall mean such disability as is compensable under
46 section 5 of this act.

1 (f) "Disability benefits" shall mean any cash payments which are
2 payable to a covered individual pursuant to this act.

3 (g) "Period of disability" with respect to any individual shall mean
4 the entire period of time during which [he] the individual is
5 continuously and totally unable to perform the duties of his
6 employment, except that two periods of disability due to the same or
7 related cause or condition and separated by a period of not more than
8 14 days shall be considered as one continuous period of disability;
9 provided the individual has earned wages during such 14-day period
10 with the employer who was [his] the individual's last employer
11 immediately preceding the first period of disability.

12 (h) "Wages" shall mean all compensation payable by covered
13 employers to covered individuals for personal services, including
14 commissions and bonuses and the cash value of all compensation
15 payable in any medium other than cash.

16 (i)(1) ["Base week" with respect to periods of disability
17 commencing prior to October 1, 1984, means any calendar week
18 during which an individual earned not less than \$15.00 from a covered
19 employer, in employment as defined in the chapter to which this act
20 is a supplement.] (Deleted by amendment, P.L. , c.)

21 (2) ["Base week" with respect to periods of disability commencing
22 on or after October 1, 1984, and prior to October 1, 1985, means any
23 calendar week during which an individual earned in employment from
24 a covered employer remuneration equal to not less than 15% of the
25 Statewide average weekly remuneration as determined under
26 subsection (c) of R.S. 43:21-3, which shall be adjusted to the next
27 higher multiple of \$1.00 if not already a multiple thereof.] (Deleted by
28 amendment, P.L. , c.)

29 (3) "Base week" with respect to periods of disability commencing
30 on or after October 1, 1985 and before January 1, 2001, means any
31 calendar week during which an individual earned in employment from
32 a covered employer remuneration equal to not less than 20% of the
33 Statewide average weekly remuneration as determined under
34 subsection (c) of R.S. 43:21-3, which shall be adjusted to the next
35 higher multiple of \$1.00 if not already a multiple thereof.

36 (4) "Base week" with respect to periods of disability commencing
37 on or after January 1, 2001, means any calendar week of an
38 individual's base year during which the individual earned in
39 employment from a covered employer remuneration not less than an
40 amount 20 times the minimum wage in effect pursuant to section 5 of
41 P.L.1966, c.113 (C.34:11-56a4) on October 1 of the calendar year
42 preceding the calendar year in which the benefit year commences,
43 which amount shall be adjusted to the next higher multiple of \$1.00 if
44 not already a multiple thereof, except that if in any calendar week an
45 individual subject to this paragraph is in employment with more than
46 one employer, the individual may in that calendar week establish a base

1 week with respect to each of the employers from whom the individual
2 earns remuneration equal to not less than the amount defined in this
3 paragraph during that week.

4 (j) "Average weekly wage" means the amount derived by dividing
5 a covered individual's total wages earned from ~~his~~ the individual's
6 most recent covered employer during the base weeks in the eight
7 calendar weeks immediately preceding the calendar week in which
8 disability commenced, by the number of such base weeks. If this
9 computation yields a result which is less than the individual's average
10 weekly earnings in employment, as defined in the chapter to which this
11 act is a supplement, with all covered employers during the base weeks
12 in such eight calendar weeks, then the average weekly wage shall be
13 computed on the basis of earnings from all covered employers during
14 the eight base weeks immediately preceding the week in which the
15 disability commenced.

16 (cf: P.L.1984, c.104, s.1)

17

18 4. Section 17 of P.L.1948, c.110 (C.43:21-41) is amended to read
19 as follows:

20 17. (a) (Deleted by amendment, P.L.1975, c.355.)

21 (b) ~~With respect to periods of disability commencing on or after~~
22 ~~January 1, 1953, and prior to January 1, 1976, no individual shall be~~
23 ~~entitled to benefits under this article unless he has established at least~~
24 ~~17 base weeks within the 52 calendar weeks preceding the week in~~
25 ~~which his period of disability commenced, nor unless he shall duly file~~
26 ~~notice and proof of claim, and submit to such reasonable examinations~~
27 ~~as are required by this act and the rules and regulations of the~~
28 ~~division.] (Deleted by amendment, P.L. , c.)~~

29 (c) ~~With respect to periods of disability commencing on or after~~
30 ~~January 1, 1976, and prior to October 1, 1984, no individual shall be~~
31 ~~entitled to benefits under this article unless he has established at least~~
32 ~~17 base weeks within the 52 calendar weeks preceding the week in~~
33 ~~which his period of disability commenced, or, in the alternative, has~~
34 ~~earned \$2,200.00 or more within the 52 calendar weeks preceding the~~
35 ~~week in which his period of disability commenced, nor unless he shall~~
36 ~~duly file notice and proof of claim, and submit to such reasonable~~
37 ~~examinations as are required by this act and the rules and regulations~~
38 ~~of the division.~~

39 Notwithstanding any provisions of this section to the contrary, the
40 provision of subsection 17(c) shall apply to any claim pending before
41 the division or the courts on the effective date of this act.] ~~(Deleted~~
42 ~~by amendment, P.L. , c.)~~

43 (d) ~~With respect to periods of disability commencing on or after~~
44 ~~October 1, 1984 and before January 1, 2001, no individual shall be~~
45 ~~entitled to benefits under this act unless he~~ the individual ~~has~~
46 ~~established at least 20 base weeks within the 52 calendar weeks~~

1 preceding the week in which [his] the individual's period of disability
2 commenced, or, in the alternative, the individual has earned twelve
3 times the Statewide average weekly remuneration paid to workers, as
4 determined under subsection (c) of R.S. 43:21-3, raised to the next
5 higher multiple of \$100.00, if not already a multiple thereof, or more
6 within the 52 calendar weeks preceding the week in which [his] the
7 period of disability commenced, nor shall the individual be entitled to
8 benefits unless he shall duly file notice and proof of claim, and submit
9 to such reasonable examinations as are required by this act and the
10 rules and regulations of the division.

11 (2) With respect to periods of disability commencing on or after
12 January 1, 2001, no individual shall be entitled to benefits under this
13 act unless the individual has, within the 52 calendar weeks preceding
14 the week in which the individual's period of disability commenced,
15 established at least 20 base weeks or earned not less than 1,000 times
16 the minimum wage in effect pursuant to section 5 of P.L.1996, c.113
17 (C.34:11-56a4) on October 1 of the calendar year preceding the
18 calendar year in which the disability commences, which amount shall
19 be adjusted to the next higher multiple of \$100.00, if not already a
20 multiple thereof.

21 (cf: P.L.1984, c.104, s.4)

22

23 5. This act shall take effect immediately.

24

25

26

STATEMENT

27

28 This bill provides uniform standards regarding the minimum
29 earnings required to be eligible for unemployment insurance (UI)
30 benefits and temporary disability insurance (TDI) benefits, and
31 simplifies the standards for UI benefits.

32 Currently, a laid-off worker may qualify for UI benefits by earning,
33 during the worker's base year, at least 12 times the average weekly
34 wage (AWW) for all workers or 1,000 times the State minimum hourly
35 wage, or by earning, during each of at least 20 "base weeks," at least
36 20% of the AWW or 20 times the minimum wage. This bill makes the
37 UI eligibility determination process for employers and employees
38 simpler by using only the standards based on multiples of the minimum
39 wage and omitting the standards based on the AWW. The bill also
40 changes the minimum earnings during a worker's base year for TDI
41 eligibility from 12 times the AWW for all workers to 1000 times the
42 State minimum wage, and changes the minimum earnings during a
43 worker's base week for TDI eligibility from 20% of the AWW to 20
44 times the minimum wage, thus making the minimum earnings
45 requirements for UI and TDI benefit eligibility identical.

46 This bill was proposed by the State Department of Labor to

A2614 GREGG, THOMPSON

31

1 streamline and rationalize UI and TDI eligibility determination
2 processes, and has been unanimously endorsed by the Employment
3 Security Council, the advisory body appointed by the Governor to
4 represent business and labor organizations and the general public on
5 issues concerning the UI and TDI systems.

ASSEMBLY LABOR COMMITTEE

STATEMENT TO

ASSEMBLY, No. 2614

with committee amendments

STATE OF NEW JERSEY

DATED: OCTOBER 16, 2000

The Assembly Labor Committee reports favorably Assembly Bill No. 2614, with committee amendments.

As amended by the committee, this bill provides uniform standards regarding the minimum earnings required to be eligible for unemployment insurance (UI) benefits and temporary disability insurance (TDI) benefits, and simplifies the standards for UI benefits.

Currently, a laid-off worker may qualify for UI benefits by earning, during the worker's base year, at least 12 times the average weekly wage (AWW) for all workers or 1,000 times the State minimum hourly wage, or by earning, during each of at least 20 "base weeks," at least 20% of the AWW or 20 times the minimum wage. This bill makes the UI eligibility determination process for employers and employees simpler by using only the standards based on multiples of the minimum wage and omitting the standards based on the AWW. The bill also changes the minimum earnings during a worker's base year for TDI eligibility from 12 times the AWW for all workers to 1000 times the State minimum wage, and changes the minimum earnings during a worker's base week for TDI eligibility from 20% of the AWW to 20 times the minimum wage, thus making the minimum earnings requirements for UI and TDI benefit eligibility identical.

This bill was proposed by the State Department of Labor to streamline and rationalize the UI and TDI eligibility determination processes, and has been unanimously endorsed by the Employment Security Council, the advisory body appointed by the Governor to represent business and labor organizations and the general public on issues concerning the UI and TDI systems.

The committee amended the bill to have the bill's requirements apply only to base weeks occurring after the effective date of the bill, thus avoiding the added administrative time and cost of collecting additional information about those earlier weeks.

[First Reprint]

ASSEMBLY, No. 2614

STATE OF NEW JERSEY
209th LEGISLATURE

INTRODUCED JUNE 19, 2000

Sponsored by:

Assemblyman GUY R. GREGG

District 24 (Sussex, Hunterdon and Morris)

Assemblyman SAMUEL D. THOMPSON

District 13 (Middlesex and Monmouth)

SYNOPSIS

Modifies eligibility for temporary disability and unemployment benefits.

CURRENT VERSION OF TEXT

As reported by the Assembly Labor Committee on October 16, 2000, with amendments.



1 AN ACT concerning eligibility for unemployment compensation and
2 temporary disability benefits and amending R.S.43:21-4, R.S.43:21-
3 19 and P.L.1948, c.110.

4

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

7

8 1. R.S.43:21-4 is amended to read as follows:

9 43:21-4. Benefit eligibility conditions. An unemployed individual
10 shall be eligible to receive benefits with respect to any week only if:

11 (a) The individual has filed a claim at an unemployment insurance
12 claims office and thereafter continues to report at an employment
13 service office or unemployment insurance claims office, as directed by
14 the division in accordance with such regulations as the division may
15 prescribe, except that the division may, by regulation, waive or alter
16 either or both of the requirements of this subsection as to individuals
17 attached to regular jobs, and as to such other types of cases or
18 situations with respect to which the division finds that compliance with
19 such requirements would be oppressive, or would be inconsistent with
20 the purpose of this act; provided that no such regulation shall conflict
21 with subsection (a) of R.S.43:21-3.

22 (b) The individual has made a claim for benefits in accordance with
23 the provisions of subsection (a) of R.S.43:21-6.

24 (c) (1) The individual is able to work, and is available for work, and
25 has demonstrated to be actively seeking work, except as hereinafter
26 provided in this subsection or in subsection (f) of this section.

27 (2) The director may modify the requirement of actively seeking
28 work if such modification of this requirement is warranted by
29 economic conditions.

30 (3) No individual, who is otherwise eligible, shall be deemed
31 ineligible, or unavailable for work, because the individual is on
32 vacation, without pay, during said week, if said vacation is not the
33 result of the individual's own action as distinguished from any
34 collective action of a collective bargaining agent or other action
35 beyond the individual's control.

36 (4) (A) Subject to such limitations and conditions as the division
37 may prescribe, an individual, who is otherwise eligible, shall not be
38 deemed unavailable for work or ineligible because the individual is
39 attending a training program approved for the individual by the
40 division to enhance the individual's employment opportunities or
41 because the individual failed or refused to accept work while attending
42 such program.

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

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹ Assembly ALA committee amendments adopted October 16, 2000.

1 (B) For the purpose of this paragraph (4), any training program
2 shall be regarded as approved by the division for the individual if the
3 program and the individual meet the following requirements:

4 (i) The training is for a labor demand occupation and is likely to
5 enhance the individual's marketable skills and earning power;

6 (ii) The training is provided by a competent and reliable private or
7 public entity approved by the Commissioner of Labor pursuant to the
8 provisions of section 8 of the "1992 New Jersey Employment and
9 Workforce Development Act," P.L.1992, c.43 (C.34:15D-8);

10 (iii) The individual can reasonably be expected to complete the
11 program, either during or after the period of benefits;

12 (iv) The training does not include on the job training or other
13 training under which the individual is paid by an employer for work
14 performed by the individual during the time that the individual receives
15 benefits; and

16 (v) The individual enrolls in vocational training, remedial education
17 or a combination of both on a full-time basis.

18 (C) If the requirements of subparagraph (B) of this paragraph (4)
19 are met, the division shall not withhold approval of the training
20 program for the individual for any of the following reasons:

21 (i) The training includes remedial basic skills education necessary
22 for the individual to successfully complete the vocational component
23 of the training;

24 (ii) The training is provided in connection with a program under
25 which the individual may obtain a college degree, including a
26 post-graduate degree;

27 (iii) The length of the training period under the program; or

28 (iv) The lack of a prior guarantee of employment upon completion
29 of the training.

30 (D) For the purpose of this paragraph (4), "labor demand
31 occupation" means an occupation for which there is or is likely to be
32 an excess of demand over supply for adequately trained workers,
33 including, but not limited to, an occupation designated as a labor
34 demand occupation by the New Jersey Occupational Information
35 Coordinating Committee pursuant to the provisions of subsection h.
36 of section 1 of P.L.1987, c.457 (C.34:1A-76) or section 12 of
37 P.L.1992, c.43 (C.34:1A-78).

38 (5) An unemployed individual, who is otherwise eligible, shall not
39 be deemed unavailable for work or ineligible solely by reason of the
40 individual's attendance before a court in response to a summons for
41 service on a jury.

42 (6) An unemployed individual, who is otherwise eligible, shall not
43 be deemed unavailable for work or ineligible solely by reason of the
44 individual's attendance at the funeral of an immediate family member,
45 provided that the duration of the attendance does not extend beyond
46 a two-day period.

1 For purposes of this paragraph, "immediate family member"
2 includes any of the following individuals: father, mother,
3 mother-in-law, father-in-law, grandmother, grandfather, grandchild,
4 spouse, child, foster child, sister or brother of the unemployed
5 individual and any relatives of the unemployed individual residing in
6 the unemployed individual's household.

7 (7) No individual, who is otherwise eligible, shall be deemed
8 ineligible or unavailable for work with respect to any week because,
9 during that week, the individual fails or refuses to accept work while
10 the individual is participating on a full-time basis in self-employment
11 assistance activities authorized by the division, whether or not the
12 individual is receiving a self-employment allowance during that week.

13 (8) Any individual who is determined to be likely to exhaust regular
14 benefits and need reemployment services based on information
15 obtained by the worker profiling system shall not be eligible to receive
16 benefits if the individual fails to participate in available reemployment
17 services to which the individual is referred by the division or in similar
18 services, unless the division determines that:

- 19 (A) The individual has completed the reemployment services; or
20 (B) There is justifiable cause for the failure to participate, which
21 shall include participation in employment and training,
22 self-employment assistance activities or other activities authorized by
23 the division to assist reemployment or enhance the marketable skills
24 and earning power of the individual and which shall include any other
25 circumstance indicated pursuant to this section in which an individual
26 is not required to be available for and actively seeking work to receive
27 benefits.

28 (d) The individual has been totally or partially unemployed for a
29 waiting period of one week in the benefit year which includes that
30 week. When benefits become payable with respect to the third
31 consecutive week next following the waiting period, the individual
32 shall be eligible to receive benefits as appropriate with respect to the
33 waiting period. No week shall be counted as a week of unemployment
34 for the purposes of this subsection:

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

39 (2) If it has constituted a waiting period week under the
40 "Temporary Disability Benefits Law," P.L.1948, c.110 (C.43:21-25 et
41 seq.);

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

44 (4) If with respect thereto, claimant was disqualified for benefits in
45 accordance with the provisions of subsection (d) of R.S.43:21-5.

46 (e) (1) [With respect to a base year as defined in subsection (c) of

1 R.S.43:21-19, the individual has established at least 20 base weeks as
2 defined in subsection (t) of R.S.43:21-19, or, in those instances in
3 which the individual has not established 20 base weeks, except as
4 otherwise provided in paragraph (3) of this subsection, for benefit
5 years commencing on or after October 1, 1984 and before January 1,
6 1996, the individual has earned 12 times the Statewide average weekly
7 remuneration paid to workers, as determined under R.S.43:21-3(c),
8 raised to the next higher multiple of \$100.00 if not already a multiple
9 thereof, or more in the individual's base year.] (Deleted by
10 amendment, P.L. , c.)

11 (2) With respect to benefit years commencing on or after January
12 1, 1996 and before January 7, 2001, except as otherwise provided in
13 paragraph (3) of this subsection, the individual has, during his base
14 year as defined in subsection (c) of R.S.43:21-19:

15 (A) Established at least 20 base weeks as defined in paragraph (2)
16 of subsection (t) of R.S.43:21-19; or

17 (B) If the individual has not met the requirements of subparagraph
18 (A) of this paragraph (2), earned remuneration not less than an amount
19 12 times the Statewide average weekly remuneration paid to workers,
20 as determined under R.S.43:21-3(c), which amount shall be adjusted
21 to the next higher multiple of \$100.00 if not already a multiple thereof;
22 or

23 (C) If the individual has not met the requirements of subparagraph
24 (A) or (B) of this paragraph (2), earned remuneration not less than an
25 amount 1,000 times the minimum wage in effect pursuant to section
26 5 of P.L.1966, c.113 (C.34:11-56a4) on October 1 of the calendar
27 year preceding the calendar year in which the benefit year commences,
28 which amount shall be adjusted to the next higher multiple of \$100.00
29 if not already a multiple thereof.

30 (3) 【Notwithstanding】 With respect to benefit years commencing
31 before January 7, 2001, notwithstanding the provisions of paragraph
32 【(1) or paragraph】 (2) of this subsection, an unemployed individual
33 claiming benefits on the basis of service performed in the production
34 and harvesting of agricultural crops shall, subject to the limitations of
35 subsection (i) of R.S.43:21-19, be eligible to receive benefits if during
36 his base year, as defined in subsection (c) of R.S.43:21-19, the
37 individual:

38 (A) Has established at least 20 base weeks as defined in paragraph
39 【(1)】(2) of subsection (t) of R.S.43:21-19; or

40 (B) Has earned 12 times the Statewide average weekly
41 remuneration paid to workers, as determined under R.S.43:21-3(c),
42 raised to the next higher multiple of \$100.00 if not already a multiple
43 thereof, or more; or

44 (C) Has performed at least 770 hours of service in the production
45 and harvesting of agricultural crops.

46 (4) With respect to benefit years commencing on or after January

1 7, 2001, except as otherwise provided in paragraph (5) of this
2 subsection, the individual has, during his base year as defined in
3 subsection (c) of R.S.43:21-19:

4 (A) Established at least 20 base weeks as defined in ¹[paragraph]
5 paragraphs (2) and¹ (3) of subsection (t) of R.S.43:21-19; or

6 (B) If the individual has not met the requirements of subparagraph
7 (A) of this paragraph (4), earned remuneration not less than an amount
8 1,000 times the minimum wage in effect pursuant to section 5 of
9 P.L.1966, c.113 (C.34:11-56a4) on October 1 of the calendar year
10 preceding the calendar year in which the benefit year commences,
11 which amount shall be adjusted to the next higher multiple of \$100 if
12 not already a multiple thereof.

13 (5) With respect to benefit years commencing on or after January
14 7, 2001, notwithstanding the provisions of paragraph (4) of this
15 subsection, an unemployed individual claiming benefits on the basis of
16 service performed in the production and harvesting of agricultural
17 crops shall, subject to the limitations of subsection (i) of R.S.43:21-19,
18 be eligible to receive benefits if during his base year, as defined in
19 subsection (c) of R.S.43:21-19, the individual:

20 (A) Has established at least 20 base weeks as defined in
21 ¹[paragraph] paragraphs (2) and¹ (3) of subsection (t) of
22 R.S.43:21-19; or

23 (B) Has earned remuneration not less than an amount 1,000 times
24 the minimum wage in effect pursuant to section 5 of P.L.1966, c.113
25 (C.34:11-56a4) on October 1 of the calendar year preceding the
26 calendar year in which the benefit year commences, which amount
27 shall be adjusted to the next higher multiple of \$100 if not already a
28 multiple thereof; or

29 (C) Has performed at least 770 hours of service in the production
30 and harvesting of agricultural crops.

31 (6) The individual applying for benefits in any successive benefit
32 year has earned at least six times his previous weekly benefit amount
33 and has had four weeks of employment since the beginning of the
34 immediately preceding benefit year. This provision shall be in addition
35 to the earnings requirements specified in paragraph [(1),] (2), [or]
36 (3), (4) or (5) of this subsection, as applicable.

37 (f) (1) The individual has suffered any accident or sickness not
38 compensable under the workers' compensation law, R.S.34:15-1 et
39 seq. and resulting in the individual's total disability to perform any
40 work for remuneration, and would be eligible to receive benefits under
41 this chapter (R.S.43:21-1 et seq.) (without regard to the maximum
42 amount of benefits payable during any benefit year) except for the
43 inability to work and has furnished notice and proof of claim to the
44 division, in accordance with its rules and regulations, and payment is
45 not precluded by the provisions of R.S.43:21-3(d); provided, however,
46 that benefits paid under this subsection (f) shall be computed on the

1 basis of only those base year wages earned by the claimant as a
2 "covered individual," as defined in R.S.43:21-27(b); provided further
3 that no benefits shall be payable under this subsection to any
4 individual:

5 (A) For any period during which such individual is not under the
6 care of a legally licensed physician, dentist, optometrist, podiatrist,
7 practicing psychologist or chiropractor;

8 (B) (Deleted by amendment, P.L.1980, c.90.)

9 (C) For any period of disability due to willfully or intentionally
10 self-inflicted injury, or to injuries sustained in the perpetration by the
11 individual of a crime of the first, second or third degree;

12 (D) For any week with respect to which or a part of which the
13 individual has received or is seeking benefits under any unemployment
14 compensation or disability benefits law of any other state or of the
15 United States; provided that if the appropriate agency of such other
16 state or the United States finally determines that the individual is not
17 entitled to such benefits, this disqualification shall not apply;

18 (E) For any week with respect to which or part of which the
19 individual has received or is seeking disability benefits under the
20 "Temporary Disability Benefits Law," P.L.1948, c.110 (C.43:21-25 et
21 seq.);

22 (F) For any period of disability commencing while such individual
23 is a "covered individual," as defined in subsection (b) of section 3 of
24 the "Temporary Disability Benefits Law," P.L.1948, c.110
25 (C.43:21-27).

26 (2) Benefit payments under this subsection (f) shall be charged to
27 and paid from the State disability benefits fund established by the
28 "Temporary Disability Benefits Law," P.L.1948, c.110 (C.43:21-25 et
29 seq.), and shall not be charged to any employer account in computing
30 any employer's experience rate for contributions payable under this
31 chapter.

32 (g) Benefits based on service in employment defined in
33 subparagraphs (B) and (C) of R.S.43:21-19(i)(1) shall be payable in
34 the same amount and on the terms and subject to the same conditions
35 as benefits payable on the basis of other service subject to the
36 "unemployment compensation law"; except that, notwithstanding any
37 other provisions of the "unemployment compensation law":

38 (1) With respect to service performed after December 31, 1977, in
39 an instructional research, or principal administrative capacity for an
40 educational institution, benefits shall not be paid based on such
41 services for any week of unemployment commencing during the period
42 between two successive academic years, or during a similar period
43 between two regular terms, whether or not successive, or during a
44 period of paid sabbatical leave provided for in the individual's contract,
45 to any individual if such individual performs such services in the first
46 of such academic years (or terms) and if there is a contract or a

1 reasonable assurance that such individual will perform services in any
2 such capacity for any educational institution in the second of such
3 academic years or terms;

4 (2) With respect to weeks of unemployment beginning after
5 September 3, 1982, on the basis of service performed in any other
6 capacity for an educational institution, benefits shall not be paid on the
7 basis of such services to any individual for any week which commences
8 during a period between two successive academic years or terms if
9 such individual performs such services in the first of such academic
10 years or terms and there is a reasonable assurance that such individual
11 will perform such services in the second of such academic years or
12 terms, except that if benefits are denied to any individual under this
13 paragraph (2) and the individual was not offered an opportunity to
14 perform these services for the educational institution for the second of
15 any academic years or terms, the individual shall be entitled to a
16 retroactive payment of benefits for each week for which the individual
17 filed a timely claim for benefits and for which benefits were denied
18 solely by reason of this clause;

19 (3) With respect to those services described in paragraphs (1) and
20 (2) above, benefits shall not be paid on the basis of such services to
21 any individual for any week which commences during an established
22 and customary vacation period or holiday recess if such individual
23 performs such services in the period immediately before such vacation
24 period or holiday recess, and there is a reasonable assurance that such
25 individual will perform such services in the period immediately
26 following such period or holiday recess;

27 (4) With respect to any services described in paragraphs (1) and
28 (2) above, benefits shall not be paid as specified in paragraphs (1), (2),
29 and (3) above to any individual who performed those services in an
30 educational institution while in the employ of an educational service
31 agency, and for this purpose the term "educational service agency"
32 means a governmental agency or governmental entity which is
33 established and operated exclusively for the purpose of providing
34 those services to one or more educational institutions.

35 (h) Benefits shall not be paid to any individual on the basis of any
36 services, substantially all of which consist of participating in sports or
37 athletic events or training or preparing to so participate, for any week
38 which commences during the period between two successive sports
39 seasons (or similar periods) if such individual performed such services
40 in the first of such seasons (or similar periods) and there is a
41 reasonable assurance that such individual will perform such services in
42 the later of such seasons (or similar periods).

43 (i) (1) Benefits shall not be paid on the basis of services performed
44 by an alien unless such alien is an individual who was lawfully admitted
45 for permanent residence at the time the services were performed and
46 was lawfully present for the purpose of performing the services or

1 otherwise was permanently residing in the United States under color
2 of law at the time the services were performed (including an alien who
3 is lawfully present in the United States as a result of the application of
4 the provisions of [section 203(a)(7) (8 U.S.C. 1153 (a)(7)) or] section
5 212(d)(5) (8 U.S.C. s.1182 (d)(5)) of the Immigration and Nationality
6 Act (8 U.S.C. s.1101 et seq.)); provided that any modifications of the
7 provisions of section 3304(a)(14) of the Federal Unemployment Tax
8 Act (26 U.S.C. s.3304 (a)(14)), as provided by Pub.L.94-566, which
9 specify other conditions or other effective dates than stated herein for
10 the denial of benefits based on services performed by aliens and which
11 modifications are required to be implemented under State law as a
12 condition for full tax credit against the tax imposed by the Federal
13 Unemployment Tax Act, shall be deemed applicable under the
14 provisions of this section.

15 (2) Any data or information required of individuals applying for
16 benefits to determine whether benefits are not payable to them because
17 of their alien status shall be uniformly required from all applicants for
18 benefits.

19 (3) In the case of an individual whose application for benefits would
20 otherwise be approved, no determination that benefits to such
21 individual are not payable because of alien status shall be made except
22 upon a preponderance of the evidence.

23 (j) Notwithstanding any other provision of this chapter, the
24 director may, to the extent that it may be deemed efficient and
25 economical, provide for consolidated administration by one or more
26 representatives or deputies of claims made pursuant to subsection (f)
27 of this section with those made pursuant to Article III (State plan) of
28 the "Temporary Disability Benefits Law," P.L.1948, c.110
29 (C.43:21-25 et seq.).

30 (cf: P.L.1995, c.394, s.7)

31

32 2. R.S.43:21-19 is amended to read as follows:

33 43:21-19. Definitions. As used in this chapter (R.S.43:21-1 et
34 seq.), unless the context clearly requires otherwise:

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

38 (2) "Average annual payroll" means the average of the annual
39 payrolls of any employer for the last three or five preceding calendar
40 years, whichever average is higher, except that any year or years
41 throughout which an employer has had no "annual payroll" because of
42 military service shall be deleted from the reckoning; the "average
43 annual payroll" in such case is to be determined on the basis of the
44 prior three or five calendar years in each of which the employer had an
45 "annual payroll" in the operation of his business, if the employer
46 resumes his business within 12 months after separation, discharge or

1 release from such service, under conditions other than dishonorable,
2 and makes application to have his "average annual payroll" determined
3 on the basis of such deletion within 12 months after he resumes his
4 business; provided, however, that "average annual payroll" solely for
5 the purposes of paragraph (3) of subsection (e) of R.S.43:21-7 means
6 the average of the annual payrolls of any employer on which he paid
7 contributions to the State disability benefits fund for the last three or
8 five preceding calendar years, whichever average is higher; provided
9 further that only those wages be included on which employer
10 contributions have been paid on or before January 31 (or the next
11 succeeding day if such January 31 is a Saturday or Sunday)
12 immediately preceding the beginning of the 12-month period for which
13 the employer's contribution rate is computed.

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

17 (c) (1) "Base year" with respect to benefit years commencing on or
18 after July 1, 1986, shall mean the first four of the last five completed
19 calendar quarters immediately preceding an individual's benefit year.

20 With respect to a benefit year commencing on or after July 1, 1995,
21 if an individual does not have sufficient qualifying weeks or wages in
22 his base year to qualify for benefits, the individual shall have the option
23 of designating that his base year shall be the "alternative base year,"
24 which means the last four completed calendar quarters immediately
25 preceding the individual's benefit year; except that, with respect to a
26 benefit year commencing on or after October 1, 1995, if the individual
27 also does not have sufficient qualifying weeks or wages in the last four
28 completed calendar quarters immediately preceding his benefit year to
29 qualify for benefits, "alternative base year" means the last three
30 completed calendar quarters immediately preceding his benefit year
31 and, of the calendar quarter in which the benefit year commences, the
32 portion of the quarter which occurs before the commencing of the
33 benefit year.

34 The division shall inform the individual of his options under this
35 section as amended by P.L.1995, c.234. If information regarding
36 weeks and wages for the calendar quarter or quarters immediately
37 preceding the benefit year is not available to the division from the
38 regular quarterly reports of wage information and the division is not
39 able to obtain the information using other means pursuant to State or
40 federal law, the division may base the determination of eligibility for
41 benefits on the affidavit of an individual with respect to weeks and
42 wages for that calendar quarter. The individual shall furnish payroll
43 documentation, if available, in support of the affidavit. A
44 determination of benefits based on an alternative base year shall be
45 adjusted when the quarterly report of wage information from the
46 employer is received if that information causes a change in the

1 determination.

2 (2) With respect to a benefit year commencing on or after June 1,
3 1990 for an individual who immediately preceding the benefit year was
4 subject to a disability compensable under the provisions of the
5 "Temporary Disability Benefits Law," P.L.1948, c.110 (C.43:21-25 et
6 seq.), "base year" shall mean the first four of the last five completed
7 calendar quarters immediately preceding the individual's period of
8 disability, if the employment held by the individual immediately
9 preceding the period of disability is no longer available at the
10 conclusion of that period and the individual files a valid claim for
11 unemployment benefits after the conclusion of that period. For the
12 purposes of this paragraph, "period of disability" means the period
13 defined as a period of disability by section 3 of the "Temporary
14 Disability Benefits Law," P.L.1948, c.110 (C.43:21-27). An individual
15 who files a claim under the provisions of this paragraph (2) shall not
16 be regarded as having left work voluntarily for the purposes of
17 subsection (a) of R.S.43:21-5.

18 (3) With respect to a benefit year commencing on or after June 1,
19 1990 for an individual who immediately preceding the benefit year was
20 subject to a disability compensable under the provisions of the
21 workers' compensation law (chapter 15 of Title 34 of the Revised
22 Statutes), "base year" shall mean the first four of the last five
23 completed calendar quarters immediately preceding the individual's
24 period of disability, if the period of disability was not longer than two
25 years, if the employment held by the individual immediately preceding
26 the period of disability is no longer available at the conclusion of that
27 period and if the individual files a valid claim for unemployment
28 benefits after the conclusion of that period. For the purposes of this
29 paragraph, "period of disability" means the period from the time at
30 which the individual becomes unable to work because of the
31 compensable disability until the time that the individual becomes able
32 to resume work and continue work on a permanent basis. An
33 individual who files a claim under the provisions of this paragraph (3)
34 shall not be regarded as having left work voluntarily for the purposes
35 of subsection (a) of R.S.43:21-5.

36 (d) "Benefit year" with respect to any individual means the 364
37 consecutive calendar days beginning with the day on, or as of, which
38 he first files a valid claim for benefits, and thereafter beginning with
39 the day on, or as of, which the individual next files a valid claim for
40 benefits after the termination of his last preceding benefit year. Any
41 claim for benefits made in accordance with subsection (a) of
42 R.S.43:21-6 shall be deemed to be a "valid claim" for the purpose of
43 this subsection if (1) he is unemployed for the week in which, or as of
44 which, he files a claim for benefits; and (2) he has fulfilled the
45 conditions imposed by subsection (e) of R.S.43:21-4.

46 (e) (1) "Division" means the Division of Unemployment and

1 Temporary Disability Insurance of the Department of Labor, and any
2 transaction or exercise of authority by the director of the division
3 thereunder, or under this chapter (R.S.43:21-1 et seq.), shall be
4 deemed to be performed by the division.

5 (2) "Controller" means the Office of the Assistant Commissioner
6 for Finance and Controller of the Department of Labor, established by
7 the 1982 Reorganization Plan of the Department of Labor.

8 (f) "Contributions" means the money payments to the State
9 Unemployment Compensation Fund, required by R.S.43:21-7.
10 "Payments in lieu of contributions" means the money payments to the
11 State Unemployment Compensation Fund by employers electing or
12 required to make payments in lieu of contributions, as provided in
13 section 3 or section 4 of P.L.1971, c.346 (C.43:21-7.2 or 43:21-7.3).

14 (g) "Employing unit" means the State or any of its instrumentalities
15 or any political subdivision thereof or any of its instrumentalities or
16 any instrumentality of more than one of the foregoing or any
17 instrumentality of any of the foregoing and one or more other states
18 or political subdivisions or any individual or type of organization, any
19 partnership, association, trust, estate, joint-stock company, insurance
20 company or corporation, whether domestic or foreign, or the receiver,
21 trustee in bankruptcy, trustee or successor thereof, or the legal
22 representative of a deceased person, which has or subsequent to
23 January 1, 1936, had in its employ one or more individuals performing
24 services for it within this State. All individuals performing services
25 within this State for any employing unit which maintains two or more
26 separate establishments within this State shall be deemed to be
27 employed by a single employing unit for all the purposes of this
28 chapter (R.S.43:21-1 et seq.). Each individual employed to perform
29 or to assist in performing the work of any agent or employee of an
30 employing unit shall be deemed to be employed by such employing unit
31 for all the purposes of this chapter (R.S.43:21-1 et seq.), whether such
32 individual was hired or paid directly by such employing unit or by such
33 agent or employee; provided the employing unit had actual or
34 constructive knowledge of the work.

35 (h) "Employer" means:

36 (1) Any employing unit which in either the current or the preceding
37 calendar year paid remuneration for employment in the amount of
38 \$1,000.00 or more;

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

44 (3) Any employing unit which acquired the organization, trade or
45 business, or substantially all the assets thereof, of another employing
46 unit and which, if treated as a single unit with such other employing

1 unit, would be an employer under paragraph (1) of this subsection;

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

9 (5) Any employing unit for which service in employment as defined
10 in R.S.43:21-19 (i) (1) (B) (i) is performed after December 31, 1971;
11 and as defined in R.S.43:21-19 (i) (1) (B) (ii) is performed after
12 December 31, 1977;

13 (6) Any employing unit for which service in employment as defined
14 in R.S.43:21-19 (i) (1) (C) is performed after December 31, 1971 and
15 which in either the current or the preceding calendar year paid
16 remuneration for employment in the amount of \$1,000.00 or more;

17 (7) Any employing unit not an employer by reason of any other
18 paragraph of this subsection (h) for which, within either the current or
19 preceding calendar year, service is or was performed with respect to
20 which such employing unit is liable for any federal tax against which
21 credit may be taken for contributions required to be paid into a state
22 unemployment fund; or which, as a condition for approval of the
23 "unemployment compensation law" for full tax credit against the tax
24 imposed by the Federal Unemployment Tax Act, is required pursuant
25 to such act to be an employer under this chapter (R.S.43:21-1 et seq.);

26 (8) (Deleted by amendment; P.L.1977, c.307.)

27 (9) (Deleted by amendment; P.L.1977, c.307.)

28 (10) (Deleted by amendment; P.L.1977, c.307.)

29 (11) Any employing unit subject to the provisions of the Federal
30 Unemployment Tax Act within either the current or the preceding
31 calendar year, except for employment hereinafter excluded under
32 paragraph (7) of subsection (i) of this section;

33 (12) Any employing unit for which agricultural labor in employment
34 as defined in R.S.43:21-19 (i) (1) (I) is performed after December 31,
35 1977;

36 (13) Any employing unit for which domestic service in employment
37 as defined in R.S.43:21-19 (i) (1) (J) is performed after December 31,
38 1977;

39 (14) Any employing unit which having become an employer under
40 the "unemployment compensation law" (R.S.43:21-1 et seq.), has not
41 under R.S.43:21-8 ceased to be an employer; or for the effective
42 period of its election pursuant to R.S.43:21-8, any other employing
43 unit which has elected to become fully subject to this chapter
44 (R.S.43:21-1 et seq.).

45 (i) (1) "Employment" means:

46 (A) Any service performed prior to January 1, 1972, which was

1 employment as defined in the "unemployment compensation law"
2 (R.S.43:21-1 et seq.) prior to such date, and, subject to the other
3 provisions of this subsection, service performed on or after January 1,
4 1972, including service in interstate commerce, performed for
5 remuneration or under any contract of hire, written or oral, express or
6 implied.

7 (B) (i) Service performed after December 31, 1971 by an individual
8 in the employ of this State or any of its instrumentalities or in the
9 employ of this State and one or more other states or their
10 instrumentalities for a hospital or institution of higher education
11 located in this State, if such service is not excluded from
12 "employment" under paragraph (D) below.

13 (ii) Service performed after December 31, 1977, in the employ of
14 this State or any of its instrumentalities or any political subdivision
15 thereof or any of its instrumentalities or any instrumentality of more
16 than one of the foregoing or any instrumentality of the foregoing and
17 one or more other states or political subdivisions, if such service is not
18 excluded from "employment" under paragraph (D) below.

19 (C) Service performed after December 31, 1971 by an individual in
20 the employ of a religious, charitable, educational, or other
21 organization, which is excluded from "employment" as defined in the
22 Federal Unemployment Tax Act, solely by reason of section 3306 (c)
23 (8) of that act, if such service is not excluded from "employment"
24 under paragraph (D) below.

25 (D) For the purposes of paragraphs (B) and (C), the term
26 "employment" does not apply to services performed

27 (i) In the employ of (I) a church or convention or association of
28 churches, or (II) an organization, or school which is operated primarily
29 for religious purposes and which is operated, supervised, controlled or
30 principally supported by a church or convention or association of
31 churches;

32 (ii) By a duly ordained, commissioned, or licensed minister of a
33 church in the exercise of his ministry or by a member of a religious
34 order in the exercise of duties required by such order;

35 (iii) Prior to January 1, 1978, in the employ of a school which is not
36 an institution of higher education, and after December 31, 1977, in the
37 employ of a governmental entity referred to in R.S.43:21-19 (i) (1)
38 (B), if such service is performed by an individual in the exercise of
39 duties

40 (aa) as an elected official;

41 (bb) as a member of a legislative body, or a member of the
42 judiciary, of a state or political subdivision;

43 (cc) as a member of the State National Guard or Air National
44 Guard;

45 (dd) as an employee serving on a temporary basis in case of fire,
46 storm, snow, earthquake, flood or similar emergency;

1 (ee) in a position which, under or pursuant to the laws of this State,
2 is designated as a major nontenured policy making or advisory
3 position, or a policy making or advisory position, the performance of
4 the duties of which ordinarily does not require more than eight hours
5 per week; or

6 (iv) By an individual receiving rehabilitation or remunerative work
7 in a facility conducted for the purpose of carrying out a program of
8 rehabilitation of individuals whose earning capacity is impaired by age
9 or physical or mental deficiency or injury or providing remunerative
10 work for individuals who because of their impaired physical or mental
11 capacity cannot be readily absorbed in the competitive labor market;

12 (v) By an individual receiving work-relief or work-training as part
13 of an unemployment work-relief or work-training program assisted in
14 whole or in part by any federal agency or an agency of a state or
15 political subdivision thereof; or

16 (vi) Prior to January 1, 1978, for a hospital in a State prison or
17 other State correctional institution by an inmate of the prison or
18 correctional institution and after December 31, 1977, by an inmate of
19 a custodial or penal institution.

20 (E) The term "employment" shall include the services of an
21 individual who is a citizen of the United States, performed outside the
22 United States after December 31, 1971 (except in Canada and in the
23 case of the Virgin Islands, after December 31, 1971) and prior to
24 January 1 of the year following the year in which the U.S. Secretary
25 of Labor approves the unemployment compensation law of the Virgin
26 Islands, under section 3304 (a) of the Internal Revenue Code of 1986
27 (26 U.S.C. s.3304 (a)) in the employ of an American employer (other
28 than the service which is deemed employment under the provisions of
29 R.S.43:21-19 (i) (2) or (5) ~~of]~~ or the parallel provisions of another
30 state's unemployment compensation law), if

31 (i) The American employer's principal place of business in the
32 United States is located in this State; or

33 (ii) The American employer has no place of business in the United
34 States, but (I) the American employer is an individual who is a resident
35 of this State; or (II) the American employer is a corporation which is
36 organized under the laws of this State; or (III) the American employer
37 is a partnership or trust and the number of partners or trustees who are
38 residents of this State is greater than the number who are residents of
39 another state; or

40 (iii) None of the criteria of divisions (i) and (ii) of this subparagraph
41 (E) is met but the American employer has elected to become an
42 employer subject to the "unemployment compensation law"
43 (R.S.43:21-1 et seq.) in this State, or the American employer having
44 failed to elect to become an employer in any state, the individual has
45 filed a claim for benefits, based on such service, under the law of this
46 State;

1 (iv) An "American employer," for the purposes of this subparagraph
2 (E), means (I) an individual who is a resident of the United States; or
3 (II) a partnership, if two-thirds or more of the partners are residents
4 of the United States; or (III) a trust, if all the trustees are residents of
5 the United States; or (IV) a corporation organized under the laws of
6 the United States or of any state.

7 (F) Notwithstanding R.S.43:21-19 (i) (2), all service performed
8 after January 1, 1972 by an officer or member of the crew of an
9 American vessel or American aircraft on or in connection with such
10 vessel or aircraft, if the operating office from which the operations of
11 such vessel or aircraft operating within, or within and without, the
12 United States are ordinarily and regularly supervised, managed,
13 directed, and controlled, is within this State.

14 (G) Notwithstanding any other provision of this subsection, service
15 in this State with respect to which the taxes required to be paid under
16 any federal law imposing a tax against which credit may be taken for
17 contributions required to be paid into a state unemployment fund or
18 which as a condition for full tax credit against the tax imposed by the
19 Federal Unemployment Tax Act is required to be covered under the
20 "unemployment compensation law" (R.S.43:21-1 et seq.).

21 (H) The term "United States" when used in a geographical sense in
22 subsection R.S.43:21-19 (i) includes the states, the District of
23 Columbia, the Commonwealth of Puerto Rico and, effective on the day
24 after the day on which the U.S. Secretary of Labor approves for the
25 first time under section 3304 (a) of the Internal Revenue Code of 1986
26 (26 U.S.C. s.3304 (a)) an unemployment compensation law submitted
27 to the Secretary by the Virgin Islands for such approval, the Virgin
28 Islands.

29 (I) (i) Service performed after December 31, 1977 in agricultural
30 labor in a calendar year for an entity which is an employer as defined
31 in the "unemployment compensation law," (R.S.43:21-1 et seq.) as of
32 January 1 of such year; or for an employing unit which

33 (aa) during any calendar quarter in either the current or the
34 preceding calendar year paid remuneration in cash of \$20,000.00 or
35 more for individuals employed in agricultural labor, or

36 (bb) for some portion of a day in each of 20 different calendar
37 weeks, whether or not such weeks were consecutive, in either the
38 current or the preceding calendar year, employed in agricultural labor
39 10 or more individuals, regardless of whether they were employed at
40 the same moment in time.

41 (ii) for the purposes of this subsection any individual who is a
42 member of a crew furnished by a crew leader to perform service in
43 agricultural labor for any other entity shall be treated as an employee
44 of such crew leader

45 (aa) if such crew leader holds a certification of registration under
46 the Migrant and Seasonal Agricultural Worker Protection Act,

1 Pub.L.97-470 (29 U.S.C. s.1801 et seq.), or P.L.1971, c.192
2 (C.34:8A-7 et seq.); or substantially all the members of such crew
3 operate or maintain tractors, mechanized harvesting or cropdusting
4 equipment, or any other mechanized equipment, which is provided by
5 such crew leader; and

6 (bb) if such individual is not an employee of such other person for
7 whom services were performed.

8 (iii) For the purposes of subparagraph (I) (i) in the case of any
9 individual who is furnished by a crew leader to perform service in
10 agricultural labor or any other entity and who is not treated as an
11 employee of such crew leader under (I) (ii)

12 (aa) such other entity and not the crew leader shall be treated as
13 the employer of such individual; and

14 (bb) such other entity shall be treated as having paid cash
15 remuneration to such individual in an amount equal to the amount of
16 cash remuneration paid to such individual by the crew leader (either on
17 his own behalf or on behalf of such other entity) for the service in
18 agricultural labor performed for such other entity.

19 (iv) For the purpose of subparagraph (I)~~(i)~~(ii), the term "crew
20 leader" means an individual who

21 (aa) furnishes individuals to perform service in agricultural labor for
22 any other entity;

23 (bb) pays (either on his own behalf or on behalf of such other
24 entity) the individuals so furnished by him for the service in
25 agricultural labor performed by them; and

26 (cc) has not entered into a written agreement with such other entity
27 under which such individual is designated as an employee of such other
28 entity.

29 (J) Domestic service after December 31, 1977 performed in the
30 private home of an employing unit which paid cash remuneration of
31 \$1,000.00 or more to one or more individuals for such domestic
32 service in any calendar quarter in the current or preceding calendar
33 year.

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

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

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

44 (3) Services performed within this State but not covered under
45 paragraph (2) of this subsection shall be deemed to be employment
46 subject to this chapter (R.S.43:21-1 et seq.) if contributions are not

1 required and paid with respect to such services under an
2 unemployment compensation law of any other state or of the federal
3 government.

4 (4) Services not covered under paragraph (2) of this subsection and
5 performed entirely without this State, with respect to no part of which
6 contributions are required and paid under an unemployment
7 compensation law of any other state or of the federal government,
8 shall be deemed to be employment subject to this chapter (R.S.43:21-1
9 et seq.) if the individual performing such services is a resident of this
10 State and the employing unit for whom such services are performed
11 files with the division an election that the entire service of such
12 individual shall be deemed to be employment subject to this chapter
13 (R.S.43:21-1 et seq.).

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

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

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

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

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

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

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

32 (7) Provided that such services are also exempt under the Federal
33 Unemployment Tax Act, as amended, or that contributions with
34 respect to such services are not required to be paid into a state
35 unemployment fund as a condition for a tax offset credit against the
36 tax imposed by the Federal Unemployment Tax Act, as amended, the
37 term "employment" shall not include:

38 (A) Agricultural labor performed prior to January 1, 1978; and after
39 December 31, 1977, only if performed in a calendar year for an entity
40 which is not an employer as defined in the "unemployment
41 compensation law," (R.S.43:21-1 et seq.) as of January 1 of such
42 calendar year; or unless performed for an employing unit which

43 (i) during a calendar quarter in either the current or the preceding
44 calendar year paid remuneration in cash of \$20,000.00 or more to
45 individuals employed in agricultural labor, or

46 (ii) for some portion of a day in each of 20 different calendar

1 weeks, whether or not such weeks were consecutive, in either the
2 current or the preceding calendar year, employed in agricultural labor
3 10 or more individuals, regardless of whether they were employed at
4 the same moment in time;

5 (B) Domestic service in a private home performed prior to January
6 1, 1978; and after December 31, 1977, unless performed in the private
7 home of an employing unit which paid cash remuneration of \$1,000.00
8 or more to one or more individuals for such domestic service in any
9 calendar quarter in the current or preceding calendar year;

10 (C) Service performed by an individual in the employ of his son,
11 daughter or spouse, and service performed by a child under the age of
12 18 in the employ of his father or mother;

13 (D) Service performed prior to January 1, 1978, in the employ of
14 this State or of any political subdivision thereof or of any
15 instrumentality of this State or its political subdivisions, except as
16 provided in R.S.43:21-19 (i) (1) (B) above, and service in the employ
17 of the South Jersey Port Corporation or its successors;

18 (E) Service performed in the employ of any other state or its
19 political subdivisions or of an instrumentality of any other state or
20 states or their political subdivisions to the extent that such
21 instrumentality is with respect to such service exempt under the
22 Constitution of the United States from the tax imposed under the
23 Federal Unemployment Tax Act, as amended, except as provided in
24 R.S.43:21-19 (i) (1) (B) above;

25 (F) Service performed in the employ of the United States
26 Government or of any instrumentality of the United States except
27 under the Constitution of the United States from the contributions
28 imposed by the "unemployment compensation law," except that to the
29 extent that the Congress of the United States shall permit states to
30 require any instrumentalities of the United States to make payments
31 into an unemployment fund under a state unemployment compensation
32 law, all of the provisions of this act shall be applicable to such
33 instrumentalities, and to service performed for such instrumentalities,
34 in the same manner, to the same extent and on the same terms as to all
35 other employers, employing units, individuals and services; provided
36 that if this State shall not be certified for any year by the Secretary of
37 Labor of the United States under section 3304 of the federal Internal
38 Revenue Code of 1986 (26 U.S.C. s.3304), the payments required of
39 such instrumentalities with respect to such year shall be refunded by
40 the division from the fund in the same manner and within the same
41 period as is provided in R.S.43:21-14 (f) with respect to contributions
42 erroneously paid to or collected by the division;

43 (G) Services performed in the employ of fraternal beneficiary
44 societies, orders, or associations operating under the lodge system or
45 for the exclusive benefit of the members of a fraternity itself operating
46 under the lodge system and providing for the payment of life, sick,

1 accident, or other benefits to the members of such society, order, or
2 association, or their dependents;

3 (H) Services performed as a member of the board of directors, a
4 board of trustees, a board of managers, or a committee of any bank,
5 building and loan, or savings and loan association, incorporated or
6 organized under the laws of this State or of the United States, where
7 such services do not constitute the principal employment of the
8 individual;

9 (I) Service with respect to which unemployment insurance is
10 payable under an unemployment insurance program established by an
11 Act of Congress;

12 (J) Service performed by agents of mutual fund brokers or dealers
13 in the sale of mutual funds or other securities, by agents of insurance
14 companies, exclusive of industrial insurance agents or by agents of
15 investment companies, if the compensation to such agents for such
16 services is wholly on a commission basis;

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

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

23 (M) Service performed for or in behalf of the owner or operator of
24 any theatre, ballroom, amusement hall or other place of entertainment,
25 not in excess of 10 weeks in any calendar year for the same owner or
26 operator, by any leader or musician of a band or orchestra, commonly
27 called a "name band," entertainer, vaudeville artist, actor, actress,
28 singer or other entertainer;

29 (N) Services performed after January 1, 1973 by an individual for
30 a labor union organization, known and recognized as a union local, as
31 a member of a committee or committees reimbursed by the union local
32 for time lost from regular employment, or as a part-time officer of a
33 union local and the remuneration for such services is less than
34 \$1,000.00 in a calendar year;

35 (O) Services performed in the sale or distribution of merchandise
36 by home-to-home salespersons or in-the-home demonstrators whose
37 remuneration consists wholly of commissions or commissions and
38 bonuses;

39 (P) Service performed in the employ of a foreign government,
40 including service as a consular, nondiplomatic representative, or other
41 officer or employee;

42 (Q) Service performed in the employ of an instrumentality wholly
43 owned by a foreign government if (i) the service is of a character
44 similar to that performed in foreign countries by employees of the
45 United States Government or of an instrumentality thereof, and (ii) the
46 division finds that the United States Secretary of State has certified to

1 the United States Secretary of the Treasury that the foreign
2 government, with respect to whose instrumentality exemption is
3 claimed, grants an equivalent exemption with respect to similar
4 services performed in the foreign country by employees of the United
5 States Government and of instrumentalities thereof;

6 (R) Service in the employ of an international organization entitled
7 to enjoy the privileges, exemptions and immunities under the
8 International Organizations Immunities Act (22 U.S.C. s.288 et seq.);

9 (S) Service covered by an election duly approved by an agency
10 charged with the administration of any other state or federal
11 unemployment compensation or employment security law, in
12 accordance with an arrangement pursuant to R.S.43:21-21 during the
13 effective period of such election;

14 (T) Service performed in the employ of a school, college, or
15 university if such service is performed (i) by a student enrolled at such
16 school, college, or university on a full-time basis in an educational
17 program or completing such educational program leading to a degree
18 at any of the severally recognized levels, or (ii) by the spouse of such
19 a student, if such spouse is advised at the time such spouse commences
20 to perform such service that (I) the employment of such spouse to
21 perform such service is provided under a program to provide financial
22 assistance to such student by such school, college, or university, and
23 (II) such employment will not be covered by any program of
24 unemployment insurance;

25 (U) Service performed by an individual who is enrolled at a
26 nonprofit or public educational institution which normally maintains a
27 regular faculty and curriculum and normally has a regularly organized
28 body of students in attendance at the place where its educational
29 activities are carried on, as a student in a full-time program, taken for
30 credit at such institution, which combines academic instruction with
31 work experience, if such service is an integral part of such program,
32 and such institution has so certified to the employer, except that this
33 subparagraph shall not apply to service performed in a program
34 established for or on behalf of an employer or group of employers;

35 (V) Service performed in the employ of a hospital, if such service
36 is performed by a patient of the hospital; service performed as a
37 student nurse in the employ of a hospital or a nurses' training school
38 by an individual who is enrolled and regularly attending classes in a
39 nurses' training school approved under the laws of this State; and
40 service performed as an intern in the employ of a hospital by an
41 individual who has completed a four-year course in a medical school
42 approved pursuant to the laws of this State;

43 (W) Services performed after the effective date of this amendatory
44 act by agents of mutual benefit associations if the compensation to
45 such agents for such services is wholly on a commission basis;

46 (X) Services performed by operators of motor vehicles weighing

1 18,000 pounds or more, licensed for commercial use and used for the
2 highway movement of motor freight, who own their equipment or who
3 lease or finance the purchase of their equipment through an entity
4 which is not owned or controlled directly or indirectly by the entity for
5 which the services were performed and who were compensated by
6 receiving a percentage of the gross revenue generated by the
7 transportation move or by a schedule of payment based on the distance
8 and weight of the transportation move;

9 (Y) Services performed by a certified shorthand reporter certified
10 pursuant to P.L.1940, c.175 (C.45:15B-1 et seq.), provided to a third
11 party by the reporter who is referred to the third party pursuant to an
12 agreement with another certified shorthand reporter or shorthand
13 reporting service, on a freelance basis, compensation for which is
14 based upon a fee per transcript page, flat attendance fee, or other flat
15 minimum fee, or combination thereof, set forth in the agreement;

16 (Z) Services performed, using facilities provided by a travel agent,
17 by a person, commonly known as an outside travel agent, who acts as
18 an independent contractor, is paid on a commission basis, sets his own
19 work schedule and receives no benefits, sick leave, vacation or other
20 leave from the travel agent owning the facilities.

21 (8) If one-half or more of the services in any pay period performed
22 by an individual for an employing unit constitutes employment, all the
23 services of such individual shall be deemed to be employment; but if
24 more than one-half of the service in any pay period performed by an
25 individual for an employing unit does not constitute employment, then
26 none of the service of such individual shall be deemed to be
27 employment. As used in this paragraph, the term "pay period" means
28 a period of not more than 31 consecutive days for which a payment for
29 service is ordinarily made by an employing unit to individuals in its
30 employ.

31 (9) Services performed by the owner of a limousine franchise
32 (franchisee) shall not be deemed to be employment subject to the
33 "unemployment compensation law," R.S.43:21-1 et seq., with regard
34 to the franchisor if:

35 (A) The limousine franchisee is incorporated;

36 (B) The franchisee is subject to regulation by the Interstate
37 Commerce Commission;

38 (C) The limousine franchise exists pursuant to a written franchise
39 arrangement between the franchisee and the franchisor as defined by
40 section 3 of P.L.1971, c.356 (C.56:10-3); and

41 (D) The franchisee registers with the Department of Labor and
42 receives an employer registration number.

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

46 (k) (Deleted by amendment, P.L.1984, c.24.)

1 (l) "State" includes, in addition to the states of the United States
2 of America, the District of Columbia, the Virgin Islands and Puerto
3 Rico.

4 (m) "Unemployment."

5 (1) An individual shall be deemed "unemployed" for any week
6 during which:

7 (A) The individual is not engaged in full-time work and with respect
8 to which his remuneration is less than his weekly benefit rate, including
9 any week during which he is on vacation without pay; provided such
10 vacation is not the result of the individual's voluntary action, except
11 that for benefit years commencing on or after July 1, 1984, an officer
12 of a corporation, or a person who has more than a 5% equitable or
13 debt interest in the corporation, whose claim for benefits is based on
14 wages with that corporation shall not be deemed to be unemployed in
15 any week during the individual's term of office or ownership in the
16 corporation; or

17 (B) The individual is eligible for and receiving a self-employment
18 assistance allowance pursuant to the requirements of P.L.1995, c.394
19 (C.43:21-67 et al.).

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

25 (3) An individual's week of unemployment shall be deemed to
26 commence only after the individual has filed a claim at an
27 unemployment insurance claims office, except as the division may by
28 regulation otherwise prescribe.

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

33 (o) "Wages" means remuneration paid by employers for
34 employment. If a worker receives gratuities regularly in the course of
35 his employment from other than his employer, his "wages" shall also
36 include the gratuities so received, if reported in writing to his
37 employer in accordance with regulations of the division, and if not so
38 reported, his "wages" shall be determined in accordance with the
39 minimum wage rates prescribed under any labor law or regulation of
40 this State or of the United States, or the amount of remuneration
41 actually received by the employee from his employer, whichever is the
42 higher.

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

46 (q) "Week" means for benefit years commencing on or after

1 October 1, 1984, the calendar week ending at midnight Saturday, or
2 as the division may by regulation prescribe.

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

6 (s) "Investment company" means any company as defined in
7 subsection a. of section 1 of P.L.1938, c.322 (C.17:16A-1).

8 (t) (1) ["Base week" for a benefit year commencing on or after
9 October 1, 1985 and before January 1, 1996 means any calendar week
10 of an individual's base year during which the individual earned in
11 employment from an employer remuneration equal to not less than
12 20% of the Statewide average weekly remuneration defined in
13 subsection (c) of R.S.43:21-3 which shall be adjusted to the next
14 higher multiple of \$1.00 if not already a multiple thereof; provided if
15 in any calendar week an individual is in employment with more than
16 one employer, he may in such calendar week establish a base week
17 with respect to each such employer from whom the individual earns
18 remuneration equal to not less than the amount defined in this
19 paragraph (1) during such week.] (Deleted by amendment, P.L. _____,
20 c.)

21 (2) "Base week," ¹[for a benefit year]¹ commencing on or after
22 January 1, 1996 and before January ¹[7.] ¹2001, means:

23 (A) Any calendar week ¹[of an individual's base year] ¹during
24 which the individual earned in employment from an employer
25 remuneration not less than an amount which is 20% of the Statewide
26 average weekly remuneration defined in subsection (c) of R.S.43:21-3
27 which amount shall be adjusted to the next higher multiple of \$1.00 if
28 not already a multiple thereof, except that if in any calendar week an
29 individual subject to this subparagraph (A) is in employment with more
30 than one employer, the individual may in that calendar week establish
31 a base week with respect to each of the employers from whom the
32 individual earns remuneration equal to not less than the amount
33 defined in this subparagraph (A) during that week; or

34 (B) If the individual does not establish in his base year 20 or more
35 base weeks as defined in subparagraph (A) of this paragraph (2), any
36 calendar week of an individual's base year during which the individual
37 earned in employment from an employer remuneration not less than an
38 amount 20 times the minimum wage in effect pursuant to section 5 of
39 P.L.1966, c.113 (C.34:11-56a4) on October 1 of the calendar year
40 preceding the calendar year in which the benefit year commences,
41 which amount shall be adjusted to the next higher multiple of \$1.00 if
42 not already a multiple thereof, except that if in any calendar week an
43 individual subject to this subparagraph (B) is in employment with more
44 than one employer, the individual may in that calendar week establish
45 a base week with respect to each of the employers from whom the
46 individual earns remuneration not less than the amount defined in this

1 subparagraph (B) during that week.

2 (3) "Base week," ¹[for a benefit year]¹ commencing on or after
3 January ¹[7,] ¹2001, means any calendar week ¹[of an individual's
4 base year]¹ during which the individual earned in employment from an
5 employer remuneration not less than an amount 20 times the minimum
6 wage in effect pursuant to section 5 of P.L.1966, c.113
7 (C.34:11-56a4) on October 1 of the calendar year preceding the
8 calendar year in which the benefit year commences, which amount
9 shall be adjusted to the next higher multiple of \$1.00 if not already a
10 multiple thereof, except that if in any calendar week an individual
11 subject to this paragraph (3) is in employment with more than one
12 employer, the individual may in that calendar week establish a base
13 week with respect to each of the employers from whom the individual
14 earns remuneration equal to not less than the amount defined in this
15 paragraph (3) during that week.

16 (u) "Average weekly wage" means the amount derived by dividing
17 an individual's total wages received during his base year base weeks
18 (as defined in subsection (t) of this section) from that most recent base
19 year employer with whom he has established at least 20 base weeks,
20 by the number of base weeks in which such wages were earned. In the
21 event that such claimant had no employer in his base year with whom
22 he had established at least 20 base weeks, then such individual's
23 average weekly wage shall be computed as if all of his base week
24 wages were received from one employer and as if all his base weeks of
25 employment had been performed in the employ of one employer.

26 For the purpose of computing the average weekly wage, the
27 monetary alternative in subparagraph (B) of paragraph (2) of
28 subsection (e) of R.S.43:21-4 shall only apply in those instances where
29 the individual did not have at least 20 base weeks in the base year. For
30 benefit years commencing on or after July 1, 1986, "average weekly
31 wage" means the amount derived by dividing an individual's total base
32 year wages by the number of base weeks worked by the individual
33 during the base year; provided that for the purpose of computing the
34 average weekly wage, the maximum number of base weeks used in the
35 divisor shall be 52.

36 (v) "Initial determination" means, subject to the provisions of
37 R.S.43:21-6(b)(2) and (3), a determination of benefit rights as
38 measured by an eligible individual's base year employment with a
39 single employer covering all periods of employment with that employer
40 during the base year. For benefit years commencing prior to July 1,
41 1986, subject to the provisions of R.S.43:21-3(d)(3), if an individual
42 has been in employment in his base year with more than one employer,
43 no benefits shall be paid to that individual under any successive initial
44 determination until his benefit rights have been exhausted under the
45 next preceding initial determination.

46 (w) "Last date of employment" means the last calendar day in the

1 base year of an individual on which he performed services in
2 employment for a given employer.

3 (x) "Most recent base year employer" means that employer with
4 whom the individual most recently, in point of time, performed service
5 in employment in the base year.

6 (y) (1) "Educational institution" means any public or other
7 nonprofit institution (including an institution of higher education):

8 (A) In which participants, trainees, or students are offered an
9 organized course of study or training designed to transfer to them
10 knowledge, skills, information, doctrines, attitudes or abilities from,
11 by or under the guidance of an instructor [(s)] or teacher [(s)];

12 (B) Which is approved, licensed or issued a permit to operate as a
13 school by the State Department of Education or other government
14 agency that is authorized within the State to approve, license or issue
15 a permit for the operation of a school; and

16 (C) Which offers courses of study or training which may be
17 academic, technical, trade, or preparation for gainful employment in
18 a recognized occupation.

19 (2) "Institution of higher education" means an educational
20 institution which:

21 (A) Admits as regular students only individuals having a certificate
22 of graduation from a high school, or the recognized equivalent of such
23 a certificate;

24 (B) Is legally authorized in this State to provide a program of
25 education beyond high school;

26 (C) Provides an educational program for which it awards a
27 bachelor's or higher degree, or provides a program which is acceptable
28 for full credit toward such a degree, a program of post-graduate or
29 post-doctoral studies, or a program of training to prepare students for
30 gainful employment in a recognized occupation; and

31 (D) Is a public or other nonprofit institution.

32 Notwithstanding any of the foregoing provisions of this subsection,
33 all colleges and universities in this State are institutions of higher
34 education for purposes of this section.

35 (z) "Hospital" means an institution which has been licensed,
36 certified or approved under the law of this State as a hospital.

37 (cf: P.L.1995, c.394, s.9)

38

39 3. Section 3 of P.L.1948, c.110 (C.43:21-27) is amended to read
40 as follows:

41 3. As used in this act, unless the context clearly requires otherwise:

42 (a)(1) "Covered employer" means any individual or type of
43 organization, including any partnership, association, trust, estate,
44 joint-stock company, insurance company or corporation, whether
45 domestic or foreign, or the receiver, trustee in bankruptcy, trustee or
46 successor thereof, or the legal representative of a deceased person,

1 who is an employer subject to the chapter to which this act is a
2 supplement, designated as the [Unemployment Compensation Law]
3 "unemployment compensation law" (R.S. 43:21-1 et seq.), except the
4 State, its political subdivisions, and any instrumentality of the State
5 unless such governmental entity elects to become a covered employer
6 under the [Temporary Disability Benefits Law] "Temporary Disability
7 Benefits Law"; provided, however, that commencing with the effective
8 date of this act the State of New Jersey, including Rutgers, The State
9 University, the University of Medicine and Dentistry of New Jersey
10 and the New Jersey Institute of Technology, shall be deemed a
11 covered employer, as defined herein.

12 (2) Any governmental entity or instrumentality which is an
13 employer under R.S. 43:21-19(h)(5) may elect to become a "covered
14 employer" under this subsection beginning with the date on which its
15 coverage under subsection 19(h)(5) begins or as of January 1 of any
16 year thereafter by filing written notice of such election with the
17 division within at least 30 days of the effective date. Such election
18 shall remain in effect for at least two full calendar years and may be
19 terminated as of January 1 of any year thereafter by filing with the
20 division a written notice of termination at least 30 days prior to the
21 termination date.

22 (b) "Covered individual" means any person who is in employment,
23 as defined in the chapter to which this act is a supplement, for which
24 [he] the individual is entitled to remuneration from a covered
25 employer, or who has been out of such employment for less than two
26 weeks. However, a "covered individual" who is employed by the
27 State of New Jersey, including Rutgers, The State University, the
28 University of Medicine and Dentistry of New Jersey and the New
29 Jersey Institute of Technology, or by any governmental entity or
30 instrumentality which elects to [becoming] become a "covered
31 employer" pursuant to this amendatory act, shall not be eligible to
32 receive any benefits under the [Temporary Disability Benefits Law]
33 "Temporary Disability Benefits Law" until such individual has
34 exhausted all sick leave accumulated as an employee in the classified
35 service of the State or accumulated under terms and conditions similar
36 to classified employees or accumulated under the terms and
37 conditions pursuant to the laws of this State or as the result of a
38 negotiated contract with any governmental entity or instrumentality
39 which elects to become a "covered employer."

40 "Covered individual" shall not mean any member of the Division of
41 State Police in the Department of Law and Public Safety.

42 (c) "Division" or "commission" means the Division of
43 Unemployment and Temporary Disability Insurance of the Department
44 of Labor, and any transaction or exercise of authority by the director
45 of the division shall be deemed to be performed by the division.

46 (d) "Day" shall mean a full calendar day beginning and ending at

1 midnight.

2 (e) "Disability" shall mean such disability as is compensable under
3 section 5 of this act.

4 (f) "Disability benefits" shall mean any cash payments which are
5 payable to a covered individual pursuant to this act.

6 (g) "Period of disability" with respect to any individual shall mean
7 the entire period of time during which ~~[he]~~ the individual is
8 continuously and totally unable to perform the duties of his
9 employment, except that two periods of disability due to the same or
10 related cause or condition and separated by a period of not more than
11 14 days shall be considered as one continuous period of disability;
12 provided the individual has earned wages during such 14-day period
13 with the employer who was ~~[his]~~ the individual's last employer
14 immediately preceding the first period of disability.

15 (h) "Wages" shall mean all compensation payable by covered
16 employers to covered individuals for personal services, including
17 commissions and bonuses and the cash value of all compensation
18 payable in any medium other than cash.

19 (i)(1) ~~["Base week" with respect to periods of disability~~
20 ~~commencing prior to October 1, 1984, means any calendar week~~
21 ~~during which an individual earned not less than \$15.00 from a covered~~
22 ~~employer, in employment as defined in the chapter to which this act~~
23 ~~is a supplement.] (Deleted by amendment, P.L. , c.)~~

24 (2) ~~["Base week" with respect to periods of disability commencing~~
25 ~~on or after October 1, 1984, and prior to October 1, 1985, means any~~
26 ~~calendar week during which an individual earned in employment from~~
27 ~~a covered employer remuneration equal to not less than 15% of the~~
28 ~~Statewide average weekly remuneration as determined under~~
29 ~~subsection (c) of R.S. 43:21-3, which shall be adjusted to the next~~
30 ~~higher multiple of \$1.00 if not already a multiple thereof.] (Deleted by~~
31 ~~amendment, P.L. , c.)~~

32 (3) "Base week" with respect to periods of disability commencing
33 on or after October 1, 1985 and before January 1, 2001, means any
34 calendar week during which an individual earned in employment from
35 a covered employer remuneration equal to not less than 20% of the
36 Statewide average weekly remuneration as determined under
37 subsection (c) of R.S.43:21-3, which shall be adjusted to the next
38 higher multiple of \$1.00 if not already a multiple thereof.

39 (4) "Base week" with respect to periods of disability commencing
40 on or after January 1, 2001, means any calendar week of an
41 individual's base year during which the individual earned in
42 employment from a covered employer remuneration not less than an
43 amount 20 times the minimum wage in effect pursuant to section 5 of
44 P.L.1966, c.113 (C.34:11-56a4) on October 1 of the calendar year
45 preceding the calendar year in which the benefit year commences,
46 which amount shall be adjusted to the next higher multiple of \$1.00 if

1 not already a multiple thereof, except that if in any calendar week an
2 individual subject to this paragraph is in employment with more than
3 one employer, the individual may in that calendar week establish a base
4 week with respect to each of the employers from whom the individual
5 earns remuneration equal to not less than the amount defined in this
6 paragraph during that week.

7 (j) "Average weekly wage" means the amount derived by dividing
8 a covered individual's total wages earned from [his] the individual's
9 most recent covered employer during the base weeks in the eight
10 calendar weeks immediately preceding the calendar week in which
11 disability commenced, by the number of such base weeks. If this
12 computation yields a result which is less than the individual's average
13 weekly earnings in employment, as defined in the chapter to which this
14 act is a supplement, with all covered employers during the base weeks
15 in such eight calendar weeks, then the average weekly wage shall be
16 computed on the basis of earnings from all covered employers during
17 the eight base weeks immediately preceding the week in which the
18 disability commenced.

19 (cf: P.L.1984, c.104, s.1)

20
21 4. Section 17 of P.L.1948, c.110 (C.43:21-41) is amended to read
22 as follows:

23 17. (a) (Deleted by amendment, P.L.1975, c.355.)

24 (b) [With respect to periods of disability commencing on or after
25 January 1, 1953, and prior to January 1, 1976, no individual shall be
26 entitled to benefits under this article unless he has established at least
27 17 base weeks within the 52 calendar weeks preceding the week in
28 which his period of disability commenced, nor unless he shall duly file
29 notice and proof of claim, and submit to such reasonable examinations
30 as are required by this act and the rules and regulations of the
31 division.] (Deleted by amendment, P.L. , c.)

32 (c) [With respect to periods of disability commencing on or after
33 January 1, 1976, and prior to October 1, 1984, no individual shall be
34 entitled to benefits under this article unless he has established at least
35 17 base weeks within the 52 calendar weeks preceding the week in
36 which his period of disability commenced, or, in the alternative, has
37 earned \$2,200.00 or more within the 52 calendar weeks preceding the
38 week in which his period of disability commenced, nor unless he shall
39 duly file notice and proof of claim, and submit to such reasonable
40 examinations as are required by this act and the rules and regulations
41 of the division.

42 Notwithstanding any provisions of this section to the contrary, the
43 provision of subsection 17(c) shall apply to any claim pending before
44 the division or the courts on the effective date of this act.] (Deleted
45 by amendment, P.L. , c.)

46 (d) With respect to periods of disability commencing on or after

1 October 1, 1984 and before January 1, 2001, no individual shall be
2 entitled to benefits under this act unless ~~[he]~~ the individual has
3 established at least 20 base weeks within the 52 calendar weeks
4 preceding the week in which ~~[his]~~ the individual's period of disability
5 commenced, or, in the alternative, the individual has earned twelve
6 times the Statewide average weekly remuneration paid to workers, as
7 determined under subsection (c) of R.S. 43:21-3, raised to the next
8 higher multiple of \$100.00, if not already a multiple thereof, or more
9 within the 52 calendar weeks preceding the week in which ~~[his]~~ the
10 period of disability commenced, nor shall the individual be entitled to
11 benefits unless he shall duly file notice and proof of claim, and submit
12 to such reasonable examinations as are required by this act and the
13 rules and regulations of the division.

14 (2) With respect to periods of disability commencing on or after
15 January 1, 2001, no individual shall be entitled to benefits under this
16 act unless the individual has, within the 52 calendar weeks preceding
17 the week in which the individual's period of disability commenced,
18 established at least 20 base weeks or earned not less than 1,000 times
19 the minimum wage in effect pursuant to section 5 of P.L.1996, c.113
20 (C.34:11-56a4) on October 1 of the calendar year preceding the
21 calendar year in which the disability commences, which amount shall
22 be adjusted to the next higher multiple of \$100.00, if not already a
23 multiple thereof.

24 (cf: P.L.1984, c.104, s.4)

25

26 5. This act shall take effect immediately.

SENATE COMMERCE COMMITTEE

STATEMENT TO

[First Reprint]

ASSEMBLY, No. 2614

STATE OF NEW JERSEY

DATED: DECEMBER 14, 2000

The Senate Commerce Committee reports favorably Assembly Bill No. 2614 (1R).

This bill provides uniform standards regarding the minimum earnings required to be eligible for unemployment insurance (UI) benefits and temporary disability insurance (TDI) benefits, and simplifies the standards for UI benefits.

Currently, a laid-off worker may qualify for UI benefits by earning, during the worker's base year, at least 12 times the Statewide average weekly wage (SAWW) for all workers or 1,000 times the State minimum hourly wage, or by earning, during each of at least 20 "base weeks," at least 20% of the SAWW or 20 times the minimum wage. This bill makes the UI eligibility determination process for employers and employees simpler by using only the standards based on multiples of the minimum wage and omitting the standards based on the SAWW. The bill also changes the minimum earnings during a worker's base year for TDI eligibility from 12 times the SAWW for all workers to 1000 times the State minimum wage, and changes the minimum earnings during a worker's base week for TDI eligibility from 20% of the SAWW to 20 times the minimum wage, thus making the minimum earnings requirements for UI and TDI benefit eligibility identical.

The bill's requirements apply only to base weeks occurring after the effective date of the bill, thus avoiding the added administrative time and cost of collecting additional information about those earlier weeks.

P.L. 2001, CHAPTER 17, *approved January 29, 2001*
Assembly, No. 2614 (*First Reprint*)

1 **AN ACT** concerning eligibility for unemployment compensation and
2 temporary disability benefits and amending R.S.43:21-4, R.S.43:21-
3 19 and P.L.1948, c.110.

4
5 **BE IT ENACTED** by the Senate and General Assembly of the State
6 of New Jersey:

7
8 1. R.S.43:21-4 is amended to read as follows:

9 43:21-4. Benefit eligibility conditions. An unemployed individual
10 shall be eligible to receive benefits with respect to any week only if:

11 (a) The individual has filed a claim at an unemployment insurance
12 claims office and thereafter continues to report at an employment
13 service office or unemployment insurance claims office, as directed by
14 the division in accordance with such regulations as the division may
15 prescribe, except that the division may, by regulation, waive or alter
16 either or both of the requirements of this subsection as to individuals
17 attached to regular jobs, and as to such other types of cases or
18 situations with respect to which the division finds that compliance with
19 such requirements would be oppressive, or would be inconsistent with
20 the purpose of this act; provided that no such regulation shall conflict
21 with subsection (a) of R.S.43:21-3.

22 (b) The individual has made a claim for benefits in accordance with
23 the provisions of subsection (a) of R.S.43:21-6.

24 (c) (1) The individual is able to work, and is available for work, and
25 has demonstrated to be actively seeking work, except as hereinafter
26 provided in this subsection or in subsection (f) of this section.

27 (2) The director may modify the requirement of actively seeking
28 work if such modification of this requirement is warranted by
29 economic conditions.

30 (3) No individual, who is otherwise eligible, shall be deemed
31 ineligible, or unavailable for work, because the individual is on
32 vacation, without pay, during said week, if said vacation is not the
33 result of the individual's own action as distinguished from any
34 collective action of a collective bargaining agent or other action
35 beyond the individual's control.

36 (4) (A) Subject to such limitations and conditions as the division
37 may prescribe, an individual, who is otherwise eligible, shall not be
38 deemed unavailable for work or ineligible because the individual is
39 attending a training program approved for the individual by the
40 division to enhance the individual's employment opportunities or

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

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹ Assembly ALA committee amendments adopted October 16, 2000.

1 because the individual failed or refused to accept work while attending
2 such program.

3 (B) For the purpose of this paragraph (4), any training program
4 shall be regarded as approved by the division for the individual if the
5 program and the individual meet the following requirements:

6 (i) The training is for a labor demand occupation and is likely to
7 enhance the individual's marketable skills and earning power;

8 (ii) The training is provided by a competent and reliable private or
9 public entity approved by the Commissioner of Labor pursuant to the
10 provisions of section 8 of the "1992 New Jersey Employment and
11 Workforce Development Act," P.L.1992, c.43 (C.34:15D-8);

12 (iii) The individual can reasonably be expected to complete the
13 program, either during or after the period of benefits;

14 (iv) The training does not include on the job training or other
15 training under which the individual is paid by an employer for work
16 performed by the individual during the time that the individual receives
17 benefits; and

18 (v) The individual enrolls in vocational training, remedial education
19 or a combination of both on a full-time basis.

20 (C) If the requirements of subparagraph (B) of this paragraph (4)
21 are met, the division shall not withhold approval of the training
22 program for the individual for any of the following reasons:

23 (i) The training includes remedial basic skills education necessary
24 for the individual to successfully complete the vocational component
25 of the training;

26 (ii) The training is provided in connection with a program under
27 which the individual may obtain a college degree, including a
28 post-graduate degree;

29 (iii) The length of the training period under the program; or

30 (iv) The lack of a prior guarantee of employment upon completion
31 of the training.

32 (D) For the purpose of this paragraph (4), "labor demand
33 occupation" means an occupation for which there is or is likely to be
34 an excess of demand over supply for adequately trained workers,
35 including, but not limited to, an occupation designated as a labor
36 demand occupation by the New Jersey Occupational Information
37 Coordinating Committee pursuant to the provisions of subsection h.
38 of section 1 of P.L.1987, c.457 (C.34:1A-76) or section 12 of
39 P.L.1992, c.43 (C.34:1A-78).

40 (5) An unemployed individual, who is otherwise eligible, shall not
41 be deemed unavailable for work or ineligible solely by reason of the
42 individual's attendance before a court in response to a summons for
43 service on a jury.

44 (6) An unemployed individual, who is otherwise eligible, shall not
45 be deemed unavailable for work or ineligible solely by reason of the
46 individual's attendance at the funeral of an immediate family member,

1 provided that the duration of the attendance does not extend beyond
2 a two-day period.

3 For purposes of this paragraph, "immediate family member"
4 includes any of the following individuals: father, mother,
5 mother-in-law, father-in-law, grandmother, grandfather, grandchild,
6 spouse, child, foster child, sister or brother of the unemployed
7 individual and any relatives of the unemployed individual residing in
8 the unemployed individual's household.

9 (7) No individual, who is otherwise eligible, shall be deemed
10 ineligible or unavailable for work with respect to any week because,
11 during that week, the individual fails or refuses to accept work while
12 the individual is participating on a full-time basis in self-employment
13 assistance activities authorized by the division, whether or not the
14 individual is receiving a self-employment allowance during that week.

15 (8) Any individual who is determined to be likely to exhaust regular
16 benefits and need reemployment services based on information
17 obtained by the worker profiling system shall not be eligible to receive
18 benefits if the individual fails to participate in available reemployment
19 services to which the individual is referred by the division or in similar
20 services, unless the division determines that:

21 (A) The individual has completed the reemployment services; or
22 (B) There is justifiable cause for the failure to participate, which
23 shall include participation in employment and training,
24 self-employment assistance activities or other activities authorized by
25 the division to assist reemployment or enhance the marketable skills
26 and earning power of the individual and which shall include any other
27 circumstance indicated pursuant to this section in which an individual
28 is not required to be available for and actively seeking work to receive
29 benefits.

30 (d) The individual has been totally or partially unemployed for a
31 waiting period of one week in the benefit year which includes that
32 week. When benefits become payable with respect to the third
33 consecutive week next following the waiting period, the individual
34 shall be eligible to receive benefits as appropriate with respect to the
35 waiting period. No week shall be counted as a week of unemployment
36 for the purposes of this subsection:

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

41 (2) If it has constituted a waiting period week under the
42 "Temporary Disability Benefits Law," P.L.1948, c.110 (C.43:21-25 et
43 seq.);

44 (3) Unless the individual fulfills the requirements of subsections (a)
45 and (c) of this section;

46 (4) If with respect thereto, claimant was disqualified for benefits in

1 accordance with the provisions of subsection (d) of R.S.43:21-5.

2 (e) (1) [With respect to a base year as defined in subsection (c) of
3 R.S.43:21-19, the individual has established at least 20 base weeks as
4 defined in subsection (t) of R.S.43:21-19, or, in those instances in
5 which the individual has not established 20 base weeks, except as
6 otherwise provided in paragraph (3) of this subsection, for benefit
7 years commencing on or after October 1, 1984 and before January 1,
8 1996, the individual has earned 12 times the Statewide average weekly
9 remuneration paid to workers, as determined under R.S.43:21-3(c),
10 raised to the next higher multiple of \$100.00 if not already a multiple
11 thereof, or more in the individual's base year.] (Deleted by
12 amendment, P.L. , c.)

13 (2) With respect to benefit years commencing on or after January
14 1, 1996 and before January 7, 2001, except as otherwise provided in
15 paragraph (3) of this subsection, the individual has, during his base
16 year as defined in subsection (c) of R.S.43:21-19:

17 (A) Established at least 20 base weeks as defined in paragraph (2)
18 of subsection (t) of R.S.43:21-19; or

19 (B) If the individual has not met the requirements of subparagraph
20 (A) of this paragraph (2), earned remuneration not less than an amount
21 12 times the Statewide average weekly remuneration paid to workers,
22 as determined under R.S.43:21-3(c), which amount shall be adjusted
23 to the next higher multiple of \$100.00 if not already a multiple thereof;
24 or

25 (C) If the individual has not met the requirements of subparagraph
26 (A) or (B) of this paragraph (2), earned remuneration not less than an
27 amount 1,000 times the minimum wage in effect pursuant to section
28 5 of P.L.1966, c.113 (C.34:11-56a4) on October 1 of the calendar
29 year preceding the calendar year in which the benefit year commences,
30 which amount shall be adjusted to the next higher multiple of \$100.00
31 if not already a multiple thereof.

32 (3) [Notwithstanding] With respect to benefit years commencing
33 before January 7, 2001, notwithstanding the provisions of paragraph
34 [(1) or paragraph] (2) of this subsection, an unemployed individual
35 claiming benefits on the basis of service performed in the production
36 and harvesting of agricultural crops shall, subject to the limitations of
37 subsection (i) of R.S.43:21-19, be eligible to receive benefits if during
38 his base year, as defined in subsection (c) of R.S.43:21-19, the
39 individual:

40 (A) Has established at least 20 base weeks as defined in paragraph
41 [(1)](2) of subsection (t) of R.S.43:21-19; or

42 (B) Has earned 12 times the Statewide average weekly
43 remuneration paid to workers, as determined under R.S.43:21-3(c),
44 raised to the next higher multiple of \$100.00 if not already a multiple
45 thereof, or more; or

46 (C) Has performed at least 770 hours of service in the production

1 and harvesting of agricultural crops.

2 (4) With respect to benefit years commencing on or after January
3 7, 2001, except as otherwise provided in paragraph (5) of this
4 subsection, the individual has, during his base year as defined in
5 subsection (c) of R.S.43:21-19:

6 (A) Established at least 20 base weeks as defined in ¹[paragraph]
7 paragraphs (2) and ¹(3) of subsection (t) of R.S.43:21-19; or

8 (B) If the individual has not met the requirements of subparagraph
9 (A) of this paragraph (4), earned remuneration not less than an amount
10 1,000 times the minimum wage in effect pursuant to section 5 of
11 P.L.1966, c.113 (C.34:11-56a4) on October 1 of the calendar year
12 preceding the calendar year in which the benefit year commences,
13 which amount shall be adjusted to the next higher multiple of \$100 if
14 not already a multiple thereof.

15 (5) With respect to benefit years commencing on or after January
16 7, 2001, notwithstanding the provisions of paragraph (4) of this
17 subsection, an unemployed individual claiming benefits on the basis of
18 service performed in the production and harvesting of agricultural
19 crops shall, subject to the limitations of subsection (i) of R.S.43:21-19,
20 be eligible to receive benefits if during his base year, as defined in
21 subsection (c) of R.S.43:21-19, the individual:

22 (A) Has established at least 20 base weeks as defined in
23 ¹[paragraph] paragraphs (2) and {3) of subsection (t) of
24 R.S.43:21-19; or

25 (B) Has earned remuneration not less than an amount 1,000 times
26 the minimum wage in effect pursuant to section 5 of P.L.1966, c.113
27 (C.34:11-56a4) on October 1 of the calendar year preceding the
28 calendar year in which the benefit year commences, which amount
29 shall be adjusted to the next higher multiple of \$100 if not already a
30 multiple thereof; or

31 (C) Has performed at least 770 hours of service in the production
32 and harvesting of agricultural crops.

33 (6) The individual applying for benefits in any successive benefit
34 year has earned at least six times his previous weekly benefit amount
35 and has had four weeks of employment since the beginning of the
36 immediately preceding benefit year. This provision shall be in addition
37 to the earnings requirements specified in paragraph [(1),] (2), [or]
38 (3), (4) or (5) of this subsection, as applicable.

39 (f) (1) The individual has suffered any accident or sickness not
40 compensable under the workers' compensation law, R.S.34:15-1 et
41 seq. and resulting in the individual's total disability to perform any
42 work for remuneration, and would be eligible to receive benefits under
43 this chapter (R.S.43:21-1 et seq.) (without regard to the maximum
44 amount of benefits payable during any benefit year) except for the
45 inability to work and has furnished notice and proof of claim to the
46 division, in accordance with its rules and regulations, and payment is

1 not precluded by the provisions of R.S.43:21-3(d); provided, however,
2 that benefits paid under this subsection (f) shall be computed on the
3 basis of only those base year wages earned by the claimant as a
4 "covered individual," as defined in R.S.43:21-27(b); provided further
5 that no benefits shall be payable under this subsection to any
6 individual:

7 (A) For any period during which such individual is not under the
8 care of a legally licensed physician, dentist, optometrist, podiatrist,
9 practicing psychologist or chiropractor;

10 (B) (Deleted by amendment, P.L.1980, c.90.)

11 (C) For any period of disability due to willfully or intentionally
12 self-inflicted injury, or to injuries sustained in the perpetration by the
13 individual of a crime of the first, second or third degree;

14 (D) For any week with respect to which or a part of which the
15 individual has received or is seeking benefits under any unemployment
16 compensation or disability benefits law of any other state or of the
17 United States; provided that if the appropriate agency of such other
18 state or the United States finally determines that the individual is not
19 entitled to such benefits, this disqualification shall not apply;

20 (E) For any week with respect to which or part of which the
21 individual has received or is seeking disability benefits under the
22 "Temporary Disability Benefits Law," P.L.1948, c.110 (C.43:21-25 et
23 seq.);

24 (F) For any period of disability commencing while such individual
25 is a "covered individual," as defined in subsection (b) of section 3 of
26 the "Temporary Disability Benefits Law," P.L.1948, c.110
27 (C.43:21-27).

28 (2) Benefit payments under this subsection (f) shall be charged to
29 and paid from the State disability benefits fund established by the
30 "Temporary Disability Benefits Law," P.L.1948, c.110 (C.43:21-25 et
31 seq.), and shall not be charged to any employer account in computing
32 any employer's experience rate for contributions payable under this
33 chapter.

34 (g) Benefits based on service in employment defined in
35 subparagraphs (B) and (C) of R.S.43:21-19(i)(1) shall be payable in
36 the same amount and on the terms and subject to the same conditions
37 as benefits payable on the basis of other service subject to the
38 "unemployment compensation law"; except that, notwithstanding any
39 other provisions of the "unemployment compensation law":

40 (1) With respect to service performed after December 31, 1977, in
41 an instructional research, or principal administrative capacity for an
42 educational institution, benefits shall not be paid based on such
43 services for any week of unemployment commencing during the
44 period between two successive academic years, or during a similar
45 period between two regular terms, whether or not successive, or
46 during a period of paid sabbatical leave provided for in the individual's

1 contract, to any individual if such individual performs such services in
2 the first of such academic years (or terms) and if there is a contract or
3 a reasonable assurance that such individual will perform services in any
4 such capacity for any educational institution in the second of such
5 academic years or terms;

6 (2) With respect to weeks of unemployment beginning after
7 September 3, 1982, on the basis of service performed in any other
8 capacity for an educational institution, benefits shall not be paid on the
9 basis of such services to any individual for any week which commences
10 during a period between two successive academic years or terms if
11 such individual performs such services in the first of such academic
12 years or terms and there is a reasonable assurance that such individual
13 will perform such services in the second of such academic years or
14 terms, except that if benefits are denied to any individual under this
15 paragraph (2) and the individual was not offered an opportunity to
16 perform these services for the educational institution for the second of
17 any academic years or terms, the individual shall be entitled to a
18 retroactive payment of benefits for each week for which the individual
19 filed a timely claim for benefits and for which benefits were denied
20 solely by reason of this clause;

21 (3) With respect to those services described in paragraphs (1) and
22 (2) above, benefits shall not be paid on the basis of such services to
23 any individual for any week which commences during an established
24 and customary vacation period or holiday recess if such individual
25 performs such services in the period immediately before such vacation
26 period or holiday recess, and there is a reasonable assurance that such
27 individual will perform such services in the period immediately
28 following such period or holiday recess;

29 (4) With respect to any services described in paragraphs (1) and
30 (2) above, benefits shall not be paid as specified in paragraphs (1), (2),
31 and (3) above to any individual who performed those services in an
32 educational institution while in the employ of an educational service
33 agency, and for this purpose the term "educational service agency"
34 means a governmental agency or governmental entity which is
35 established and operated exclusively for the purpose of providing
36 those services to one or more educational institutions.

37 (h) Benefits shall not be paid to any individual on the basis of any
38 services, substantially all of which consist of participating in sports or
39 athletic events or training or preparing to so participate, for any week
40 which commences during the period between two successive sports
41 seasons (or similar periods) if such individual performed such services
42 in the first of such seasons (or similar periods) and there is a
43 reasonable assurance that such individual will perform such services in
44 the later of such seasons (or similar periods).

45 (i) (1) Benefits shall not be paid on the basis of services performed
46 by an alien unless such alien is an individual who was lawfully admitted

1 for permanent residence at the time the services were performed and
2 was lawfully present for the purpose of performing the services or
3 otherwise was permanently residing in the United States under color
4 of law at the time the services were performed (including an alien who
5 is lawfully present in the United States as a result of the application of
6 the provisions of [section 203(a)(7) (8 U.S.C. 1153 (a)(7)) or] section
7 212(d)(5) (8 U.S.C. s.1182 (d)(5)) of the Immigration and Nationality
8 Act (8 U.S.C. s.1101 et seq.)); provided that any modifications of the
9 provisions of section 3304(a)(14) of the Federal Unemployment Tax
10 Act (26 U.S.C. s.3304 (a)(14)), as provided by Pub.L.94-566, which
11 specify other conditions or other effective dates than stated herein for
12 the denial of benefits based on services performed by aliens and which
13 modifications are required to be implemented under State law as a
14 condition for full tax credit against the tax imposed by the Federal
15 Unemployment Tax Act, shall be deemed applicable under the
16 provisions of this section.

17 (2) Any data or information required of individuals applying for
18 benefits to determine whether benefits are not payable to them because
19 of their alien status shall be uniformly required from all applicants for
20 benefits.

21 (3) In the case of an individual whose application for benefits would
22 otherwise be approved, no determination that benefits to such
23 individual are not payable because of alien status shall be made except
24 upon a preponderance of the evidence.

25 (j) Notwithstanding any other provision of this chapter, the
26 director may, to the extent that it may be deemed efficient and
27 economical, provide for consolidated administration by one or more
28 representatives or deputies of claims made pursuant to subsection (f)
29 of this section with those made pursuant to Article III (State plan) of
30 the "Temporary Disability Benefits Law," P.L.1948, c.110
31 (C.43:21-25 et seq.).

32 (cf: P.L.1995, c.394, s.7)

33

34 2. R.S.43:21-19 is amended to read as follows:

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

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

40 (2) "Average annual payroll" means the average of the annual
41 payrolls of any employer for the last three or five preceding calendar
42 years, whichever average is higher, except that any year or years
43 throughout which an employer has had no "annual payroll" because of
44 military service shall be deleted from the reckoning; the "average
45 annual payroll" in such case is to be determined on the basis of the
46 prior three or five calendar years in each of which the employer had an

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

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

19 (c) (1) "Base year" with respect to benefit years commencing on or
20 after July 1, 1986, shall mean the first four of the last five completed
21 calendar quarters immediately preceding an individual's benefit year.

22 With respect to a benefit year commencing on or after July 1, 1995,
23 if an individual does not have sufficient qualifying weeks or wages in
24 his base year to qualify for benefits, the individual shall have the option
25 of designating that his base year shall be the "alternative base year,"
26 which means the last four completed calendar quarters immediately
27 preceding the individual's benefit year; except that, with respect to a
28 benefit year commencing on or after October 1, 1995, if the individual
29 also does not have sufficient qualifying weeks or wages in the last four
30 completed calendar quarters immediately preceding his benefit year to
31 qualify for benefits, "alternative base year" means the last three
32 completed calendar quarters immediately preceding his benefit year
33 and, of the calendar quarter in which the benefit year commences, the
34 portion of the quarter which occurs before the commencing of the
35 benefit year.

36 The division shall inform the individual of his options under this
37 section as amended by P.L.1995, c.234. If information regarding
38 weeks and wages for the calendar quarter or quarters immediately
39 preceding the benefit year is not available to the division from the
40 regular quarterly reports of wage information and the division is not
41 able to obtain the information using other means pursuant to State or
42 federal law, the division may base the determination of eligibility for
43 benefits on the affidavit of an individual with respect to weeks and
44 wages for that calendar quarter. The individual shall furnish payroll
45 documentation, if available, in support of the affidavit. A
46 determination of benefits based on an alternative base year shall be

1 adjusted when the quarterly report of wage information from the
2 employer is received if that information causes a change in the
3 determination.

4 (2) With respect to a benefit year commencing on or after June 1,
5 1990 for an individual who immediately preceding the benefit year was
6 subject to a disability compensable under the provisions of the
7 "Temporary Disability Benefits Law," P.L.1948, c.110 (C.43:21-25 et
8 seq.), "base year" shall mean the first four of the last five completed
9 calendar quarters immediately preceding the individual's period of
10 disability, if the employment held by the individual immediately
11 preceding the period of disability is no longer available at the
12 conclusion of that period and the individual files a valid claim for
13 unemployment benefits after the conclusion of that period. For the
14 purposes of this paragraph, "period of disability" means the period
15 defined as a period of disability by section 3 of the "Temporary
16 Disability Benefits Law," P.L.1948, c.110 (C.43:21-27). An individual
17 who files a claim under the provisions of this paragraph (2) shall not
18 be regarded as having left work voluntarily for the purposes of
19 subsection (a) of R.S.43:21-5.

20 (3) With respect to a benefit year commencing on or after June 1,
21 1990 for an individual who immediately preceding the benefit year was
22 subject to a disability compensable under the provisions of the
23 workers' compensation law (chapter 15 of Title 34 of the Revised
24 Statutes), "base year" shall mean the first four of the last five
25 completed calendar quarters immediately preceding the individual's
26 period of disability, if the period of disability was not longer than two
27 years, if the employment held by the individual immediately preceding
28 the period of disability is no longer available at the conclusion of that
29 period and if the individual files a valid claim for unemployment
30 benefits after the conclusion of that period. For the purposes of this
31 paragraph, "period of disability" means the period from the time at
32 which the individual becomes unable to work because of the
33 compensable disability until the time that the individual becomes able
34 to resume work and continue work on a permanent basis. An
35 individual who files a claim under the provisions of this paragraph (3)
36 shall not be regarded as having left work voluntarily for the purposes
37 of subsection (a) of R.S.43:21-5.

38 (d) "Benefit year" with respect to any individual means the 364
39 consecutive calendar days beginning with the day on, or as of, which
40 he first files a valid claim for benefits, and thereafter beginning with
41 the day on, or as of, which the individual next files a valid claim for
42 benefits after the termination of his last preceding benefit year. Any
43 claim for benefits made in accordance with subsection (a) of
44 R.S.43:21-6 shall be deemed to be a "valid claim" for the purpose of
45 this subsection if (1) he is unemployed for the week in which, or as of
46 which, he files a claim for benefits; and (2) he has fulfilled the

1 conditions imposed by subsection (e) of R.S.43:21-4.

2 (e) (1) "Division" means the Division of Unemployment and
3 Temporary Disability Insurance of the Department of Labor, and any
4 transaction or exercise of authority by the director of the division
5 thereunder, or under this chapter (R.S.43:21-1 et seq.), shall be
6 deemed to be performed by the division.

7 (2) "Controller" means the Office of the Assistant Commissioner
8 for Finance and Controller of the Department of Labor, established by
9 the 1982 Reorganization Plan of the Department of Labor.

10 (f) "Contributions" means the money payments to the State
11 Unemployment Compensation Fund, required by R.S.43:21-7.
12 "Payments in lieu of contributions" means the money payments to the
13 State Unemployment Compensation Fund by employers electing or
14 required to make payments in lieu of contributions, as provided in
15 section 3 or section 4 of P.L.1971, c.346 (C.43:21-7.2 or 43:21-7.3).

16 (g) "Employing unit" means the State or any of its instrumentalities
17 or any political subdivision thereof or any of its instrumentalities or
18 any instrumentality of more than one of the foregoing or any
19 instrumentality of any of the foregoing and one or more other states
20 or political subdivisions or any individual or type of organization, any
21 partnership, association, trust, estate, joint-stock company, insurance
22 company or corporation, whether domestic or foreign, or the receiver,
23 trustee in bankruptcy, trustee or successor thereof, or the legal
24 representative of a deceased person, which has or subsequent to
25 January 1, 1936, had in its employ one or more individuals performing
26 services for it within this State. All individuals performing services
27 within this State for any employing unit which maintains two or more
28 separate establishments within this State shall be deemed to be
29 employed by a single employing unit for all the purposes of this
30 chapter (R.S.43:21-1 et seq.). Each individual employed to perform
31 or to assist in performing the work of any agent or employee of an
32 employing unit shall be deemed to be employed by such employing unit
33 for all the purposes of this chapter (R.S.43:21-1 et seq.), whether such
34 individual was hired or paid directly by such employing unit or by such
35 agent or employee; provided the employing unit had actual or
36 constructive knowledge of the work.

37 (h) "Employer" means:

38 (1) Any employing unit which in either the current or the preceding
39 calendar year paid remuneration for employment in the amount of
40 \$1,000.00 or more;

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

46 (3) Any employing unit which acquired the organization, trade or

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

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

11 (5) Any employing unit for which service in employment as defined
12 in R.S.43:21-19 (i) (1) (B) (i) is performed after December 31, 1971;
13 and as defined in R.S.43:21-19 (i) (1) (B) (ii) is performed after
14 December 31, 1977;

15 (6) Any employing unit for which service in employment as defined
16 in R.S.43:21-19 (i) (1) (C) is performed after December 31, 1971 and
17 which in either the current or the preceding calendar year paid
18 remuneration for employment in the amount of \$1,000.00 or more;

19 (7) Any employing unit not an employer by reason of any other
20 paragraph of this subsection (h) for which, within either the current or
21 preceding calendar year, service is or was performed with respect to
22 which such employing unit is liable for any federal tax against which
23 credit may be taken for contributions required to be paid into a state
24 unemployment fund; or which, as a condition for approval of the
25 "unemployment compensation law" for full tax credit against the tax
26 imposed by the Federal Unemployment Tax Act, is required pursuant
27 to such act to be an employer under this chapter (R.S.43:21-1 et seq.);

28 (8) (Deleted by amendment; P.L.1977, c.307.)

29 (9) (Deleted by amendment; P.L.1977, c.307.)

30 (10) (Deleted by amendment; P.L.1977, c.307.)

31 (11) Any employing unit subject to the provisions of the Federal
32 Unemployment Tax Act within either the current or the preceding
33 calendar year, except for employment hereinafter excluded under
34 paragraph (7) of subsection (i) of this section;

35 (12) Any employing unit for which agricultural labor in employment
36 as defined in R.S.43:21-19 (i) (1) (I) is performed after December 31,
37 1977;

38 (13) Any employing unit for which domestic service in employment
39 as defined in R.S.43:21-19 (i) (1) (J) is performed after December 31,
40 1977;

41 (14) Any employing unit which having become an employer under
42 the "unemployment compensation law" (R.S.43:21-1 et seq.), has not
43 under R.S.43:21-8 ceased to be an employer; or for the effective
44 period of its election pursuant to R.S.43:21-8, any other employing
45 unit which has elected to become fully subject to this chapter
46 (R.S.43:21-1 et seq.).

1 (i) (1) "Employment" means:

2 (A) Any service performed prior to January 1, 1972, which was
3 employment as defined in the "unemployment compensation law"
4 (R.S.43:21-1 et seq.) prior to such date, and, subject to the other
5 provisions of this subsection, service performed on or after January 1,
6 1972, including service in interstate commerce, performed for
7 remuneration or under any contract of hire, written or oral, express or
8 implied.

9 (B) (i) Service performed after December 31, 1971 by an individual
10 in the employ of this State or any of its instrumentalities or in the
11 employ of this State and one or more other states or their
12 instrumentalities for a hospital or institution of higher education
13 located in this State, if such service is not excluded from
14 "employment" under paragraph (D) below.

15 (ii) Service performed after December 31, 1977, in the employ of
16 this State or any of its instrumentalities or any political subdivision
17 thereof or any of its instrumentalities or any instrumentality of more
18 than one of the foregoing or any instrumentality of the foregoing and
19 one or more other states or political subdivisions, if such service is not
20 excluded from "employment" under paragraph (D) below.

21 (C) Service performed after December 31, 1971 by an individual in
22 the employ of a religious, charitable, educational, or other
23 organization, which is excluded from "employment" as defined in the
24 Federal Unemployment Tax Act, solely by reason of section 3306 (c)
25 (8) of that act, if such service is not excluded from "employment"
26 under paragraph (D) below.

27 (D) For the purposes of paragraphs (B) and (C), the term
28 "employment" does not apply to services performed

29 (i) In the employ of (I) a church or convention or association of
30 churches, or (II) an organization, or school which is operated primarily
31 for religious purposes and which is operated, supervised, controlled or
32 principally supported by a church or convention or association of
33 churches;

34 (ii) By a duly ordained, commissioned, or licensed minister of a
35 church in the exercise of his ministry or by a member of a religious
36 order in the exercise of duties required by such order;

37 (iii) Prior to January 1, 1978, in the employ of a school which is not
38 an institution of higher education, and after December 31, 1977, in the
39 employ of a governmental entity referred to in R.S.43:21-19 (i) (1)
40 (B), if such service is performed by an individual in the exercise of
41 duties

42 (aa) as an elected official;

43 (bb) as a member of a legislative body, or a member of the
44 judiciary, of a state or political subdivision;

45 (cc) as a member of the State National Guard or Air National
46 Guard;

- 1 (dd) as an employee serving on a temporary basis in case of fire,
2 storm, snow, earthquake, flood or similar emergency;
- 3 (ee) in a position which, under or pursuant to the laws of this State,
4 is designated as a major nontenured policy making or advisory
5 position, or a policy making or advisory position, the performance of
6 the duties of which ordinarily does not require more than eight hours
7 per week; or
- 8 (iv) By an individual receiving rehabilitation or remunerative work
9 in a facility conducted for the purpose of carrying out a program of
10 rehabilitation of individuals whose earning capacity is impaired by age
11 or physical or mental deficiency or injury or providing remunerative
12 work for individuals who because of their impaired physical or mental
13 capacity cannot be readily absorbed in the competitive labor market;
- 14 (v) By an individual receiving work-relief or work-training as part
15 of an unemployment work-relief or work-training program assisted in
16 whole or in part by any federal agency or an agency of a state or
17 political subdivision thereof; or
- 18 (vi) Prior to January 1, 1978, for a hospital in a State prison or
19 other State correctional institution by an inmate of the prison or
20 correctional institution and after December 31, 1977, by an inmate of
21 a custodial or penal institution.
- 22 (E) The term "employment" shall include the services of an
23 individual who is a citizen of the United States, performed outside the
24 United States after December 31, 1971 (except in Canada and in the
25 case of the Virgin Islands, after December 31, 1971) and prior to
26 January 1 of the year following the year in which the U.S. Secretary
27 of Labor approves the unemployment compensation law of the Virgin
28 Islands, under section 3304 (a) of the Internal Revenue Code of 1986
29 (26 U.S.C. s.3304 (a)) in the employ of an American employer (other
30 than the service which is deemed employment under the provisions of
31 R.S.43:21-19 (i) (2) or (5) [of] or the parallel provisions of another
32 state's unemployment compensation law), if
- 33 (i) The American employer's principal place of business in the
34 United States is located in this State; or
- 35 (ii) The American employer has no place of business in the United
36 States, but (I) the American employer is an individual who is a resident
37 of this State; or (II) the American employer is a corporation which is
38 organized under the laws of this State; or (III) the American employer
39 is a partnership or trust and the number of partners or trustees who are
40 residents of this State is greater than the number who are residents of
41 another state; or
- 42 (iii) None of the criteria of divisions (i) and (ii) of this subparagraph
43 (E) is met but the American employer has elected to become an
44 employer subject to the "unemployment compensation law"
45 (R.S.43:21-1 et seq.) in this State, or the American employer having
46 failed to elect to become an employer in any state, the individual has

1 filed a claim for benefits, based on such service, under the law of this
2 State;

3 (iv) An "American employer," for the purposes of this subparagraph
4 (E), means (I) an individual who is a resident of the United States; or
5 (II) a partnership, if two-thirds or more of the partners are residents
6 of the United States; or (III) a trust, if all the trustees are residents of
7 the United States; or (IV) a corporation organized under the laws of
8 the United States or of any state.

9 (F) Notwithstanding R.S.43:21-19 (i) (2), all service performed
10 after January 1, 1972 by an officer or member of the crew of an
11 American vessel or American aircraft on or in connection with such
12 vessel or aircraft, if the operating office from which the operations of
13 such vessel or aircraft operating within, or within and without, the
14 United States are ordinarily and regularly supervised, managed,
15 directed, and controlled, is within this State.

16 (G) Notwithstanding any other provision of this subsection, service
17 in this State with respect to which the taxes required to be paid under
18 any federal law imposing a tax against which credit may be taken for
19 contributions required to be paid into a state unemployment fund or
20 which as a condition for full tax credit against the tax imposed by the
21 Federal Unemployment Tax Act is required to be covered under the
22 "unemployment compensation law" (R.S.43:21-1 et seq.).

23 (H) The term "United States" when used in a geographical sense in
24 subsection R.S.43:21-19 (i) includes the states, the District of
25 Columbia, the Commonwealth of Puerto Rico and, effective on the day
26 after the day on which the U.S. Secretary of Labor approves for the
27 first time under section 3304 (a) of the Internal Revenue Code of 1986
28 (26 U.S.C. s.3304 (a)) an unemployment compensation law submitted
29 to the Secretary by the Virgin Islands for such approval, the Virgin
30 Islands.

31 (I) (i) Service performed after December 31, 1977 in agricultural
32 labor in a calendar year for an entity which is an employer as defined
33 in the "unemployment compensation law," (R.S.43:21-1 et seq.) as of
34 January 1 of such year; or for an employing unit which

35 (aa) during any calendar quarter in either the current or the
36 preceding calendar year paid remuneration in cash of \$20,000.00 or
37 more for individuals employed in agricultural labor, or

38 (bb) for some portion of a day in each of 20 different calendar
39 weeks, whether or not such weeks were consecutive, in either the
40 current or the preceding calendar year, employed in agricultural labor
41 10 or more individuals, regardless of whether they were employed at
42 the same moment in time.

43 (ii) for the purposes of this subsection any individual who is a
44 member of a crew furnished by a crew leader to perform service in
45 agricultural labor for any other entity shall be treated as an employee
46 of such crew leader

1 (aa) if such crew leader holds a certification of registration under
2 the Migrant and Seasonal Agricultural Worker Protection Act,
3 Pub.L.97-470 (29 U.S.C. s.1801 et seq.), or P.L.1971, c.192
4 (C.34:8A-7 et seq.); or substantially all the members of such crew
5 operate or maintain tractors, mechanized harvesting or cropdusting
6 equipment, or any other mechanized equipment, which is provided by
7 such crew leader; and

8 (bb) if such individual is not an employee of such other person for
9 whom services were performed.

10 (iii) For the purposes of subparagraph (I) (i) in the case of any
11 individual who is furnished by a crew leader to perform service in
12 agricultural labor or any other entity and who is not treated as an
13 employee of such crew leader under (I) (ii)

14 (aa) such other entity and not the crew leader shall be treated as
15 the employer of such individual; and

16 (bb) such other entity shall be treated as having paid cash
17 remuneration to such individual in an amount equal to the amount of
18 cash remuneration paid to such individual by the crew leader (either on
19 his own behalf or on behalf of such other entity) for the service in
20 agricultural labor performed for such other entity.

21 (iv) For the purpose of subparagraph (I)[(i)](ii), the term "crew
22 leader" means an individual who

23 (aa) furnishes individuals to perform service in agricultural labor for
24 any other entity;

25 (bb) pays (either on his own behalf or on behalf of such other
26 entity) the individuals so furnished by him for the service in
27 agricultural labor performed by them; and

28 (cc) has not entered into a written agreement with such other entity
29 under which such individual is designated as an employee of such other
30 entity.

31 (J) Domestic service after December 31, 1977 performed in the
32 private home of an employing unit which paid cash remuneration of
33 \$1,000.00 or more to one or more individuals for such domestic
34 service in any calendar quarter in the current or preceding calendar
35 year.

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

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

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

46 (3) Services performed within this State but not covered under

1 paragraph (2) of this subsection shall be deemed to be employment
2 subject to this chapter (R.S.43:21-1 et seq.) if contributions are not
3 required and paid with respect to such services under an
4 unemployment compensation law of any other state or of the federal
5 government.

6 (4) Services not covered under paragraph (2) of this subsection and
7 performed entirely without this State, with respect to no part of which
8 contributions are required and paid under an unemployment
9 compensation law of any other state or of the federal government,
10 shall be deemed to be employment subject to this chapter (R.S.43:21-1
11 et seq.) if the individual performing such services is a resident of this
12 State and the employing unit for whom such services are performed
13 files with the division an election that the entire service of such
14 individual shall be deemed to be employment subject to this chapter
15 (R.S.43:21-1 et seq.).

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

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

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

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

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

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

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

34 (7) Provided that such services are also exempt under the Federal
35 Unemployment Tax Act, as amended, or that contributions with
36 respect to such services are not required to be paid into a state
37 unemployment fund as a condition for a tax offset credit against the
38 tax imposed by the Federal Unemployment Tax Act, as amended, the
39 term "employment" shall not include:

40 (A) Agricultural labor performed prior to January 1, 1978; and after
41 December 31, 1977, only if performed in a calendar year for an entity
42 which is not an employer as defined in the "unemployment
43 compensation law," (R.S.43:21-1 et seq.) as of January 1 of such
44 calendar year; or unless performed for an employing unit which

45 (i) during a calendar quarter in either the current or the preceding
46 calendar year paid remuneration in cash of \$20,000.00 or more to

1 individuals employed in agricultural labor, or

2 (ii) for some portion of a day in each of 20 different calendar
3 weeks, whether or not such weeks were consecutive, in either the
4 current or the preceding calendar year, employed in agricultural labor
5 10 or more individuals, regardless of whether they were employed at
6 the same moment in time;

7 (B) Domestic service in a private home performed prior to January
8 1, 1978; and after December 31, 1977, unless performed in the private
9 home of an employing unit which paid cash remuneration of \$1,000.00
10 or more to one or more individuals for such domestic service in any
11 calendar quarter in the current or preceding calendar year;

12 (C) Service performed by an individual in the employ of his son,
13 daughter or spouse, and service performed by a child under the age of
14 18 in the employ of his father or mother;

15 (D) Service performed prior to January 1, 1978, in the employ of
16 this State or of any political subdivision thereof or of any
17 instrumentality of this State or its political subdivisions, except as
18 provided in R.S.43:21-19 (i) (1) (B) above, and service in the employ
19 of the South Jersey Port Corporation or its successors;

20 (E) Service performed in the employ of any other state or its
21 political subdivisions or of an instrumentality of any other state or
22 states or their political subdivisions to the extent that such
23 instrumentality is with respect to such service exempt under the
24 Constitution of the United States from the tax imposed under the
25 Federal Unemployment Tax Act, as amended, except as provided in
26 R.S.43:21-19 (i) (1) (B) above;

27 (F) Service performed in the employ of the United States
28 Government or of any instrumentality of the United States except
29 under the Constitution of the United States from the contributions
30 imposed by the "unemployment compensation law," except that to the
31 extent that the Congress of the United States shall permit states to
32 require any instrumentalities of the United States to make payments
33 into an unemployment fund under a state unemployment compensation
34 law, all of the provisions of this act shall be applicable to such
35 instrumentalities, and to service performed for such instrumentalities,
36 in the same manner, to the same extent and on the same terms as to all
37 other employers, employing units, individuals and services; provided
38 that if this State shall not be certified for any year by the Secretary of
39 Labor of the United States under section 3304 of the federal Internal
40 Revenue Code of 1986 (26 U.S.C. s.3304), the payments required of
41 such instrumentalities with respect to such year shall be refunded by
42 the division from the fund in the same manner and within the same
43 period as is provided in R.S.43:21-14 (f) with respect to contributions
44 erroneously paid to or collected by the division;

45 (G) Services performed in the employ of fraternal beneficiary
46 societies, orders, or associations operating under the lodge system or

1 for the exclusive benefit of the members of a fraternity itself operating
2 under the lodge system and providing for the payment of life, sick,
3 accident, or other benefits to the members of such society, order, or
4 association, or their dependents;

5 (H) Services performed as a member of the board of directors, a
6 board of trustees, a board of managers, or a committee of any bank,
7 building and loan, or savings and loan association, incorporated or
8 organized under the laws of this State or of the United States, where
9 such services do not constitute the principal employment of the
10 individual;

11 (I) Service with respect to which unemployment insurance is
12 payable under an unemployment insurance program established by an
13 Act of Congress;

14 (J) Service performed by agents of mutual fund brokers or dealers
15 in the sale of mutual funds or other securities, by agents of insurance
16 companies, exclusive of industrial insurance agents or by agents of
17 investment companies, if the compensation to such agents for such
18 services is wholly on a commission basis;

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

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

25 (M) Service performed for or in behalf of the owner or operator of
26 any theatre, ballroom, amusement hall or other place of entertainment,
27 not in excess of 10 weeks in any calendar year for the same owner or
28 operator, by any leader or musician of a band or orchestra, commonly
29 called a "name band," entertainer, vaudeville artist, actor, actress,
30 singer or other entertainer;

31 (N) Services performed after January 1, 1973 by an individual for
32 a labor union organization, known and recognized as a union local, as
33 a member of a committee or committees reimbursed by the union local
34 for time lost from regular employment, or as a part-time officer of a
35 union local and the remuneration for such services is less than
36 \$1,000.00 in a calendar year;

37 (O) Services performed in the sale or distribution of merchandise
38 by home-to-home salespersons or in-the-home demonstrators whose
39 remuneration consists wholly of commissions or commissions and
40 bonuses;

41 (P) Service performed in the employ of a foreign government,
42 including service as a consular, nondiplomatic representative, or other
43 officer or employee;

44 (Q) Service performed in the employ of an instrumentality wholly
45 owned by a foreign government if (i) the service is of a character
46 similar to that performed in foreign countries by employees of the

1 United States Government or of an instrumentality thereof, and (ii) the
2 division finds that the United States Secretary of State has certified to
3 the United States Secretary of the Treasury that the foreign
4 government, with respect to whose instrumentality exemption is
5 claimed, grants an equivalent exemption with respect to similar
6 services performed in the foreign country by employees of the United
7 States Government and of instrumentalities thereof;

8 (R) Service in the employ of an international organization entitled
9 to enjoy the privileges, exemptions and immunities under the
10 International Organizations Immunities Act (22 U.S.C. s.288 et seq.);

11 (S) Service covered by an election duly approved by an agency
12 charged with the administration of any other state or federal
13 unemployment compensation or employment security law, in
14 accordance with an arrangement pursuant to R.S.43:21-21 during the
15 effective period of such election;

16 (T) Service performed in the employ of a school, college, or
17 university if such service is performed (i) by a student enrolled at such
18 school, college, or university on a full-time basis in an educational
19 program or completing such educational program leading to a degree
20 at any of the severally recognized levels, or (ii) by the spouse of such
21 a student, if such spouse is advised at the time such spouse commences
22 to perform such service that (I) the employment of such spouse to
23 perform such service is provided under a program to provide financial
24 assistance to such student by such school, college, or university, and
25 (II) such employment will not be covered by any program of
26 unemployment insurance;

27 (U) Service performed by an individual who is enrolled at a
28 nonprofit or public educational institution which normally maintains a
29 regular faculty and curriculum and normally has a regularly organized
30 body of students in attendance at the place where its educational
31 activities are carried on, as a student in a full-time program, taken for
32 credit at such institution, which combines academic instruction with
33 work experience, if such service is an integral part of such program,
34 and such institution has so certified to the employer, except that this
35 subparagraph shall not apply to service performed in a program
36 established for or on behalf of an employer or group of employers;

37 (V) Service performed in the employ of a hospital, if such service
38 is performed by a patient of the hospital; service performed as a
39 student nurse in the employ of a hospital or a nurses' training school
40 by an individual who is enrolled and regularly attending classes in a
41 nurses' training school approved under the laws of this State; and
42 service performed as an intern in the employ of a hospital by an
43 individual who has completed a four-year course in a medical school
44 approved pursuant to the laws of this State;

45 (W) Services performed after the effective date of this amendatory
46 act by agents of mutual benefit associations if the compensation to

1 such agents for such services is wholly on a commission basis;

2 (X) Services performed by operators of motor vehicles weighing
3 18,000 pounds or more, licensed for commercial use and used for the
4 highway movement of motor freight, who own their equipment or who
5 lease or finance the purchase of their equipment through an entity
6 which is not owned or controlled directly or indirectly by the entity for
7 which the services were performed and who were compensated by
8 receiving a percentage of the gross revenue generated by the
9 transportation move or by a schedule of payment based on the distance
10 and weight of the transportation move;

11 (Y) Services performed by a certified shorthand reporter certified
12 pursuant to P.L.1940, c.175 (C.45:15B-1 et seq.), provided to a third
13 party by the reporter who is referred to the third party pursuant to an
14 agreement with another certified shorthand reporter or shorthand
15 reporting service, on a freelance basis, compensation for which is
16 based upon a fee per transcript page, flat attendance fee, or other flat
17 minimum fee, or combination thereof, set forth in the agreement;

18 (Z) Services performed, using facilities provided by a travel agent,
19 by a person, commonly known as an outside travel agent, who acts as
20 an independent contractor, is paid on a commission basis, sets his own
21 work schedule and receives no benefits, sick leave, vacation or other
22 leave from the travel agent owning the facilities.

23 (8) If one-half or more of the services in any pay period performed
24 by an individual for an employing unit constitutes employment, all the
25 services of such individual shall be deemed to be employment; but if
26 more than one-half of the service in any pay period performed by an
27 individual for an employing unit does not constitute employment, then
28 none of the service of such individual shall be deemed to be
29 employment. As used in this paragraph, the term "pay period" means
30 a period of not more than 31 consecutive days for which a payment for
31 service is ordinarily made by an employing unit to individuals in its
32 employ.

33 (9) Services performed by the owner of a limousine franchise
34 (franchisee) shall not be deemed to be employment subject to the
35 "unemployment compensation law," R.S.43:21-1 et seq., with regard
36 to the franchisor if:

37 (A) The limousine franchisee is incorporated;

38 (B) The franchisee is subject to regulation by the Interstate
39 Commerce Commission;

40 (C) The limousine franchise exists pursuant to a written franchise
41 arrangement between the franchisee and the franchisor as defined by
42 section 3 of P.L.1971, c.356 (C.56:10-3); and

43 (D) The franchisee registers with the Department of Labor and
44 receives an employer registration number.

45 (j) "Employment office" means a free public employment office,
46 or branch thereof operated by this State or maintained as a part of a

1 State-controlled system of public employment offices.

2 (k) (Deleted by amendment, P.L.1984, c.24.)

3 (l) "State" includes, in addition to the states of the United States
4 of America, the District of Columbia, the Virgin Islands and Puerto
5 Rico.

6 (m) "Unemployment."

7 (1) An individual shall be deemed "unemployed" for any week
8 during which:

9 (A) The individual is not engaged in full-time work and with respect
10 to which his remuneration is less than his weekly benefit rate, including
11 any week during which he is on vacation without pay; provided such
12 vacation is not the result of the individual's voluntary action, except
13 that for benefit years commencing on or after July 1, 1984, an officer
14 of a corporation, or a person who has more than a 5% equitable or
15 debt interest in the corporation, whose claim for benefits is based on
16 wages with that corporation shall not be deemed to be unemployed in
17 any week during the individual's term of office or ownership in the
18 corporation; or

19 (B) The individual is eligible for and receiving a self-employment
20 assistance allowance pursuant to the requirements of P.L.1995, c.394
21 (C.43:21-67 et al.).

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

27 (3) An individual's week of unemployment shall be deemed to
28 commence only after the individual has filed a claim at an
29 unemployment insurance claims office, except as the division may by
30 regulation otherwise prescribe.

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

35 (o) "Wages" means remuneration paid by employers for
36 employment. If a worker receives gratuities regularly in the course of
37 his employment from other than his employer, his "wages" shall also
38 include the gratuities so received, if reported in writing to his
39 employer in accordance with regulations of the division, and if not so
40 reported, his "wages" shall be determined in accordance with the
41 minimum wage rates prescribed under any labor law or regulation of
42 this State or of the United States, or the amount of remuneration
43 actually received by the employee from his employer, whichever is the
44 higher.

45 (p) "Remuneration" means all compensation for personal services,
46 including commission and bonuses and the cash value of all

1 compensation in any medium other than cash.

2 (q) "Week" means for benefit years commencing on or after
3 October 1, 1984, the calendar week ending at midnight Saturday, or
4 as the division may by regulation prescribe.

5 (r) "Calendar quarter" means the period of three consecutive
6 calendar months ending March 31, June 30, September 30, or
7 December 31.

8 (s) "Investment company" means any company as defined in
9 subsection a. of section 1 of P.L.1938, c.322 (C.17:16A-1).

10 (t) (1) ["Base week" for a benefit year commencing on or after
11 October 1, 1985 and before January 1, 1996 means any calendar week
12 of an individual's base year during which the individual earned in
13 employment from an employer remuneration equal to not less than
14 20% of the Statewide average weekly remuneration defined in
15 subsection (c) of R.S.43:21-3 which shall be adjusted to the next
16 higher multiple of \$1.00 if not already a multiple thereof; provided if
17 in any calendar week an individual is in employment with more than
18 one employer, he may in such calendar week establish a base week
19 with respect to each such employer from whom the individual earns
20 remuneration equal to not less than the amount defined in this
21 paragraph (1) during such week.] (Deleted by amendment, P.L. ____,
22 c. __)

23 (2) "Base week," ¹["for a benefit year"]¹ commencing on or after
24 January 1, 1996 and before January ¹[7,]¹ ¹2001, means:

25 (A) Any calendar week ¹["of an individual's base year"]¹ during
26 which the individual earned in employment from an employer
27 remuneration not less than an amount which is 20% of the Statewide
28 average weekly remuneration defined in subsection (c) of R.S.43:21-3
29 which amount shall be adjusted to the next higher multiple of \$1.00 if
30 not already a multiple thereof, except that if in any calendar week an
31 individual subject to this subparagraph (A) is in employment with more
32 than one employer, the individual may in that calendar week establish
33 a base week with respect to each of the employers from whom the
34 individual earns remuneration equal to not less than the amount
35 defined in this subparagraph (A) during that week; or

36 (B) If the individual does not establish in his base year 20 or more
37 base weeks as defined in subparagraph (A) of this paragraph (2), any
38 calendar week of an individual's base year during which the individual
39 earned in employment from an employer remuneration not less than an
40 amount 20 times the minimum wage in effect pursuant to section 5 of
41 P.L.1966, c.113 (C.34:11-56a4) on October 1 of the calendar year
42 preceding the calendar year in which the benefit year commences,
43 which amount shall be adjusted to the next higher multiple of \$1.00 if
44 not already a multiple thereof, except that if in any calendar week an
45 individual subject to this subparagraph (B) is in employment with more
46 than one employer, the individual may in that calendar week establish

1 a base week with respect to each of the employers from whom the
2 individual earns remuneration not less than the amount defined in this
3 subparagraph (B) during that week.

4 (3) "Base week." ¹[for a benefit year]¹ commencing on or after
5 January ¹[7.] ¹2001, means any calendar week ¹[of an individual's
6 base year]¹ during which the individual earned in employment from an
7 employer remuneration not less than an amount 20 times the minimum
8 wage in effect pursuant to section 5 of P.L.1966, c.113
9 (C.34:11-56a4) on October 1 of the calendar year preceding the
10 calendar year in which the benefit year commences, which amount
11 shall be adjusted to the next higher multiple of \$1.00 if not already a
12 multiple thereof, except that if in any calendar week an individual
13 subject to this paragraph (3) is in employment with more than one
14 employer, the individual may in that calendar week establish a base
15 week with respect to each of the employers from whom the individual
16 earns remuneration equal to not less than the amount defined in this
17 paragraph (3) during that week.

18 (u) "Average weekly wage" means the amount derived by dividing
19 an individual's total wages received during his base year base weeks
20 (as defined in subsection (t) of this section) from that most recent base
21 year employer with whom he has established at least 20 base weeks,
22 by the number of base weeks in which such wages were earned. In the
23 event that such claimant had no employer in his base year with whom
24 he had established at least 20 base weeks, then such individual's
25 average weekly wage shall be computed as if all of his base week
26 wages were received from one employer and as if all his base weeks of
27 employment had been performed in the employ of one employer.

28 For the purpose of computing the average weekly wage, the
29 monetary alternative in subparagraph (B) of paragraph (2) of
30 subsection (e) of R.S.43:21-4 shall only apply in those instances where
31 the individual did not have at least 20 base weeks in the base year. For
32 benefit years commencing on or after July 1, 1986, "average weekly
33 wage" means the amount derived by dividing an individual's total base
34 year wages by the number of base weeks worked by the individual
35 during the base year; provided that for the purpose of computing the
36 average weekly wage, the maximum number of base weeks used in the
37 divisor shall be 52.

38 (v) "Initial determination" means, subject to the provisions of
39 R.S.43:21-6(b)(2) and (3), a determination of benefit rights as
40 measured by an eligible individual's base year employment with a
41 single employer covering all periods of employment with that employer
42 during the base year. For benefit years commencing prior to July 1,
43 1986, subject to the provisions of R.S.43:21-3(d)(3), if an individual
44 has been in employment in his base year with more than one employer,
45 no benefits shall be paid to that individual under any successive initial
46 determination until his benefit rights have been exhausted under the

1 next preceding initial determination.

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

5 (x) "Most recent base year employer" means that employer with
6 whom the individual most recently, in point of time, performed service
7 in employment in the base year.

8 (y) (1) "Educational institution" means any public or other
9 nonprofit institution (including an institution of higher education):

10 (A) In which participants, trainees, or students are offered an
11 organized course of study or training designed to transfer to them
12 knowledge, skills, information, doctrines, attitudes or abilities from,
13 by or under the guidance of an instructor [(s)] or teacher [(s)];

14 (B) Which is approved, licensed or issued a permit to operate as a
15 school by the State Department of Education or other government
16 agency that is authorized within the State to approve, license or issue
17 a permit for the operation of a school; and

18 (C) Which offers courses of study or training which may be
19 academic, technical, trade, or preparation for gainful employment in
20 a recognized occupation.

21 (2) "Institution of higher education" means an educational
22 institution which:

23 (A) Admits as regular students only individuals having a certificate
24 of graduation from a high school, or the recognized equivalent of such
25 a certificate;

26 (B) Is legally authorized in this State to provide a program of
27 education beyond high school;

28 (C) Provides an educational program for which it awards a
29 bachelor's or higher degree, or provides a program which is acceptable
30 for full credit toward such a degree, a program of post-graduate or
31 post-doctoral studies, or a program of training to prepare students for
32 gainful employment in a recognized occupation; and

33 (D) Is a public or other nonprofit institution.

34 Notwithstanding any of the foregoing provisions of this subsection,
35 all colleges and universities in this State are institutions of higher
36 education for purposes of this section.

37 (z) "Hospital" means an institution which has been licensed,
38 certified or approved under the law of this State as a hospital.

39 (cf: P.L.1995, c.394, s.9)

40

41 3. Section 3 of P.L.1948, c.110 (C.43:21-27) is amended to read
42 as follows:

43 3. As used in this act, unless the context clearly requires otherwise:

44 (a)(1) "Covered employer" means any individual or type of
45 organization, including any partnership, association, trust, estate,
46 joint-stock company, insurance company or corporation, whether

1 domestic or foreign, or the receiver, trustee in bankruptcy, trustee or
2 successor thereof, or the legal representative of a deceased person,
3 who is an employer subject to the chapter to which this act is a
4 supplement, designated as the [Unemployment Compensation Law]
5 "unemployment compensation law" (R.S. 43:21-1 et seq.), except the
6 State, its political subdivisions, and any instrumentality of the State
7 unless such governmental entity elects to become a covered employer
8 under the [Temporary Disability Benefits Law] "Temporary Disability
9 Benefits Law"; provided, however, that commencing with the effective
10 date of this act the State of New Jersey, including Rutgers, The State
11 University, the University of Medicine and Dentistry of New Jersey
12 and the New Jersey Institute of Technology, shall be deemed a
13 covered employer, as defined herein.

14 (2) Any governmental entity or instrumentality which is an
15 employer under R.S. 43:21-19(h)(5) may elect to become a "covered
16 employer" under this subsection beginning with the date on which its
17 coverage under subsection 19(h)(5) begins or as of January 1 of any
18 year thereafter by filing written notice of such election with the
19 division within at least 30 days of the effective date. Such election
20 shall remain in effect for at least two full calendar years and may be
21 terminated as of January 1 of any year thereafter by filing with the
22 division a written notice of termination at least 30 days prior to the
23 termination date.

24 (b) "Covered individual" means any person who is in employment,
25 as defined in the chapter to which this act is a supplement, for which
26 [he] the individual is entitled to remuneration from a covered
27 employer, or who has been out of such employment for less than two
28 weeks. However, a "covered individual" who is employed by the
29 State of New Jersey, including Rutgers, The State University, the
30 University of Medicine and Dentistry of New Jersey and the New
31 Jersey Institute of Technology, or by any governmental entity or
32 instrumentality which elects to [becoming] become a "covered
33 employer" pursuant to this amendatory act, shall not be eligible to
34 receive any benefits under the [Temporary Disability Benefits Law]
35 "Temporary Disability Benefits Law" until such individual has
36 exhausted all sick leave accumulated as an employee in the classified
37 service of the State or accumulated under terms and conditions similar
38 to classified employees or accumulated under the terms and
39 conditions pursuant to the laws of this State or as the result of a
40 negotiated contract with any governmental entity or instrumentality
41 which elects to become a "covered employer."

42 "Covered individual" shall not mean any member of the Division of
43 State Police in the Department of Law and Public Safety.

44 (c) "Division" or "commission" means the Division of
45 Unemployment and Temporary Disability Insurance of the Department
46 of Labor, and any transaction or exercise of authority by the director

1 of the division shall be deemed to be performed by the division.

2 (d) "Day" shall mean a full calendar day beginning and ending at
3 midnight.

4 (e) "Disability" shall mean such disability as is compensable under
5 section 5 of this act.

6 (f) "Disability benefits" shall mean any cash payments which are
7 payable to a covered individual pursuant to this act.

8 (g) "Period of disability" with respect to any individual shall mean
9 the entire period of time during which ~~[he]~~ the individual is
10 continuously and totally unable to perform the duties of his
11 employment, except that two periods of disability due to the same or
12 related cause or condition and separated by a period of not more than
13 14 days shall be considered as one continuous period of disability;
14 provided the individual has earned wages during such 14-day period
15 with the employer who was ~~[his]~~ the individual's last employer
16 immediately preceding the first period of disability.

17 (h) "Wages" shall mean all compensation payable by covered
18 employers to covered individuals for personal services, including
19 commissions and bonuses and the cash value of all compensation
20 payable in any medium other than cash.

21 (i)(1) ["Base week" with respect to periods of disability
22 commencing prior to October 1, 1984, means any calendar week
23 during which an individual earned not less than \$15.00 from a covered
24 employer, in employment as defined in the chapter to which this act
25 is a supplement.] ~~(Deleted by amendment, P.L. , c.)~~

26 (2) ["Base week" with respect to periods of disability commencing
27 on or after October 1, 1984, and prior to October 1, 1985, means any
28 calendar week during which an individual earned in employment from
29 a covered employer remuneration equal to not less than 15% of the
30 Statewide average weekly remuneration as determined under
31 subsection (c) of R.S. 43:21-3, which shall be adjusted to the next
32 higher multiple of \$1.00 if not already a multiple thereof.] ~~(Deleted by
33 amendment, P.L. , c.)~~

34 (3) "Base week" with respect to periods of disability commencing
35 on or after October 1, 1985 and before January 1, 2001, means any
36 calendar week during which an individual earned in employment from
37 a covered employer remuneration equal to not less than 20% of the
38 Statewide average weekly remuneration as determined under
39 subsection (c) of R.S.43:21-3, which shall be adjusted to the next
40 higher multiple of \$1.00 if not already a multiple thereof.

41 (4) "Base week" with respect to periods of disability commencing
42 on or after January 1, 2001, means any calendar week of an
43 individual's base year during which the individual earned in
44 employment from a covered employer remuneration not less than an
45 amount 20 times the minimum wage in effect pursuant to section 5 of
46 P.L.1966, c.113 (C.34:11-56a4) on October 1 of the calendar year

1 preceding the calendar year in which the benefit year commences,
2 which amount shall be adjusted to the next higher multiple of \$1.00 if
3 not already a multiple thereof, except that if in any calendar week an
4 individual subject to this paragraph is in employment with more than
5 one employer, the individual may in that calendar week establish a base
6 week with respect to each of the employers from whom the individual
7 earns remuneration equal to not less than the amount defined in this
8 paragraph during that week.

9 (j) "Average weekly wage" means the amount derived by dividing
10 a covered individual's total wages earned from ~~[his]~~ the individual's
11 most recent covered employer during the base weeks in the eight
12 calendar weeks immediately preceding the calendar week in which
13 disability commenced, by the number of such base weeks. If this
14 computation yields a result which is less than the individual's average
15 weekly earnings in employment, as defined in the chapter to which this
16 act is a supplement, with all covered employers during the base weeks
17 in such eight calendar weeks, then the average weekly wage shall be
18 computed on the basis of earnings from all covered employers during
19 the eight base weeks immediately preceding the week in which the
20 disability commenced.

21 (cf: P.L.1984, c.104, s.1)

22
23 4. Section 17 of P.L.1948, c.110 (C.43:21-41) is amended to read
24 as follows:

25 17. (a) (Deleted by amendment, P.L.1975, c.355.)

26 (b) ~~【With respect to periods of disability commencing on or after~~
27 ~~January 1, 1953, and prior to January 1, 1976, no individual shall be~~
28 ~~entitled to benefits under this article unless he has established at least~~
29 ~~17 base weeks within the 52 calendar weeks preceding the week in~~
30 ~~which his period of disability commenced, nor unless he shall duly file~~
31 ~~notice and proof of claim, and submit to such reasonable examinations~~
32 ~~as are required by this act and the rules and regulations of the~~
33 ~~division.】 (Deleted by amendment, P.L. , c.)~~

34 (c) ~~【With respect to periods of disability commencing on or after~~
35 ~~January 1, 1976, and prior to October 1, 1984, no individual shall be~~
36 ~~entitled to benefits under this article unless he has established at least~~
37 ~~17 base weeks within the 52 calendar weeks preceding the week in~~
38 ~~which his period of disability commenced, or, in the alternative, has~~
39 ~~earned \$2,200.00 or more within the 52 calendar weeks preceding the~~
40 ~~week in which his period of disability commenced, nor unless he shall~~
41 ~~duly file notice and proof of claim, and submit to such reasonable~~
42 ~~examinations as are required by this act and the rules and regulations~~
43 ~~of the division.~~

44 Notwithstanding any provisions of this section to the contrary, the
45 provision of subsection 17(c) shall apply to any claim pending before
46 the division or the courts on the effective date of this act.】 ~~(Deleted~~

1 by amendment, P.L. , c.)

2 (d) With respect to periods of disability commencing on or after
3 October 1, 1984 and before January 1, 2001, no individual shall be
4 entitled to benefits under this act unless [he] the individual has
5 established at least 20 base weeks within the 52 calendar weeks
6 preceding the week in which [his] the individual's period of disability
7 commenced, or, in the alternative, the individual has earned twelve
8 times the Statewide average weekly remuneration paid to workers, as
9 determined under subsection (c) of R.S. 43:21-3, raised to the next
10 higher multiple of \$100.00, if not already a multiple thereof, or more
11 within the 52 calendar weeks preceding the week in which [his] the
12 period of disability commenced, nor shall the individual be entitled to
13 benefits unless he shall duly file notice and proof of claim, and submit
14 to such reasonable examinations as are required by this act and the
15 rules and regulations of the division.

16 (2) With respect to periods of disability commencing on or after
17 January 1, 2001, no individual shall be entitled to benefits under this
18 act unless the individual has, within the 52 calendar weeks preceding
19 the week in which the individual's period of disability commenced,
20 established at least 20 base weeks or earned not less than 1,000 times
21 the minimum wage in effect pursuant to section 5 of P.L.1996, c.113
22 (C.34:11-56a4) on October 1 of the calendar year preceding the
23 calendar year in which the disability commences, which amount shall
24 be adjusted to the next higher multiple of \$100.00, if not already a
25 multiple thereof.

26 (cf: P.L.1984, c.104, s.4)

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28 5. This act shall take effect immediately.

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32

33 Modifies eligibility for temporary disability and unemployment
34 benefits.

CHAPTER 17

AN ACT concerning eligibility for unemployment compensation and temporary disability benefits and amending R.S.43:21-4, R.S.43:21-19 and P.L.1948, c.110.

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

1. R.S.43:21-4 is amended to read as follows:

Benefit eligibility conditions.

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

(a) The individual has filed a claim at an unemployment insurance claims office and thereafter continues to report at an employment service office or unemployment insurance claims office, as directed by the division in accordance with such regulations as the division may prescribe, except that the division may, by regulation, waive or alter either or both of the requirements of this subsection as to individuals attached to regular jobs, and as to such other types of cases or situations with respect to which the division finds that compliance with such requirements would be oppressive, or would be inconsistent with the purpose of this act; provided that no such regulation shall conflict with subsection (a) of R.S.43:21-3.

(b) The individual has made a claim for benefits in accordance with the provisions of subsection (a) of R.S.43:21-6.

(c) (1) The individual is able to work, and is available for work, and has demonstrated to be actively seeking work, except as hereinafter provided in this subsection or in subsection (f) of this section.

(2) The director may modify the requirement of actively seeking work if such modification of this requirement is warranted by economic conditions.

(3) No individual, who is otherwise eligible, shall be deemed ineligible, or unavailable for work, because the individual is on vacation, without pay, during said week, if said vacation is not the result of the individual's own action as distinguished from any collective action of a collective bargaining agent or other action beyond the individual's control.

(4) (A) Subject to such limitations and conditions as the division may prescribe, an individual, who is otherwise eligible, shall not be deemed unavailable for work or ineligible because the individual is attending a training program approved for the individual by the division to enhance the individual's employment opportunities or because the individual failed or refused to accept work while attending such program.

(B) For the purpose of this paragraph (4), any training program shall be regarded as approved by the division for the individual if the program and the individual meet the following requirements:

(i) The training is for a labor demand occupation and is likely to enhance the individual's marketable skills and earning power;

(ii) The training is provided by a competent and reliable private or public entity approved by the Commissioner of Labor pursuant to the provisions of section 8 of the "1992 New Jersey Employment and Workforce Development Act," P.L.1992, c.43 (C.34:15D-8);

(iii) The individual can reasonably be expected to complete the program, either during or after the period of benefits;

(iv) The training does not include on the job training or other training under which the individual is paid by an employer for work performed by the individual during the time that the individual receives benefits; and

(v) The individual enrolls in vocational training, remedial education or a combination of both on a full-time basis.

(C) If the requirements of subparagraph (B) of this paragraph (4) are met, the division shall not withhold approval of the training program for the individual for any of the following reasons:

(i) The training includes remedial basic skills education necessary for the individual to successfully complete the vocational component of the training;

(ii) The training is provided in connection with a program under which the individual may obtain a college degree, including a post-graduate degree;

(iii) The length of the training period under the program; or

(iv) The lack of a prior guarantee of employment upon completion of the training.

(D) For the purpose of this paragraph (4), "labor demand occupation" means an occupation for which there is or is likely to be an excess of demand over supply for adequately trained workers, including, but not limited to, an occupation designated as a labor demand occupation by the New Jersey Occupational Information Coordinating Committee pursuant to the provisions of subsection h. of section 1 of P.L.1987, c.457 (C.34:1A-76) or section 12 of P.L.1992, c.43 (C.34:1A-78).

(5) An unemployed individual, who is otherwise eligible, shall not be deemed unavailable for work or ineligible solely by reason of the individual's attendance before a court in response to a summons for service on a jury.

(6) An unemployed individual, who is otherwise eligible, shall not be deemed unavailable for work or ineligible solely by reason of the individual's attendance at the funeral of an immediate family member, provided that the duration of the attendance does not extend beyond a two-day period.

For purposes of this paragraph, "immediate family member" includes any of the following individuals: father, mother, mother-in-law, father-in-law, grandmother, grandfather, grandchild, spouse, child, foster child, sister or brother of the unemployed individual and any relatives of the unemployed individual residing in the unemployed individual's household.

(7) No individual, who is otherwise eligible, shall be deemed ineligible or unavailable for work with respect to any week because, during that week, the individual fails or refuses to accept work while the individual is participating on a full-time basis in self-employment assistance activities authorized by the division, whether or not the individual is receiving a self-employment allowance during that week.

(8) Any individual who is determined to be likely to exhaust regular benefits and need reemployment services based on information obtained by the worker profiling system shall not be eligible to receive benefits if the individual fails to participate in available reemployment services to which the individual is referred by the division or in similar services, unless the division determines that:

(A) The individual has completed the reemployment services; or

(B) There is justifiable cause for the failure to participate, which shall include participation in employment and training, self-employment assistance activities or other activities authorized by the division to assist reemployment or enhance the marketable skills and earning power of the individual and which shall include any other circumstance indicated pursuant to this section in which an individual is not required to be available for and actively seeking work to receive benefits.

(d) The individual has been totally or partially unemployed for a waiting period of one week in the benefit year which includes that week. When benefits become payable with respect to the third consecutive week next following the waiting period, the individual shall be eligible to receive benefits as appropriate with respect to the waiting period. No week shall be counted as a week of unemployment for the purposes of this subsection:

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

(2) If it has constituted a waiting period week under the "Temporary Disability Benefits Law," P.L.1948, c.110 (C.43:21-25 et seq.);

(3) Unless the individual fulfills the requirements of subsections (a) and (c) of this section;

(4) If with respect thereto, claimant was disqualified for benefits in accordance with the provisions of subsection (d) of R.S.43:21-5.

(e) (1) (Deleted by amendment, P.L.2001, c.17).

(2) With respect to benefit years commencing on or after January 1, 1996 and before January 7, 2001, except as otherwise provided in paragraph (3) of this subsection, the individual has, during his base year as defined in subsection (c) of R.S.43:21-19:

(A) Established at least 20 base weeks as defined in paragraph (2) of subsection (t) of R.S.43:21-19; or

(B) If the individual has not met the requirements of subparagraph (A) of this paragraph (2), earned remuneration not less than an amount 12 times the Statewide average weekly

remuneration paid to workers, as determined under R.S.43:21-3(c), which amount shall be adjusted to the next higher multiple of \$100.00 if not already a multiple thereof; or

(C) If the individual has not met the requirements of subparagraph (A) or (B) of this paragraph (2), earned remuneration not less than an amount 1,000 times the minimum wage in effect pursuant to section 5 of P.L.1966, c.113 (C.34:11-56a4) on October 1 of the calendar year preceding the calendar year in which the benefit year commences, which amount shall be adjusted to the next higher multiple of \$100.00 if not already a multiple thereof.

(3) With respect to benefit years commencing before January 7, 2001, notwithstanding the provisions of paragraph (2) of this subsection, an unemployed individual claiming benefits on the basis of service performed in the production and harvesting of agricultural crops shall, subject to the limitations of subsection (i) of R.S.43:21-19, be eligible to receive benefits if during his base year, as defined in subsection (c) of R.S.43:21-19, the individual:

(A) Has established at least 20 base weeks as defined in paragraph (2) of subsection (t) of R.S.43:21-19; or

(B) Has earned 12 times the Statewide average weekly remuneration paid to workers, as determined under R.S.43:21-3(c), raised to the next higher multiple of \$100.00 if not already a multiple thereof, or more; or

(C) Has performed at least 770 hours of service in the production and harvesting of agricultural crops.

(4) With respect to benefit years commencing on or after January 7, 2001, except as otherwise provided in paragraph (5) of this subsection, the individual has, during his base year as defined in subsection (c) of R.S.43:21-19:

(A) Established at least 20 base weeks as defined in paragraphs (2) and (3) of subsection (t) of R.S.43:21-19; or

(B) If the individual has not met the requirements of subparagraph (A) of this paragraph (4), earned remuneration not less than an amount 1,000 times the minimum wage in effect pursuant to section 5 of P.L.1966, c.113 (C.34:11-56a4) on October 1 of the calendar year preceding the calendar year in which the benefit year commences, which amount shall be adjusted to the next higher multiple of \$100 if not already a multiple thereof.

(5) With respect to benefit years commencing on or after January 7, 2001, notwithstanding the provisions of paragraph (4) of this subsection, an unemployed individual claiming benefits on the basis of service performed in the production and harvesting of agricultural crops shall, subject to the limitations of subsection (i) of R.S.43:21-19, be eligible to receive benefits if during his base year, as defined in subsection (c) of R.S.43:21-19, the individual:

(A) Has established at least 20 base weeks as defined in paragraphs (2) and (3) of subsection (t) of R.S.43:21-19; or

(B) Has earned remuneration not less than an amount 1,000 times the minimum wage in effect pursuant to section 5 of P.L.1966, c.113 (C.34:11-56a4) on October 1 of the calendar year preceding the calendar year in which the benefit year commences, which amount shall be adjusted to the next higher multiple of \$100 if not already a multiple thereof; or

(C) Has performed at least 770 hours of service in the production and harvesting of agricultural crops.

(6) The individual applying for benefits in any successive benefit year has earned at least six times his previous weekly benefit amount and has had four weeks of employment since the beginning of the immediately preceding benefit year. This provision shall be in addition to the earnings requirements specified in paragraph (2), (3), (4) or (5) of this subsection, as applicable.

(f) (1) The individual has suffered any accident or sickness not compensable under the workers' compensation law, R.S.34:15-1 et seq. and resulting in the individual's total disability to perform any work for remuneration, and would be eligible to receive benefits under this chapter (R.S.43:21-1 et seq.) (without regard to the maximum amount of benefits payable during any benefit year) except for the inability to work and has furnished notice and proof of claim to the division, in accordance with its rules and regulations, and payment is not precluded by the provisions of R.S.43:21-3(d); provided, however, that benefits paid under this subsection (f) shall be computed on the basis of only those base year wages earned by the claimant as a "covered individual," as defined in R.S.43:21-27(b); provided further that no benefits shall be

payable under this subsection to any individual:

(A) For any period during which such individual is not under the care of a legally licensed physician, dentist, optometrist, podiatrist, practicing psychologist or chiropractor;

(B) (Deleted by amendment, P.L.1980, c.90.)

(C) For any period of disability due to willfully or intentionally self-inflicted injury, or to injuries sustained in the perpetration by the individual of a crime of the first, second or third degree;

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

(E) For any week with respect to which or part of which the individual has received or is seeking disability benefits under the "Temporary Disability Benefits Law," P.L.1948, c.110 (C.43:21-25 et seq.);

(F) For any period of disability commencing while such individual is a "covered individual," as defined in subsection (b) of section 3 of the "Temporary Disability Benefits Law," P.L.1948, c.110 (C.43:21-27).

(2) Benefit payments under this subsection (f) shall be charged to and paid from the State disability benefits fund established by the "Temporary Disability Benefits Law," P.L.1948, c.110 (C.43:21-25 et seq.), and shall not be charged to any employer account in computing any employer's experience rate for contributions payable under this chapter.

(g) Benefits based on service in employment defined in subparagraphs (B) and (C) of R.S.43:21-19(i)(1) shall be payable in the same amount and on the terms and subject to the same conditions as benefits payable on the basis of other service subject to the "unemployment compensation law"; except that, notwithstanding any other provisions of the "unemployment compensation law":

(1) With respect to service performed after December 31, 1977, in an instructional research, or principal administrative capacity for an educational institution, benefits shall not be paid based on such services for any week of unemployment commencing during the period between two successive academic years, or during a similar period between two regular terms, whether or not successive, or during a period of paid sabbatical leave provided for in the individual's contract, to any individual if such individual performs such services in the first of such academic years (or terms) and if there is a contract or a reasonable assurance that such individual will perform services in any such capacity for any educational institution in the second of such academic years or terms;

(2) With respect to weeks of unemployment beginning after September 3, 1982, on the basis of service performed in any other capacity for an educational institution, benefits shall not be paid on the basis of such services to any individual for any week which commences during a period between two successive academic years or terms if such individual performs such services in the first of such academic years or terms and there is a reasonable assurance that such individual will perform such services in the second of such academic years or terms, except that if benefits are denied to any individual under this paragraph (2) and the individual was not offered an opportunity to perform these services for the educational institution for the second of any academic years or terms, the individual shall be entitled to a retroactive payment of benefits for each week for which the individual filed a timely claim for benefits and for which benefits were denied solely by reason of this clause;

(3) With respect to those services described in paragraphs (1) and (2) above, benefits shall not be paid on the basis of such services to any individual for any week which commences during an established and customary vacation period or holiday recess if such individual performs such services in the period immediately before such vacation period or holiday recess, and there is a reasonable assurance that such individual will perform such services in the period immediately following such period or holiday recess;

(4) With respect to any services described in paragraphs (1) and (2) above, benefits shall not be paid as specified in paragraphs (1), (2), and (3) above to any individual who performed those

services in an educational institution while in the employ of an educational service agency, and for this purpose the term "educational service agency" means a governmental agency or governmental entity which is established and operated exclusively for the purpose of providing those services to one or more educational institutions.

(h) Benefits shall not be paid to any individual on the basis of any services, substantially all of which consist of participating in sports or athletic events or training or preparing to so participate, for any week which commences during the period between two successive sports seasons (or similar periods) if such individual performed such services in the first of such seasons (or similar periods) and there is a reasonable assurance that such individual will perform such services in the later of such seasons (or similar periods).

(i) (1) Benefits shall not be paid on the basis of services performed by an alien unless such alien is an individual who was lawfully admitted for permanent residence at the time the services were performed and was lawfully present for the purpose of performing the services or otherwise was permanently residing in the United States under color of law at the time the services were performed (including an alien who is lawfully present in the United States as a result of the application of the provisions of section 212(d)(5) (8 U.S.C. s.1182 (d)(5)) of the Immigration and Nationality Act (8 U.S.C. s.1101 et seq.)); provided that any modifications of the provisions of section 3304(a)(14) of the Federal Unemployment Tax Act (26 U.S.C. s.3304 (a)(14)), as provided by Pub.L.94-566, which specify other conditions or other effective dates than stated herein for the denial of benefits based on services performed by aliens and which modifications are required to be implemented under State law as a condition for full tax credit against the tax imposed by the Federal Unemployment Tax Act, shall be deemed applicable under the provisions of this section.

(2) Any data or information required of individuals applying for benefits to determine whether benefits are not payable to them because of their alien status shall be uniformly required from all applicants for benefits.

(3) In the case of an individual whose application for benefits would otherwise be approved, no determination that benefits to such individual are not payable because of alien status shall be made except upon a preponderance of the evidence.

(j) Notwithstanding any other provision of this chapter, the director may, to the extent that it may be deemed efficient and economical, provide for consolidated administration by one or more representatives or deputies of claims made pursuant to subsection (f) of this section with those made pursuant to Article III (State plan) of the "Temporary Disability Benefits Law," P.L.1948, c.110 (C.43:21-25 et seq.).

2. R.S.43:21-19 is amended to read as follows:

Definitions.

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

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

(2) "Average annual payroll" means the average of the annual payrolls of any employer for the last three or five preceding calendar years, whichever average is higher, except that any year or years throughout which an employer has had no "annual payroll" because of military service shall be deleted from the reckoning; the "average annual payroll" in such case is to be determined on the basis of the prior three or five calendar years in each of which the employer had an "annual payroll" in the operation of his business, if the employer resumes his business within 12 months after separation, discharge or release from such service, under conditions other than dishonorable, and makes application to have his "average annual payroll" determined on the basis of such deletion within 12 months after he resumes his business; provided, however, that "average annual payroll" solely for the purposes of paragraph (3) of subsection (e) of R.S.43:21-7 means the average of the annual payrolls of any employer on which he paid contributions to the State disability benefits fund for the last three or five preceding calendar years, whichever average is higher; provided further that only those wages be included on which

employer contributions have been paid on or before January 31 (or the next succeeding day if such January 31 is a Saturday or Sunday) immediately preceding the beginning of the 12-month period for which the employer's contribution rate is computed.

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

(c) (1) "Base year" with respect to benefit years commencing on or after July 1, 1986, shall mean the first four of the last five completed calendar quarters immediately preceding an individual's benefit year.

With respect to a benefit year commencing on or after July 1, 1995, if an individual does not have sufficient qualifying weeks or wages in his base year to qualify for benefits, the individual shall have the option of designating that his base year shall be the "alternative base year," which means the last four completed calendar quarters immediately preceding the individual's benefit year; except that, with respect to a benefit year commencing on or after October 1, 1995, if the individual also does not have sufficient qualifying weeks or wages in the last four completed calendar quarters immediately preceding his benefit year to qualify for benefits, "alternative base year" means the last three completed calendar quarters immediately preceding his benefit year and, of the calendar quarter in which the benefit year commences, the portion of the quarter which occurs before the commencing of the benefit year.

The division shall inform the individual of his options under this section as amended by P.L.1995, c.234. If information regarding weeks and wages for the calendar quarter or quarters immediately preceding the benefit year is not available to the division from the regular quarterly reports of wage information and the division is not able to obtain the information using other means pursuant to State or federal law, the division may base the determination of eligibility for benefits on the affidavit of an individual with respect to weeks and wages for that calendar quarter. The individual shall furnish payroll documentation, if available, in support of the affidavit. A determination of benefits based on an alternative base year shall be adjusted when the quarterly report of wage information from the employer is received if that information causes a change in the determination.

(2) With respect to a benefit year commencing on or after June 1, 1990 for an individual who immediately preceding the benefit year was subject to a disability compensable under the provisions of the "Temporary Disability Benefits Law," P.L.1948, c.110 (C.43:21-25 et seq.), "base year" shall mean the first four of the last five completed calendar quarters immediately preceding the individual's period of disability, if the employment held by the individual immediately preceding the period of disability is no longer available at the conclusion of that period and the individual files a valid claim for unemployment benefits after the conclusion of that period. For the purposes of this paragraph, "period of disability" means the period defined as a period of disability by section 3 of the "Temporary Disability Benefits Law," P.L.1948, c.110 (C.43:21-27). An individual who files a claim under the provisions of this paragraph (2) shall not be regarded as having left work voluntarily for the purposes of subsection (a) of R.S.43:21-5.

(3) With respect to a benefit year commencing on or after June 1, 1990 for an individual who immediately preceding the benefit year was subject to a disability compensable under the provisions of the workers' compensation law (chapter 15 of Title 34 of the Revised Statutes), "base year" shall mean the first four of the last five completed calendar quarters immediately preceding the individual's period of disability, if the period of disability was not longer than two years, if the employment held by the individual immediately preceding the period of disability is no longer available at the conclusion of that period and if the individual files a valid claim for unemployment benefits after the conclusion of that period. For the purposes of this paragraph, "period of disability" means the period from the time at which the individual becomes unable to work because of the compensable disability until the time that the individual becomes able to resume work and continue work on a permanent basis. An individual who files a claim under the provisions of this paragraph (3) shall not be regarded as having left work voluntarily for the purposes of subsection (a) of R.S.43:21-5.

(d) "Benefit year" with respect to any individual means the 364 consecutive calendar days beginning with the day on, or as of, which he first files a valid claim for benefits, and thereafter

beginning with the day on, or as of, which the individual next files a valid claim for benefits after the termination of his last preceding benefit year. Any claim for benefits made in accordance with subsection (a) of R.S.43:21-6 shall be deemed to be a "valid claim" for the purpose of this subsection if (1) he is unemployed for the week in which, or as of which, he files a claim for benefits; and (2) he has fulfilled the conditions imposed by subsection (e) of R.S.43:21-4.

(e) (1) "Division" means the Division of Unemployment and Temporary Disability Insurance of the Department of Labor, and any transaction or exercise of authority by the director of the division thereunder, or under this chapter (R.S.43:21-1 et seq.), shall be deemed to be performed by the division.

(2) "Controller" means the Office of the Assistant Commissioner for Finance and Controller of the Department of Labor, established by the 1982 Reorganization Plan of the Department of Labor.

(f) "Contributions" means the money payments to the State Unemployment Compensation Fund, required by R.S.43:21-7. "Payments in lieu of contributions" means the money payments to the State Unemployment Compensation Fund by employers electing or required to make payments in lieu of contributions, as provided in section 3 or section 4 of P.L.1971, c.346 (C.43:21-7.2 or 43:21-7.3).

(g) "Employing unit" means the State or any of its instrumentalities or any political subdivision thereof or any of its instrumentalities or any instrumentality of more than one of the foregoing or any instrumentality of any of the foregoing and one or more other states or political subdivisions or any individual or type of organization, any partnership, association, trust, estate, joint-stock company, insurance company or corporation, whether domestic or foreign, or the receiver, trustee in bankruptcy, trustee or successor thereof, or the legal representative of a deceased person, which has or subsequent to January 1, 1936, had in its employ one or more individuals performing services for it within this State. All individuals performing services within this State for any employing unit which maintains two or more separate establishments within this State shall be deemed to be employed by a single employing unit for all the purposes of this chapter (R.S.43:21-1 et seq.). Each individual employed to perform or to assist in performing the work of any agent or employee of an employing unit shall be deemed to be employed by such employing unit for all the purposes of this chapter (R.S.43:21-1 et seq.), whether such individual was hired or paid directly by such employing unit or by such agent or employee; provided the employing unit had actual or constructive knowledge of the work.

(h) "Employer" means:

(1) Any employing unit which in either the current or the preceding calendar year paid remuneration for employment in the amount of \$1,000.00 or more;

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

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

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

(5) Any employing unit for which service in employment as defined in R.S.43:21-19 (i) (1) (B) (i) is performed after December 31, 1971; and as defined in R.S.43:21-19 (i) (1) (B) (ii) is performed after December 31, 1977;

(6) Any employing unit for which service in employment as defined in R.S.43:21-19 (i) (1) (C) is performed after December 31, 1971 and which in either the current or the preceding calendar year paid remuneration for employment in the amount of \$1,000.00 or more;

(7) Any employing unit not an employer by reason of any other paragraph of this subsection (h) for which, within either the current or preceding calendar year, service is or was performed

with respect to which such employing unit is liable for any federal tax against which credit may be taken for contributions required to be paid into a state unemployment fund; or which, as a condition for approval of the "unemployment compensation law" for full tax credit against the tax imposed by the Federal Unemployment Tax Act, is required pursuant to such act to be an employer under this chapter (R.S.43:21-1 et seq.);

(8) (Deleted by amendment; P.L.1977, c.307.)

(9) (Deleted by amendment; P.L.1977, c.307.)

(10) (Deleted by amendment; P.L.1977, c.307.)

(11) Any employing unit subject to the provisions of the Federal Unemployment Tax Act within either the current or the preceding calendar year, except for employment hereinafter excluded under paragraph (7) of subsection (i) of this section;

(12) Any employing unit for which agricultural labor in employment as defined in R.S.43:21-19 (i) (1) (I) is performed after December 31, 1977;

(13) Any employing unit for which domestic service in employment as defined in R.S.43:21-19 (i) (1) (J) is performed after December 31, 1977;

(14) Any employing unit which having become an employer under the "unemployment compensation law" (R.S.43:21-1 et seq.), has not under R.S.43:21-8 ceased to be an employer; or for the effective period of its election pursuant to R.S.43:21-8, any other employing unit which has elected to become fully subject to this chapter (R.S.43:21-1 et seq.).

(i) (1) "Employment" means:

(A) Any service performed prior to January 1, 1972, which was employment as defined in the "unemployment compensation law" (R.S.43:21-1 et seq.) prior to such date, and, subject to the other provisions of this subsection, service performed on or after January 1, 1972, including service in interstate commerce, performed for remuneration or under any contract of hire, written or oral, express or implied.

(B) (i) Service performed after December 31, 1971 by an individual in the employ of this State or any of its instrumentalities or in the employ of this State and one or more other states or their instrumentalities for a hospital or institution of higher education located in this State, if such service is not excluded from "employment" under paragraph (D) below.

(ii) Service performed after December 31, 1977, in the employ of this State or any of its instrumentalities or any political subdivision thereof or any of its instrumentalities or any instrumentality of more than one of the foregoing or any instrumentality of the foregoing and one or more other states or political subdivisions, if such service is not excluded from "employment" under paragraph (D) below.

(C) Service performed after December 31, 1971 by an individual in the employ of a religious, charitable, educational, or other organization, which is excluded from "employment" as defined in the Federal Unemployment Tax Act, solely by reason of section 3306 (c) (8) of that act, if such service is not excluded from "employment" under paragraph (D) below.

(D) For the purposes of paragraphs (B) and (C), the term "employment" does not apply to services performed

(i) In the employ of (I) a church or convention or association of churches, or (II) an organization, or school which is operated primarily for religious purposes and which is operated, supervised, controlled or principally supported by a church or convention or association of churches;

(ii) By a duly ordained, commissioned, or licensed minister of a church in the exercise of his ministry or by a member of a religious order in the exercise of duties required by such order;

(iii) Prior to January 1, 1978, in the employ of a school which is not an institution of higher education, and after December 31, 1977, in the employ of a governmental entity referred to in R.S.43:21-19 (i) (1) (B), if such service is performed by an individual in the exercise of duties

(aa) as an elected official;

(bb) as a member of a legislative body, or a member of the judiciary, of a state or political subdivision;

(cc) as a member of the State National Guard or Air National Guard;

(dd) as an employee serving on a temporary basis in case of fire, storm, snow, earthquake, flood or similar emergency;

(ee) in a position which, under or pursuant to the laws of this State, is designated as a major nontenured policy making or advisory position, or a policy making or advisory position, the performance of the duties of which ordinarily does not require more than eight hours per week; or

(iv) By an individual receiving rehabilitation or remunerative work in a facility conducted for the purpose of carrying out a program of rehabilitation of individuals whose earning capacity is impaired by age or physical or mental deficiency or injury or providing remunerative work for individuals who because of their impaired physical or mental capacity cannot be readily absorbed in the competitive labor market;

(v) By an individual receiving work-relief or work-training as part of an unemployment work-relief or work-training program assisted in whole or in part by any federal agency or an agency of a state or political subdivision thereof; or

(vi) Prior to January 1, 1978, for a hospital in a State prison or other State correctional institution by an inmate of the prison or correctional institution and after December 31, 1977, by an inmate of a custodial or penal institution.

(E) The term "employment" shall include the services of an individual who is a citizen of the United States, performed outside the United States after December 31, 1971 (except in Canada and in the case of the Virgin Islands, after December 31, 1971) and prior to January 1 of the year following the year in which the U.S. Secretary of Labor approves the unemployment compensation law of the Virgin Islands, under section 3304 (a) of the Internal Revenue Code of 1986 (26 U.S.C. s.3304 (a)) in the employ of an American employer (other than the service which is deemed employment under the provisions of R.S.43:21-19 (i) (2) or (5) or the parallel provisions of another state's unemployment compensation law), if

(i) The American employer's principal place of business in the United States is located in this State; or

(ii) The American employer has no place of business in the United States, but (I) the American employer is an individual who is a resident of this State; or (II) the American employer is a corporation which is organized under the laws of this State; or (III) the American employer is a partnership or trust and the number of partners or trustees who are residents of this State is greater than the number who are residents of another state; or

(iii) None of the criteria of divisions (i) and (ii) of this subparagraph (E) is met but the American employer has elected to become an employer subject to the "unemployment compensation law" (R.S.43:21-1 et seq.) in this State, or the American employer having failed to elect to become an employer in any state, the individual has filed a claim for benefits, based on such service, under the law of this State;

(iv) An "American employer," for the purposes of this subparagraph (E), means (I) an individual who is a resident of the United States; or (II) a partnership, if two-thirds or more of the partners are residents of the United States; or (III) a trust, if all the trustees are residents of the United States; or (IV) a corporation organized under the laws of the United States or of any state.

(F) Notwithstanding R.S.43:21-19 (i) (2), all service performed after January 1, 1972 by an officer or member of the crew of an American vessel or American aircraft on or in connection with such vessel or aircraft, if the operating office from which the operations of such vessel or aircraft operating within, or within and without, the United States are ordinarily and regularly supervised, managed, directed, and controlled, is within this State.

(G) Notwithstanding any other provision of this subsection, service in this State with respect to which the taxes required to be paid under any federal law imposing a tax against which credit may be taken for contributions required to be paid into a state unemployment fund or which as a condition for full tax credit against the tax imposed by the Federal Unemployment Tax Act is required to be covered under the "unemployment compensation law" (R.S.43:21-1 et seq.).

(H) The term "United States" when used in a geographical sense in subsection R.S.43:21-19 (i) includes the states, the District of Columbia, the Commonwealth of Puerto Rico and, effective on the day after the day on which the U.S. Secretary of Labor approves for the first time under section 3304 (a) of the Internal Revenue Code of 1986 (26 U.S.C. s.3304 (a)) an unemployment compensation law submitted to the Secretary by the Virgin Islands for such approval, the Virgin

Islands.

(I) (i) Service performed after December 31, 1977 in agricultural labor in a calendar year for an entity which is an employer as defined in the "unemployment compensation law," (R.S.43:21-1 et seq.) as of January 1 of such year; or for an employing unit which

(aa) during any calendar quarter in either the current or the preceding calendar year paid remuneration in cash of \$20,000.00 or more for individuals employed in agricultural labor, or

(bb) for some portion of a day in each of 20 different calendar weeks, whether or not such weeks were consecutive, in either the current or the preceding calendar year, employed in agricultural labor 10 or more individuals, regardless of whether they were employed at the same moment in time.

(ii) for the purposes of this subsection any individual who is a member of a crew furnished by a crew leader to perform service in agricultural labor for any other entity shall be treated as an employee of such crew leader

(aa) if such crew leader holds a certification of registration under the Migrant and Seasonal Agricultural Worker Protection Act, Pub.L.97-470 (29 U.S.C. s.1801 et seq.), or P.L.1971, c.192 (C.34:8A-7 et seq.); or substantially all the members of such crew operate or maintain tractors, mechanized harvesting or cropdusting equipment, or any other mechanized equipment, which is provided by such crew leader; and

(bb) if such individual is not an employee of such other person for whom services were performed.

(iii) For the purposes of subparagraph (I) (i) in the case of any individual who is furnished by a crew leader to perform service in agricultural labor or any other entity and who is not treated as an employee of such crew leader under (I) (ii)

(aa) such other entity and not the crew leader shall be treated as the employer of such individual; and

(bb) such other entity shall be treated as having paid cash remuneration to such individual in an amount equal to the amount of cash remuneration paid to such individual by the crew leader (either on his own behalf or on behalf of such other entity) for the service in agricultural labor performed for such other entity.

(iv) For the purpose of subparagraph (I)(ii), the term "crew leader" means an individual who

(aa) furnishes individuals to perform service in agricultural labor for any other entity;

(bb) pays (either on his own behalf or on behalf of such other entity) the individuals so furnished by him for the service in agricultural labor performed by them; and

(cc) has not entered into a written agreement with such other entity under which such individual is designated as an employee of such other entity.

(J) Domestic service after December 31, 1977 performed in the private home of an employing unit which paid cash remuneration of \$1,000.00 or more to one or more individuals for such domestic service in any calendar quarter in the current or preceding calendar year.

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

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

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

(3) Services performed within this State but not covered under paragraph (2) of this subsection shall be deemed to be employment subject to this chapter (R.S.43:21-1 et seq.) if contributions are not required and paid with respect to such services under an unemployment compensation law of any other state or of the federal government.

(4) Services not covered under paragraph (2) of this subsection and performed entirely without this State, with respect to no part of which contributions are required and paid under an unemployment compensation law of any other state or of the federal government, shall be deemed to be employment subject to this chapter (R.S.43:21-1 et seq.) if the individual performing such services is a resident of this State and the employing unit for whom such

services are performed files with the division an election that the entire service of such individual shall be deemed to be employment subject to this chapter (R.S.43:21-1 et seq.).

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

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

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

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

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

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

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

(7) Provided that such services are also exempt under the Federal Unemployment Tax Act, as amended, or that contributions with respect to such services are not required to be paid into a state unemployment fund as a condition for a tax offset credit against the tax imposed by the Federal Unemployment Tax Act, as amended, the term "employment" shall not include:

(A) Agricultural labor performed prior to January 1, 1978; and after December 31, 1977, only if performed in a calendar year for an entity which is not an employer as defined in the "unemployment compensation law," (R.S.43:21-1 et seq.) as of January 1 of such calendar year; or unless performed for an employing unit which

(i) during a calendar quarter in either the current or the preceding calendar year paid remuneration in cash of \$20,000.00 or more to individuals employed in agricultural labor, or

(ii) for some portion of a day in each of 20 different calendar weeks, whether or not such weeks were consecutive, in either the current or the preceding calendar year, employed in agricultural labor 10 or more individuals, regardless of whether they were employed at the same moment in time;

(B) Domestic service in a private home performed prior to January 1, 1978; and after December 31, 1977, unless performed in the private home of an employing unit which paid cash remuneration of \$1,000.00 or more to one or more individuals for such domestic service in any calendar quarter in the current or preceding calendar year;

(C) Service performed by an individual in the employ of his son, daughter or spouse, and service performed by a child under the age of 18 in the employ of his father or mother;

(D) Service performed prior to January 1, 1978, in the employ of this State or of any political subdivision thereof or of any instrumentality of this State or its political subdivisions, except as provided in R.S.43:21-19 (i) (1) (B) above, and service in the employ of the South Jersey Port Corporation or its successors;

(E) Service performed in the employ of any other state or its political subdivisions or of an instrumentality of any other state or states or their political subdivisions to the extent that such instrumentality is with respect to such service exempt under the Constitution of the United States from the tax imposed under the Federal Unemployment Tax Act, as amended, except as provided in R.S.43:21-19 (i) (1) (B) above;

(F) Service performed in the employ of the United States Government or of any instrumentality of the United States except under the Constitution of the United States from the contributions imposed by the "unemployment compensation law," except that to the extent that the Congress of the United States shall permit states to require any instrumentalities of the United States to make payments into an unemployment fund under a state unemployment compensation law, all of the provisions of this act shall be applicable to such instrumentalities, and to service performed for such instrumentalities, in the same manner, to the same extent and on the same terms as to all other employers, employing units, individuals and services; provided that if this State shall not be certified for any year by the Secretary of Labor of the United States

under section 3304 of the federal Internal Revenue Code of 1986 (26 U.S.C. s.3304), the payments required of such instrumentalities with respect to such year shall be refunded by the division from the fund in the same manner and within the same period as is provided in R.S.43:21-14 (f) with respect to contributions erroneously paid to or collected by the division;

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

(H) Services performed as a member of the board of directors, a board of trustees, a board of managers, or a committee of any bank, building and loan, or savings and loan association, incorporated or organized under the laws of this State or of the United States, where such services do not constitute the principal employment of the individual;

(I) Service with respect to which unemployment insurance is payable under an unemployment insurance program established by an Act of Congress;

(J) Service performed by agents of mutual fund brokers or dealers in the sale of mutual funds or other securities, by agents of insurance companies, exclusive of industrial insurance agents or by agents of investment companies, if the compensation to such agents for such services is wholly on a commission basis;

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

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

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

(N) Services performed after January 1, 1973 by an individual for a labor union organization, known and recognized as a union local, as a member of a committee or committees reimbursed by the union local for time lost from regular employment, or as a part-time officer of a union local and the remuneration for such services is less than \$1,000.00 in a calendar year;

(O) Services performed in the sale or distribution of merchandise by home-to-home salespersons or in-the-home demonstrators whose remuneration consists wholly of commissions or commissions and bonuses;

(P) Service performed in the employ of a foreign government, including service as a consular, nondiplomatic representative, or other officer or employee;

(Q) Service performed in the employ of an instrumentality wholly owned by a foreign government if (i) the service is of a character similar to that performed in foreign countries by employees of the United States Government or of an instrumentality thereof, and (ii) the division finds that the United States Secretary of State has certified to the United States Secretary of the Treasury that the foreign government, with respect to whose instrumentality exemption is claimed, grants an equivalent exemption with respect to similar services performed in the foreign country by employees of the United States Government and of instrumentalities thereof;

(R) Service in the employ of an international organization entitled to enjoy the privileges, exemptions and immunities under the International Organizations Immunities Act (22 U.S.C. s.288 et seq.);

(S) Service covered by an election duly approved by an agency charged with the administration of any other state or federal unemployment compensation or employment security law, in accordance with an arrangement pursuant to R.S.43:21-21 during the effective period of such election;

(T) Service performed in the employ of a school, college, or university if such service is performed (i) by a student enrolled at such school, college, or university on a full-time basis in an educational program or completing such educational program leading to a degree at any of the severally recognized levels, or (ii) by the spouse of such a student, if such spouse is advised at the time such spouse commences to perform such service that (I) the employment of such

spouse to perform such service is provided under a program to provide financial assistance to such student by such school, college, or university, and (II) such employment will not be covered by any program of unemployment insurance;

(U) Service performed by an individual who is enrolled at a nonprofit or public educational institution which normally maintains a regular faculty and curriculum and normally has a regularly organized body of students in attendance at the place where its educational activities are carried on, as a student in a full-time program, taken for credit at such institution, which combines academic instruction with work experience, if such service is an integral part of such program, and such institution has so certified to the employer, except that this subparagraph shall not apply to service performed in a program established for or on behalf of an employer or group of employers;

(V) Service performed in the employ of a hospital, if such service is performed by a patient of the hospital; service performed as a student nurse in the employ of a hospital or a nurses' training school by an individual who is enrolled and regularly attending classes in a nurses' training school approved under the laws of this State; and service performed as an intern in the employ of a hospital by an individual who has completed a four-year course in a medical school approved pursuant to the laws of this State;

(W) Services performed after the effective date of this amendatory act by agents of mutual benefit associations if the compensation to such agents for such services is wholly on a commission basis;

(X) Services performed by operators of motor vehicles weighing 18,000 pounds or more, licensed for commercial use and used for the highway movement of motor freight, who own their equipment or who lease or finance the purchase of their equipment through an entity which is not owned or controlled directly or indirectly by the entity for which the services were performed and who were compensated by receiving a percentage of the gross revenue generated by the transportation move or by a schedule of payment based on the distance and weight of the transportation move;

(Y) Services performed by a certified shorthand reporter certified pursuant to P.L.1940, c.175 (C.45:15B-1 et seq.), provided to a third party by the reporter who is referred to the third party pursuant to an agreement with another certified shorthand reporter or shorthand reporting service, on a freelance basis, compensation for which is based upon a fee per transcript page, flat attendance fee, or other flat minimum fee, or combination thereof, set forth in the agreement;

(Z) Services performed, using facilities provided by a travel agent, by a person, commonly known as an outside travel agent, who acts as an independent contractor, is paid on a commission basis, sets his own work schedule and receives no benefits, sick leave, vacation or other leave from the travel agent owning the facilities.

(8) If one-half or more of the services in any pay period performed by an individual for an employing unit constitutes employment, all the services of such individual shall be deemed to be employment; but if more than one-half of the service in any pay period performed by an individual for an employing unit does not constitute employment, then none of the service of such individual shall be deemed to be employment. As used in this paragraph, the term "pay period" means a period of not more than 31 consecutive days for which a payment for service is ordinarily made by an employing unit to individuals in its employ.

(9) Services performed by the owner of a limousine franchise (franchisee) shall not be deemed to be employment subject to the "unemployment compensation law," R.S.43:21-1 et seq., with regard to the franchisor if:

(A) The limousine franchisee is incorporated;

(B) The franchisee is subject to regulation by the Interstate Commerce Commission;

(C) The limousine franchise exists pursuant to a written franchise arrangement between the franchisee and the franchisor as defined by section 3 of P.L.1971, c.356 (C.56:10-3); and

(D) The franchisee registers with the Department of Labor and receives an employer registration number.

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

(k) (Deleted by amendment, P.L.1984, c.24.)

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

(m) "Unemployment."

(1) An individual shall be deemed "unemployed" for any week during which:

(A) The individual is not engaged in full-time work and with respect to which his remuneration is less than his weekly benefit rate, including any week during which he is on vacation without pay; provided such vacation is not the result of the individual's voluntary action, except that for benefit years commencing on or after July 1, 1984, an officer of a corporation, or a person who has more than a 5% equitable or debt interest in the corporation, whose claim for benefits is based on wages with that corporation shall not be deemed to be unemployed in any week during the individual's term of office or ownership in the corporation; or

(B) The individual is eligible for and receiving a self-employment assistance allowance pursuant to the requirements of P.L.1995, c.394 (C.43:21-67 et al.).

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

(3) An individual's week of unemployment shall be deemed to commence only after the individual has filed a claim at an unemployment insurance claims office, except as the division may by regulation otherwise prescribe.

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

(o) "Wages" means remuneration paid by employers for employment. If a worker receives gratuities regularly in the course of his employment from other than his employer, his "wages" shall also include the gratuities so received, if reported in writing to his employer in accordance with regulations of the division, and if not so reported, his "wages" shall be determined in accordance with the minimum wage rates prescribed under any labor law or regulation of this State or of the United States, or the amount of remuneration actually received by the employee from his employer, whichever is the higher.

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

(q) "Week" means for benefit years commencing on or after October 1, 1984, the calendar week ending at midnight Saturday, or as the division may by regulation prescribe.

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

(s) "Investment company" means any company as defined in subsection a. of section 1 of P.L.1938, c.322 (C.17:16A-1).

(t) (1) (Deleted by amendment, P.L.2001, c.17).

(2) "Base week," commencing on or after January 1, 1996 and before January 1 2001, means:

(A) Any calendar week during which the individual earned in employment from an employer remuneration not less than an amount which is 20% of the Statewide average weekly remuneration defined in subsection (c) of R.S.43:21-3 which amount shall be adjusted to the next higher multiple of \$1.00 if not already a multiple thereof, except that if in any calendar week an individual subject to this subparagraph (A) is in employment with more than one employer, the individual may in that calendar week establish a base week with respect to each of the employers from whom the individual earns remuneration equal to not less than the amount defined in this subparagraph (A) during that week; or

(B) If the individual does not establish in his base year 20 or more base weeks as defined in subparagraph (A) of this paragraph (2), any calendar week of an individual's base year during which the individual earned in employment from an employer remuneration not less than an amount 20 times the minimum wage in effect pursuant to section 5 of P.L.1966, c.113 (C.34:11-56a4) on October 1 of the calendar year preceding the calendar year in which the benefit year commences, which amount shall be adjusted to the next higher multiple of \$1.00 if

not already a multiple thereof, except that if in any calendar week an individual subject to this subparagraph (B) is in employment with more than one employer, the individual may in that calendar week establish a base week with respect to each of the employers from whom the individual earns remuneration not less than the amount defined in this subparagraph (B) during that week.

(3) "Base week," commencing on or after January 1, 2001, means any calendar week during which the individual earned in employment from an employer remuneration not less than an amount 20 times the minimum wage in effect pursuant to section 5 of P.L.1966, c.113 (C.34:11-56a4) on October 1 of the calendar year preceding the calendar year in which the benefit year commences, which amount shall be adjusted to the next higher multiple of \$1.00 if not already a multiple thereof, except that if in any calendar week an individual subject to this paragraph (3) is in employment with more than one employer, the individual may in that calendar week establish a base week with respect to each of the employers from whom the individual earns remuneration equal to not less than the amount defined in this paragraph (3) during that week.

(u) "Average weekly wage" means the amount derived by dividing an individual's total wages received during his base year base weeks (as defined in subsection (t) of this section) from that most recent base year employer with whom he has established at least 20 base weeks, by the number of base weeks in which such wages were earned. In the event that such claimant had no employer in his base year with whom he had established at least 20 base weeks, then such individual's average weekly wage shall be computed as if all of his base week wages were received from one employer and as if all his base weeks of employment had been performed in the employ of one employer.

For the purpose of computing the average weekly wage, the monetary alternative in subparagraph (B) of paragraph (2) of subsection (e) of R.S.43:21-4 shall only apply in those instances where the individual did not have at least 20 base weeks in the base year. For benefit years commencing on or after July 1, 1986, "average weekly wage" means the amount derived by dividing an individual's total base year wages by the number of base weeks worked by the individual during the base year; provided that for the purpose of computing the average weekly wage, the maximum number of base weeks used in the divisor shall be 52.

(v) "Initial determination" means, subject to the provisions of R.S.43:21-6(b)(2) and (3), a determination of benefit rights as measured by an eligible individual's base year employment with a single employer covering all periods of employment with that employer during the base year. For benefit years commencing prior to July 1, 1986, subject to the provisions of R.S.43:21-3(d)(3), if an individual has been in employment in his base year with more than one employer, no benefits shall be paid to that individual under any successive initial determination until his benefit rights have been exhausted under the next preceding initial determination.

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

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

(y) (1) "Educational institution" means any public or other nonprofit institution (including an institution of higher education):

(A) In which participants, trainees, or students are offered an organized course of study or training designed to transfer to them knowledge, skills, information, doctrines, attitudes or abilities from, by or under the guidance of an instructor or teacher;

(B) Which is approved, licensed or issued a permit to operate as a school by the State Department of Education or other government agency that is authorized within the State to approve, license or issue a permit for the operation of a school; and

(C) Which offers courses of study or training which may be academic, technical, trade, or preparation for gainful employment in a recognized occupation.

(2) "Institution of higher education" means an educational institution which:

(A) Admits as regular students only individuals having a certificate of graduation from a high school, or the recognized equivalent of such a certificate;

(B) Is legally authorized in this State to provide a program of education beyond high school;

(C) Provides an educational program for which it awards a bachelor's or higher degree, or provides a program which is acceptable for full credit toward such a degree, a program of post-graduate or post-doctoral studies, or a program of training to prepare students for gainful employment in a recognized occupation; and

(D) Is a public or other nonprofit institution.

Notwithstanding any of the foregoing provisions of this subsection, all colleges and universities in this State are institutions of higher education for purposes of this section.

(z) "Hospital" means an institution which has been licensed, certified or approved under the law of this State as a hospital.

3. Section 3 of P.L.1948, c.110 (C.43:21-27) is amended to read as follows:

C.43:21-27 Definitions.

3. As used in this act, unless the context clearly requires otherwise:

(a)(1) "Covered employer" means any individual or type of organization, including any partnership, association, trust, estate, joint-stock company, insurance company or corporation, whether domestic or foreign, or the receiver, trustee in bankruptcy, trustee or successor thereof, or the legal representative of a deceased person, who is an employer subject to the chapter to which this act is a supplement, designated as the "unemployment compensation law" (R.S. 43:21-1 et seq.), except the State, its political subdivisions, and any instrumentality of the State unless such governmental entity elects to become a covered employer under the "Temporary Disability Benefits Law"; provided, however, that commencing with the effective date of this act the State of New Jersey, including Rutgers, The State University, the University of Medicine and Dentistry of New Jersey and the New Jersey Institute of Technology, shall be deemed a covered employer, as defined herein.

(2) Any governmental entity or instrumentality which is an employer under R.S. 43:21-19(h)(5) may elect to become a "covered employer" under this subsection beginning with the date on which its coverage under subsection 19(h)(5) begins or as of January 1 of any year thereafter by filing written notice of such election with the division within at least 30 days of the effective date. Such election shall remain in effect for at least two full calendar years and may be terminated as of January 1 of any year thereafter by filing with the division a written notice of termination at least 30 days prior to the termination date.

(b) "Covered individual" means any person who is in employment, as defined in the chapter to which this act is a supplement, for which the individual is entitled to remuneration from a covered employer, or who has been out of such employment for less than two weeks. However, a "covered individual" who is employed by the State of New Jersey, including Rutgers, The State University, the University of Medicine and Dentistry of New Jersey and the New Jersey Institute of Technology, or by any governmental entity or instrumentality which elects to become a "covered employer" pursuant to this amendatory act, shall not be eligible to receive any benefits under the "Temporary Disability Benefits Law" until such individual has exhausted all sick leave accumulated as an employee in the classified service of the State or accumulated under terms and conditions similar to classified employees or accumulated under the terms and conditions pursuant to the laws of this State or as the result of a negotiated contract with any governmental entity or instrumentality which elects to become a "covered employer."

"Covered individual" shall not mean any member of the Division of State Police in the Department of Law and Public Safety.

(c) "Division" or "commission" means the Division of Unemployment and Temporary Disability Insurance of the Department of Labor, and any transaction or exercise of authority by the director of the division shall be deemed to be performed by the division.

(d) "Day" shall mean a full calendar day beginning and ending at midnight.

(e) "Disability" shall mean such disability as is compensable under section 5 of this act.

(f) "Disability benefits" shall mean any cash payments which are payable to a covered individual pursuant to this act.

(g) "Period of disability" with respect to any individual shall mean the entire period of time during which the individual is continuously and totally unable to perform the duties of his

employment, except that two periods of disability due to the same or related cause or condition and separated by a period of not more than 14 days shall be considered as one continuous period of disability; provided the individual has earned wages during such 14-day period with the employer who was the individual's last employer immediately preceding the first period of disability.

(h) "Wages" shall mean all compensation payable by covered employers to covered individuals for personal services, including commissions and bonuses and the cash value of all compensation payable in any medium other than cash.

(i)(1) (Deleted by amendment, P.L.2001, c.17).

(2) (Deleted by amendment, P.L.2001, c.17).

(3) "Base week" with respect to periods of disability commencing on or after October 1, 1985 and before January 1, 2001, means any calendar week during which an individual earned in employment from a covered employer remuneration equal to not less than 20% of the Statewide average weekly remuneration as determined under subsection (c) of R.S.43:21-3, which shall be adjusted to the next higher multiple of \$1.00 if not already a multiple thereof.

(4) "Base week" with respect to periods of disability commencing on or after January 1, 2001, means any calendar week of an individual's base year during which the individual earned in employment from a covered employer remuneration not less than an amount 20 times the minimum wage in effect pursuant to section 5 of P.L.1966, c.113 (C.34:11-56a4) on October 1 of the calendar year preceding the calendar year in which the benefit year commences, which amount shall be adjusted to the next higher multiple of \$1.00 if not already a multiple thereof, except that if in any calendar week an individual subject to this paragraph is in employment with more than one employer, the individual may in that calendar week establish a base week with respect to each of the employers from whom the individual earns remuneration equal to not less than the amount defined in this paragraph during that week.

(j) "Average weekly wage" means the amount derived by dividing a covered individual's total wages earned from the individual's most recent covered employer during the base weeks in the eight calendar weeks immediately preceding the calendar week in which disability commenced, by the number of such base weeks. If this computation yields a result which is less than the individual's average weekly earnings in employment, as defined in the chapter to which this act is a supplement, with all covered employers during the base weeks in such eight calendar weeks, then the average weekly wage shall be computed on the basis of earnings from all covered employers during the eight base weeks immediately preceding the week in which the disability commenced.

4. Section 17 of P.L.1948, c.110 (C.43:21-41) is amended to read as follows:

C.43:21-41 Entitlement for disability benefits.

17. (a) (Deleted by amendment, P.L.1975, c.355.)

(b) (Deleted by amendment, P.L.2001, c.17).

(c) (Deleted by amendment, P.L.2001, c.17).

(d) With respect to periods of disability commencing on or after October 1, 1984 and before January 1, 2001, no individual shall be entitled to benefits under this act unless the individual has established at least 20 base weeks within the 52 calendar weeks preceding the week in which the individual's period of disability commenced, or, in the alternative, the individual has earned twelve times the Statewide average weekly remuneration paid to workers, as determined under subsection (c) of R.S. 43:21-3, raised to the next higher multiple of \$100.00, if not already a multiple thereof, or more within the 52 calendar weeks preceding the week in which the period of disability commenced, nor shall the individual be entitled to benefits unless he shall duly file notice and proof of claim, and submit to such reasonable examinations as are required by this act and the rules and regulations of the division.

(2) With respect to periods of disability commencing on or after January 1, 2001, no individual shall be entitled to benefits under this act unless the individual has, within the 52 calendar weeks preceding the week in which the individual's period of disability commenced, established at least 20 base weeks or earned not less than 1,000 times the minimum wage in

effect pursuant to section 5 of P.L.1996, c.113 (C.34:11-56a4) on October 1 of the calendar year preceding the calendar year in which the disability commences, which amount shall be adjusted to the next higher multiple of \$100.00, if not already a multiple thereof.

5. This act shall take effect immediately.

Approved January 29, 2001.

PO BOX 004
TRENTON, NJ 08625

Office of the Governor
NEWS RELEASE

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RELEASE: January 29, 2001

Governor Whitman today signed the following legislation:

A-3038, sponsored by Assembly Members Malone (R-Burlington/Monmouth/Ocean) and Cottrell (R-Burlington/Monmouth/Ocean) and Senators Singer (R-Burlington/Monmouth/Ocean) and DiFrancesco (R-Middlesex/Morris/Somerset/Union), permits religious or charitable organizations to lease property to other tax-exempt entities without losing their property tax exemption.

A-1849, sponsored by Assembly Members Merkt (R-Morris) and Augustine (R-Middlesex/Morris/Somerset/Union) and Senators Singer (R-Burlington/Monmouth/Ocean), Bucco (R-Morris) and Martin (R-Essex/Morris/Passaic), permits counties to increase the maximum daily compensation for members of election boards from \$100 to an amount not to exceed \$150.

S-254, sponsored by Senators Bennett (R-Monmouth) and Bucco (R-Morris) and Assembly Member Geist (R-Camden/Gloucester), amends the law concerning the reforestation of land owned or maintained by a State entity. Under current law, whenever a State entity plans to deforest an area at least one acre in size, the entity is required to adopt a plan to reforest the area. This bill reduces the size threshold to one-half acre, requiring the State to develop a reforestation plan whenever an entity plans to deforest an area one-half acre in size.

S-382, sponsored by Senator Sinagra (R-Middlesex) and Assembly Members Weingarten (R-Essex/Union) and Kelly (R-Bergen/Essex/Passaic) makes a supplemental appropriation of \$50,000 to the Department of Community Affairs for a grant to the National Association for Children with Autism, Inc. in Livingston.

A-2614, sponsored by Assembly Members Gregg (R-Sussex/Hunterdon/Morris) and Thompson (R-Middlesex/Monmouth), modifies the eligibility requirements for unemployment insurance and temporary disability insurance benefits.

A-895, sponsored by Assembly Members Bateman (R-Morris/Somerset) and Biondi (R-Morris/Somerset) and Senators Singer (R-Burlington/Monmouth/Ocean) and Bark (R-Atlantic/Burlington/Camden), establishes a special license to promote agriculture.

S-462, sponsored by Senators Singer (R-Burlington/Monmouth/Ocean) and Kosco (R-Bergen) and Assembly Members Malone (R-Burlington/Monmouth/Ocean) and Cottrell (R-Burlington/Monmouth/Ocean), creates a drunk driver visitation program.

A-2006, sponsored by Assembly Member O'Toole (R-Essex/Union) requires a sentence imposed on inmates for assault on corrections and law enforcement employees to run consecutively to other sentences.

SCS for S-141 and S-1054, sponsored by Senators Bark (R-Atlantic/Burlington/ Camden), Singer (R-Burlington/Monmouth.Ocean), Matheussen (R-Camden/Gloucester) and Martin (R-Essex/Morris/Passaic) and Assembly Members Bodine (R-Atlantic/Burlington/ Camden) and Chatzidakis (R-Atlantic/Burlington/Camden), increases the number of tuition-free credits that a member of the National Guard may earn in undergraduate study and extends the credits to graduate study.