

43:21-4

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(Commission to  
study the Hiring,  
Employment &  
Compensation of  
Agricultural  
Labor)

LAWS OF: 1985

CHAPTER: 508

Bill No: A4109

Sponsor(s): Foy and Colburn

Date Introduced: September 12, 1985

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Report...June 30, 1987. Trenton, 1987.

NEW JERSEY  
COMMISSION TO STUDY THE  
HIRING, EMPLOYMENT &  
COMPENSATION OF AGRICULTURAL LABOR  
REPORT...JUNE 30, 1987  
TRENTON, 1987

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CHAPTER 508 LAWS OF N. J. 1985  
APPROVED 1-21-86

[SECOND OFFICIAL COPY REPRINT]

**ASSEMBLY, No. 4109**

**STATE OF NEW JERSEY**

INTRODUCED SEPTEMBER 12, 1985

By Assemblymen FOY and COLBURN

AN ACT concerning agricultural labor, amending R. S. 43:21-4 and R. S. 43:21-5, supplementing P. L. 1948, c. 446 (C. 34:1A-1 et seq.) and making an appropriation.

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

1 1. (New section) The Legislature finds and determines that:

2 a. Agriculture is now and has traditionally been an essential part  
3 of the State's economic base, and it is the public policy of this State  
4 to ensure the survival of this sector of the economy, particularly in  
5 the face of encroaching industrial and commercial development and  
6 increasing urbanization; and

7 b. The continuing survival of New Jersey agriculture is depen-  
8 dent upon a steady and reliable supply of labor; and

9 c. The complexity of the problem of the compensation of agri-  
10 cultural laborers, which has been heightened by the increasing  
11 urbanization and industrial development in this State, needs to be  
12 studied by the Legislature in order to determine what remedial  
13 actions it may be necessary to take; and

14 d. It is the intention of the Legislature that the problems of the  
15 New Jersey agricultural workers be addressed without sacrificing  
16 the basic principles of the recently enacted unemployment compen-  
17 sation reform law (P. L. 1984, c. 24), which was a product of  
18 cooperation between business and labor; and

19 e. The following are valid public purposes and are not regarded  
20 by the Legislature as sacrificing the basic principles of the  
21 unemployment compensation reform law:

**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 printed in italics *thus* is new matter.

Matter enclosed in asterisks or stars has been adopted as follows:

\*—Assembly amendments adopted December 9, 1985.

\*\*—Assembly amendments adopted in accordance with Governor's recommendations January 13, 1986.

22 (1) Creating a commission to study the hiring, employment and  
 23 compensation of agricultural labor in this State, to report its  
 24 findings thereon, and to propose solutions to the Legislature; and

25 (2) Enacting temporary measures to assist certain agricultural  
 26 workers to maintain eligibility for unemployment compensation  
 27 benefits during the time that the commission conducts its study\*\*  
 27A and]\*\*\*\* \*\*.\*\*

28 \*\*[(3) Making an appropriation to the Department of Labor so  
 29 that the department may improve the administration of the un-  
 30 employment compensation program as it concerns agricultural  
 31 workers and gather information needed by the commission to con-  
 32 duct the study.]\*\*

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

2 43:21-4. Benefit eligibility conditions. An unemployed indi-  
 3 vidual shall be eligible to receive benefits with respect to any week  
 4 only if it appears that:

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

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

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

23 (2) The director may modify the requirement of actively seeking  
 24 work if such modification of this requirement is warranted by  
 25 economic conditions.

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

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

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

43 (d) The individual has been totally or partially unemployed  
 44 for a waiting period of one week in the benefit year which includes  
 45 that week. When benefits become payable with respect to the third  
 46 consecutive week next following the waiting period, the individual  
 47 shall be eligible to receive benefits as appropriate with respect to  
 48 the waiting period. No week shall be counted as a week of unem-  
 49 ployment for the purposes of this subsection:

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

54 (2) If it has constituted a waiting period week under the tempo-  
 55 rary disability benefits law;

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

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

60 (e) (1) With respect to a base year as defined in subsection (c) of  
 61 R. S. 43:21-19, the individual has established at least 20 base weeks  
 62 as defined in paragraph (1) of subsection (t) of R. S. 43:21-19, or,  
 63 in those instances in which the individual has not established  
 64 20 base weeks, the individual has earned \$2,200.00 for benefit years  
 65 commencing prior to October 1, 1984; and, except as otherwise  
 66 provided in paragraph (2) or paragraph (3) of this subsection, for  
 67 benefit years commencing on or after October 1, 1984, the individual  
 68 has earned 12 times the Statewide average weekly remuneration  
 69 paid to workers, as determined under R. S. 43:21-3(c), raised to  
 70 the next higher multiple of \$100.00 if not already a multiple thereof  
 71 or more in the individual's base year.

72 (2) Notwithstanding the provisions of paragraph (1) of this  
 73 subsection, for benefit years commencing on or after October 1,  
 74 1984 and before January 1, 1985, an unemployed individual claiming

75 benefits on the basis of service performed in the production and  
 76 harvesting of agricultural crops shall, subject to the limitations of  
 77 subsection (i) of R. S. 43:21-19, be eligible to receive benefits if it  
 78 appears that the individual has established at least 20 base weeks as  
 79 defined in paragraph (2) of subsection (t) of R. S. 43:21-19, or, in  
 80 those instances in which the individual has not established 20 base  
 81 weeks, the individual has earned \$2,200.00.

82 *(3) Notwithstanding the provisions of paragraph (1) of this*  
 83 *subsection, for benefit years commencing on or after October 1, 1985*  
 84 *and before October 1, 1987, an unemployed individual claiming*  
 85 *benefits on the basis of service performed in the production and*  
 86 *harvesting of agricultural crops shall, subject to the limitations of*  
 87 *subsection (i) of R. S. 43:21-19, be eligible to receive benefits if*  
 88 *during his base year as defined in subsection (c) of R. S. 43:21-19,*  
 89 *the individual:*

90 *(A) Has established at least 20 base weeks as defined in*  
 91 *paragraph (1) of subsection (t) of R. S. 43:21-19; or*

92 *(B) Has earned 12 times the Statewide average weekly*  
 93 *remuneration paid to workers, as determined under R. S.*  
 94 *43:21-3(c), raised to the next higher multiple of \$100.00 if not*  
 95 *already a multiple thereof, or more; or*

96 *(C) Has performed at least 770 hours of service in the*  
 97 *production and harvesting of agricultural crops.*

98 (f) (1) The individual has suffered any accident or sickness not  
 99 compensable under the Workers' Compensation Law (Title 34 of  
 100 the Revised Statutes) and resulting in the individual's total dis-  
 101 ability to perform any work for remuneration, and would be eligi-  
 102 ble to receive benefits under this chapter (R. S. 43:21-1 et seq.)  
 103 (without regard to the maximum amount of benefits payable during  
 104 any benefit year) except for the inability to work and has furnished  
 105 notice and proof of claim to the division, in accordance with its  
 106 rules and regulations, and payment is not precluded by the pro-  
 107 visions of R. S. 43:21-3 (d); provided, however, that benefits paid  
 108 under this subsection (f) shall be computed on the basis of only  
 109 those base year wages earned by the claimant as a "covered indi-  
 110 vidual," as defined in R. S. 43:21-27 (b); provided further that no  
 111 benefits shall be payable under this subsection to any individual:

112 (A) For any period during which such individual is not  
 113 under the care of a legally licensed physician, dentist, optom-  
 114 etrist, podiatrist or chiropractor;

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

116 (C) For any period of disability due to willfully or inten-  
 117 tionally self-inflicted injury, or to injuries sustained in the

118       perpetration by the individual of a crime of the first, second or  
119       third degree;

120       (D) For any week with respect to which or a part of which  
121       the individual has received or is seeking benefits under any  
122       unemployment compensation or disability benefit law of any  
123       other state or of the United States; provided that if the appro-  
124       priate agency of such other state or of the United States finally  
125       determines that the individual is not entitled to such benefits,  
126       this disqualification shall not apply;

127       (E) For any week with respect to which or part of which  
128       the individual has received or is seeking disability benefits  
129       under the temporary disability benefits law;

130       (F) For any period of disability commencing while such  
131       individual is a "covered individual," as defined in subsection  
132       3 (b) of the temporary disability benefits law (P. L. 1948,  
133       c. 110).

134       (2) Benefit payments under this subsection shall be charged to  
135       and paid from the State disability benefits fund established by the  
136       temporary disability benefits law, and shall not be charged to any  
137       employer account in computing any employer's experience rate  
138       for contributions payable under this chapter.

139       (g) Benefits based on service in employment defined in sub-  
140       paragraphs (B) and (C) of R. S. 43:21-19 (i) (1) shall be payable  
141       in the same amount and on the terms and subject to the same  
142       conditions as benefits payable on the basis of other service subject  
143       to the Unemployment Compensation Law; except that, notwith-  
144       standing any other provisions of the Unemployment Compensation  
145       Law:

146       (1) With respect to service performed after December 31, 1977,  
147       in an instructional, research, or principal administrative capacity  
148       for an educational institution, benefits shall not be paid based on  
149       such services for any week of unemployment commencing during  
150       the period between two successive academic years, or during a  
151       similar period between two regular terms, whether or not succes-  
152       sive, or during a period of paid sabbatical leave provided for in the  
153       individual's contract, to any individual if such individual performs  
154       such services in the first of such academic years (or terms) and if  
155       there is a contract or a reasonable assurance that such individual  
156       will perform services in any such capacity for any educational  
157       institution in the second of such academic years or terms:

158       (2) With respect to weeks of unemployment beginning after  
159       September 3, 1982, on the basis of service performed in any other  
160       capacity for an educational institution, benefits shall not be paid on

161 the basis of such services to any individual for any week which  
162 commences during a period between two successive academic years  
163 or terms if such individual performs such services in the first of  
164 such academic years or terms and there is a reasonable assurance  
165 that such individual will perform such services in the second of  
166 such academic years or terms, except that if benefits are denied  
167 to any individual under this paragraph (2) and the individual was  
168 not offered an opportunity to perform these services for the edu-  
169 cational institution for the second of any academic years or terms,  
170 the individual shall be entitled to a retroactive payment of benefits  
171 for each week for which the individual filed a timely claim for  
172 benefits and for which benefits were denied solely by reason of  
173 this clause;

174 (3) With respect to those services described in paragraphs (1)  
175 and (2) above, benefits shall not be paid on the basis of such ser-  
176 vices to any individual for any week which commences during an  
177 established and customary vacation period or holiday recess if such  
178 individual performs such services in the period immediately before  
179 such vacation period or holiday recess, and there is a reasonable  
180 assurance that such individual will perform such services in  
181 the period immediately following such period or holiday recess;

182 (4) With respect to any services described in paragraphs (1)  
183 and (2) above, benefits shall not be paid as specified in paragraphs  
184 (1), (2), and (3) above to any individual who performed those  
185 services in an educational institution while in the employ of an  
186 educational service agency, and for this purpose the term "educa-  
187 tional service agency" means a governmental agency or govern-  
188 mental entity which is established and operated exclusively for the  
189 purpose of providing those services to one or more educational  
190 institutions.

191 (h) Benefits shall not be paid to any individual on the basis of  
192 any services, substantially all of which consist of participating in  
193 sports or athletic events or training or preparing to so participate,  
194 for any week which commences during the period between two  
195 successive sports seasons (or similar periods) if such individual  
196 performed such services in the first of such seasons (or similar  
197 periods) and there is a reasonable assurance that such individual  
198 will perform such services in the later of such seasons (or similar  
199 periods).

200 (i) (1) Benefits shall not be paid on the basis of services per-  
201 formed by an alien unless such alien is an individual who was  
202 lawfully admitted for permanent residence at the time the services  
203 were performed and was lawfully present for [purposes] *the pur-*

204 *pose* of performing the services or otherwise was permanently  
205 residing in the United States under color of law at the time the  
206 services were performed (including an alien who is lawfully present  
207 in the United States as a result of the application of the provisions  
208 of section 203 (a) (7) or section 212 (d) (5) of the Immigration  
209 and Nationality Act); provided that any modifications of the pro-  
210 visions of section 3304 (a) (14) of the federal Unemployment Tax  
211 Act, as provided by Public Law 94-566, which specify other condi-  
212 tions or other effective dates than stated herein for the denial of  
213 benefits based on services performed by aliens and which modifica-  
214 tions are required to be implemented under State law as a condition  
215 for full tax credit against the tax imposed by the federal Unem-  
216 ployment Tax Act, shall be deemed applicable under the provisions  
217 of this section.

218 (2) Any data or information required of individuals applying  
219 for benefits to determine whether benefits are not payable to them  
220 because of their alien status shall be uniformly required from all  
221 applicants for benefits.

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

226 (j) Notwithstanding any other provision of this chapter, the  
227 director may, to the extent that it may be deemed efficient and  
228 economical, provide for consolidated administration by one or  
229 more representatives or deputies of claims made pursuant to sub-  
230 section (f) of this section with those made pursuant to Article III  
231 (State plan) of the Temporary Disability Benefits Law.

1 3. R. S. 43:21-5 is amended to read as follows:

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

3 (a) For the week in which the individual has left work volun-  
4 tarily without good cause attributable to such work, and for each  
5 week thereafter until the individual becomes reemployed and works  
6 four weeks in employment, which may include employment for the  
7 federal government, and has earned in employment at least six  
8 times the individual's weekly benefit rate, as determined in each  
9 case. *This subsection shall apply to any individual seeking unem-*  
10 *ployment benefits on the basis of employment in the production*  
11 *and harvesting of agricultural crops, including any individual who*  
12 *was employed in the production and harvesting of agricultural*  
13 *crops on a contract basis and who has refused an offer of continu-*  
14 *ing work with that employer following the completion of the mini-*  
15 *imum period of work required to fulfill the contract.*

16 (b) For the week in which the individual has been suspended or  
17 discharged for misconduct connected with the work, and for the  
18 five weeks which immediately follow that week (in addition to the  
19 waiting period), as determined in each case. In the event the  
20 discharge should be rescinded by the employer voluntarily or as a  
21 result of mediation or arbitration, this subsection (b) shall not  
22 apply, provided, however, an individual who is restored to em-  
23 ployment with back pay shall return any benefits received under  
24 this chapter for any week of unemployment for which the indi-  
25 vidual is subsequently compensated by the employer.

26 If the discharge was for gross misconduct connected with the  
27 work because of the commission of an act punishable as a crime of  
28 the first, second, third or fourth degree under the "New Jersey  
29 Code of Criminal Justice," N. J. S. 2C:1-1 et seq., the individual  
30 shall be disqualified in accordance with the disqualification pre-  
31 scribed in subsection (a) of this section and no benefit rights shall  
32 accrue to any individual based upon wages from that employer for  
33 services rendered prior to the day upon which the individual was  
34 discharged.

35 The director shall insure that any appeal of a determination  
36 holding the individual disqualified for gross misconduct in connec-  
37 tion with the work shall be expeditiously processed by the appeal  
38 tribunal.

39 (c) If it is found that the individual has failed, without good  
40 cause, either to apply for available, suitable work when so directed  
41 by the employment office or the director or to accept suitable work  
42 when it is offered, or to return to the individual's customary self-  
43 employment (if any) when so directed by the director. The dis-  
44 qualification shall continue for the week in which the failure  
45 occurred and for the three weeks which immediately follow that  
46 week (in addition to the waiting period), as determined:

47 (1) In determining whether or not any work is suitable for  
48 an individual, consideration shall be given to the degree of risk  
48A involved to health, safety, and morals, the individual's physical  
49 fitness and prior training, experience and prior earnings, the  
50 individual's length of unemployment and prospects for secur-  
51 ing local work in the individual's customary occupation, and  
52 the distance of the available work from the individual's resi-  
53 dence. *In the case of work in the production and harvesting of*  
54 *agricultural crops, the work shall be deemed to be suitable*  
55 *without regard to the distance of the available work from the*  
56 *individual's residence if all costs of transportation are pro-*  
57 *vided to the individual and the terms and conditions of hire*

58        *are as favorable or more favorable to the individual as the*  
59        *terms and conditions of the individual's base year employment.*

60        (2) Notwithstanding any other provisions of this chapter,  
61        no work shall be deemed suitable and benefits shall not be  
62        denied under this chapter to any otherwise eligible individual  
63        for refusing to accept new work under any of the following  
64        conditions: (a) if the position offered is vacant due directly to  
65        a strike, lockout, or other labor dispute; (b) if the remunera-  
66        tion, hours, or other conditions of the work offered are sub-  
67        stantially less favorable to the individual than those prevailing  
68        for similar work in the locality; (c) if as a condition of being  
69        employed the individual would be required to join a company  
70        union or to resign from or refrain from joining any bona fide  
71        labor organization.

72        (d) If it is found that this unemployment is due to a stoppage of  
73        work which exists because of a labor dispute at the factory,  
74        establishment or other premises at which the individual is or was  
75        last employed. No disqualification under this subsection shall  
76        apply if it is shown that:

77        (1) The individual is not participating in or financing or  
78        directly interested in the labor dispute which caused the  
79        stoppage of work; and

80        (2) The individual does not belong to a grade or class of  
81        workers of which, immediately before the commencement of  
82        the stoppage, there were members employed at the premises at  
83        which the stoppage occurs, any of whom are participating in  
84        or financing or directly interested in the dispute; provided  
85        that if in any case in which (1) or (2) above applies, separate  
86        branches of work which are commonly conducted as separate  
87        businesses in separate premises are conducted in separate  
88        departments of the same premises, each department shall, for  
89        the purpose of this subsection, be deemed to be a separate  
90        factory, establishment, or other premises.

91        (e) For any week with respect to which the individual is receiv-  
92        ing or has received remuneration in lieu of notice.

93        (f) For any week with respect to which or a part of which the  
94        individual has received or is seeking unemployment benefits under  
95        an unemployment compensation law of any other state or of the  
96        United States; provided that if the appropriate agency of the  
97        other state or of the United States finally determines that the  
98        individual is not entitled to unemployment benefits, this disquali-  
99        fication shall not apply.

100 (g) (1) For a period of one year from the date of the discovery  
101 by the division of the illegal receipt or attempted receipt of bene-  
102 fits contrary to the provisions of this chapter, as the result of any  
103 false or fraudulent representation; provided that any disqualifica-  
104 tion may be appealed in the same manner as any other disqualifi-  
105 cation imposed hereunder; and provided further that a conviction  
106 in the courts of this State arising out of the illegal receipt or at-  
107 tempted receipt of these benefits in any proceeding instituted  
108 against the individual under the provisions of this chapter or any  
109 other law of this State shall be conclusive upon the appeals tri-  
110 bunal and the board of review.

111 (2) A disqualification under this subsection shall not preclude  
112 the prosecution of any civil, criminal or administrative action or  
113 proceeding to enforce other provisions of this chapter for the as-  
114 sessment and collection of penalties or the refund of any amounts  
115 collected as benefits under the provisions of R. S. 43:21-16, or to  
116 enforce any other law, where an individual obtains or attempts to  
117 obtain by theft or robbery or false statements or representations  
118 any money from any fund created or established under this chapter  
119 or any negotiable or nonnegotiable instrument for the payment of  
120 money from these funds, or to recover money erroneously or  
121 illegally obtained by an individual from any fund created or  
122 established under this chapter.

123 (h) (1) Notwithstanding any other provisions of this chapter  
124 (R. S. 43:21-1 et seq.), no otherwise eligible individual shall be  
125 denied benefits for any week because the individual is in training  
126 approved under section 236 (a) (1) of the Trade Act of 1974, P. L.  
127 93-618, 19 U. S. C. § 2296, nor shall the individual be denied bene-  
128 fits by reason of leaving work to enter this training, provided the  
129 work left is not suitable employment, or because of the application  
130 to any week in training of provisions in this chapter (R. S. 43:21-1  
131 et seq.) or any applicable federal unemployment compensation  
132 law, relating to availability for work, active search for work, or  
133 refusal to accept work.

134 (2) For purposes of this subsection (h), the term "suitable"  
135 employment means, with respect to an individual, work of a sub-  
136 stantially equal or higher skill level than the individual's past  
137 adversely affected employment (as defined for purposes of the  
138 Trade Act of 1974, P. L. 93-618, 19 U. S. C. § 2102 et seq.), and  
139 wages for this work at not less than 80% of the individual's aver-  
140 age weekly wage, as determined for the purposes of the Trade Act  
141 of 1974.

142 (i) For benefit years commencing after June 30, 1984, for any  
 143 week in which the individual is a student in full attendance at, or  
 144 on vacation from, an educational institution, as defined in subsec-  
 145 tion (y) of R. S. 43:21-19; except that this subsection shall not  
 146 apply to any individual attending a training program approved by  
 147 the division to enhance the individual's employment opportunities,  
 148 as defined under subsection (c) of R. S. 43:21-4; nor shall this sub-  
 149 section apply to any individual who, during the individual's base  
 150 year, earned sufficient wages, as defined under subsection (e) of  
 151 R. S. 43:21-4, while attending an educational institution during  
 152 periods other than established and customary vacation periods or  
 153 holiday recesses at the educational institution, to establish a claim  
 154 for benefits. For purposes of this subsection, an individual shall  
 155 be treated as a full-time student for any period:

156 (1) During which the individual is enrolled as a full-time stu-  
 157 dent at an educational institution, or

158 (2) Which is between academic years or terms, if the individual  
 159 was enrolled as a full-time student at an educational institution  
 160 for the immediately preceding academic year or term.

1 4. (New section) There is created a commission to be known as  
 2 the "Commission to Study the Hiring, Employment and Compens-  
 3 sation of Agricultural Labor in New Jersey," which shall consist  
 4 of 13 members. Two members of the commission shall be mem-  
 5 bers of the Senate, to be appointed by the President thereof, not  
 6 more than one of whom shall be of the same political party, and  
 7 two members shall be members of the General Assembly, to be ap-  
 8 pointed by the Speaker thereof, not more than one of whom shall  
 9 be of the same political party. In addition, the \*\*[President of the  
 10 Senate and the Speaker of the General Assembly]\*\* \*\**The Gov-*  
 11 *ernor*\*\* shall \*\*[jointly]\*\* appoint six public members, three of  
 12 whom shall represent business, including one representative of  
 13 agricultural business; and three of whom shall represent labor,  
 14 including one representative of agricultural labor. The Commis-  
 15 sioner of Labor, the Commissioner of Commerce and Economic  
 16 Development, and the State Secretary of Agriculture shall be mem-  
 17 bers of the commission ex officio. All members of the commission  
 18 shall serve without compensation. Members who are legislators  
 19 shall serve only as long as they hold the legislative seat they held  
 20 at the time of the appointment. Vacancies in the membership of  
 21 the commission shall be filled in the same manner as the original  
 22 appointments were made.

1 5. (New section) It shall be the duty of the commission to in-

2 quire into the hiring, employment and compensation of agricul-  
 3 tural labor in this State and make such legislative proposals to the  
 4 Legislature as it may deem necessary. In making its inquiries and  
 5 formulating its proposals, the commission shall take into consider-  
 6 ation, as it deems appropriate, recommendations of the "Commis-  
 7 sion to Study the Employment and Compensation of Agricultural  
 8 Labor in New Jersey" submitted to the President of the Senate  
 9 and the Speaker of the General Assembly pursuant to Assembly  
 10 Concurrent Resolution No. 151 of 1984. *\*\*In addition to its other  
 11 duties, the commission shall specifically address the following  
 12 issues: a range of possible changes in unemployment compensa-  
 13 tion eligibility standards; an extension of unemployment compensa-  
 14 tion coverage standards to make them the same for farmers as for  
 15 other employers; a range of possible changes in the minimum wage  
 16 level; extension of the time and one-half overtime pay requirement  
 17 to agriculture; enforcement of the requirement that payments-in-  
 18 kind be reported as taxable wages; the establishment of an eligi-  
 19 bility threshold for farm workers at a fixed percentage of the  
 20 threshold for other employees; and the establishment of a separate  
 21 unemployment insurance fund for farm workers or for other sea-  
 22 sonal employees.\*\**

1 6. (New section) The commission shall organize within 15 days  
 2 after the appointment of its members. The commission shall elect  
 3 a chairman from among its members and the chairman shall ap-  
 4 point a secretary who need not be a member of the commission.

1 7. (New section) The commission may hold public hearings and  
 2 shall be entitled to call to its assistance and avail itself of the ser-  
 3 vices of such employees of any State, county or municipal depart-  
 4 ment, board, bureau, commission or agency as it may require and  
 5 as may be available to it for this purpose, and to employ counsel  
 6 and such stenographic and clerical assistance and incur traveling  
 7 and other miscellaneous expenses as it may deem necessary in  
 8 order to perform its duties, and as may be within the limits of  
 9 funds appropriated or otherwise available to it for that purpose.

1 8. (New section) The commission shall report its findings and  
 2 recommendations, which shall include draft legislation if the com-  
 3 mission recommends that legislation is necessary, to the *\*\*Gov-  
 4 ernor, the\*\** President of the Senate and the Speaker of the Gen-  
 5 eral Assembly no later than *\*[October 1]\* \*January 31\**, 1987.

1 9. (New section) The Department of Labor shall take any actions  
 2 as the commissioner deems necessary to improve the administra-  
 3 tion of the unemployment compensation program as it concerns

4 agricultural workers. The actions shall include, but not be limited  
5 to, the following:

6 a. Strengthening the enforcement of the provisions of subsec-  
7 tions (a) and (c) of R. S. 43:21-5 concerning the disqualification  
8 of applicants for benefits as the provisions apply to agricultural  
9 workers;

10 b. Making bilingual forms available for all Spanish speaking  
11 agricultural workers applying for or receiving benefits; and

12 c. Implementing procedures to accelerate the processing of the  
13 unemployment compensation claims of agricultural workers, in-  
14 cluding workers who live outside of the State.

1 10. (New section) The Department of Labor is directed to  
2 gather information needed by the "Commission to Study the Hir-  
3 ing, Employment and Compensation of Agricultural Labor in New  
4 Jersey," created pursuant to section 4 of this act, for the conduct  
5 of its inquiry and the formulation of its proposals, and to provide  
6 the information to the commission not later than **\*\*[April 1,**  
7 **1987]\*\*** **\*\*July 31, 1986\*\***. Information requirements shall be de-  
8 lined by the commission, taking into consideration, as it deems  
9 appropriate, the research recommendations of the "Commission to  
10 Study the Employment and Compensation of Agricultural Labor  
11 in New Jersey" submitted to the President of the Senate and the  
12 Speaker of the General Assembly pursuant to Assembly Concur-  
13 rent Resolution No. 151 of 1984. This information shall be sufficient  
14 to make reasonable estimates of:

15 a. The total number of agricultural workers in the State; **\*\*and\*\***

16 b. The number of agricultural workers participating in the un-  
17 employment compensation program **\*\*[; and]\*\*** **\*\* \*\*.**

18 **\*\*[c.** The impact of the following on the number of agricultural  
19 workers eligible for unemployment compensation benefits and on  
20 farm production expenses:

21 (1) A range of possible changes in unemployment compen-  
22 sation eligibility standards;

23 (2) An extension of unemployment compensation coverage  
24 standards to make them the same for farmers as for other  
25 employers;

26 (3) A range of possible changes in the minimum wage level;  
27 and

28 (4) Extension of the time and one-half overtime pay re-  
29 quirement to agriculture.]\*\*

1 **\*\*[11.** There is appropriated to the Department of Labor the sum  
2 of **\*\*[\$90,000.00]\*\*** **\*\*\$200,000.00\*\*** from the General Fund to effectu-  
3 ate the purposes of sections 9 and 10 of this act. There is appro-

4 priated to the Commission to Study the Hiring, Employment and  
5 Compensation of Agricultural Labor in New Jersey the sum of  
6 \$5,000.00 from the General Fund to effectuate the purposes of sec-  
7 tions 4, 5, 6, 7, and 8 of this act.】\*\*

1 \*\*【12.】\*\* \*\*11.\*\* This act shall take effect immediately\*, *except*  
2 *for sections 4, 5, 6, 7, 8 and 10 of this act which shall take effect on*  
3 *January 31, 1986\**. Sections 4, 5, 6, 7, 8 and 10 of this act shall  
4 expire on January \*\*【1, 1988】\*\* \*\*31, 1987\*\*.

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STATE OF NEW JERSEY  
EXECUTIVE DEPARTMENT

January 13, 1986

ASSEMBLY BILL NO. 4109 (OCR) of 1985

To the General Assembly:

Pursuant to Article V, Section I, Paragraph 14 of the Constitution, I herewith return Assembly Bill No. 4109 (OCR) with my objections and recommendations for amendment.

This legislation provides a temporary means to allow certain agricultural workers to maintain their eligibility for unemployment compensation, creates a Commission to Study the Hiring, Employment and Compensation of Agricultural Labor in New Jersey, directs the Department of Labor to collect certain information regarding agricultural workers, and appropriates \$200,000 to the Department of Labor and \$5,000 to the Commission to carry out their duties under the act.

The issue of unemployment compensation for farm workers is a critical one with significant ramifications on the procurement of an adequate labor supply for farmers and on numerous other issues involving the relationship of farmers and farm workers. As such, I can support a temporary lower unemployment eligibility threshold for migrant farm workers while a permanent solution is being formulated. However, the Legislature has failed to responsibly address this issue in the past, and I am recommending changes in order to ensure that the Commission established by this bill will fulfill its duties and recommend viable permanent solutions.

In late 1984, legislation was introduced to exclude agricultural workers from the more stringent eligibility standards established in the law known as the unemployment insurance reform act, P.L. 1984, c.24. In order that this issue could be resolved without sacrificing the principles of the Reform Act, I reconvened the Governor's Commission on Unemployment Insurance to recommend a solution. The Commission recommended that a temporary extension be granted for agricultural workers and that the Legislature establish a commission to study farm worker issues and to recommend permanent solutions. According to a Concurrent Resolution passed by the Legislature, ACR 151, the "Commission to Study the Employment and Compensation of Agricultural Labor in New Jersey" was to issue its final recommendations by March 1, 1985.

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Although I subsequently signed legislation temporarily excluding farm workers from the provisions of the unemployment insurance reform act, the Commission to Study the Hiring, Employment and Compensation of Agricultural Labor in New Jersey expired before the Legislative appointments were made. On June 25, 1985, the Legislature passed another Concurrent Resolution, ACR-179, to extend the life of the Commission until August 1, 1985. Assembly Bill No. 4109, as amended, which was delivered to me on December 13, 1985, largely embodies the recommendations of the Commission.

Although the Commission was charged with studying numerous issues regarding the employment of farm workers and recommending permanent solutions, it convened only several times shortly before its deadline and recommended yet another temporary solution and the establishment of yet another Commission to Study the Hiring, Employment and Compensation of Agricultural Labor in New Jersey. The membership and charge of this new Commission is virtually identical to those of the former Commission.

In accordance with usual practice, I am recommending that the appointment of public members to the Commission be made by the Governor rather than by the Senate President and the Assembly Speaker.

I am also proposing language to clarify that the Commission, and not the Department of Labor, is responsible for studying the relevant issues and making recommendations. The Department's role should be limited to providing statistical data and rendering other technical and advisory services to the Commission. In order to ensure that the Commission directly addresses some of the concerns which were raised at both the Commission hearings and legislative committee hearings on this issue, I am adding several specific items to the Commission's charge.

I am also deleting the appropriations of \$200,000 to the Department of Labor and \$5,000 to the Commission. This legislation was not reviewed by the revenue committee in either House and budgets were not provided by either the Department of Labor or the Legislature to justify the expenditure of these funds. In addition, the recently concluded legislative commission studied the identical issues in conjunction with the Department of Labor and much of the data has already been compiled. Furthermore, the Commission is statutorily

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entitled to call upon the services of any State, county or municipal employees as may be required to carry out its charge. These governmental resources should be fully utilized before any expenditure of State funds is warranted.

Finally, I am recommending that the life of the Commission be limited to one year, which should provide sufficient time to fully explore this issue, and that the Department of Labor be required to submit all required information prior to rather than subsequent to the expiration date of the Commission.

Therefore, I herewith return Assembly Bill No. 4109 (OCR) and recommend that it be amended as follows:

Page 2, Section 1, Lines 28-32: Delete in entirety

Page 11, Section 4, Lines 9-10: Delete "President of the Senate and the Speaker of the General Assembly" insert "The Governor"; delete "jointly"

Page 12, Section 5, Line 10: After "1984." insert new sentence as follows: "In addition to its other duties, the Commission shall specifically address the following issues: a range of possible changes in unemployment compensation eligibility standards; an extension of unemployment compensation coverage standards to make them the same for farmers as for other employers; a range of possible changes in the minimum wage level; extension of the time and one-half overtime pay requirement to agriculture; enforcement of the requirement that payments-in-kind be reported as taxable wages; the establishment of an eligibility threshold for farm workers at a fixed percentage of the threshold for other employees; and the establishment of of a separate unemployment insurance fund for farm workers or for other seasonal employees."

Page 12, Section 8, Line 3: After "to the" insert "Governor, the"

Page 13, Section 10, Line 6: Delete "April 1, 1987" insert "July 31, 1986"

Page 13, Section 10, Line 15: After ";" insert "and"

Page 13, Section 10, Line 17: After "program" delete "; and" insert "."

Page 13, Section 10, Lines 18-29: Delete in entirety

Page 13, Section 11, Lines 1-7: Delete in entirety

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Page 13, Section 12, Line 1:

Delete "12." insert "11."

Page 13, Section 12, Line 4:

Delete "1, 1988" insert "31, 1987"

Respectfully,  
/s/ Thomas H. Kean  
GOVERNOR

[seal]

Attest:

/s/ W. Cary Edwards  
Chief Counsel

A-2003 Et al. Signed  
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January 21, 1986

A-4109, sponsored by Assemblyman Thomas Foy, D-Burlington, to provide a temporary means for certain agricultural workers to maintain eligibility for unemployment compensation, and to create a Commission to Study the Hiring, Employment and Compensation of Agricultural Labor in New Jersey.

A-4209, sponsored by Assemblywoman Delores Cooper, R-Atlantic, to specify the daylight hours during which deer hunting is permitted, to prohibit the use of a spotlight, flashlight, floodlight or headlight in hunting deer, and to expand the definition of the location of a weapon in the current law to include in a vehicle or compartment whether it is locked or not.

A-4219, sponsored by Assemblyman Thomas Deverin, D-Middlesex, to extend to July 1, 1986, the effective date of the State's recently-enacted medically needy program.

A-4323, sponsored by Assemblyman Michael Adubato, D-Essex, to impose a two-year moratorium on the implementation of property revaluation in Newark.

A-4356, sponsored by Assemblyman Robert Littell, R-Sussex, to validate certain school bond proceedings in the Sweetwater School District, Sussex County.

S-729, sponsored by Senator Leanna Brown, R-Morris, to expand the definition of eligibility for survivors' benefits under the Police and Firemens' Retirement System to include persons over 18 who are enrolled in a secondary school, and persons under the age of 24 who are enrolled in a college degree program.