



(continued)

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**REPORTS:** No

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**NEWSPAPER ARTICLES:** Yes

Gov. Murphy signs bill boosting NJ family leave, temporary disability  
NJBIZ (New Brunswick, NJ) - February 19, 2019

Gov. Murphy signs expanded paid family leave. Here's what the new law means for you  
northjersey.com (Published as northjersey.com (NJ)) - February 19, 2019

Murphy signs bill expanding family leave in New Jersey  
Associated Press State Wire: New Jersey (NJ) - February 19, 2019

Paid family leave program's big day Murphy expected to sign bill marking long-awaited expansion  
Star-Ledger, The (Newark, NJ) - February 19, 2019

Paid family leave program's big day arrives  
Hunterdon County Democrat (Flemington, NJ) - February 20, 2019

Murphy signs legislation expanding family leave  
Star-Ledger, The (Newark, NJ) - February 20, 2019

Murphy OKs paid family leave expansion  
Jersey Journal, The (Jersey City, NJ) - February 20, 2019

Murphy signs legislation expanding family leave Law doubles amount of time caregivers can take off  
and increases their pay  
Times, The (Trenton, NJ) - February 20, 2019

Murphy signs paid family leave expansion  
Burlington County Times (Willingboro, NJ) - February 20, 2019

**MURPHY SIGNS EXPANDED PAID LEAVE**  
Record, The (Hackensack, NJ) - February 20, 2019

N.J. paid family leave gets big boost Leave Gov signs law expanding program to allow more time off, larger payouts  
Hunterdon County Democrat (Flemington, NJ) - February 21, 2019

RWH/CL

§§21-22 -  
C.43:21-45.2 &  
43:21-45.3  
§24 –  
C.43:21-55.2  
§26 - Note

P.L. 2019, CHAPTER 37, *approved February 19, 2019*  
Assembly, No. 3975 (*Third Reprint*)

1 **AN ACT** concerning family leave, temporary disability and family  
2 temporary disability leave, and domestic or sexual violence  
3 safety leave, amending various parts of the statutory law and  
4 supplementing P.L.1948, c.100.

5

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

8

9 1. Section 3 of P.L.1989, c.261 (C.34:11B-3) is amended to  
10 read as follows:

11 3. As used in this act:

12 a. "Child" means a biological, adopted, foster child, or resource  
13 family child, stepchild, legal ward, or child of a parent, **[**who is

14 (1) under 18 years of age; or

15 (2) 18 years of age or older but incapable of self-care because of  
16 a mental or physical impairment**]** including a child who becomes  
17 the child of a parent pursuant to a valid written agreement between  
18 the parent and a gestational carrier.

19 b. "Director" means the Director of the Division on Civil  
20 Rights.

21 c. "Division" means the Division on Civil Rights in the  
22 Department of Law and Public Safety.

23 d. "Employ" means to suffer or permit to work for  
24 compensation, and includes ongoing, contractual relationships in  
25 which the employer retains substantial direct or indirect control  
26 over the employee's employment opportunities or terms and  
27 conditions of employment.

28 e. "Employee" means a person who is employed for at least 12  
29 months by an employer, with respect to whom benefits are sought  
30 under this act, for not less than 1,000 base hours during the  
31 immediately preceding 12-month period. Any time, up to a  
32 maximum of 90 calendar days, during which a person is laid off or  
33 furloughed by an employer due to that employer curtailing  
34 operations because of a state of emergency declared after October  
35 22, 2012, shall be regarded as time in which the person is employed

**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:

<sup>1</sup>Assembly ABU committee amendments adopted June 18, 2018.

<sup>2</sup>Assembly floor amendments adopted October 29, 2018.

<sup>3</sup>Senate floor amendments adopted January 31, 2019.

1 for the purpose of determining eligibility for leave time under this  
2 act. In making the determination, the base hours per week during  
3 the layoff or furlough shall be deemed to be the same as the average  
4 number of hours worked per week during the rest of the 12-month  
5 period.

6 f. "Employer" means a person or corporation, partnership,  
7 individual proprietorship, joint venture, firm or company or other  
8 similar legal entity which engages the services of an employee and  
9 which:

10 (1) **【With respect to the period of time from the effective date of**  
11 **this act until the 365th day following the effective date of this act,**  
12 **employs 100 or more employees for each working day during each**  
13 **of 20 or more calendar workweeks in the then current or**  
14 **immediately preceding calendar year】** (Deleted by amendment,  
15 P.L. , c. (pending before the Legislature as this bill));

16 (2) **【With respect to the period of time from the 366th day**  
17 **following the effective date of this act until the 1,095th day**  
18 **following the effective date of this act, employs 75 or more**  
19 **employees for each working day during each of 20 or more calendar**  
20 **workweeks in the then current or immediately preceding calendar**  
21 **year】** (Deleted by amendment, P.L. , c. (pending before the  
22 Legislature as this bill); **【and】**

23 (3) With respect to **【any】** the period of time **【after】** from the  
24 1,095th day following the effective date of **【this act】** P.L.1989,  
25 c.261 (C.34:11B-1 et seq.) through <sup>2</sup>**【June 30, 2019】** <sup>3</sup>**【December**  
26 **31, 2018<sup>2</sup>】** **June 30, 2019<sup>3</sup>** , employs 50 or more employees for each  
27 working day during each of 20 or more calendar workweeks in the  
28 then current or immediately preceding calendar year; and

29 (4) With respect to any period of time <sup>2</sup>on or<sup>2</sup> after <sup>2</sup>**【June 30,**  
30 **2019】** <sup>3</sup>**【January 1, 2019<sup>2</sup>】** **June 30, 2019<sup>3</sup>** , employs 30 or more  
31 employees for each working day during each of 20 or more calendar  
32 workweeks in the then current or immediately preceding calendar  
33 year.

34 "Employer" includes the State, any political subdivision thereof,  
35 and all public offices, agencies, boards or bodies.

36 g. "Employment benefits" means all benefits and policies  
37 provided or made available to employees by an employer, and  
38 includes group life insurance, health insurance, disability insurance,  
39 sick leave, annual leave, pensions, or other similar benefits.

40 h. "Parent" means a person who is the biological parent,  
41 adoptive parent, foster parent, resource family parent, step-parent,  
42 parent-in-law or legal guardian, having a "parent-child relationship"  
43 with a child as defined by law, or having sole or joint legal or  
44 physical custody, care, guardianship, or visitation with a child, or  
45 who became the parent of the child pursuant to a valid written  
46 agreement between the parent and a gestational carrier.

- 1 i. "Family leave" means leave from employment so that the  
2 employee may provide care made necessary by reason of:
- 3 (1) the birth of a child of the employee, including a child born  
4 pursuant to a valid written agreement between the employee and a  
5 gestational carrier;
- 6 (2) the placement of a child <sup>1</sup>into foster care<sup>1</sup> with the employee  
7 <sup>1</sup>or<sup>1</sup> in connection with adoption of such child by the employee; or
- 8 (3) the serious health condition of a family member of the  
9 employee.
- 10 j. "Family member" means a child, parent, parent-in-law,  
11 sibling, grandparent, grandchild, spouse, <sup>1</sup>domestic partner,<sup>1</sup> or one  
12 partner in a civil union couple, or any other individual related by  
13 blood to the employee, and any other individual <sup>1</sup>**【whose】** that the  
14 employee shows to have a<sup>1</sup> close association with the employee  
15 <sup>1</sup>which<sup>1</sup> is the equivalent of a family relationship.
- 16 k. "Reduced leave schedule" means leave scheduled for fewer  
17 than an employee's usual number of hours worked per workweek  
18 but not for fewer than an employee's usual number of hours worked  
19 per workday, unless agreed to by the employee and the employer.
- 20 l. "Serious health condition" means an illness, injury,  
21 impairment, or physical or mental condition which requires:
- 22 (1) inpatient care in a hospital, hospice, or residential medical  
23 care facility; or
- 24 (2) continuing medical treatment or continuing supervision by a  
25 health care provider.
- 26 m. "State of emergency" means a natural or man-made disaster  
27 or emergency for which a state of emergency has been declared by  
28 the President of the United States or the Governor, or for which a  
29 state of emergency has been declared by a municipal emergency  
30 management coordinator.  
31 (cf: P.L.2013, c.221, s.1)
- 32
- 33 <sup>2</sup>2. Section 4 of P.L.1989, c.261 (C.34:11B-4) is amended to  
34 read as follows:
- 35 4. An employee of an employer in this State subject to the  
36 provisions of this act shall be entitled to a family leave of 12 weeks  
37 in any 24-month period upon advance notice to the employer in the  
38 manner specified by the provisions of sections 11 and 12 of  
39 P.L.2008, c.17 (C.43:21-39.2 and 43:21-39.3), unless the employer  
40 denies family leave to the employee pursuant to subsection h. of  
41 this section.
- 42 a. In the case of a family member who has a serious health  
43 condition, the leave may be taken intermittently when medically  
44 necessary, **【if:**
- 45 (1) The total time within which the leave is taken does not  
46 exceed a 12-month period for each serious health condition episode;

- 1       (2) The employee provides the employer with prior notice of the  
2 leave in a manner which is reasonable and practicable; and
- 3       (3) The employee makes a reasonable effort to schedule the  
4 leave so as not to disrupt unduly the operations of the employer **】** in  
5 the manner specified by the provisions of section 11 of P.L.2008,  
6 c.17 (C.43:21-39.2).
- 7       b. In the case of the foster care placement, birth or adoption of  
8 a healthy child, the leave may be taken intermittently **【**if agreed to  
9 by the employer and the employee **】** in the manner specified by the  
10 provisions of paragraph (2) of subsection a. of section 12 of  
11 P.L.2008, c.17 (C.43:21-39.3).
- 12       c. Leave taken because of the birth or placement for adoption  
13 of a child may commence at any time within a year after the date of  
14 the foster care placement, birth or placement for adoption.
- 15       d. Family leave required by this act may be paid, unpaid, or a  
16 combination of paid and unpaid leave. If an employer provides paid  
17 family leave for fewer than 12 workweeks, the additional weeks of  
18 leave added to attain the 12-workweek total required by this act  
19 may be unpaid.
- 20       e. An employer may require that any period of family leave be  
21 supported by certification issued by a duly licensed health care  
22 provider or any other health care provider determined by the  
23 director to be capable of providing adequate certification.
- 24       (1) Where the certification is for the serious health condition of  
25 a family member of the employee, the certification shall be  
26 sufficient if it states: (a) the date on which the serious health  
27 condition commenced; (b) the probable duration of the condition;  
28 and (c) the medical facts within the provider's knowledge regarding  
29 the condition;
- 30       (2) Where the certification is for the birth or placement of the  
31 child, the certification need only state the date of birth or date of  
32 placement, whichever is appropriate.
- 33       In any case in which the employer has reason to doubt the  
34 validity of the certification provided pursuant to paragraph (1) of  
35 this subsection, the employer may require, at its own expense, that  
36 an employee obtain an opinion regarding the serious health  
37 condition from a second health care provider designated or  
38 approved, but not employed on a regular basis, by the employer. If  
39 the second opinion differs from the certification provided pursuant  
40 to paragraph (1) of this subsection, the employer may require, at its  
41 own expense, that the employee obtain the opinion of a third health  
42 care provider designated or approved jointly by the employer and  
43 the employee concerning the serious health condition. The opinion  
44 of the third health care provider shall be considered to be final and  
45 shall be binding on the employer and the employee.
- 46       f. In any case in which the necessity for leave under this act is  
47 foreseeable, based upon placement of a child into foster care an  
48 expected birth or placement of the child for adoption, the employee

1 shall provide the employer with prior notice of the expected birth or  
2 placement of the child for adoption <sup>3</sup>or foster care<sup>3</sup> in **[a]** the  
3 manner [which is reasonable and practicable] specified by the  
4 provisions of section 11 of P.L.2008, c.17 (C.43:21-39.2).

5 g. No employee shall, during any period of leave taken  
6 pursuant to this section, perform services on a full-time basis for  
7 any person for whom the employee did not provide those services  
8 immediately prior to commencement of the leave.

9 h. An employer may deny family leave to the employee if:

10 (1) The employee is a salaried employee who is among the  
11 highest paid 5% of the employer's employees or the seven highest  
12 paid employees of the employer, whichever is greater;

13 (2) The denial is necessary to prevent substantial and grievous  
14 economic injury to the employer's operations; and

15 (3) The employer notifies the employee of its intent to deny the  
16 leave at the time the employer determines that the denial is  
17 necessary.

18 i. In any case in which the leave has already commenced at the  
19 time of the notification pursuant to paragraph (3) of subsection h. of  
20 this section, the employee shall return to work within 10 working  
21 days of the date of notification.<sup>2</sup>

22 (cf: P.L.1989, c.261, s.4)

23

24 <sup>2</sup>**[12.] 3.**<sup>2</sup> Section 5 of P.L.1989, c.261 (C.34:11B-5) is  
25 amended to read as follows:

26 5. An employee shall be entitled, at the option of the employee,  
27 to take this leave on a reduced leave schedule, except that:

28 a. The employee shall not be entitled to a reduced leave  
29 schedule for a period exceeding **[24] 12** consecutive **[weeks]**  
30 months for any one period of leave; and

31 b. **[The employee shall not be entitled to take the leave on a**  
32 **reduced leave schedule without an agreement between the employer**  
33 **and employee, if] If the leave is taken upon the foster care**  
34 **placement, birth or adoption of a healthy child, the leave may be**  
35 **taken on an intermittent basis in the manner specified by the**  
36 **provisions of paragraph (2) of subsection a. of section 12 of**  
37 **P.L.2008, c.17 (C.43:21-39.3).**

38 The employee shall make a reasonable effort to schedule reduced  
39 leave so as not to disrupt unduly the operations of the employer and  
40 the employee shall provide the employer with prior notice of the  
41 care, medical treatment, or continuing supervision by a health care  
42 provider necessary due to a serious health condition of a family  
43 member, in a manner which is reasonable and practicable. <sup>2</sup>**[Leave**  
44 **taken on a reduced leave schedule shall not result in a reduction of**  
45 **the total amount of leave to which an employee is entitled.]<sup>2</sup>**

46 (cf: P.L.1989, c.261, s.5)

1       <sup>1</sup>[2.]<sup>2</sup>[3.]<sup>1</sup> 4.<sup>2</sup> Section 3 of P.L.2013, c.82 (C.34:11C-3) is  
2 amended to read as follows:

3       3. a. Any employee of an employer in the State who was a  
4 victim of an incident of domestic violence as defined in section 3 of  
5 P.L.1991, c.261 (C.2C:25-19) or a sexually violent offense as  
6 defined in section 3 of P.L.1998, c.71 (C.30:4-27.26), or whose  
7 parent-in-law, sibling, grandparent, grandchild, child, parent,  
8 spouse, domestic partner, or civil union partner individual, or any  
9 other individual related by blood to the employee, and any other  
10 individual <sup>1</sup>[whose] that the employee shows to have a<sup>1</sup> close  
11 association with the employee <sup>1</sup>which<sup>1</sup> is the equivalent of a family  
12 relationship, was a victim shall be entitled to unpaid leave of no  
13 more than 20 days in one 12-month period, to be used in the 12-  
14 month period next following any incident of domestic violence or  
15 any sexually violent offense as provided in this section. For  
16 purposes of this section, each incident of domestic violence or any  
17 sexually violent offense shall constitute a separate offense for  
18 which an employee is entitled to unpaid leave, provided that the  
19 employee has not exhausted the allotted 20 days for the 12-month  
20 period. The unpaid leave may be taken intermittently in intervals of  
21 no less than one day, as needed for the purpose of engaging in any  
22 of the following activities as they relate to the incident of domestic  
23 violence or sexually violent offense:

24       (1) seeking medical attention for, or recovering from, physical  
25 or psychological injuries caused by domestic or sexual violence to  
26 the employee or the employee's parent-in-law, sibling, grandparent,  
27 grandchild, child, parent, spouse, domestic partner, or civil union  
28 partner individual, or any other individual related by blood to the  
29 employee, and any other individual <sup>1</sup>[whose] that the employee  
30 shows to have a<sup>1</sup> close association with the employee <sup>1</sup>which<sup>1</sup> is the  
31 equivalent of a family relationship;

32       (2) obtaining services from a victim services organization for  
33 the employee or the employee's parent-in-law, sibling, grandparent,  
34 grandchild, child, parent, spouse, domestic partner, or civil union  
35 partner individual, or any other individual related by blood to the  
36 employee, and any other individual <sup>1</sup>[whose] that the employee  
37 shows to have a<sup>1</sup> close association with the employee <sup>1</sup>which<sup>1</sup> is the  
38 equivalent;

39       (3) obtaining psychological or other counseling for the  
40 employee or the employee's parent-in-law, sibling, grandparent,  
41 grandchild, child, parent, spouse, domestic partner, or civil union  
42 partner individual, or any other individual related by blood to the  
43 employee, and any other individual <sup>1</sup>[whose] that the employee  
44 shows to have a<sup>1</sup> close association with the employee <sup>1</sup>which<sup>1</sup> is the  
45 equivalent of a family relationship;

46       (4) participating in safety planning, temporarily or permanently  
47 relocating, or taking other actions to increase the safety of the



1 employee or the employee's parent-in-law, sibling, grandparent,  
2 grandchild, child, parent, spouse, domestic partner, or civil union  
3 partner individual, or any other individual related by blood to the  
4 employee, and any other individual **1**【whose】 that the employee  
5 shows to have a**1** close association with the employee **1**which**1** is the  
6 equivalent of a family relationship, from future domestic or sexual  
7 violence or to ensure economic security;

8 (5) seeking legal assistance or remedies to ensure the health and  
9 safety of the employee or the employee's parent-in-law, sibling,  
10 grandparent, grandchild, child, parent, spouse, domestic partner, or  
11 civil union partner, individual, or any other individual related by  
12 blood to the employee, and any other individual **1**【whose】 that the  
13 employee shows to have a**1** close association with the employee  
14 **1**which**1** is the equivalent of a family relationship, including  
15 preparing for, or participating in, any civil or criminal legal  
16 proceeding related to or derived from domestic or sexual violence;  
17 or

18 (6) attending, participating in, or preparing for a criminal or  
19 civil court proceeding relating to an incident of domestic or sexual  
20 violence of which the employee or the employee's parent-in-law,  
21 sibling, grandparent, grandchild, child, parent, spouse, domestic  
22 partner, or civil union partner, or any other individual related by  
23 blood to the employee, and any other individual **1**【whose】 that the  
24 employee shows to have a**1** close association with the employee  
25 **1**which**1** is the equivalent of a family relationship, was a victim.

26 An eligible employee may elect**【,** or an employer may require  
27 the employee,**】** to use any of the accrued paid vacation leave,  
28 personal leave, or medical or sick leave of the employee, or any  
29 family temporary disability leave benefits provided pursuant to  
30 section 3 of P.L.1948, c.110 (C.43:21-27), during any part of the  
31 20-day period of unpaid leave provided under this subsection. In  
32 such case, any paid leave provided by the employer, and accrued  
33 pursuant to established policies of the employer, or family  
34 temporary disability leave benefits, shall run concurrently with the  
35 unpaid leave provided under this subsection and, accordingly, the  
36 employee shall receive pay pursuant to the employer's applicable  
37 paid leave policy, or family temporary disability leave benefits,  
38 during the period of otherwise unpaid leave. If an employee  
39 requests leave for a reason covered by both this subsection and the  
40 "Family Leave Act," P.L.1989, c.261 (C.34:11B-1 et seq.) or the  
41 federal "Family and Medical Leave Act of 1993," Pub.L.103-3 (29  
42 U.S.C. s.2601 et seq.), the leave shall count simultaneously against  
43 the employee's entitlement under each respective law.

44 Leave granted under this section shall not conflict with any  
45 rights pursuant to the "Family Leave Act," P.L.1989, c.261  
46 (C.34:11B-1 et seq.), the "Temporary Disability Benefits Law,"  
47 P.L.1948, c.110 (C.43:21-25 et **【seq.】** al.), or the federal "Family

1 and Medical Leave Act of 1993," Pub.L.103-3 (29 U.S.C. s.2601 et  
2 seq.).

3 b. Prior to taking the leave provided for in this section, an  
4 employee shall, if the necessity for the leave is foreseeable, provide  
5 the employer with written notice of the need for the leave<sup>2</sup>, unless  
6 an emergency or other unforeseen circumstances precludes prior  
7 notice<sup>2</sup>. The notice shall be provided to the employer as far in  
8 advance as is reasonable and practical under the circumstances.

9 c. Nothing contained in this act shall be construed to prohibit  
10 an employer from requiring that a period of leave provided pursuant  
11 to this section be supported by the employee with documentation of  
12 the domestic violence or sexually violent offense which is the basis  
13 for the leave. If the employer requires the documentation, the  
14 employee shall be regarded as having provided sufficient  
15 documentation if the employee provides one or more of the  
16 following:

17 (1) a domestic violence restraining order or other documentation  
18 of equitable relief issued by a court of competent jurisdiction;

19 (2) a letter or other written documentation from the county or  
20 municipal prosecutor documenting the domestic violence or  
21 sexually violent offense;

22 (3) documentation of the conviction of a person for the domestic  
23 violence or sexually violent offense;

24 (4) medical documentation of the domestic violence or sexually  
25 violent offense;

26 (5) certification from a certified Domestic Violence Specialist or  
27 the director of a designated domestic violence agency or Rape  
28 Crisis Center, that the employee or employee's parent-in-law,  
29 sibling, grandparent, grandchild, child, parent, spouse, domestic  
30 partner, or civil union partner, or any other individual related by  
31 blood to the employee, and any other individual <sup>1</sup>**【whose】** that the  
32 employee shows to have a<sup>1</sup> close association with the employee  
33 <sup>1</sup>which <sup>1</sup> is the equivalent of a family relationship, is a victim of  
34 domestic violence or a sexually violent offense; or

35 (6) other documentation or certification of the domestic violence  
36 or sexually violent offense provided by a social worker, member of  
37 the clergy, shelter worker, or other professional who has assisted  
38 the employee or employee's parent-in-law, sibling, grandparent,  
39 grandchild, child, parent, spouse, domestic partner, or civil union  
40 partner, or any other individual related by blood to the employee,  
41 and any other individual <sup>1</sup>**【whose】** that the employee shows to have  
42 a<sup>1</sup> close association with the employee <sup>1</sup>which <sup>1</sup> is the equivalent of  
43 a family relationship, in dealing with the domestic violence or  
44 sexually violent offenses.

45 For the purposes of this subsection:

46 "Certified Domestic Violence Specialist" means a person who  
47 has fulfilled the requirements of certification as a Domestic

1 Violence Specialist established by the New Jersey Association of  
2 Domestic Violence Professionals; and "designated domestic  
3 violence agency" means a county-wide organization with a primary  
4 purpose to provide services to victims of domestic violence, and  
5 which provides services that conform to the core domestic violence  
6 services profile as defined by the Division of Child Protection and  
7 Permanency in the Department of Children and Families and is  
8 under contract with the division for the express purpose of  
9 providing the services.

10 "Rape Crisis Center" means an office, institution, or center  
11 offering assistance to victims of sexual offenses through crisis  
12 intervention, medical and legal information, and follow-up  
13 counseling.

14 d. An employer shall display conspicuous notice of its  
15 employees' rights and obligations pursuant to the provisions of this  
16 act, in such form and in such manner as the Commissioner of Labor  
17 and Workforce Development shall prescribe, and use other  
18 appropriate means to keep its employees so informed.

19 e. No provision of this act shall be construed as requiring or  
20 permitting an employer to reduce employment benefits provided by  
21 the employer or required by a collective bargaining agreement  
22 which are in excess of those required by this act. Nor shall any  
23 provision of this act be construed to prohibit the negotiation and  
24 provision through collective bargaining agreements of leave  
25 policies or benefit programs which provide benefits in excess of  
26 those required by this act. This provision shall apply irrespective of  
27 the date that a collective bargaining agreement takes effect.

28 Nothing contained in this act shall be construed as permitting an  
29 employer to:

30 (1) rescind or reduce any employment benefit accrued prior to  
31 the date on which the leave taken pursuant to this act commenced;  
32 or

33 (2) rescind or reduce any employment benefit, unless the  
34 rescission or reduction of the benefit is based on changes that would  
35 have occurred if an employee continued to work without taking the  
36 leave provided pursuant to this section.

37 f. All information provided to an employer pursuant to  
38 subsection c. of this section, and any information regarding a leave  
39 taken pursuant to this section and any failure of an employee to  
40 return to work, shall be retained in the strictest confidentiality,  
41 unless the disclosure is voluntarily authorized in writing by the  
42 employee or is required by a federal or State law, rule, or  
43 regulation.

44 (cf: P.L.2013, c.82, s.3)

45

46 <sup>2</sup>5. R.S.43:21-4 is amended to read as follows:

1       43:21-4. Benefit eligibility conditions. An unemployed  
2 individual shall be eligible to receive benefits with respect to any  
3 week eligible only if:

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

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

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

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

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

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

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

41       (i) The training is for a labor demand occupation and is likely to  
42 enhance the individual's marketable skills and earning power,  
43 except that the training may be for an occupation other than a labor  
44 demand occupation if the individual is receiving short-time benefits  
45 pursuant to the provisions of P.L.2011, c.154 (C.43:21-20.3 et al.)  
46 and the training is necessary to prevent a likely loss of jobs;

47       (ii) The training is provided by a competent and reliable private  
48 or public entity approved by the Commissioner of Labor and

1 Workforce Development pursuant to the provisions of section 8 of  
2 the "1992 New Jersey Employment and Workforce Development  
3 Act," P.L.1992, c.43 (C.34:15D-8);

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

6 (iv) The training does not include on the job training or other  
7 training under which the individual is paid by an employer for work  
8 performed by the individual during the time that the individual  
9 receives benefits; and

10 (v) The individual enrolls in vocational training, remedial  
11 education or a combination of both on a full-time basis, except that  
12 the training or education may be on a part-time basis if the  
13 individual is receiving short-time benefits pursuant to the provisions  
14 of P.L.2011, c.154 (C.43:21-20.3 et al.).

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

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

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

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

25 (iv) The lack of a prior guarantee of employment upon  
26 completion of the training.

27 (D) For the purpose of this paragraph (4), "labor demand  
28 occupation" means an occupation for which there is or is likely to  
29 be an excess of demand over supply for adequately trained workers,  
30 including, but not limited to, an occupation designated as a labor  
31 demand occupation by the Center for Occupational Employment  
32 Information pursuant to the provisions of subsection d. of section  
33 27 of P.L.2005, c.354 (C.34:1A-86).

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

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

43 For purposes of this paragraph, "immediate family member"  
44 includes any of the following individuals: father, mother, mother-  
45 in-law, father-in-law, grandmother, grandfather, grandchild, spouse,  
46 child, child placed by the Division of Youth and Family Services in  
47 the Department of Children and Families, sister or brother of the

1 unemployed individual and any relatives of the unemployed  
2 individual residing in the unemployed individual's household.

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

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

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

26 (9) An unemployed individual, who is otherwise eligible, shall  
27 not be deemed unavailable for work or ineligible solely by reason of  
28 the individual's work as a board worker for a county board of  
29 elections on an election day.

30 (10) An individual who is employed by a shared work employer  
31 and is otherwise eligible for benefits shall not be deemed ineligible  
32 for short-time benefits because the individual is unavailable for  
33 work with employers other than the shared work employer, so long  
34 as:

35 (A) The individual is able to work and is available to work the  
36 individual's normal full-time hours for the shared work employer;  
37 or

38 (B) The individual is attending a training program which is in  
39 compliance with the provisions of paragraph (4) of subsection (c) of  
40 this section and the agreements and certifications required pursuant  
41 to the provisions of section 2 of P.L.2011, c.154 (C.43:21-20.4).

42 (d) With respect to any benefit year commencing before January  
43 1, 2002, the individual has been totally or partially unemployed for  
44 a waiting period of one week in the benefit year which includes that  
45 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

1 the waiting period. No week shall be counted as a week of  
2 unemployment for the purposes of this subsection:

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

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

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

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

14 The waiting period provided by this subsection shall not apply to  
15 benefit years commencing on or after January 1, 2002. An  
16 individual whose total benefit amount was reduced by the  
17 application of the waiting period to a claim which occurred on or  
18 after January 1, 2002 and before the effective date of P.L.2002,  
19 c.13, shall be permitted to file a claim for the additional benefits  
20 attributable to the waiting period in the form and manner prescribed  
21 by the division, but not later than the 180th day following the  
22 effective date of P.L.2002, c.13 unless the division determines that  
23 there is good cause for a later filing.

24 (e) (1) (Deleted by amendment, P.L.2001, c.17).

25 (2) (Deleted by amendment, P.L.2008, c.17).

26 (3) (Deleted by amendment, P.L.2008, c.17).

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

31 (A) Established at least 20 base weeks as defined in paragraphs  
32 (2) and (3) of subsection (t) of R.S.43:21-19; or

33 (B) If the individual has not met the requirements of  
34 subparagraph (A) of this paragraph (4), earned remuneration not  
35 less than an amount 1,000 times the minimum wage in effect  
36 pursuant to section 5 of P.L.1966, c.113 (C.34:11-56a4) on October  
37 1 of the calendar year preceding the calendar year in which the  
38 benefit year commences, which amount shall be adjusted to the next  
39 higher multiple of \$100 if not already a multiple thereof.

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

47 (A) Has established at least 20 base weeks as defined in  
48 paragraphs (2) and (3) of subsection (t) of R.S.43:21-19; or

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

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

9 (6) The individual applying for benefits in any successive  
10 benefit year has earned at least six times his previous weekly  
11 benefit amount and has had four weeks of employment since the  
12 beginning of the immediately preceding benefit year. This  
13 provision shall be in addition to the earnings requirements specified  
14 in paragraph (4) or (5) of this subsection, as applicable.

15 (f) (1) The individual has suffered any accident or sickness not  
16 compensable under the workers' compensation law, R.S.34:15-1 et  
17 seq. and resulting in the individual's total disability to perform any  
18 work for remuneration, and would be eligible to receive benefits  
19 under this chapter (R.S.43:21-1 et seq.) (without regard to the  
20 maximum amount of benefits payable during any benefit year)  
21 except for the inability to work and has furnished notice and proof  
22 of claim to the division, in accordance with its rules and  
23 regulations, and payment is not precluded by the provisions of  
24 R.S.43:21-3(d); provided, however, that benefits paid under this  
25 subsection (f) shall be computed on the basis of only those base  
26 year wages earned by the claimant as a "covered individual," as  
27 defined in subsection (b) of section 3 of P.L.1948, c.110 (C.43:21-  
28 27); provided further that no benefits shall be payable under this  
29 subsection to any individual:

30 (A) For any period during which such individual is not under the  
31 care of a legally licensed physician, dentist, optometrist, podiatrist,  
32 practicing psychologist, advanced practice nurse, or chiropractor,  
33 who, when requested by the division, shall certify within the scope  
34 of the practitioner's practice, the disability of the individual, the  
35 probable duration thereof, and, where applicable, the medical facts  
36 within the practitioner's knowledge;

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

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

41 (D) For any week with respect to which or a part of which the  
42 individual has received or is seeking benefits under any  
43 unemployment compensation or disability benefits law of any other  
44 state or of the United States; provided that if the appropriate agency  
45 of such other state or the United States finally determines that the  
46 individual is not entitled to such benefits, this disqualification shall  
47 not apply;



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

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

9 (2) The individual is taking family temporary disability leave to  
10 provide care for a family member with a serious health condition or  
11 to be with a child during the first 12 months after the child's birth or  
12 placement of the child for adoption or as a foster child with the  
13 individual, and the individual would be eligible to receive benefits  
14 under R.S.43:21-1 et seq. (without regard to the maximum amount  
15 of benefits payable during any benefit year) except for the  
16 individual's unavailability for work while taking the family  
17 temporary disability leave, and the individual has furnished notice  
18 and proof of claim to the division, in accordance with its rules and  
19 regulations, and payment is not precluded by the provisions of  
20 R.S.43:21-3(d) provided, however, that benefits paid under this  
21 subsection (f) shall be computed on the basis of only those base  
22 year wages earned by the claimant as a "covered individual," as  
23 defined in subsection (b) of section 3 of P.L.1948, c.110 (C.43:21-  
24 27); provided further that no benefits shall be payable under this  
25 subsection to any individual:

26 (A) For any week with respect to which or a part of which the  
27 individual has received or is seeking benefits under any  
28 unemployment compensation or disability benefits law of any other  
29 state or of the United States; provided that if the appropriate agency  
30 of such other state or the United States finally determines that the  
31 individual is not entitled to such benefits, this disqualification shall  
32 not apply;

33 (B) For any week with respect to which or part of which the  
34 individual has received or is seeking disability benefits for a  
35 disability of the individual under the "Temporary Disability  
36 Benefits Law," P.L.1948, c.110 (C.43:21-25 et al.);

37 (C) For any period of family temporary disability leave  
38 commencing while the individual is a "covered individual," as  
39 defined in subsection (b) of section 3 of the "Temporary Disability  
40 Benefits Law," P.L.1948, c.110 (C.43:21-27); or

41 (D) For any period of family temporary disability leave for a  
42 serious health condition of a family member of the claimant during  
43 which the family member is not receiving inpatient care in a  
44 hospital, hospice, or residential medical care facility and is not  
45 subject to continuing medical treatment or continuing supervision  
46 by a health care provider, who, when requested by the division,  
47 shall certify within the scope of the provider's practice, the serious  
48 health condition of the family member, the probable duration

1 thereof, and, where applicable, the medical facts within the  
2 provider's knowledge.

3 (3) Benefit payments under this subsection (f) shall be charged  
4 to and paid from the State disability benefits fund established by the  
5 "Temporary Disability Benefits Law," P.L.1948, c.110 (C.43:21-25  
6 et al.), and shall not be charged to any employer account in  
7 computing any employer's experience rate for contributions payable  
8 under this chapter.

9 (g) Benefits based on service in employment defined in  
10 subparagraphs (B) and (C) of R.S.43:21-19 (i)(1) shall be payable  
11 in the same amount and on the terms and subject to the same  
12 conditions as benefits payable on the basis of other service subject  
13 to the "unemployment compensation law"; except that,  
14 notwithstanding any other provisions of the "unemployment  
15 compensation law":

16 (1) With respect to service performed after December 31, 1977,  
17 in an instructional research, or principal administrative capacity for  
18 an educational institution, benefits shall not be paid based on such  
19 services for any week of unemployment commencing during the  
20 period between two successive academic years, or during a similar  
21 period between two regular terms, whether or not successive, or  
22 during a period of paid sabbatical leave provided for in the  
23 individual's contract, to any individual if such individual performs  
24 such services in the first of such academic years (or terms) and if  
25 there is a contract or a reasonable assurance that such individual  
26 will perform services in any such capacity for any educational  
27 institution in the second of such academic years or terms;

28 (2) With respect to weeks of unemployment beginning after  
29 September 3, 1982, on the basis of service performed in any other  
30 capacity for an educational institution, benefits shall not be paid on  
31 the basis of such services to any individual for any week which  
32 commences during a period between two successive academic years  
33 or terms if such individual performs such services in the first of  
34 such academic years or terms and there is a reasonable assurance  
35 that such individual will perform such services in the second of  
36 such academic years or terms, except that if benefits are denied to  
37 any individual under this paragraph (2) and the individual was not  
38 offered an opportunity to perform these services for the educational  
39 institution for the second of any academic years or terms, the  
40 individual shall be entitled to a retroactive payment of benefits for  
41 each week for which the individual filed a timely claim for benefits  
42 and for which benefits were denied solely by reason of this clause;

43 (3) With respect to those services described in paragraphs (1)  
44 and (2) above, benefits shall not be paid on the basis of such  
45 services to any individual for any week which commences during  
46 an established and customary vacation period or holiday recess if  
47 such individual performs such services in the period immediately  
48 before such vacation period or holiday recess, and there is a

1 reasonable assurance that such individual will perform such  
2 services in the period immediately following such period or holiday  
3 recess;

4 (4) With respect to any services described in paragraphs (1) and  
5 (2) above, benefits shall not be paid as specified in paragraphs (1),  
6 (2), and (3) above to any individual who performed those services  
7 in an educational institution while in the employ of an educational  
8 service agency, and for this purpose the term "educational service  
9 agency" means a governmental agency or governmental entity  
10 which is established and operated exclusively for the purpose of  
11 providing those services to one or more educational institutions.

12 (h) Benefits shall not be paid to any individual on the basis of  
13 any services, substantially all of which consist of participating in  
14 sports or athletic events or training or preparing to so participate,  
15 for any week which commences during the period between two  
16 successive sports seasons (or similar periods) if such individual  
17 performed such services in the first of such seasons (or similar  
18 periods) and there is a reasonable assurance that such individual  
19 will perform such services in the later of such seasons (or similar  
20 periods).

21 (i) (1) Benefits shall not be paid on the basis of services  
22 performed by an alien unless such alien is an individual who was  
23 lawfully admitted for permanent residence at the time the services  
24 were performed and was lawfully present for the purpose of  
25 performing the services or otherwise was permanently residing in  
26 the United States under color of law at the time the services were  
27 performed (including an alien who is lawfully present in the United  
28 States as a result of the application of the provisions of section  
29 212(d)(5) (8 U.S.C. s.1182 (d)(5)) of the Immigration and  
30 Nationality Act (8 U.S.C. s.1101 et seq.)); provided that any  
31 modifications of the provisions of section 3304(a)(14) of the  
32 Federal Unemployment Tax Act (26 U.S.C. s. 3304 (a) (14)) as  
33 provided by Pub.L.94-566, which specify other conditions or other  
34 effective dates than stated herein for the denial of benefits based on  
35 services performed by aliens and which modifications are required  
36 to be implemented under State law as a condition for full tax credit  
37 against the tax imposed by the Federal Unemployment Tax Act,  
38 shall be deemed applicable under the provisions of this section.

39 (2) Any data or information required of individuals applying for  
40 benefits to determine whether benefits are not payable to them  
41 because of their alien status shall be uniformly required from all  
42 applicants for benefits.

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

47 (j) Notwithstanding any other provision of this chapter, the  
48 director may, to the extent that it may be deemed efficient and

1 economical, provide for consolidated administration by one or more  
2 representatives or deputies of claims made pursuant to subsection  
3 (f) of this section with those made pursuant to Article III (State  
4 plan) of the "Temporary Disability Benefits Law," P.L.1948, c.110  
5 (C.43:21-25 et al.).<sup>2</sup>  
6 (cf: P.L.2011, c.154, s.11)  
7

8 <sup>1</sup>[3.] <sup>2</sup>[4.1] <sup>6.2</sup> R.S.43:21-7 is amended to read as follows:  
9 43:21-7. Employers other than governmental entities, whose  
10 benefit financing provisions are set forth in section 4 of P.L.1971,  
11 c.346 (C.43:21-7.3), and those nonprofit organizations liable for  
12 payment in lieu of contributions on the basis set forth in section 3 of  
13 P.L.1971, c.346 (C.43:21-7.2), shall pay to the controller for the  
14 unemployment compensation fund, contributions as set forth in  
15 subsections (a), (b) and (c) hereof, and the provisions of subsections  
16 (d) and (e) shall be applicable to all employers, consistent with the  
17 provisions of the "unemployment compensation law" and the  
18 "Temporary Disability Benefits Law," P.L.1948, c.110 (C.43:21-25  
19 et al.).

20 (a) Payment.

21 (1) Contributions shall accrue and become payable by each  
22 employer for each calendar year in which he is subject to this  
23 chapter (R.S.43:21-1 et seq.), with respect to having individuals in  
24 his employ during that calendar year, at the rates and on the basis  
25 hereinafter set forth. Such contributions shall become due and be  
26 paid by each employer to the controller for the fund, in accordance  
27 with such regulations as may be prescribed, and shall not be  
28 deducted, in whole or in part, from the remuneration of individuals  
29 in his employ.

30 (2) In the payment of any contributions, a fractional part of a  
31 cent shall be disregarded unless it amounts to \$0.005 or more, in  
32 which case it shall be increased to \$0.01.

33 (b) Rate of contributions. Each employer shall pay the following  
34 contributions:

35 (1) For the calendar year 1947, and each calendar year  
36 thereafter, 2 7/10% of wages paid by him during each such calendar  
37 year, except as otherwise prescribed by subsection (c) of this  
38 section.

39 (2) The "wages" of any individual, with respect to any one  
40 employer, as the term is used in this subsection (b) and in  
41 subsections (c), (d) and (e) of this section 7, shall include the first  
42 \$4,800.00 paid during calendar year 1975, for services performed  
43 either within or without this State; provided that no contribution  
44 shall be required by this State with respect to services performed in  
45 another state if such other state imposes contribution liability with  
46 respect thereto. If an employer (hereinafter referred to as a  
47 successor employer) during any calendar year acquires substantially  
48 all the property used in a trade or business of another employer

1 (hereinafter referred to as a predecessor), or used in a separate unit  
2 of a trade or business of a predecessor, and immediately after the  
3 acquisition employs in his trade or business an individual who  
4 immediately prior to the acquisition was employed in the trade or  
5 business of such predecessors, then, for the purpose of determining  
6 whether the successor employer has paid wages with respect to  
7 employment equal to the first \$4,800.00 paid during calendar year  
8 1975, any wages paid to such individual by such predecessor during  
9 such calendar year and prior to such acquisition shall be considered  
10 as having been paid by such successor employer.

11 (3) For calendar years beginning on and after January 1, 1976,  
12 the "wages" of any individual, as defined in the preceding  
13 paragraph (2) of this subsection (b), shall be established and  
14 promulgated by the Commissioner of Labor and Workforce  
15 Development on or before September 1 of the preceding year and,  
16 except as provided in paragraph (4) of this subsection (b), shall be,  
17 28 times the Statewide average weekly remuneration paid to  
18 workers by employers, as determined under R.S.43:21-3(c), raised  
19 to the next higher multiple of \$100.00 if not already a multiple  
20 thereof, provided that if the amount of wages so determined for a  
21 calendar year is less than the amount similarly determined for the  
22 preceding year, the greater amount will be used; provided, further,  
23 that if the amount of such wages so determined does not equal or  
24 exceed the amount of wages as defined in subsection (b) of section  
25 3306 of the Internal Revenue Code of 1986 (26 U.S.C. s.3306(b)),  
26 the wages as determined in this paragraph in any calendar year shall  
27 be raised to equal the amount established under the "Federal  
28 Unemployment Tax Act," chapter 23 of the Internal Revenue Code  
29 of 1986 (26 U.S.C. s.3301 et seq.), for that calendar year.

30 (4) For calendar years beginning on and after January 1,  
31 <sup>2</sup>[2019,] 2020,<sup>2</sup> the "wages" of any individual, as defined in the  
32 preceding paragraph (2) of this subsection (b) for purposes of  
33 contributions of workers to the <sup>2</sup>State disability benefits fund,  
34 including the<sup>2</sup> "Family Temporary Disability Leave Account" <sup>2</sup>[and  
35 the "Pregnancy Temporary Disability Account" of the State  
36 disability benefits fund]<sup>2</sup> pursuant to subsection (d) of this section,  
37 shall be established and promulgated by the Commissioner of Labor  
38 and Workforce Development on or before September 1 of the  
39 preceding year and shall be <sup>2</sup>[52] 107<sup>2</sup> times the Statewide average  
40 weekly remuneration paid to workers by employers, as determined  
41 under R.S.43:21-3(c), raised to the next higher multiple of \$100.00  
42 if not already a multiple thereof, provided that if the amount of  
43 wages so determined for a calendar year is less than the amount  
44 similarly determined for the preceding year, the greater amount will  
45 be used.

46 (c) Future rates based on benefit experience.

1 (1) A separate account for each employer shall be maintained  
2 and this shall be credited with all the contributions which he has  
3 paid on his own behalf on or before January 31 of any calendar year  
4 with respect to employment occurring in the preceding calendar  
5 year; provided, however, that if January 31 of any calendar year  
6 falls on a Saturday or Sunday, an employer's account shall be  
7 credited as of January 31 of such calendar year with all the  
8 contributions which he has paid on or before the next succeeding  
9 day which is not a Saturday or Sunday. But nothing in this chapter  
10 (R.S.43:21-1 et seq.) shall be construed to grant any employer or  
11 individuals in his service prior claims or rights to the amounts paid  
12 by him into the fund either on his own behalf or on behalf of such  
13 individuals. Benefits paid with respect to benefit years commencing  
14 on and after January 1, 1953, to any individual on or before  
15 December 31 of any calendar year with respect to unemployment in  
16 such calendar year and in preceding calendar years shall be charged  
17 against the account or accounts of the employer or employers in  
18 whose employment such individual established base weeks  
19 constituting the basis of such benefits, except that, with respect to  
20 benefit years commencing after January 4, 1998, an employer's  
21 account shall not be charged for benefits paid to a claimant if the  
22 claimant's employment by that employer was ended in any way  
23 which, pursuant to subsection (a), (b), (c), (f), (g) or (h) of  
24 R.S.43:21-5, would have disqualified the claimant for benefits if the  
25 claimant had applied for benefits at the time when that employment  
26 ended. Benefits paid under a given benefit determination shall be  
27 charged against the account of the employer to whom such  
28 determination relates. When each benefit payment is made,  
29 notification shall be promptly provided to each employer included  
30 in the unemployment insurance monetary calculation of benefits.  
31 Such notification shall identify the employer against whose account  
32 the amount of such payment is being charged, shall show at least  
33 the name and social security account number of the claimant and  
34 shall specify the period of unemployment to which said benefit  
35 payment applies.

36 An annual summary statement of unemployment benefits  
37 charged to the employer's account shall be provided.

38 (2) Regulations may be prescribed for the establishment,  
39 maintenance, and dissolution of joint accounts by two or more  
40 employers, and shall, in accordance with such regulations and upon  
41 application by two or more employers to establish such an account,  
42 or to merge their several individual accounts in a joint account,  
43 maintain such joint account as if it constituted a single employer's  
44 account.

45 (3) No employer's rate shall be lower than 5.4% unless  
46 assignment of such lower rate is consistent with the conditions  
47 applicable to additional credit allowance for such year under section  
48 3303(a)(1) of the Internal Revenue Code of 1986 (26 U.S.C.

1 s.3303(a)(1)), any other provision of this section to the contrary  
2 notwithstanding.

3 (4) Employer Reserve Ratio. (A) Each employer's rate shall be 2  
4  $\frac{8}{10}\%$ , except as otherwise provided in the following provisions.  
5 No employer's rate for the 12 months commencing July 1 of any  
6 calendar year shall be other than  $\frac{2}{8}\frac{8}{10}\%$ , unless as of the  
7 preceding January 31 such employer shall have paid contributions  
8 with respect to wages paid in each of the three calendar years  
9 immediately preceding such year, in which case such employer's  
10 rate for the 12 months commencing July 1 of any calendar year  
11 shall be determined on the basis of his record up to the beginning of  
12 such calendar year. If, at the beginning of such calendar year, the  
13 total of all his contributions, paid on his own behalf, for all past  
14 years exceeds the total benefits charged to his account for all such  
15 years, his contribution rate shall be:

16 (1)  $\frac{2}{5}\frac{5}{10}\%$ , if such excess equals or exceeds 4%, but less than  
17 5%, of his average annual payroll (as defined in paragraph (2),  
18 subsection (a) of R.S.43:21-19);

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

21 (3)  $\frac{1}{9}\frac{9}{10}\%$ , if such excess equals or exceeds 6%, but is less  
22 than 7%, of his average annual payroll;

23 (4)  $\frac{1}{6}\frac{6}{10}\%$ , if such excess equals or exceeds 7%, but is less  
24 than 8%, of his average annual payroll;

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

27 (6) 1%, if such excess equals or exceeds 9%, but is less than  
28 10%, of his average annual payroll;

29 (7)  $\frac{7}{10}$  of 1%, if such excess equals or exceeds 10%, but is less  
30 than 11%, of his average annual payroll;

31 (8)  $\frac{4}{10}$  of 1%, if such excess equals or exceeds 11% of his  
32 average annual payroll.

33 (B) If the total of an employer's contributions, paid on his own  
34 behalf, for all past periods for the purposes of this paragraph (4), is  
35 less than the total benefits charged against his account during the  
36 same period, his rate shall be:

37 (1) 4%, if such excess is less than 10% of his average annual  
38 payroll;

39 (2)  $\frac{4}{3}\frac{3}{10}\%$ , if such excess equals or exceeds 10%, but is less  
40 than 20%, of his average annual payroll;

41 (3)  $\frac{4}{6}\frac{6}{10}\%$ , if such excess equals or exceeds 20% of his  
42 average annual payroll.

43 (C) Specially assigned rates.

44 (i) If no contributions were paid on wages for employment in  
45 any calendar year used in determining the average annual payroll of  
46 an employer eligible for an assigned rate under this paragraph (4),  
47 the employer's rate shall be specially assigned as follows:

1 if the reserve balance in its account is positive, its assigned rate  
2 shall be the highest rate in effect for positive balance accounts for  
3 that period, or 5.4%, whichever is higher, and

4 if the reserve balance in its account is negative, its assigned rate  
5 shall be the highest rate in effect for deficit accounts for that period.

6 (ii) If, following the purchase of a corporation with little or no  
7 activity, known as a corporate shell, the resulting employing unit  
8 operates a new or different business activity, the employing unit  
9 shall be assigned a new employer rate.

10 (iii) Entities operating under common ownership, management or  
11 control, when the operation of the entities is not identifiable,  
12 distinguishable and severable, shall be considered a single employer  
13 for the purposes of this chapter (R.S.43:21-1 et seq.).

14 (D) The contribution rates prescribed by subparagraphs (A) and  
15 (B) of this paragraph (4) shall be increased or decreased in  
16 accordance with the provisions of paragraph (5) of this subsection  
17 (c) for experience rating periods through June 30, 1986.

18 (5) (A) Unemployment Trust Fund Reserve Ratio. If on March  
19 31 of any calendar year the balance in the unemployment trust fund  
20 equals or exceeds 4% but is less than 7% of the total taxable wages  
21 reported to the controller as of that date in respect to employment  
22 during the preceding calendar year, the contribution rate, effective  
23 July 1 following, of each employer eligible for a contribution rate  
24 calculation based upon benefit experience, shall be increased by  
25 3/10 of 1% over the contribution rate otherwise established under  
26 the provisions of paragraph (3) or (4) of this subsection. If on  
27 March 31 of any calendar year the balance of the unemployment  
28 trust fund exceeds 2 1/2% but is less than 4% of the total taxable  
29 wages reported to the controller as of that date in respect to  
30 employment during the preceding calendar year, the contribution  
31 rate, effective July 1 following, of each employer eligible for a  
32 contribution rate calculation based upon benefit experience, shall be  
33 increased by 6/10 of 1% over the contribution rate otherwise  
34 established under the provisions of paragraph (3) or (4) of this  
35 subsection.

36 If on March 31 of any calendar year the balance of the  
37 unemployment trust fund is less than 2 1/2% of the total taxable  
38 wages reported to the controller as of that date in respect to  
39 employment during the preceding calendar year, the contribution  
40 rate, effective July 1 following, of each employer: (1) eligible for a  
41 contribution rate calculation based upon benefit experience, shall be  
42 increased by (i) 6/10 of 1% over the contribution rate otherwise  
43 established under the provisions of paragraph (3), (4)(A) or (4)(B)  
44 of this subsection, and (ii) an additional amount equal to 20% of the  
45 total rate established herein, provided, however, that the final  
46 contribution rate for each employer shall be computed to the nearest  
47 multiple of 1/10% if not already a multiple thereof; (2) not eligible  
48 for a contribution rate calculation based upon benefit experience,



1 shall be increased by  $\frac{6}{10}$  of 1% over the contribution rate  
2 otherwise established under the provisions of paragraph (4) of this  
3 subsection. For the period commencing July 1, 1984 and ending  
4 June 30, 1986, the contribution rate for each employer liable to pay  
5 contributions under R.S.43:21-7 shall be increased by a factor of  
6 10% computed to the nearest multiple of  $\frac{1}{10}$ % if not already a  
7 multiple thereof.

8 (B) If on March 31 of any calendar year the balance in the  
9 unemployment trust fund equals or exceeds 10% but is less than 12  
10  $\frac{1}{2}$ % of the total taxable wages reported to the controller as of that  
11 date in respect to employment during the preceding calendar year,  
12 the contribution rate, effective July 1 following, of each employer  
13 eligible for a contribution rate calculation based upon benefit  
14 experience, shall be reduced by  $\frac{3}{10}$  of 1% under the contribution  
15 rate otherwise established under the provisions of paragraphs (3)  
16 and (4) of this subsection; provided that in no event shall the  
17 contribution rate of any employer be reduced to less than  $\frac{4}{10}$  of  
18 1%. If on March 31 of any calendar year the balance in the  
19 unemployment trust fund equals or exceeds 12  $\frac{1}{2}$ % of the total  
20 taxable wages reported to the controller as of that date in respect to  
21 employment during the preceding calendar year, the contribution  
22 rate, effective July 1 following, of each employer eligible for a  
23 contribution rate calculation based upon benefit experience, shall be  
24 reduced by  $\frac{6}{10}$  of 1% if his account for all past periods reflects an  
25 excess of contributions paid over total benefits charged of 3% or  
26 more of his average annual payroll, otherwise by  $\frac{3}{10}$  of 1% under  
27 the contribution rate otherwise established under the provisions of  
28 paragraphs (3) and (4) of this subsection; provided that in no event  
29 shall the contribution rate of any employer be reduced to less than  
30  $\frac{4}{10}$  of 1%.

31 (C) The "balance" in the unemployment trust fund, as the term is  
32 used in subparagraphs (A) and (B) above, shall not include moneys  
33 credited to the State's account under section 903 of the Social  
34 Security Act, as amended (42 U.S.C. s.1103), during any period in  
35 which such moneys are appropriated for the payment of expenses  
36 incurred in the administration of the "unemployment compensation  
37 law."

38 (D) Prior to July 1 of each calendar year the controller shall  
39 determine the Unemployment Trust Fund Reserve Ratio, which  
40 shall be calculated by dividing the balance of the unemployment  
41 trust fund as of the prior March 31 by total taxable wages reported  
42 to the controller by all employers as of March 31 with respect to  
43 their employment during the last calendar year.

44 (E) (i) (Deleted by amendment, P.L.1997, c.263).

45 (ii) (Deleted by amendment, P.L.2001, c.152).

46 (iii) (Deleted by amendment, P.L.2003, c.107).

47 (iv) (Deleted by amendment, P.L.2004, c.45).

48 (v) (Deleted by amendment, P.L.2008, c.17).

1 (vi) (Deleted by amendment, P.L.2013, c.75).

2 (vii) With respect to experience rating years beginning on or  
3 after July 1, 2011, the new employer rate or the unemployment  
4 experience rate of an employer under this section shall be the rate  
5 which appears in the column headed by the Unemployment Trust  
6 Fund Reserve Ratio as of the applicable calculation date and on the  
7 line with the Employer Reserve Ratio, as defined in paragraph (4)  
8 of this subsection (R.S.43:21-7 (c)(4)), as set forth in the following  
9 table:

10

11 EXPERIENCE RATING TAX TABLE

12

Fund Reserve Ratio<sup>1</sup>

13

3.50% 3.00% 2.5% 2.0% 1.99%

14

Employer

and to to to and

15

Reserve

Over 3.49% 2.99% 2.49% Under

16

Ratio<sup>2</sup>

A B C D E

17

Positive Reserve Ratio:

18

17% and over

0.3 0.4 0.5 0.6 1.2

19

16.00% to 16.99%

0.4 0.5 0.6 0.6 1.2

20

15.00% to 15.99%

0.4 0.6 0.7 0.7 1.2

21

14.00% to 14.99%

0.5 0.6 0.7 0.8 1.2

22

13.00% to 13.99%

0.6 0.7 0.8 0.9 1.2

23

12.00% to 12.99%

0.6 0.8 0.9 1.0 1.2

24

11.00% to 11.99%

0.7 0.8 1.0 1.1 1.2

25

10.00% to 10.99%

0.9 1.1 1.3 1.5 1.6

26

9.00% to 9.99%

1.0 1.3 1.6 1.7 1.9

27

8.00% to 8.99%

1.3 1.6 1.9 2.1 2.3

28

7.00% to 7.99%

1.4 1.8 2.2 2.4 2.6

29

6.00% to 6.99%

1.7 2.1 2.5 2.8 3.0

30

5.00% to 5.99%

1.9 2.4 2.8 3.1 3.4

31

4.00% to 4.99%

2.0 2.6 3.1 3.4 3.7

32

3.00% to 3.99%

2.1 2.7 3.2 3.6 3.9

33

2.00% to 2.99%

2.2 2.8 3.3 3.7 4.0

34

1.00% to 1.99%

2.3 2.9 3.4 3.8 4.1

35

0.00% to 0.99%

2.4 3.0 3.6 4.0 4.3

36

Deficit Reserve Ratio:

37

-0.00% to -2.99%

3.4 4.3 5.1 5.6 6.1

38

-3.00% to -5.99%

3.4 4.3 5.1 5.7 6.2

39

-6.00% to -8.99%

3.5 4.4 5.2 5.8 6.3

40

-9.00% to -11.99%

3.5 4.5 5.3 5.9 6.4

41

-12.00% to -14.99%

3.6 4.6 5.4 6.0 6.5

42

-15.00% to -19.99%

3.6 4.6 5.5 6.1 6.6

43

-20.00% to -24.99%

3.7 4.7 5.6 6.2 6.7

44

-25.00% to -29.99%

3.7 4.8 5.6 6.3 6.8

45

-30.00% to -34.99%

3.8 4.8 5.7 6.3 6.9

46

-35.00% and under

5.4 5.4 5.8 6.4 7.0

47

New Employer Rate

2.8 2.8 2.8 3.1 3.4

1       <sup>1</sup>Fund balance as of March 31 as a percentage of taxable wages  
2 in the prior calendar year.

3       <sup>2</sup>Employer Reserve Ratio (Contributions minus benefits as a  
4 percentage of employer's taxable wages).

5       (F) (i) (Deleted by amendment, P.L.1997, c.263).

6       (ii) (Deleted by amendment, P.L.2008, c.17).

7       (iii) (Deleted by amendment, P.L.2013, c.75).

8       (iv) With respect to experience rating years beginning on or after  
9 July 1, 2011 and before July 1, 2013, if the fund reserve ratio, based  
10 on the fund balance as of the prior March 31, is less than 1.0%, the  
11 contribution rate for each employer liable to pay contributions, as  
12 computed under subparagraph (E) of this paragraph (5), shall be  
13 increased by a factor of 10% computed to the nearest multiple of  
14 1/10% if not already a multiple thereof.

15       (v) With respect to experience rating years beginning on or after  
16 July 1, 2014, if the fund reserve ratio, based on the fund balance as  
17 of the prior March 31, is less than 1.0%, the contribution rate for  
18 each employer liable to pay contributions, as computed under  
19 subparagraph (E) of this paragraph (5), shall be increased by a  
20 factor of 10% computed to the nearest multiple of 1/10% if not  
21 already a multiple thereof.

22       (G) On or after January 1, 1993, notwithstanding any other  
23 provisions of this paragraph (5), the contribution rate for each  
24 employer liable to pay contributions, as computed under  
25 subparagraph (E) of this paragraph (5), shall be decreased by 0.1%,  
26 except that, during any experience rating year starting before  
27 January 1, 1998 in which the fund reserve ratio is equal to or greater  
28 than 7.00% or during any experience rating year starting on or after  
29 January 1, 1998, in which the fund reserve ratio is equal to or  
30 greater than 3.5%, there shall be no decrease pursuant to this  
31 subparagraph (G) in the contribution of any employer who has a  
32 deficit reserve ratio of negative 35.00% or under.

33       (H) On and after January 1, 1998 until December 31, 2000 and  
34 on or after January 1, 2002 until June 30, 2006, the contribution rate  
35 for each employer liable to pay contributions, as computed under  
36 subparagraph (E) of this paragraph (5), shall be decreased by a  
37 factor, as set out below, computed to the nearest multiple of 1/10%,  
38 except that, if an employer has a deficit reserve ratio of negative  
39 35.0% or under, the employer's rate of contribution shall not be  
40 reduced pursuant to this subparagraph (H) to less than 5.4%:

41       From January 1, 1998 until December 31, 1998, a factor of 12%;

42       From January 1, 1999 until December 31, 1999, a factor of 10%;

43       From January 1, 2000 until December 31, 2000, a factor of 7%;

44       From January 1, 2002 until March 31, 2002, a factor of 36%;

45       From April 1, 2002 until June 30, 2002, a factor of 85%;

46       From July 1, 2002 until June 30, 2003, a factor of 15%;

47       From July 1, 2003 until June 30, 2004, a factor of 15%;

48       From July 1, 2004 until June 30, 2005, a factor of 7%;

1 From July 1, 2005 until December 31, 2005, a factor of 16%; and  
2 From January 1, 2006 until June 30, 2006, a factor of 34%.

3 The amount of the reduction in the employer contributions  
4 stipulated by this subparagraph (H) shall be in addition to the  
5 amount of the reduction in the employer contributions stipulated by  
6 subparagraph (G) of this paragraph (5), except that the rate of  
7 contribution of an employer who has a deficit reserve ratio of  
8 negative 35.0% or under shall not be reduced pursuant to this  
9 subparagraph (H) to less than 5.4% and the rate of contribution of  
10 any other employer shall not be reduced to less than 0.0%.

11 (I) (Deleted by amendment, P.L.2008, c.17).

12 (J) On or after July 1, 2001, notwithstanding any other  
13 provisions of this paragraph (5), the contribution rate for each  
14 employer liable to pay contributions, as computed under  
15 subparagraph (E) of this paragraph (5), shall be decreased by  
16 0.0175%, except that, during any experience rating year starting on  
17 or after July 1, 2001, in which the fund reserve ratio is equal to or  
18 greater than 3.5%, there shall be no decrease pursuant to this  
19 subparagraph (J) in the contribution of any employer who has a  
20 deficit reserve ratio of negative 35.00% or under. The amount of the  
21 reduction in the employer contributions stipulated by this  
22 subparagraph (J) shall be in addition to the amount of the reduction  
23 in the employer contributions stipulated by subparagraphs (G) and  
24 (H) of this paragraph (5), except that the rate of contribution of an  
25 employer who has a deficit reserve ratio of negative 35.0% or under  
26 shall not be reduced pursuant to this subparagraph (J) to less than  
27 5.4% and the rate of contribution of any other employer shall not be  
28 reduced to less than 0.0%.

29 (K) With respect to experience rating years beginning on or after  
30 July 1, 2009, if the fund reserve ratio, based on the fund balance as  
31 of the prior March 31, is:

32 (i) Equal to or greater than 5.00% but less than 7.5%, the  
33 contribution rate for each employer liable to pay contributions, as  
34 computed under subparagraph (E) of this paragraph (5), shall be  
35 reduced by a factor of 25% computed to the nearest multiple of  
36 1/10% if not already a multiple thereof except that there shall be no  
37 decrease pursuant to this subparagraph (K) in the contribution of  
38 any employer who has a deficit reserve ratio of 35.00% or under;

39 (ii) Equal to or greater than 7.5%, the contribution rate for each  
40 employer liable to pay contributions, as computed under  
41 subparagraph (E) of this paragraph (5), shall be reduced by a factor  
42 of 50% computed to the nearest multiple of 1/10% if not already a  
43 multiple thereof except that there shall be no decrease pursuant to  
44 this subparagraph (K) in the contribution of any employer who has  
45 a deficit reserve ratio of 35.00% or under.

46 (L) Notwithstanding any other provision of this paragraph (5)  
47 and notwithstanding the actual fund reserve ratio, the contribution  
48 rate for employers liable to pay contributions, as computed under

1 subparagraph (E) of this paragraph (5), shall be, for fiscal year  
2 2011, the rates set by column "C" of the table in that subparagraph.

3 (M) Notwithstanding any other provision of this paragraph (5)  
4 and notwithstanding the actual fund reserve ratio, the contribution  
5 rate for employers liable to pay contributions, as computed under  
6 subparagraph (E) of this paragraph (5), shall be, for fiscal year  
7 2012, the rates set by column "D" of the table in that subparagraph.

8 (N) Notwithstanding any other provision of this paragraph (5)  
9 and notwithstanding the actual fund reserve ratio, the contribution  
10 rate for employers liable to pay contributions, as computed under  
11 subparagraph (E) of this paragraph (5), shall be, for fiscal year  
12 2013, the rates set by column "E" of the table in that subparagraph.

13 (6) Additional contributions.

14 Notwithstanding any other provision of law, any employer who  
15 has been assigned a contribution rate pursuant to subsection (c) of  
16 this section for the year commencing July 1, 1948, and for any year  
17 commencing July 1 thereafter, may voluntarily make payment of  
18 additional contributions, and upon such payment shall receive a  
19 recomputation of the experience rate applicable to such employer,  
20 including in the calculation the additional contribution so made,  
21 except that, following a transfer as described under R.S.43:21-  
22 7(c)(7)(D), neither the predecessor nor successor in interest shall be  
23 eligible to make a voluntary payment of additional contributions  
24 during the year the transfer occurs and the next full calendar year.  
25 Any such additional contribution shall be made during the 30-day  
26 period following the notification to the employer of his contribution  
27 rate as prescribed in this section, unless, for good cause, the time  
28 for payment has been extended by the controller for not to exceed  
29 an additional 60 days; provided that in no event may such payments  
30 which are made later than 120 days after the beginning of the year  
31 for which such rates are effective be considered in determining the  
32 experience rate for the year in which the payment is made. Any  
33 employer receiving any extended period of time within which to  
34 make such additional payment and failing to make such payment  
35 timely shall be, in addition to the required amount of additional  
36 payment, liable for a penalty of 5% thereof or \$5.00, whichever is  
37 greater, not to exceed \$50.00. Any adjustment under this subsection  
38 shall be made only in the form of credits against accrued or future  
39 contributions.

40 (7) Transfers.

41 (A) Upon the transfer of the organization, trade or business, or  
42 substantially all the assets of an employer to a successor in interest,  
43 whether by merger, consolidation, sale, transfer, descent or  
44 otherwise, the controller shall transfer the employment experience  
45 of the predecessor employer to the successor in interest, including  
46 credit for past years, contributions paid, annual payrolls, benefit  
47 charges, et cetera, applicable to such predecessor employer,  
48 pursuant to regulation, if it is determined that the employment

1 experience of the predecessor employer with respect to the  
2 organization, trade, assets or business which has been transferred  
3 may be considered indicative of the future employment experience  
4 of the successor in interest. The successor in interest may, within  
5 four months of the date of such transfer of the organization, trade,  
6 assets or business, or thereafter upon good cause shown, request a  
7 reconsideration of the transfer of employment experience of the  
8 predecessor employer. The request for reconsideration shall  
9 demonstrate, to the satisfaction of the controller, that the  
10 employment experience of the predecessor is not indicative of the  
11 future employment experience of the successor.

12 (B) An employer who transfers part of his or its organization,  
13 trade, assets or business to a successor in interest, whether by  
14 merger, consolidation, sale, transfer, descent or otherwise, may  
15 jointly make application with such successor in interest for transfer  
16 of that portion of the employment experience of the predecessor  
17 employer relating to the portion of the organization, trade, assets or  
18 business transferred to the successor in interest, including credit for  
19 past years, contributions paid, annual payrolls, benefit charges, et  
20 cetera, applicable to such predecessor employer. The transfer of  
21 employment experience may be allowed pursuant to regulation only  
22 if it is found that the employment experience of the predecessor  
23 employer with respect to the portion of the organization, trade,  
24 assets or business which has been transferred may be considered  
25 indicative of the future employment experience of the successor in  
26 interest. Credit shall be given to the successor in interest only for  
27 the years during which contributions were paid by the predecessor  
28 employer with respect to that part of the organization, trade, assets  
29 or business transferred.

30 (C) A transfer of the employment experience in whole or in part  
31 having become final, the predecessor employer thereafter shall not  
32 be entitled to consideration for an adjusted rate based upon his or its  
33 experience or the part thereof, as the case may be, which has thus  
34 been transferred. A successor in interest to whom employment  
35 experience or a part thereof is transferred pursuant to this  
36 subsection shall, as of the date of the transfer of the organization,  
37 trade, assets or business, or part thereof, immediately become an  
38 employer if not theretofore an employer subject to this chapter  
39 (R.S.43:21-1 et seq.).

40 (D) If an employer transfers in whole or in part his or its  
41 organization, trade, assets or business to a successor in interest,  
42 whether by merger, consolidation, sale, transfer, descent or  
43 otherwise and both the employer and successor in interest are at the  
44 time of the transfer under common ownership, management or  
45 control, then the employment experience attributable to the  
46 transferred business shall also be transferred to and combined with  
47 the employment experience of the successor in interest. The

1 transfer of the employment experience is mandatory and not subject  
2 to appeal or protest.

3 (E) The transfer of part of an employer's employment experience  
4 to a successor in interest shall become effective as of the first day of  
5 the calendar quarter following the acquisition by the successor in  
6 interest. As of the effective date, the successor in interest shall  
7 have its employer rate recalculated by merging its existing  
8 employment experience, if any, with the employment experience  
9 acquired. If the successor in interest is not an employer as of the  
10 date of acquisition, it shall be assigned the new employer rate until  
11 the effective date of the transfer of employment experience.

12 (F) Upon the transfer in whole or in part of the organization,  
13 trade, assets or business to a successor in interest, the employment  
14 experience shall not be transferred if the successor in interest is not  
15 an employer at the time of the acquisition and the controller finds  
16 that the successor in interest acquired the business solely or  
17 primarily for the purpose of obtaining a lower rate of contributions.

18 (d) Contributions of workers to the unemployment  
19 compensation fund and the State disability benefits fund.

20 (1) (A) For periods after January 1, 1975, each worker shall  
21 contribute to the fund 1% of his wages with respect to his  
22 employment with an employer, which occurs on and after January  
23 1, 1975, after such employer has satisfied the condition set forth in  
24 subsection (h) of R.S.43:21-19 with respect to becoming an  
25 employer; provided, however, that such contributions shall be at the  
26 rate of 1/2 of 1% of wages paid with respect to employment while  
27 the worker is in the employ of the State of New Jersey, or any  
28 governmental entity or instrumentality which is an employer as  
29 defined under R.S.43:21-19(h)(5), or is covered by an approved  
30 private plan under the "Temporary Disability Benefits Law" or  
31 while the worker is exempt from the provisions of the "Temporary  
32 Disability Benefits Law" under section 7 of that law, P.L.1948,  
33 c.110 (C.43:21-31).

34 (B) Effective January 1, 1978 there shall be no contributions by  
35 workers in the employ of any governmental or nongovernmental  
36 employer electing or required to make payments in lieu of  
37 contributions unless the employer is covered by the State plan under  
38 the "Temporary Disability Benefits Law" (C.43:21-25 et al.), and in  
39 that case contributions shall be at the rate of 1/2 of 1%, except that  
40 commencing July 1, 1986, workers in the employ of any  
41 nongovernmental employer electing or required to make payments  
42 in lieu of contributions shall be required to make contributions to  
43 the fund at the same rate prescribed for workers of other  
44 nongovernmental employers.

45 (C) (i) Notwithstanding the above provisions of this paragraph  
46 (1), during the period starting July 1, 1986 and ending December  
47 31, 1992, each worker shall contribute to the fund 1.125% of wages  
48 paid with respect to his employment with a governmental employer

1 electing or required to pay contributions or nongovernmental  
2 employer, including a nonprofit organization which is an employer  
3 as defined under R.S.43:21-19(h)(6), regardless of whether that  
4 nonprofit organization elects or is required to finance its benefit  
5 costs with contributions to the fund or by payments in lieu of  
6 contributions, after that employer has satisfied the conditions set  
7 forth in subsection R.S.43:21-19(h) with respect to becoming an  
8 employer. Contributions, however, shall be at the rate of 0.625%  
9 while the worker is covered by an approved private plan under the  
10 "Temporary Disability Benefits Law" or while the worker is exempt  
11 under section 7 of that law, P.L.1948, c.110 (C.43:21-31) or any  
12 other provision of that law; provided that such contributions shall  
13 be at the rate of 0.625% of wages paid with respect to employment  
14 with the State of New Jersey or any other governmental entity or  
15 instrumentality electing or required to make payments in lieu of  
16 contributions and which is covered by the State plan under the  
17 "Temporary Disability Benefits Law," except that, while the worker  
18 is exempt from the provisions of the "Temporary Disability Benefits  
19 Law" under section 7 of that law, P.L.1948, c.110 (C.43:21-31) or  
20 any other provision of that law, or is covered for disability benefits  
21 by an approved private plan of the employer, the contributions to  
22 the fund shall be 0.125%.

23 (ii) (Deleted by amendment, P.L.1995, c.422.)

24 (D) Notwithstanding any other provisions of this paragraph (1),  
25 during the period starting January 1, 1993 and ending June 30,  
26 1994, each worker shall contribute to the unemployment  
27 compensation fund 0.5% of wages paid with respect to the worker's  
28 employment with a governmental employer electing or required to  
29 pay contributions or nongovernmental employer, including a  
30 nonprofit organization which is an employer as defined under  
31 paragraph (6) of subsection (h) of R.S.43:21-19, regardless of  
32 whether that nonprofit organization elects or is required to finance  
33 its benefit costs with contributions to the fund or by payments in  
34 lieu of contributions, after that employer has satisfied the conditions  
35 set forth in subsection (h) of R.S.43:21-19 with respect to becoming  
36 an employer. No contributions, however, shall be made by the  
37 worker while the worker is covered by an approved private plan  
38 under the "Temporary Disability Benefits Law," P.L.1948, c.110  
39 (C.43:21-25 et al.) or while the worker is exempt under section 7 of  
40 P.L.1948, c.110 (C.43:21-31) or any other provision of that law;  
41 provided that the contributions shall be at the rate of 0.50% of  
42 wages paid with respect to employment with the State of New  
43 Jersey or any other governmental entity or instrumentality electing  
44 or required to make payments in lieu of contributions and which is  
45 covered by the State plan under the "Temporary Disability Benefits  
46 Law," except that, while the worker is exempt from the provisions  
47 of the "Temporary Disability Benefits Law" under section 7 of that  
48 law, P.L.1948, c.110 (C.43:21-31) or any other provision of that



1 law, or is covered for disability benefits by an approved private plan  
2 of the employer, no contributions shall be made to the fund.

3 Each worker shall, starting on January 1, 1996 and ending March  
4 31, 1996, contribute to the unemployment compensation fund  
5 0.60% of wages paid with respect to the worker's employment with  
6 a governmental employer electing or required to pay contributions  
7 or nongovernmental employer, including a nonprofit organization  
8 which is an employer as defined under paragraph (6) of subsection  
9 (h) of R.S.43:21-19, regardless of whether that nonprofit  
10 organization elects or is required to finance its benefit costs with  
11 contributions to the fund or by payments in lieu of contributions,  
12 after that employer has satisfied the conditions set forth in  
13 subsection (h) of R.S.43:21-19 with respect to becoming an  
14 employer, provided that the contributions shall be at the rate of  
15 0.10% of wages paid with respect to employment with the State of  
16 New Jersey or any other governmental entity or instrumentality  
17 electing or required to make payments in lieu of contributions.

18 Each worker shall, starting on January 1, 1998 and ending  
19 December 31, 1998, contribute to the unemployment compensation  
20 fund 0.10% of wages paid with respect to the worker's employment  
21 with a governmental employer electing or required to pay  
22 contributions or nongovernmental employer, including a nonprofit  
23 organization which is an employer as defined under paragraph (6)  
24 of subsection (h) of R.S.43:21-19, regardless of whether that  
25 nonprofit organization elects or is required to finance its benefit  
26 costs with contributions to the fund or by payments in lieu of  
27 contributions, after that employer has satisfied the conditions set  
28 forth in subsection (h) of R.S.43:21-19 with respect to becoming an  
29 employer, provided that the contributions shall be at the rate of  
30 0.10% of wages paid with respect to employment with the State of  
31 New Jersey or any other governmental entity or instrumentality  
32 electing or required to make payments in lieu of contributions.

33 Each worker shall, starting on January 1, 1999 until December  
34 31, 1999, contribute to the unemployment compensation fund  
35 0.15% of wages paid with respect to the worker's employment with  
36 a governmental employer electing or required to pay contributions  
37 or nongovernmental employer, including a nonprofit organization  
38 which is an employer as defined under paragraph (6) of subsection  
39 (h) of R.S.43:21-19, regardless of whether that nonprofit  
40 organization elects or is required to finance its benefit costs with  
41 contributions to the fund or by payments in lieu of contributions,  
42 after that employer has satisfied the conditions set forth in  
43 subsection (h) of R.S.43:21-19 with respect to becoming an  
44 employer, provided that the contributions shall be at the rate of  
45 0.10% of wages paid with respect to employment with the State of  
46 New Jersey or any other governmental entity or instrumentality  
47 electing or required to make payments in lieu of contributions.

1 Each worker shall, starting on January 1, 2000 until December  
2 31, 2001, contribute to the unemployment compensation fund  
3 0.20% of wages paid with respect to the worker's employment with  
4 a governmental employer electing or required to pay contributions  
5 or nongovernmental employer, including a nonprofit organization  
6 which is an employer as defined under paragraph (6) of subsection  
7 (h) of R.S.43:21-19, regardless of whether that nonprofit  
8 organization elects or is required to finance its benefit costs with  
9 contributions to the fund or by payments in lieu of contributions,  
10 after that employer has satisfied the conditions set forth in  
11 subsection (h) of R.S.43:21-19 with respect to becoming an  
12 employer, provided that the contributions shall be at the rate of  
13 0.10% of wages paid with respect to employment with the State of  
14 New Jersey or any other governmental entity or instrumentality  
15 electing or required to make payments in lieu of contributions.

16 Each worker shall, starting on January 1, 2002 until June 30,  
17 2004, contribute to the unemployment compensation fund 0.1825%  
18 of wages paid with respect to the worker's employment with a  
19 governmental employer electing or required to pay contributions or  
20 a nongovernmental employer, including a nonprofit organization  
21 which is an employer as defined under paragraph (6) of subsection  
22 (h) of R.S.43:21-19, regardless of whether that nonprofit  
23 organization elects or is required to finance its benefit costs with  
24 contributions to the fund or by payments in lieu of contributions,  
25 after that employer has satisfied the conditions set forth in  
26 subsection (h) of R.S.43:21-19 with respect to becoming an  
27 employer, provided that the contributions shall be at the rate of  
28 0.0825% of wages paid with respect to employment with the State  
29 of New Jersey or any other governmental entity or instrumentality  
30 electing or required to make payments in lieu of contributions.

31 Each worker shall, starting on and after July 1, 2004, contribute  
32 to the unemployment compensation fund 0.3825% of wages paid  
33 with respect to the worker's employment with a governmental  
34 employer electing or required to pay contributions or  
35 nongovernmental employer, including a nonprofit organization  
36 which is an employer as defined under paragraph (6) of subsection  
37 (h) of R.S.43:21-19, regardless of whether that nonprofit  
38 organization elects or is required to finance its benefit costs with  
39 contributions to the fund or by payments in lieu of contributions,  
40 after that employer has satisfied the conditions set forth in  
41 subsection (h) of R.S.43:21-19 with respect to becoming an  
42 employer, provided that the contributions shall be at the rate of  
43 0.0825% of wages paid with respect to employment with the State  
44 of New Jersey or any other governmental entity or instrumentality  
45 electing or required to make payments in lieu of contributions.

46 (E) Each employer shall, notwithstanding any provision of law  
47 in this State to the contrary, withhold in trust the amount of his  
48 workers' contributions from their wages at the time such wages are

1 paid, shall show such deduction on his payroll records, shall furnish  
2 such evidence thereof to his workers as the division or controller  
3 may prescribe, and shall transmit all such contributions, in addition  
4 to his own contributions, to the office of the controller in such  
5 manner and at such times as may be prescribed. If any employer  
6 fails to deduct the contributions of any of his workers at the time  
7 their wages are paid, or fails to make a deduction therefor at the  
8 time wages are paid for the next succeeding payroll period, he alone  
9 shall thereafter be liable for such contributions, and for the purpose  
10 of R.S.43:21-14, such contributions shall be treated as employer's  
11 contributions required from him.

12 (F) As used in this chapter (R.S.43:21-1 et seq.), except when  
13 the context clearly requires otherwise, the term "contributions" shall  
14 include the contributions of workers pursuant to this section.

15 (G) (i) **【**Each worker shall, starting on July 1, 1994 and ending  
16 on December 31, 2011, contribute to the State disability benefits  
17 fund an amount equal to 0.50% of wages paid with respect to the  
18 worker's employment with a government employer electing or  
19 required to pay contributions to the State disability benefits fund or  
20 nongovernmental employer, including a nonprofit organization  
21 which is an employer as defined under paragraph (6) of subsection  
22 (h) of R.S.43:21-19, unless the employer is covered by an approved  
23 private disability plan or is exempt from the provisions of the  
24 "Temporary Disability Benefits Law," P.L.1948, c.110 (C.43:21-25  
25 et al.) under section 7 of that law (C.43:21-31) or any other  
26 provision of that law.**】** Each worker, with respect to the worker's  
27 employment with a government employer electing or required to  
28 pay contributions to the State disability benefits fund or  
29 nongovernmental employer, including a nonprofit organization  
30 which is an employer as defined under paragraph (6) of subsection  
31 (h) of R.S.43:21-19, unless the employer is covered by an approved  
32 private disability plan or is exempt from the provisions of the  
33 "Temporary Disability Benefits Law," P.L.1948, c.110 (C.43:21-25  
34 et al.) under section 7 of that law (C.43:21-31) or any other  
35 provision of that law, shall, for calendar year 2012 and each  
36 subsequent calendar year, make contributions to the State disability  
37 benefits fund at the annual rate of contribution necessary to obtain a  
38 total amount of contributions, which, when added to employer  
39 contributions made to the State disability benefits fund pursuant to  
40 subsection (e) of this section, is, for calendar years prior to calendar  
41 year 2018, equal to 120% of the benefits paid for periods of  
42 disability, excluding periods of family temporary disability, during  
43 the immediately preceding calendar year plus an amount equal to  
44 100% of the cost of administration of the payment of those benefits  
45 during the immediately preceding calendar year, less the amount of  
46 net assets remaining in the State disability benefits fund, excluding  
47 net assets remaining in the "Family Temporary Disability Leave  
48 Account" of that fund, as of December 31 of the immediately

1 preceding year, and is, for calendar year 2018 ~~and subsequent~~  
2 ~~calendar years~~ <sup>2</sup>and year 2019<sup>2</sup>, equal to 120% of the benefits paid  
3 for periods of disability, excluding periods of family temporary  
4 disability, during the last preceding full fiscal year plus an amount  
5 equal to 100% of the cost of administration of the payment of those  
6 benefits during the last preceding full fiscal year, less the amount of  
7 net assets anticipated to be remaining in the "Family Temporary  
8 Disability Leave Account" of that fund, as of December 31 of the  
9 immediately preceding calendar year, and is, for each of calendar  
10 years <sup>2</sup>[2019] 2020<sup>2</sup> and <sup>2</sup>[2020] 2021<sup>2</sup> , equal to 120% of the  
11 benefits which the department anticipates will be paid for periods of  
12 disability, excluding periods of family temporary disability <sup>2</sup>[and  
13 pregnancy temporary disability]<sup>2</sup>, during the respective calendar  
14 year plus an amount equal to 100% of the cost of administration of  
15 the payment of those benefits which the department anticipates  
16 during the respective calendar year, less the amount of net assets  
17 anticipated to be remaining in <sup>1</sup>the State disability benefits fund,  
18 excluding net assets remaining in<sup>1</sup> the "Family Temporary  
19 Disability Leave Account" of that fund, as of December 31 of the  
20 immediately preceding calendar year, and is, for calendar year  
21 <sup>2</sup>[2021] 2022<sup>2</sup> and any subsequent calendar year, equal to 120% of  
22 the benefits paid for periods of disability, excluding periods of  
23 family temporary disability <sup>2</sup>[and pregnancy temporary  
24 disability]<sup>2</sup>, during the last preceding full fiscal year plus an  
25 amount equal to 100% of the cost of administration of the payment  
26 of those benefits during the last preceding full fiscal year, less the  
27 amount of net assets anticipated to be remaining in <sup>2</sup>the State  
28 disability benefits fund, excluding net assets remaining in<sup>2</sup> the  
29 "Family Temporary Disability Leave Account" <sup>2</sup>[and the  
30 "Pregnancy Temporary Disability Leave Account"]<sup>2</sup> of that fund,  
31 as of December 31 of the immediately preceding calendar year.  
32 <sup>2</sup>All increases in the cost of benefits for periods of disability caused  
33 by the increases in the weekly benefit rate commencing July 1,  
34 2020, pursuant to section 16 of P.L.1948, c.110 (C.43:21-40), shall  
35 be funded by contributions made by workers pursuant to this  
36 paragraph (i) and none of those increases shall be funded by  
37 employer contributions.<sup>2</sup> The estimated rates for the next calendar  
38 year shall be made available on the department's website no later  
39 than 60 days after the end of the last preceding full fiscal year. The  
40 rates of employer contributions determined pursuant to subsection  
41 (e) of this section for any year shall be determined prior to the  
42 determination of the rate of employee contributions pursuant to this  
43 subparagraph (i) and any consideration of employee contributions in  
44 determining employer rates for any year shall be based on amounts  
45 of employee contributions made prior to the year to which the rate  
46 of employee contributions applies and shall not be based on any

1 projection or estimate of the amount of employee contributions for  
2 the year to which that rate applies.

3 (ii) Each worker shall contribute to the State disability benefits  
4 fund, in addition to any amount contributed pursuant to  
5 subparagraph (i) of this paragraph (1)(G), an amount equal to,  
6 during calendar year 2009, 0.09%, and during calendar year 2010  
7 0.12%, of wages paid with respect to the worker's employment with  
8 any covered employer, including a governmental employer which is  
9 an employer as defined under R.S.43:21-19(h)(5), unless the  
10 employer is covered by an approved private disability plan for  
11 benefits during periods of family temporary disability leave. The  
12 contributions made pursuant to this subparagraph (ii) to the State  
13 disability benefits fund shall be deposited into an account of that  
14 fund reserved for the payment of benefits during periods of family  
15 temporary disability leave as defined in section 3 of the "Temporary  
16 Disability Benefits Law," P.L.1948, c.110 (C.43:21-27) and for the  
17 administration of those payments and shall not be used for any other  
18 purpose. This account shall be known as the "Family Temporary  
19 Disability Leave Account." For calendar year 2011 and each  
20 subsequent calendar year until 2018, the annual rate of contribution  
21 to be paid by workers pursuant to this subparagraph (ii) shall be, for  
22 calendar years prior to calendar year 2018, the rate necessary to  
23 obtain a total amount of contributions equal to 125% of the benefits  
24 paid for periods of family temporary disability leave during the  
25 immediately preceding calendar year plus an amount equal to 100%  
26 of the cost of administration of the payment of those benefits during  
27 the immediately preceding calendar year, less the amount of net  
28 assets remaining in the account as of December 31 of the  
29 immediately preceding year, and shall be, for calendar year 2018  
30 **【and subsequent calendar years】<sup>2</sup>and calendar year 2019<sup>2</sup>**, the rate  
31 necessary to obtain a total amount of contributions equal to 125% of  
32 the benefits paid for periods of family temporary disability leave  
33 during the last preceding full fiscal year plus an amount equal to  
34 100% of the cost of administration of the payment of those benefits  
35 during the last preceding full fiscal year, less the amount of net  
36 assets anticipated to be remaining in the account as of December 31  
37 of the immediately preceding calendar year. For each of calendar  
38 years <sup>2</sup>【2019】 2020<sup>2</sup> and <sup>2</sup>【2020】 2021<sup>2</sup>, the annual rate of  
39 contribution to be paid by workers pursuant to this subparagraph (ii)  
40 shall be the rate necessary to obtain a total amount of contributions  
41 equal to 125% of the benefits which the department anticipates will  
42 be paid for periods of family temporary disability leave during the  
43 respective calendar year plus an amount equal to 100% of the cost  
44 of administration of the payment of those benefits which the  
45 department anticipates during the respective calendar year, less the  
46 amount of net assets remaining in the account as of December 31 of  
47 the immediately preceding calendar year. For <sup>2</sup>【2021】 2022<sup>2</sup> and  
48 any subsequent calendar year, the annual rate of contribution to be

1 paid by workers pursuant to this subparagraph (ii) shall be the rate  
2 necessary to obtain a total amount of contributions equal to 125% of  
3 the benefits which were paid for periods of family temporary  
4 disability leave during the last preceding full fiscal year plus an  
5 amount equal to 100% of the cost of administration of the payment  
6 of those benefits during the last preceding full fiscal year, less the  
7 amount of net assets remaining in the account as of December 31 of  
8 the immediately preceding calendar year. All increases in the cost  
9 of benefits for periods of family temporary disability leave caused  
10 by the increases in the weekly benefit rate commencing July 1,  
11 <sup>2</sup>[2019] 2020<sup>2</sup> pursuant to section 16 of P.L.1948, c.110 (C.43:21-  
12 40) and increases in the maximum duration of benefits commencing  
13 July 1, <sup>2</sup>[2019] 2020<sup>2</sup> pursuant to sections 14 and 15 of P.L.1948,  
14 c.110 (C.43:21-38 and 43:21-39) shall be funded by contributions  
15 made by workers pursuant to this paragraph (ii) and none of those  
16 increases shall be funded by employer contributions. The estimated  
17 rates for the next calendar year shall be made available on the  
18 department's website no later than 60 days after the end of the last  
19 preceding full fiscal year. Necessary administrative costs shall  
20 include the cost of an outreach program to inform employees of the  
21 availability of the benefits and the cost of issuing the reports  
22 required or permitted pursuant to section 13 of P.L.2008, c.17  
23 (C.43:21-39.4). No monies, other than the funds in the "Family  
24 Temporary Disability Leave Account," shall be used for the  
25 payment of benefits during periods of family temporary disability  
26 leave or for the administration of those payments, with the sole  
27 exception that, during calendar years 2008 and 2009, a total amount  
28 not exceeding \$25 million may be transferred to that account from  
29 the revenues received in the State disability benefits fund pursuant  
30 to subparagraph (i) of this paragraph (1)(G) and be expended for  
31 those payments and their administration, including the  
32 administration of the collection of contributions made pursuant to  
33 this subparagraph (ii) and any other necessary administrative costs.  
34 Any amount transferred to the account pursuant to this  
35 subparagraph (ii) shall be repaid during a period beginning not later  
36 than January 1, 2011 and ending not later than December 31, 2015.  
37 No monies, other than the funds in the "Family Temporary  
38 Disability Leave Account," shall be used under any circumstances  
39 after December 31, 2009, for the payment of benefits during periods  
40 of family temporary disability leave or for the administration of  
41 those payments, including for the administration of the collection of  
42 contributions made pursuant to this subparagraph (ii).

43 <sup>2</sup>[(iii) Each worker, with respect to the worker's employment  
44 with a government employer electing or required to pay  
45 contributions to the State disability benefits fund or  
46 nongovernmental employer, including a nonprofit organization  
47 which is an employer as defined under paragraph (6) of subsection  
48 (h) of R.S.43:21-19, unless the employer is covered by an approved

1 private disability plan or is exempt from the provisions of the  
2 "Temporary Disability Benefits Law," P.L.1948, c.110 (C.43:21-25  
3 et al.) under section 7 of that law (C.43:21-31) or any other  
4 provision of that law, shall make contributions to the State  
5 disability benefits fund, in addition to any amount contributed  
6 pursuant to subparagraph (i) of this paragraph (1)(G), for the  
7 purpose of funding the provision of pregnancy temporary disability  
8 benefits. The contributions made pursuant to this subparagraph (iii)  
9 to the State disability benefits fund shall be deposited into an  
10 account of that fund reserved for the payment of benefits during  
11 periods of pregnancy temporary disability and for the  
12 administration of those payments and shall not be used for any other  
13 purpose. This account shall be known as the "Pregnancy  
14 Temporary Disability Account." For each of calendar years 2019  
15 and 2020, the annual rate of contribution to be paid by workers  
16 pursuant to this subparagraph (iii) shall be the rate necessary to  
17 obtain a total amount of contributions, which, when added to the  
18 portion of employer contributions made to the State disability  
19 benefits fund pursuant to subsection (e) of this section which is  
20 allocated to benefits for periods of pregnancy temporary disability,  
21 is equal to 120% of the benefits which the department anticipates  
22 will be paid for periods of pregnancy temporary disability during  
23 the respective calendar year plus an amount equal to 100% of the  
24 cost of administration of the payment of those benefits which the  
25 department anticipates during the respective calendar year, less the  
26 amount of net assets remaining in the account as of December 31 of  
27 the immediately preceding calendar year. For calendar year 2021  
28 and any subsequent calendar year, the annual rate of contribution to  
29 be paid by workers pursuant to this subparagraph (iii) shall be the  
30 rate necessary to obtain a total amount of contributions, which,  
31 when added to the portion of employer contributions made to the  
32 State disability benefits fund pursuant to subsection (e) of this  
33 section which is allocated to benefits for a period of pregnancy  
34 temporary disability, is equal to 120% of the benefits which were  
35 paid for periods of pregnancy temporary disability during the last  
36 preceding full fiscal year plus an amount equal to 100% of the cost  
37 of administration of the payment of those benefits during the last  
38 preceding full fiscal year, less the amount of net assets remaining in  
39 the account as of December 31 of the immediately preceding  
40 calendar year. The estimated rates for the next calendar year shall  
41 be made available on the department's website no later than 60 days  
42 after the end of the last preceding full fiscal year. No monies, other  
43 than the funds in the "Pregnancy Temporary Disability Leave  
44 Account" contributed by workers, and the portion of employer  
45 contributions to the State disability benefits fund which the  
46 department determines is allocated to benefits for periods of  
47 pregnancy temporary disability, shall be used for the payment of  
48 benefits during periods of pregnancy temporary disability or for the

1 administration of those payments, including for the administration  
 2 of the collection of contributions made pursuant to this  
 3 subparagraph (iii). The department shall base its determination of  
 4 what portion of employer contributions to the State disability  
 5 benefits fund is allocated to benefits for periods of pregnancy  
 6 temporary disability on the percentage that the total amount of  
 7 benefits for periods of pregnancy temporary disability benefits  
 8 would represent of the total amount of all disability benefits if the  
 9 increases in the weekly benefit rate for benefits for periods of  
 10 pregnancy temporary disability commencing July 1, 2019 pursuant  
 11 to section 16 of P.L.1948, c.110 (C.43:21-40) were not in effect.  
 12 All increases in the cost of benefits for periods of pregnancy  
 13 temporary disability caused by increases in the weekly benefit rate  
 14 for those benefits commencing July 1, 2019 pursuant to section 16  
 15 of P.L.1948, c.110 (C.43:21-40) shall be funded by contributions  
 16 made by workers pursuant to this paragraph (iii) and none of those  
 17 increases shall be funded by employer contributions.

18 For the purposes of this section, periods of "pregnancy  
 19 temporary disability" means periods of disability due to pregnancy  
 20 or recovery from childbirth.]<sup>2</sup>

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

22 (B) (Deleted by amendment, P.L.1984, c.24.)

23 (C) (Deleted by amendment, P.L.1994, c.112.)

24 (D) (Deleted by amendment, P.L.1994, c.112.)

25 (E) (i) (Deleted by amendment, P.L.1994, c.112.)

26 (ii) (Deleted by amendment, P.L.1996, c.28.)

27 (iii) (Deleted by amendment, P.L.1994, c.112.)

28 (3) (A) If an employee receives wages from more than one  
 29 employer during any calendar year, and either the sum of his  
 30 contributions deposited in and credited to the State disability  
 31 benefits fund plus the amount of his contributions, if any, required  
 32 towards the costs of benefits under one or more approved private  
 33 plans under the provisions of section 9 of the "Temporary Disability  
 34 Benefits Law" (C.43:21-33) and deducted from his wages, or the  
 35 sum of such latter contributions, if the employee is covered during  
 36 such calendar year only by two or more private plans, exceeds an  
 37 amount equal to 1/2 of 1% of the "wages" determined in accordance  
 38 with the provisions of R.S.43:21-7(b)(3) during the calendar years  
 39 beginning on or after January 1, 1976 or, during calendar year 2012  
 40 or any subsequent calendar year, the total amount of his  
 41 contributions for the year exceeds the amount set by the annual rate  
 42 of contribution determined by the Commissioner of Labor and  
 43 Workforce Development pursuant to subparagraph (i) <sup>2</sup>[and, during  
 44 calendar year 2019 and subsequent calendar years, subparagraph  
 45 (iii).]<sup>2</sup> of paragraph (1)(G) of this subsection (d), the employee  
 46 shall be entitled to a refund of the excess if he makes a claim to the  
 47 controller within two years after the end of the calendar year in  
 48 which the wages are received with respect to which the refund is



1 claimed and establishes his right to such refund. Such refund shall  
2 be made by the controller from the State disability benefits fund. No  
3 interest shall be allowed or paid with respect to any such refund.  
4 The controller shall, in accordance with prescribed regulations,  
5 determine the portion of the aggregate amount of such refunds made  
6 during any calendar year which is applicable to private plans for  
7 which deductions were made under section 9 of the "Temporary  
8 Disability Benefits Law" (C.43:21-33) such determination to be  
9 based upon the ratio of the amount of such wages exempt from  
10 contributions to such fund, as provided in subparagraph (B) of  
11 paragraph (1) of this subsection with respect to coverage under  
12 private plans, to the total wages so exempt plus the amount of such  
13 wages subject to contributions to the disability benefits fund, as  
14 provided in subparagraph (G) of paragraph (1) of this subsection.  
15 The controller shall, in accordance with prescribed regulations,  
16 prorate the amount so determined among the applicable private  
17 plans in the proportion that the wages covered by each plan bear to  
18 the total private plan wages involved in such refunds, and shall  
19 assess against and recover from the employer, or the insurer if the  
20 insurer has indemnified the employer with respect thereto, the  
21 amount so prorated. The provisions of R.S.43:21-14 with respect to  
22 collection of employer contributions shall apply to such  
23 assessments. The amount so recovered by the controller shall be  
24 paid into the State disability benefits fund.

25 (B) If an employee receives wages from more than one employer  
26 during any calendar year, and the sum of his contributions deposited  
27 in the "Family Temporary Disability Leave Account" of the State  
28 disability benefits fund plus the amount of his contributions, if any,  
29 required towards the costs of family temporary disability leave  
30 benefits under one or more approved private plans under the  
31 provisions of the "Temporary Disability Benefits Law" (C.43:21-25  
32 et al.) and deducted from his wages, exceeds an amount equal to,  
33 during calendar year 2009, 0.09% of the "wages" determined in  
34 accordance with the provisions of R.S.43:21-7(b)(3), or during  
35 calendar year 2010, 0.12% of those wages, or, during calendar year  
36 2011 or any subsequent calendar year, the percentage of those  
37 wages set by the annual rate of contribution determined by the  
38 Commissioner of Labor and Workforce Development pursuant to  
39 subparagraph (ii) of paragraph (1)(G) of this subsection (d), the  
40 employee shall be entitled to a refund of the excess if he makes a  
41 claim to the controller within two years after the end of the calendar  
42 year in which the wages are received with respect to which the  
43 refund is claimed and establishes his right to the refund. The refund  
44 shall be made by the controller from the "Family Temporary  
45 Disability Leave Account" of the State disability benefits fund. No  
46 interest shall be allowed or paid with respect to any such refund.  
47 The controller shall, in accordance with prescribed regulations,  
48 determine the portion of the aggregate amount of the refunds made

1 during any calendar year which is applicable to private plans for  
2 which deductions were made under section 9 of the "Temporary  
3 Disability Benefits Law" (C.43:21-33), with that determination  
4 based upon the ratio of the amount of such wages exempt from  
5 contributions to the fund, as provided in paragraph (1)(B) of this  
6 subsection (d) with respect to coverage under private plans, to the  
7 total wages so exempt plus the amount of such wages subject to  
8 contributions to the "Family Temporary Disability Leave Account"  
9 of the State disability benefits fund, as provided in subparagraph (ii)  
10 of paragraph (1)(G) of this subsection (d). The controller shall, in  
11 accordance with prescribed regulations, prorate the amount so  
12 determined among the applicable private plans in the proportion  
13 that the wages covered by each plan bear to the total private plan  
14 wages involved in such refunds, and shall assess against and  
15 recover from the employer, or the insurer if the insurer has  
16 indemnified the employer with respect thereto, the prorated amount.  
17 The provisions of R.S.43:21-14 with respect to collection of  
18 employer contributions shall apply to such assessments. The  
19 amount so recovered by the controller shall be paid into the "Family  
20 Temporary Disability Leave Account" of the State disability  
21 benefits fund.

22 (4) If an individual does not receive any wages from the  
23 employing unit which for the purposes of this chapter (R.S.43:21-1  
24 et seq.) is treated as his employer, or receives his wages from some  
25 other employing unit, such employer shall nevertheless be liable for  
26 such individual's contributions in the first instance; and after  
27 payment thereof such employer may deduct the amount of such  
28 contributions from any sums payable by him to such employing  
29 unit, or may recover the amount of such contributions from such  
30 employing unit, or, in the absence of such an employing unit, from  
31 such individual, in a civil action; provided proceedings therefor are  
32 instituted within three months after the date on which such  
33 contributions are payable. General rules shall be prescribed  
34 whereby such an employing unit may recover the amount of such  
35 contributions from such individuals in the same manner as if it were  
36 the employer.

37 (5) Every employer who has elected to become an employer  
38 subject to this chapter (R.S.43:21-1 et seq.), or to cease to be an  
39 employer subject to this chapter (R.S.43:21-1 et seq.), pursuant to  
40 the provisions of R.S.43:21-8, shall post and maintain printed  
41 notices of such election on his premises, of such design, in such  
42 numbers, and at such places as the director may determine to be  
43 necessary to give notice thereof to persons in his service.

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

47 (e) Contributions by employers to the State disability benefits  
48 fund.

1 (1) Except as hereinafter provided, each employer shall, in  
2 addition to the contributions required by subsections (a), (b), and  
3 (c) of this section, contribute 1/2 of 1% of the wages paid by such  
4 employer to workers with respect to employment unless he is not a  
5 covered employer as defined in subsection (a) of section 3 of the  
6 "Temporary Disability Benefits Law" (C.43:21-27 (a)), except that  
7 the rate for the State of New Jersey shall be 1/10 of 1% for the  
8 calendar year 1980 and for the first six months of 1981. Prior to  
9 July 1, 1981 and prior to July 1 each year thereafter, the controller  
10 shall review the experience accumulated in the account of the State  
11 of New Jersey and establish a rate for the next following fiscal year  
12 which, in combination with worker contributions, will produce  
13 sufficient revenue to keep the account in balance; except that the  
14 rate so established shall not be less than 1/10 of 1%. Such  
15 contributions shall become due and be paid by the employer to the  
16 controller for the State disability benefits fund as established by  
17 law, in accordance with such regulations as may be prescribed, and  
18 shall not be deducted, in whole or in part, from the remuneration of  
19 individuals in his employ. In the payment of any contributions, a  
20 fractional part of a cent shall be disregarded unless it amounts to  
21 \$0.005 or more, in which case it shall be increased to \$0.01.

22 (2) During the continuance of coverage of a worker by an  
23 approved private plan of disability benefits under the "Temporary  
24 Disability Benefits Law," the employer shall be exempt from the  
25 contributions required by paragraph (1) above with respect to wages  
26 paid to such worker.

27 (3) (A) The rates of contribution as specified in paragraph (1)  
28 above shall be subject to modification as provided herein with  
29 respect to employer contributions due on and after July 1, 1951.

30 (B) A separate disability benefits account shall be maintained for  
31 each employer required to contribute to the State disability benefits  
32 fund and such account shall be credited with contributions  
33 deposited in and credited to such fund with respect to employment  
34 occurring on and after January 1, 1949. Each employer's account  
35 shall be credited with all contributions paid on or before January 31  
36 of any calendar year on his own behalf and on behalf of individuals  
37 in his service with respect to employment occurring in preceding  
38 calendar years; provided, however, that if January 31 of any  
39 calendar year falls on a Saturday or Sunday an employer's account  
40 shall be credited as of January 31 of such calendar year with all the  
41 contributions which he has paid on or before the next succeeding  
42 day which is not a Saturday or Sunday. But nothing in this act shall  
43 be construed to grant any employer or individuals in his service  
44 prior claims or rights to the amounts paid by him to the fund either  
45 on his own behalf or on behalf of such individuals. Benefits paid to  
46 any covered individual in accordance with Article III of the  
47 "Temporary Disability Benefits Law" on or before December 31 of  
48 any calendar year with respect to disability in such calendar year

1 and in preceding calendar years shall be charged against the account  
2 of the employer by whom such individual was employed at the  
3 commencement of such disability or by whom he was last  
4 employed, if out of employment.

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

12 (D) Prior to July 1 of each calendar year, the controller shall  
13 make a preliminary determination of the rate of contribution for the  
14 12 months commencing on such July 1 for each employer subject to  
15 the contribution requirements of this subsection (e).

16 (1) Such preliminary rate shall be  $\frac{1}{2}$  of 1% unless on the  
17 preceding January 31 of such year such employer shall have been a  
18 covered employer who has paid contributions to the State disability  
19 benefits fund with respect to employment in the three calendar  
20 years immediately preceding such year.

21 (2) If the minimum requirements in subparagraph (D) (1) above  
22 have been fulfilled and the credited contributions exceed the  
23 benefits charged by more than \$500.00, such preliminary rate shall  
24 be as follows:

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

28 (ii)  $\frac{15}{100}$  of 1% if such excess over \$500.00 equals or exceeds  
29  $1\frac{1}{4}\%$  but is less than  $1\frac{1}{2}\%$  of his average annual payroll;

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

32 (3) If the minimum requirements in subparagraph (D) (1) above  
33 have been fulfilled and the contributions credited exceed the  
34 benefits charged but by not more than \$500.00 plus 1% of his  
35 average annual payroll, or if the benefits charged exceed the  
36 contributions credited but by not more than \$500.00, the  
37 preliminary rate shall be  $\frac{1}{4}$  of 1%.

38 (4) If the minimum requirements in subparagraph (D) (1) above  
39 have been fulfilled and the benefits charged exceed the  
40 contributions credited by more than \$500.00, such preliminary rate  
41 shall be as follows:

42 (i)  $\frac{35}{100}$  of 1% if such excess over \$500.00 is less than  $\frac{1}{4}$  of  
43 1% of his average annual payroll;

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

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

1 (iv) 65/100 of 1% if such excess over \$500.00 equals or exceeds  
2 3/4 of 1% but is less than 1% of his average annual payroll;

3 (v) 75/100 of 1% if such excess over \$500.00 equals or exceeds  
4 1% of his average annual payroll.

5 (5) Determination of the preliminary rate as specified in  
6 subparagraphs (D)(2), (3) and (4) above shall be subject, however,  
7 to the condition that it shall in no event be decreased by more than  
8 1/10 of 1% of wages or increased by more than 2/10 of 1% of  
9 wages from the preliminary rate determined for the preceding year  
10 in accordance with subparagraph (D) (1), (2), (3) or (4), whichever  
11 shall have been applicable.

12 (E) (1) Prior to July 1 of each calendar year the controller shall  
13 determine the amount of the State disability benefits fund as of  
14 December 31 of the preceding calendar year, increased by the  
15 contributions paid thereto during January of the current calendar  
16 year with respect to employment occurring in the preceding  
17 calendar year. If such amount exceeds the net amount withdrawn  
18 from the unemployment trust fund pursuant to section 23 of the  
19 "Temporary Disability Benefits Law," P.L.1948, c.110 (C.43:21-47)  
20 plus the amount at the end of such preceding calendar year of the  
21 unemployment disability account as defined in section 22 of said  
22 law (C.43:21-46), such excess shall be expressed as a percentage of  
23 the wages on which contributions were paid to the State disability  
24 benefits fund on or before January 31 with respect to employment  
25 in the preceding calendar year.

26 (2) The controller shall then make a final determination of the  
27 rates of contribution for the 12 months commencing July 1 of such  
28 year for employers whose preliminary rates are determined as  
29 provided in subparagraph (D) hereof, as follows:

30 (i) If the percentage determined in accordance with  
31 subparagraph (E)(1) of this paragraph equals or exceeds 1 1/4%, the  
32 final employer rates shall be the preliminary rates determined as  
33 provided in subparagraph (D) hereof, except that if the employer's  
34 preliminary rate is determined as provided in subparagraph (D)(2)  
35 or subparagraph (D)(3) hereof, the final employer rate shall be the  
36 preliminary employer rate decreased by such percentage of excess  
37 taken to the nearest 5/100 of 1%, but in no case shall such final rate  
38 be less than 1/10 of 1%.

39 (ii) If the percentage determined in accordance with  
40 subparagraph (E)(1) of this paragraph equals or exceeds 3/4 of 1%  
41 and is less than 1 1/4 of 1%, the final employer rates shall be the  
42 preliminary employer rates.

43 (iii) If the percentage determined in accordance with  
44 subparagraph (E)(1) of this paragraph is less than 3/4 of 1%, but in  
45 excess of 1/4 of 1%, the final employer rates shall be the  
46 preliminary employer rates determined as provided in subparagraph  
47 (D) hereof increased by the difference between 3/4 of 1% and such  
48 percentage taken to the nearest 5/100 of 1%; provided, however,

1 that no such final rate shall be more than 1/4 of 1% in the case of an  
 2 employer whose preliminary rate is determined as provided in  
 3 subparagraph (D)(2) hereof, more than 1/2 of 1% in the case of an  
 4 employer whose preliminary rate is determined as provided in  
 5 subparagraph (D)(1) and subparagraph (D)(3) hereof, nor more than  
 6 3/4 of 1% in the case of an employer whose preliminary rate is  
 7 determined as provided in subparagraph (D)(4) hereof.

8 (iv) If the amount of the State disability benefits fund determined  
 9 as provided in subparagraph (E)(1) of this paragraph is equal to or  
 10 less than 1/4 of 1%, then the final rate shall be 2/5 of 1% in the case  
 11 of an employer whose preliminary rate is determined as provided in  
 12 subparagraph (D)(2) hereof, 7/10 of 1% in the case of an employer  
 13 whose preliminary rate is determined as provided in subparagraph  
 14 (D)(1) and subparagraph (D)(3) hereof, and 1.1% in the case of an  
 15 employer whose preliminary rate is determined as provided in  
 16 subparagraph (D)(4) hereof. Notwithstanding any other provision of  
 17 law or any determination made by the controller with respect to any  
 18 12-month period commencing on July 1, 1970, the final rates for all  
 19 employers for the period beginning January 1, 1971, shall be as set  
 20 forth herein.

21 (F) Notwithstanding any other provisions of this subsection (e),  
 22 the rate of contribution paid to the State disability benefits fund by  
 23 each covered employer as defined in paragraph (1) of subsection (a)  
 24 of section 3 of P.L.1948, c.110 (C.43:21-27), shall be determined as  
 25 if:

26 (i) No disability benefits have been paid with respect to periods  
 27 of family temporary disability leave;

28 (ii) No worker paid any contributions to the State disability  
 29 benefits fund pursuant to paragraph (1)(G)(ii) <sup>2</sup>or paragraph  
 30 (1)(G)(iii) <sup>2</sup> of subsection (d) of this section; **[and]**

31 (iii) No amounts were transferred from the State disability  
 32 benefits fund to the "Family Temporary Disability Leave Account"  
 33 pursuant to paragraph (1)(G)(ii) of subsection (d) of this section;  
 34 and

35 (iv) The total amount of benefits paid for periods of  
 36 <sup>2</sup>[pregnancy temporary] <sup>2</sup> disability were not subject to the  
 37 increases in the weekly benefit rate for those benefits commencing  
 38 July 1, <sup>2</sup>[2019] 2020<sup>2</sup> pursuant to section 16 of P.L.1948, c.110  
 39 (C.43:21-40).

40 (cf: P.L.2017, c.138. s.1)

41

42 <sup>1</sup>**[4.]** <sup>2</sup>**[5.1]** 7.<sup>2</sup> Section 2 of P.L.1948, c.110 (C.43:21-26) is  
 43 amended to read as follows:

44 2. Purpose. This act shall be liberally construed as remedial  
 45 legislation enacted upon the following declarations of public policy  
 46 and legislative findings of fact:

1       The public policy of this State, already established, is to protect  
2 employees against the suffering and hardship generally caused by  
3 involuntary unemployment. But the "unemployment compensation  
4 law" provides benefit payments to replace wage loss caused by  
5 involuntary unemployment only so long as an individual is "able to  
6 work, and is available for work," and fails to provide any protection  
7 against wage loss suffered because of inability to perform the duties  
8 of a job interrupted by nonoccupational illness, injury, or other  
9 disability of the individual or of members of the individual's family.  
10 Nor is there any other comprehensive and systematic provision for  
11 the protection of working people against loss of earnings due to a  
12 nonoccupational sickness, accident, or other disability.

13       The prevalence and incidence of nonoccupational sickness,  
14 accident, and other disability among employed people is greatest  
15 among the lower income groups, who either cannot or will not  
16 voluntarily provide out of their own resources against the hazard of  
17 an earnings loss caused by nonoccupational sickness, accident, or  
18 other disability. Disabling sickness or accident occurs throughout  
19 the working population at one time or another, and approximately  
20 fifteen per centum (15%) of the number of people at work may be  
21 expected to suffer disabling illness of more than one week each  
22 year.

23       It was found, prior to the enactment of the "Temporary Disability  
24 Benefits Law," P.L.1948, c.110 (C.43:21-25 et al.), that then  
25 existing voluntary plans for the payment of cash sickness benefits  
26 covered less than one-half of the number of working people of this  
27 State who were covered by the "unemployment compensation law,"  
28 and that even that degree of voluntary protection afforded uneven,  
29 unequal and sometimes uncertain protection among the various  
30 voluntary benefit programs.

31       While the enactment of that law has provided stable protection  
32 for New Jersey's disabled workers, very few workers are protected  
33 from income losses caused by the need to take time off from work  
34 to care for family members who are incapable of self-care,  
35 including newborn and newly-adopted children. The growing  
36 portion of middle-income families in which all adult family  
37 members work, largely due to economic necessity, points to the  
38 desperate need for replacement income when a working family  
39 member must take time to care for family members who are unable  
40 to take care of themselves. Moreover, the United States is the only  
41 industrialized nation in the world which does not have a mandatory  
42 workplace-based program for such income support. It is therefore  
43 desirable and necessary to fill the gap in existing provisions for  
44 protection against the loss of earnings caused by involuntary  
45 unemployment, by extending such protection to meet the hazard of  
46 earnings loss due to inability to work caused by nonoccupational  
47 sickness, accidents, or other disabilities of workers and members of  
48 their families. Developing systems that help families adapt to the

1 competing interests of work and home not only benefits workers,  
2 but also benefits employers by reducing employee turnover and  
3 increasing worker productivity.

4 The foregoing facts and considerations require that there be a  
5 uniform minimum program providing in a systematic manner for  
6 the payment of reasonable benefits to replace partially such  
7 earnings loss and to meet the continuing need for benefits where an  
8 individual becomes disabled during unemployment or needs to care  
9 for family members incapable of self-care. In order to maintain  
10 consumer purchasing power, relieve the serious menace to health,  
11 morals and welfare of the people caused by insecurity and the loss  
12 of earnings, to reduce the necessity for public relief of needy  
13 persons, to increase workplace productivity and alleviate the  
14 enormous and growing stress on working families of balancing the  
15 demands of work and family needs, and in the interest of the health,  
16 welfare and security of the people of this State, such a system,  
17 enacted under the police power, is hereby established, requiring the  
18 payment of reasonable cash benefits to eligible individuals who are  
19 subject to accident or illness which is not compensable under the  
20 worker's compensation law or who need to care for family members  
21 incapable of self-care.

22 While the Legislature recognizes the pressing need for benefits  
23 for workers taking leave to care for family members incapable of  
24 self-care, it also finds that the need of workers for leave during their  
25 own disability continues to be especially acute, as a disabled worker  
26 has less discretion about taking time off from work than a worker  
27 caring for a family member. Notwithstanding any interpretation of  
28 law which may be construed as providing a worker with rights to  
29 take action against an employer who fails or refuses to restore the  
30 worker to employment after the worker's own disability, the  
31 Legislature does not intend that the policy established by P.L.2008,  
32 c.17 (C.43:21-39.1 et al.) of providing benefits for workers during  
33 periods of family temporary disability leave to care for family  
34 members incapable of self-care be construed as granting any worker  
35 an entitlement to be restored by the employer to employment held  
36 by the worker prior to taking family temporary disability leave or  
37 any right to take action, in tort, or for breach of an implied  
38 provision of the employment agreement, or under common law,  
39 against an employer who fails or refuses to restore the worker to  
40 employment after the family temporary disability leave, and the  
41 Legislature does not intend that the policy of providing benefits  
42 during family temporary disability leave be construed as increasing,  
43 reducing or otherwise modifying any entitlement of a worker to  
44 return to employment or right of the worker to take action under the  
45 provisions of the "Family Leave Act," P.L.1989, c.261 (C.34:11B-1  
46 et seq.)**],** or the federal "Family and Medical Leave Act of 1993,"  
47 Pub.L.103-3 (29 U.S.C. s.2601 et seq.)**].**



1 Since the enactment of the "Temporary Disability Benefits Law,"  
2 P.L.1948, c.110 (C.43:21-25 et al.), the State government-operated  
3 State temporary disability benefits plan, or "State plan," has proven  
4 to be highly efficient and cost effective in providing temporary  
5 disability benefits to New Jersey workers. The State plan  
6 guarantees the availability of coverage for all employers, regardless  
7 of experience, with low overhead costs and a rapid processing of  
8 claims and appeals by knowledgeable, impartial public employees.  
9 Consequently, the percentage of all employers using the State plan  
10 increased from 64% in 1952 to 98% in 2006, while the percentage  
11 of employees covered by the State plan increased from 28% to 83%.  
12 A publicly-operated, nonprofit State plan is therefore indispensable  
13 to achieving the goals of the "Temporary Disability Benefits Law,"  
14 P.L.1948, c.110 (C.43:21-25 et al.).  
15 (cf: P.L.2008, c.17, s.1)  
16

17 <sup>1</sup>~~5.~~ <sup>2</sup>~~6.~~<sup>1</sup> Section 3 of P.L.1948, c.110 (C.43:21-27) is  
18 amended to read as follows:

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

21 (a) (1) "Covered employer" means, with respect to whether an  
22 employer is required to provide benefits during an employee's own  
23 disability pursuant to P.L.1948, c.110 (C.43:21-25 et al.), any  
24 individual or type of organization, including any partnership,  
25 association, trust, estate, joint-stock company, insurance company or  
26 corporation, whether domestic or foreign, or the receiver, trustee in  
27 bankruptcy, trustee or successor thereof, or the legal representative of  
28 a deceased person, who is an employer subject to the "unemployment  
29 compensation law" (R.S.43:21-1 et seq.), except the State, its political  
30 subdivisions, and any instrumentality of the State unless such  
31 governmental entity elects to become a covered employer pursuant to  
32 paragraph (2) of this subsection (a); provided, however, that  
33 commencing with the effective date of this act, the State of New  
34 Jersey, including Rutgers, The State University and the New Jersey  
35 Institute of Technology, shall be deemed a covered employer, as  
36 defined herein.

37 "Covered employer" means, after June 30, 2009, with respect to  
38 whether the employer is an employer whose employees are eligible for  
39 benefits during periods of family temporary disability leave pursuant  
40 to P.L.1948, c.110 (C.43:21-25 et al.), and, after December 31, 2008,  
41 whether employees of the employer are required to make contributions  
42 pursuant to R.S.43:21-7(d)(1)(G)(ii), any individual or type of  
43 organization, including any partnership, association, trust, estate, joint-  
44 stock company, insurance company or domestic or foreign  
45 corporation, or the receiver, trustee in bankruptcy, trustee or successor  
46 thereof, or the legal representative of a deceased person, who is an  
47 employer subject to the "unemployment compensation law"  
48 (R.S.43:21-1 et seq.), including any governmental entity or

1 instrumentality which is an employer under R.S.43:21-19(h)(5),  
2 notwithstanding that the governmental entity or instrumentality has not  
3 elected to be a covered employer pursuant to paragraph (2) of this  
4 subsection (a).

5 (2) Any governmental entity or instrumentality which is an  
6 employer under R.S.43:21-19(h)(5) may, with respect to the provision  
7 of benefits during an employee's own disability pursuant to P.L.1948,  
8 c.110 (C.43:21-25 et al.), elect to become a "covered employer" under  
9 this subsection beginning with the date on which its coverage under  
10 R.S.43:21-19(h)(5) begins or as of January 1 of any year thereafter by  
11 filing written notice of such election with the division within at least  
12 30 days of the effective date. Such election shall remain in effect for at  
13 least two full calendar years and may be terminated as of January 1 of  
14 any year thereafter by filing with the division a written notice of  
15 termination at least 30 days prior to the termination date.

16 (b) (1) "Covered individual" means, with respect to whether an  
17 individual is eligible for benefits during an individual's own disability  
18 pursuant to P.L.1948, c.110 (C.43:21-25 et al.), any person who is in  
19 employment, as defined in the "unemployment compensation law"  
20 (R.S.43:21-1 et seq.), for which the individual is entitled to  
21 remuneration from a covered employer, or who has been out of such  
22 employment for less than two weeks, except that a "covered  
23 individual" who is employed by the State of New Jersey, including  
24 Rutgers, The State University or the New Jersey Institute of  
25 Technology, or by any governmental entity or instrumentality which  
26 elects to become a "covered employer" pursuant to this amendatory  
27 act<sup>1</sup>, prior to July 1, 2019<sup>1</sup> shall not be eligible to receive any  
28 benefits under the "Temporary Disability Benefits Law" until such  
29 individual has exhausted all sick leave accumulated as an employee in  
30 the classified service of the State or accumulated under terms and  
31 conditions similar to classified employees or accumulated under the  
32 terms and conditions pursuant to the laws of this State or as the result  
33 of a negotiated contract with any governmental entity or  
34 instrumentality which elects to become a "covered employer"<sup>1</sup>; and,  
35 after June 30, 2019 may be required, prior to receiving any benefits  
36 under the "Temporary Disability Benefits Law," to use up to two  
37 weeks of sick leave accumulated as an employee in the classified  
38 service of the State or accumulated under terms and conditions similar  
39 to classified employees or accumulated under the terms and conditions  
40 pursuant to the laws of this State or as the result of a negotiated  
41 contract with any governmental entity or instrumentality which elects  
42 to become a "covered employer", except that the individual shall not  
43 be required to use the individual's last week's worth of accumulated  
44 sick time before receiving the benefits.<sup>1</sup>

45 "Covered individual" shall not mean, with respect to whether an  
46 individual is eligible for benefits during an individual's own disability  
47 pursuant to P.L.1948, c.110 (C.43:21-25 et al.), any member of the  
48 Division of State Police in the Department of Law and Public Safety.

1 (2) "Covered individual" means, with respect to whether an  
2 individual is eligible for benefits during the individual's period of  
3 family temporary disability leave pursuant to P.L.1948, c.110  
4 (C.43:21-25 et al.), any individual who is in employment, as defined in  
5 the "unemployment compensation law" (R.S.43:21-1 et seq.), for  
6 which the individual is entitled to remuneration from a covered  
7 employer, or who has been out of that employment for less than two  
8 weeks.

9 (c) "Division" or "commission" means the Division of Temporary  
10 Disability Insurance of the Department of Labor and Workforce  
11 Development, and any transaction or exercise of authority by the  
12 director of the division shall be deemed to be performed by the  
13 division.

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

16 (e) "Disability" shall mean such disability as is compensable under  
17 section 5 of P.L.1948, c.110 (C.43:21-29).

18 (f) "Disability benefits" shall mean any cash payments which are  
19 payable to a covered individual for all or part of a period of disability  
20 pursuant to P.L.1948, c.110 (C.43:21-25 et al.).

21 (g) "Period of disability" with respect to any covered individual  
22 shall mean:

23 (1) The entire period of time during which the covered individual  
24 is continuously and totally unable to perform the duties of the covered  
25 individual's employment because of the covered individual's own  
26 disability, except that two periods of disability due to the same or  
27 related cause or condition and separated by a period of not more than  
28 14 days shall be considered as one continuous period of disability;  
29 provided the individual has earned wages during such 14-day period  
30 with the employer who was the individual's last employer immediately  
31 preceding the first period of disability; and

32 (2) On or after July 1, 2009, the entire period of family temporary  
33 disability leave taken from employment by the covered individual.

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

38 (i) (1) (Deleted by amendment, P.L.2001, c.17).

39 (2) (Deleted by amendment, P.L.2001, c.17).

40 (3) (Deleted by amendment, P.L.2013, c.221).

41 (4) "Base week" with respect to periods of disability commencing  
42 on or after January 1, 2001, means any calendar week of a covered  
43 individual's base year during which the covered 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  
47 preceding the calendar year in which the benefit year commences,  
48 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 covered individual may in that calendar week  
4 establish a base week with respect to each of the employers from  
5 whom the covered individual earns remuneration equal to not less than  
6 the amount defined in this paragraph during that week.

7 (5) In the case of an individual who is laid off or furloughed by an  
8 employer curtailing operations because of a state of emergency  
9 declared after October 22, 2012, any week in which the individual is  
10 separated from employment due to that layoff or furlough, up to a  
11 maximum of 13 weeks, shall be regarded as a week which is a "base  
12 week" for the purpose of determining whether the individual becomes  
13 eligible for benefits pursuant to subsection (d) or (e) of section 17 of  
14 P.L.1948, c.110 (C.43:21-41), but shall not be regarded as a base week  
15 when calculating the "average weekly wage" pursuant to subsection (j)  
16 of this section.

17 (j) (1) "Average weekly wage" means the amount derived by  
18 dividing a covered individual's total wages earned from the  
19 individual's most recent covered employer during the base weeks in  
20 the eight calendar weeks immediately preceding the calendar week in  
21 which a period of disability commenced, by the number of such base  
22 weeks.

23 (2) If the computation in paragraph (1) of this subsection (j) yields  
24 a result which is less than the individual's average weekly earnings in  
25 employment with all covered employers during the base weeks in such  
26 eight calendar weeks, then the average weekly wage shall be computed  
27 on the basis of earnings from all covered employers during the base  
28 weeks in the eight calendar weeks immediately preceding the week in  
29 which the period of disability commenced.

30 (3) For periods of disability commencing on or after July 1, 2009,  
31 if the computations in paragraphs (1) and (2) of this subsection (j) both  
32 yield a result which is less than the individual's average weekly  
33 earnings in employment with all covered employers during the base  
34 weeks in the 26 calendar weeks immediately preceding the week in  
35 which the period of disability commenced, then the average weekly  
36 wage shall, upon a written request to the department by the individual  
37 on a form provided by the department, be computed by the department  
38 on the basis of earnings from all covered employers of the individual  
39 during the base weeks in those 26 calendar weeks, and, in the case of a  
40 claim for benefits from a private plan, that computation of the average  
41 weekly wage shall be provided by the department to the individual and  
42 the individual's employer.

43 When determining the "average weekly wage" with respect to a  
44 period of family temporary disability leave for an individual who has a  
45 period of family temporary disability immediately after the individual  
46 has a period of disability for the individual's own disability, the period  
47 of disability is deemed to have commenced at the beginning of the

1 period of disability for the individual's own disability, not the period of  
2 family temporary disability.

3 (k) "Child" means a biological, adopted, or foster child, stepchild  
4 or legal ward of a covered individual, child of a domestic partner of  
5 the covered individual, or child of a civil union partner of the covered  
6 individual, parent, **【**who is less than 19 years of age or is 19 years of  
7 age or older but incapable of self-care because of mental or physical  
8 impairment**】** including a child who becomes the child of a parent  
9 pursuant to a valid written agreement between the parent and a  
10 gestational carrier.

11 (l) "Domestic partner" means a domestic partner as defined in  
12 section 3 of P.L.2003, c.246 (C.26:8A-3).

13 (m) "Civil union" means a civil union as defined in section 2 of  
14 P.L.2006, c.103 (C.37:1-29).

15 (n) "Family member" means a sibling, grandparent, grandchild,  
16 child, spouse, domestic partner, civil union partner, parent-in-law, or  
17 parent of a covered individual, or any other individual related by blood  
18 to the employee, and any other individual <sup>1</sup>**【whose】** that the employee  
19 shows to have a<sup>1</sup> close association with the employee <sup>1</sup>**【which】** is the  
20 equivalent of a family relationship.

21 (o) "Family temporary disability leave" means leave taken by a  
22 covered individual from work with an employer to:

23 (1) participate in the providing of care, as defined in the "Family  
24 Leave Act," P.L.1989, c.261 (C.34:11B-1 et seq.) and regulations  
25 adopted pursuant to that act, for a family member of the individual  
26 made necessary by a serious health condition of the family member;  
27 **【or】**

28 (2) be with a child during the first 12 months after the child's birth,  
29 if the individual, or the domestic partner or civil union partner of the  
30 individual, is a biological parent of the child, or is a parent of the child  
31 pursuant to a valid gestational carrier agreement, or the first 12 months  
32 after the placement of the child for adoption or as a foster child with  
33 the individual; or

34 (3) engage in activities for which unpaid leave may be taken  
35 pursuant to section 3 of the "New Jersey Security and Financial  
36 Empowerment Act," P.L.2013, c.82 (C.34:11C-3), on the individual's  
37 own behalf, if the individual is a victim of an incident of domestic  
38 violence a sexually violent offense, or to assist a family member of the  
39 individual who has been a victim of an incident of domestic violence a  
40 sexually violent offense, provided that any time taken by an individual  
41 who has been a victim of an incident of domestic violence a sexually  
42 violent offense for which the individual receives benefits for a  
43 disability caused by the violence or offense shall be regarded as a  
44 period of disability of the individual and not as a period of family  
45 temporary disability leave.

46 "Family temporary disability leave" does not include any period of  
47 time in which a covered individual is paid benefits pursuant to

1 P.L.1948, c.110 (C.43:21-25 et al.) because the individual is unable to  
2 perform the duties of the individual's employment due to the  
3 individual's own disability.

4 (p) "Health care provider" means a health care provider as defined  
5 in the "Family Leave Act," P.L.1989, c.261 (C.34:11B-1 et seq.), and  
6 any regulations adopted pursuant to that act.

7 (q) "Parent of a covered individual" means a biological parent,  
8 foster parent, adoptive parent, or stepparent of the covered individual  
9 or a person who was a legal guardian of the covered individual when  
10 the covered individual was a child, or who became the parent of the  
11 child pursuant to a valid written agreement between the parent and a  
12 gestational carrier.

13 (r) "Placement for adoption" means the time when a covered  
14 individual adopts a child or becomes responsible for a child pending  
15 adoption by the covered individual.

16 (s) "Serious health condition" means an illness, injury, impairment  
17 or physical or mental condition which requires: inpatient care in a  
18 hospital, hospice, or residential medical care facility; or continuing  
19 medical treatment or continuing supervision by a health care provider.

20 (t) "12-month period" means, with respect to an individual who  
21 establishes a valid claim for disability benefits during a period of  
22 family temporary disability leave, the 365 consecutive days that begin  
23 with the first day that the individual first establishes the claim.

24 (u) "State of emergency" means a natural or man-made disaster or  
25 emergency for which a state of emergency has been declared by the  
26 President of the United States or the Governor, or for which a state of  
27 emergency has been declared by a municipal emergency management  
28 coordinator.

29 (cf: P.L.2013, c.221, s.3)]<sup>2</sup>

30

31 <sup>1</sup>[6.] <sup>2</sup>[7.]<sup>1</sup> Section 11 of P.L.1948, c.110 (C.43:21-35) is  
32 amended to read as follows:

33 11. (a) If the division is furnished satisfactory evidence that a  
34 majority of the employees covered by an approved private plan  
35 have made election in writing to discontinue such plan, the division  
36 shall withdraw its approval of such plan effective at the end of the  
37 calendar quarter next succeeding that in which such evidence is  
38 furnished. Upon receipt of a petition therefor signed by not less  
39 than 10% of the employees covered by an approved private plan,  
40 the division shall require the employer upon 30 days' written notice  
41 to conduct an election by ballot in writing to determine whether or  
42 not a majority of the employees covered by such private plan favor  
43 discontinuance thereof; provided, that such election shall not be  
44 required more often than once in any 12-month period.

45 (b) Unless sooner permitted, for cause, by the division, no  
46 approved private plan shall be terminated by an employer, in whole  
47 or in part, until at least 30 days after written notice of intention so  
48 to do has been given by the employer to the division and after

1 notices are conspicuously posted so as reasonably to assure their  
2 being seen, or after individual notices are given to the employees  
3 concerned.

4 (c) The division may, after notice and hearing, withdraw its  
5 approval of any approved private plan if it finds that there is danger  
6 that the benefits accrued or to accrue will not be paid, that the  
7 security for such payment is insufficient, or for other good cause  
8 shown. No employer, and no union or association representing  
9 employees, shall so administer or apply the provisions of an  
10 approved private plan as to derive any profit therefrom. The  
11 division may withdraw its approval from any private plan which is  
12 administered or applied in violation of this provision.

13 (d) No termination of an approved private plan shall affect the  
14 payment of benefits, in accordance with the provisions of the plan,  
15 to employees whose period of disability commenced prior to the  
16 date of termination. Employees who have ceased to be covered by  
17 an approved private plan because of its termination shall, subject to  
18 the limitations and restrictions of this act, become eligible forthwith  
19 for benefits from the State Disability Benefits Fund for a period of  
20 disability commencing after such cessation, and contributions with  
21 respect to their wages shall immediately become payable as  
22 otherwise provided by law. Any withdrawal of approval of a  
23 private plan pursuant to this section shall be reviewable by writ of  
24 certiorari or by such other procedure as may be provided by law.  
25 With respect to a period of family temporary disability leave  
26 immediately after the individual has a period of disability during the  
27 individual's own disability, the period of disability is deemed, for  
28 the purposes of determining whether the period of disability  
29 commenced prior to the date of the termination, to have commenced  
30 at the beginning of the period of disability during the individual's  
31 own disability, not the period of family temporary disability leave.

32 (e) Anything in this act to the contrary notwithstanding, a  
33 covered employer who, under an approved private plan, is  
34 providing benefits at least equal to those required by the State plan,  
35 may modify the benefits under the private plan so as to provide  
36 benefits not less than the benefits required by the State plan.  
37 Individuals covered under a private plan shall not be required to  
38 contribute to the plan at a rate exceeding  $\frac{3}{4}$  of 1% of the amount of  
39 "wages" established for any calendar year under the provisions of  
40 R.S.43:21-7(b) prior to January 1, 1975, and  $\frac{1}{2}$  of 1% for calendar  
41 years beginning on or after January 1, 1975 and before January 1,  
42 2009. For a calendar year beginning on or after January 1, 2009  
43 and before January 1, 2012: an employer providing a private plan  
44 only for benefits for employees during their own disabilities may  
45 require the employees to contribute to the plan at a rate not  
46 exceeding 0.5% of the amount of "wages" established for the  
47 calendar year under the provisions of R.S.43:21-7(b); an employer  
48 providing a private plan only for benefits for employees during

1 periods of family temporary disability may require the individuals  
2 covered by the private plan to contribute an amount not exceeding  
3 the amount the individuals would pay pursuant to R.S.43:21-  
4 7(d)(1)(G)(ii); an employer providing a private plan both for  
5 benefits for employees during their own disabilities and for benefits  
6 during periods of family temporary disability may require the  
7 employees to contribute to the plan at a rate not exceeding 0.5% of  
8 the amount of "wages" established for the calendar year under the  
9 provisions of R.S.43:21-7(b) plus an additional amount not  
10 exceeding the amount the individuals would pay pursuant to  
11 R.S.43:21-7(d)(1)(G)(ii). For a calendar year beginning on or after  
12 January 1, 2012: an employer providing a private plan only for  
13 benefits for employees during their own disabilities may require the  
14 employees to contribute to the plan at a rate not exceeding the  
15 amount the individuals would pay pursuant to R.S.43:21-  
16 7(d)(1)(G)(i) and R.S.43:21-7(d)(1)(G)(iii); an employer providing  
17 a private plan only for benefits for employees during periods of  
18 family temporary disability may require the individuals covered by  
19 the private plan to contribute an amount not exceeding the amount  
20 the individuals would pay pursuant to R.S.43:21-7(d)(1)(G)(ii); an  
21 employer providing a private plan both for benefits for employees  
22 during their own disabilities and for benefits during periods of  
23 family temporary disability may require the employees to contribute  
24 to the plan an amount not exceeding the amount the individuals  
25 would pay pursuant to R.S.43:21-7(d)(1)(G)(i), R.S.43:21-  
26 7(d)(1)(G)(iii), and R.S.43:21-7(d)(1)(G)(ii). Notification of the  
27 proposed modification shall be given by the employer to the  
28 division and to the individuals covered under the plan.  
29 (cf: P.L.2011, c.88, s.2) **J**<sup>2</sup>

30

31 <sup>2</sup>8. Section 3 of P.L.1948, c.110 (C.43:21-27) is amended to  
32 read as follows:

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

35 (a) (1) "Covered employer" means, with respect to whether an  
36 employer is required to provide benefits during an employee's own  
37 disability pursuant to P.L.1948, c.110 (C.43:21-25 et al.), any  
38 individual or type of organization, including any partnership,  
39 association, trust, estate, joint-stock company, insurance company  
40 or corporation, whether domestic or foreign, or the receiver, trustee  
41 in bankruptcy, trustee or successor thereof, or the legal  
42 representative of a deceased person, who is an employer subject to  
43 the "unemployment compensation law" (R.S.43:21-1 et seq.),  
44 except the State, its political subdivisions, and any instrumentality  
45 of the State unless such governmental entity elects to become a  
46 covered employer pursuant to paragraph (2) of this subsection (a);  
47 provided, however, that commencing with the effective date of this  
48 act, the State of New Jersey, including Rutgers, The State



1 University and the New Jersey Institute of Technology, shall be  
2 deemed a covered employer, as defined herein.

3 "Covered employer" means, after June 30, 2009, with respect to  
4 whether the employer is an employer whose employees are eligible  
5 for benefits during periods of family temporary disability leave  
6 pursuant to P.L.1948, c.110 (C.43:21-25 et al.), and, after December  
7 31, 2008, whether employees of the employer are required to make  
8 contributions pursuant to R.S.43:21-7(d)(1)(G)(ii), any individual  
9 or type of organization, including any partnership, association,  
10 trust, estate, joint-stock company, insurance company or domestic  
11 or foreign corporation, or the receiver, trustee in bankruptcy, trustee  
12 or successor thereof, or the legal representative of a deceased  
13 person, who is an employer subject to the "unemployment  
14 compensation law" (R.S.43:21-1 et seq.), including any  
15 governmental entity or instrumentality which is an employer under  
16 R.S.43:21-19(h)(5), notwithstanding that the governmental entity or  
17 instrumentality has not elected to be a covered employer pursuant to  
18 paragraph (2) of this subsection (a).

19 (2) Any governmental entity or instrumentality which is an  
20 employer under R.S.43:21-19(h)(5) may, with respect to the  
21 provision of benefits during an employee's own disability pursuant  
22 to P.L.1948, c.110 (C.43:21-25 et al.), elect to become a "covered  
23 employer" under this subsection beginning with the date on which  
24 its coverage under R.S.43:21-19(h)(5) begins or as of January 1 of  
25 any year thereafter by filing written notice of such election with the  
26 division within at least 30 days of the effective date. Such election  
27 shall remain in effect for at least two full calendar years and may be  
28 terminated as of January 1 of any year thereafter by filing with the  
29 division a written notice of termination at least 30 days prior to the  
30 termination date.

31 (b) (1) "Covered individual" means, with respect to whether an  
32 individual is eligible for benefits during an individual's own  
33 disability pursuant to P.L.1948, c.110 (C.43:21-25 et al.), any  
34 person who is in employment, as defined in the "unemployment  
35 compensation law" (R.S.43:21-1 et seq.), for which the individual is  
36 entitled to remuneration from a covered employer, or who has been  
37 out of such employment for less than two weeks, except that a  
38 "covered individual" who is employed by the State of New Jersey,  
39 including Rutgers, The State University or the New Jersey Institute  
40 of Technology, or by any governmental entity or instrumentality  
41 which elects to become a "covered employer" pursuant to **[this**  
42 **amendatory act]** P.L.1948, c.110 (C.43:21-25 et al.) prior to July  
43 1, 2019 shall not be eligible to receive any benefits under the  
44 "Temporary Disability Benefits Law" until such individual has  
45 exhausted all sick leave accumulated as an employee in the  
46 classified service of the State or accumulated under terms and  
47 conditions similar to classified employees or accumulated under the  
48 terms and conditions pursuant to the laws of this State or as the

1 result of a negotiated contract with any governmental entity or  
2 instrumentality which elects to become a "covered employer" ; and,  
3 after June 30, 2019 may be required, prior to receiving any benefits  
4 under the "Temporary Disability Benefits Law," to use up to two  
5 weeks of sick leave accumulated as an employee in the classified  
6 service of the State or accumulated under terms and conditions  
7 similar to classified employees or accumulated under the terms and  
8 conditions pursuant to the laws of this State or as the result of a  
9 negotiated contract with any governmental entity or instrumentality  
10 which elects to become a "covered employer," except that the  
11 individual shall not be required to use the individual's last week's  
12 worth of accumulated sick time before receiving the benefits.

13 "Covered individual" shall not mean, with respect to whether an  
14 individual is eligible for benefits during an individual's own  
15 disability pursuant to P.L.1948, c.110 (C.43:21-25 et al.), any  
16 member of the Division of State Police in the Department of Law  
17 and Public Safety.

18 (2) "Covered individual" means, with respect to whether an  
19 individual is eligible for benefits during the individual's period of  
20 family temporary disability leave pursuant to P.L.1948, c.110  
21 (C.43:21-25 et al.), any individual who is in employment, as  
22 defined in the "unemployment compensation law" (R.S.43:21-1 et  
23 seq.), for which the individual is entitled to remuneration from a  
24 covered employer, or who has been out of that employment for less  
25 than two weeks.

26 (c) "Division" or "commission" means the Division of  
27 Unemployment and Temporary Disability Insurance of the  
28 Department of Labor and Workforce Development, and any  
29 transaction or exercise of authority by the director of the division  
30 shall be deemed to be performed by the division.

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

33 (e) "Disability" shall mean such disability as is compensable  
34 under section 5 of P.L.1948, c.110 (C.43:21-29).

35 (f) "Disability benefits" shall mean any cash payments which  
36 are payable to a covered individual for all or part of a period of  
37 disability pursuant to P.L.1948, c.110 (C.43:21-25 et al.).

38 (g) "Period of disability" with respect to any covered individual  
39 shall mean:

40 (1) The entire period of time during which the covered  
41 individual is continuously and totally unable to perform the duties  
42 of the covered individual's employment because of the covered  
43 individual's own disability, except that two periods of disability due  
44 to the same or related cause or condition and separated by a period  
45 of not more than 14 days shall be considered as one continuous  
46 period of disability; provided the individual has earned wages  
47 during such 14-day period with the employer who was the

1 individual's last employer immediately preceding the first period of  
2 disability; and

3 (2) On or after July 1, 2009, the entire period of family  
4 temporary disability leave taken from employment by the covered  
5 individual.

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

10 (i) (1) (Deleted by amendment, P.L.2001, c.17).

11 (2) (Deleted by amendment, P.L.2001, c.17).

12 (3) (Deleted by amendment, P.L.2013, c.221).

13 (4) "Base week" with respect to periods of disability  
14 commencing on or after January 1, 2001, means any calendar week  
15 of a covered individual's base year during which the covered  
16 individual earned in employment from a covered employer  
17 remuneration not less than an amount 20 times the minimum wage  
18 in effect pursuant to section 5 of P.L.1966, c.113 (C.34:11-56a4) on  
19 October 1 of the calendar year preceding the calendar year in which  
20 the benefit year commences, which amount shall be adjusted to the  
21 next higher multiple of \$1.00 if not already a multiple thereof,  
22 except that if in any calendar week an individual subject to this  
23 paragraph is in employment with more than one employer, the  
24 covered individual may in that calendar week establish a base week  
25 with respect to each of the employers from whom the covered  
26 individual earns remuneration equal to not less than the amount  
27 defined in this paragraph during that week.

28 (5) In the case of an individual who is laid off or furloughed by  
29 an employer curtailing operations because of a state of emergency  
30 declared after October 22, 2012, any week in which the individual  
31 is separated from employment due to that layoff or furlough, up to a  
32 maximum of 13 weeks, shall be regarded as a week which is a "base  
33 week" for the purpose of determining whether the individual  
34 becomes eligible for benefits pursuant to subsection (d) or (e) of  
35 section 17 of P.L.1948, c.110 (C.43:21-41), but shall not be  
36 regarded as a base week when calculating the "average weekly  
37 wage" pursuant to subsection (j) of this section.

38 (j) (1) "Average weekly wage" means , with respect to the  
39 payment of benefits commencing before <sup>3</sup>【January 1, 2019】 the  
40 effective date of P.L. , c. (C. ) (pending before the  
41 Legislature as this bill)<sup>3</sup> , the amount derived by dividing a covered  
42 individual's total wages earned from the individual's most recent  
43 covered employer during the base weeks in the eight calendar  
44 weeks immediately preceding the calendar week in which a period  
45 of disability commenced, **【or in which the individual submits a**  
46 **claim for the benefits pursuant to subsection h. of section 10 of**  
47 **P.L.2008, c.17 (C.43:21-39.1) or paragraph (3) of subsection (a) of**  
48 **section 25 of P.L.1948, c.110 (C.43:21-49),】** by the number of such

1 base weeks , and, with respect to the payment of benefits  
2 commencing on or after <sup>3</sup>【January 1, 2019】 the effective date of  
3 P.L. , c. (C. ) (pending before the Legislature as this bill)<sup>3</sup>, the  
4 amount derived by dividing a covered individual's total wages  
5 earned from the individual's most recent covered employer during  
6 the base weeks in the base year immediately preceding the calendar  
7 week in which a period of disability commenced, or in which the  
8 individual submits a claim for the benefits pursuant to subsection h.  
9 of section 10 of P.L.2008, c.17 (C.43:21-39.1) or paragraph (3) of  
10 subsection (a) of section 25 of P.L.1948, c.110 (C.43:21-49), by the  
11 number of base weeks.

12 (2) 【If】 With respect to the payment of benefits commencing  
13 before <sup>3</sup>【January 1, 2019】 the effective date of P.L. , c. (C. )  
14 (pending before the Legislature as this bill)<sup>3</sup>, if the computation in  
15 paragraph (1) of this subsection (j) yields a result which is less than  
16 the individual's average weekly earnings in employment with all  
17 covered employers during the base weeks in such eight calendar  
18 weeks, then the average weekly wage shall be computed on the  
19 basis of earnings from all covered employers during the base weeks  
20 in the eight calendar weeks immediately preceding the week in  
21 which the period of disability commenced 【, or in which the  
22 individual submits a claim for the benefits pursuant to subsection h.  
23 of section 10 of P.L.2008, c.17 (C.43:21-39.1) or paragraph (3) of  
24 subsection (a) of section 25 of P.L.1948, c.110 (C.43:21-49)】, and,  
25 with respect to the payment of benefits commencing on or after  
26 <sup>3</sup>【January 1, 2019】 the effective date of P.L. , c. (C. ) (pending  
27 before the Legislature as this bill)<sup>3</sup>, if the computation in paragraph  
28 (1) of this subsection (j) yields a result which is less than the  
29 individual's average weekly earnings in employment with all  
30 covered employers during the base weeks in the base year, then the  
31 average weekly wage shall be computed on the basis of earnings  
32 from all covered employers during the base weeks in the base year  
33 immediately preceding the week in which the period of disability  
34 commences, or in which the individual submits a claim for the  
35 benefits pursuant to subsection h. of section 10 of P.L.2008, c.17  
36 (C.43:21-39.1) or paragraph (3) of subsection (a) of section 25 of  
37 P.L.1948, c.110 (C.43:21-49).

38 (3) For periods of disability commencing on or after July 1,  
39 2009 and before <sup>3</sup>【January 1, 2019】 the effective date of P.L. , c.  
40 (C. ) (pending before the Legislature as this bill)<sup>3</sup>, if the  
41 computations in paragraphs (1) and (2) of this subsection (j) both  
42 yield a result which is less than the individual's average weekly  
43 earnings in employment with all covered employers during the base  
44 weeks in the 26 calendar weeks immediately preceding the week in  
45 which the period of disability commenced, 【or in which the  
46 individual submits a claim for the benefits pursuant to subsection h.  
47 of section 10 of P.L.2008, c.17 (C.43:21-39.1) or paragraph (3) of

1 subsection (a) of section 25 of P.L.1948, c.110 (C.43:21-49),**】** then  
2 the average weekly wage shall, upon a written request to the  
3 department by the individual on a form provided by the department,  
4 be computed by the department on the basis of earnings from all  
5 covered employers of the individual during the base weeks in those  
6 26 calendar weeks, and, in the case of a claim for benefits from a  
7 private plan, that computation of the average weekly wage shall be  
8 provided by the department to the individual and the individual's  
9 employer.

10 When determining the "average weekly wage" with respect to a  
11 period of family temporary disability leave for an individual who  
12 has a period of family temporary disability immediately after the  
13 individual has a period of disability for the individual's own  
14 disability, the period of disability is deemed to have commenced at  
15 the beginning of the period of disability for the individual's own  
16 disability, not the period of family temporary disability.

17 (k) "Child" means a biological, adopted, or foster child,  
18 stepchild or legal ward of a covered individual, child of a domestic  
19 partner of the covered individual, or child of a civil union partner of  
20 the covered individual, **【**who is less than 19 years of age or is 19  
21 years of age or older but incapable of self-care because of mental or  
22 physical impairment**】** including a child who becomes the child of a  
23 parent pursuant to a valid written agreement between the parent and  
24 a gestational carrier.

25 (l) "Domestic partner" means a domestic partner as defined in  
26 section 3 of P.L.2003, c.246 (C.26:8A-3).

27 (m) "Civil union" means a civil union as defined in section 2 of  
28 P.L.2006, c.103 (C.37:1-29).

29 (n) "Family member" means a sibling, grandparent, grandchild,  
30 child, spouse, domestic partner, civil union partner, parent-in-law,  
31 or parent of a covered individual, or any other individual related by  
32 blood to the employee, and any other individual that the employee  
33 shows to have a close association with the employee which is the  
34 equivalent of a family relationship.

35 (o) "Family temporary disability leave" means leave taken by a  
36 covered individual from work with an employer to:

37 (1) participate in the providing of care, as defined in the "Family  
38 Leave Act," P.L.1989, c.261 (C.34:11B-1 et seq.) and regulations  
39 adopted pursuant to that act, for a family member of the individual  
40 made necessary by a serious health condition of the family member;

41 **【or】**

42 (2) be with a child during the first 12 months after the child's  
43 birth, if the individual, or the domestic partner or civil union partner  
44 of the individual, is a biological parent of the child, or is a parent of  
45 the child pursuant to a valid gestational carrier agreement, or the  
46 first 12 months after the placement of the child for adoption or as a  
47 foster child with the individual; or

1       (3) engage in activities for which unpaid leave may be taken  
2 pursuant to section 3 of the "New Jersey Security and Financial  
3 Empowerment Act," P.L.2013, c.82 (C.34:11C-3), on the  
4 individual's own behalf, if the individual is a victim of an incident  
5 of domestic violence a sexually violent offense, or to assist a family  
6 member of the individual who has been a victim of an incident of  
7 domestic violence a sexually violent offense, provided that any time  
8 taken by an individual who has been a victim of an incident of  
9 domestic violence a sexually violent offense for which the  
10 individual receives benefits for a disability caused by the violence  
11 or offense shall be regarded as a period of disability of the  
12 individual and not as a period of family temporary disability leave.

13       "Family temporary disability leave" does not include any period  
14 of time in which a covered individual is paid benefits pursuant to  
15 P.L.1948, c.110 (C.43:21-25 et al.) because the individual is unable  
16 to perform the duties of the individual's employment due to the  
17 individual's own disability.

18       (p) "Health care provider" means a health care provider as  
19 defined in the "Family Leave Act," P.L.1989, c.261 (C.34:11B-1 et  
20 seq.), and any regulations adopted pursuant to that act.

21       (q) "Parent of a covered individual" means a biological parent,  
22 foster parent, adoptive parent, or stepparent of the covered  
23 individual or a person who was a legal guardian of the covered  
24 individual when the covered individual was a child, or who became  
25 the parent of the covered individual pursuant to a valid written  
26 agreement between the parent and a gestational carrier.

27       (r) "Placement for adoption" means the time when a covered  
28 individual adopts a child or becomes responsible for a child pending  
29 adoption by the covered individual.

30       (s) "Serious health condition" means an illness, injury,  
31 impairment or physical or mental condition which requires:  
32 inpatient care in a hospital, hospice, or residential medical care  
33 facility; or continuing medical treatment or continuing supervision  
34 by a health care provider.

35       (t) "12-month period" means, with respect to an individual who  
36 establishes a valid claim for disability benefits during a period of  
37 family temporary disability leave, the 365 consecutive days that  
38 begin with the first day that the individual first establishes the  
39 claim.

40       (u) "State of emergency" means a natural or man-made disaster  
41 or emergency for which a state of emergency has been declared by  
42 the President of the United States or the Governor, or for which a  
43 state of emergency has been declared by a municipal emergency  
44 management coordinator.

45       (v) "Base year" with respect to benefit years commencing on or  
46 after <sup>3</sup>【January 1, 2019】 the effective date of P.L. , c. (C. )  
47 (pending before the Legislature as this bill)<sup>3</sup>, means the first four of  
48 the last five completed calendar quarters immediately preceding the

1 period of disability, except that, if the individual does not have  
2 sufficient qualifying weeks or wages in the individual's base year to  
3 qualify for benefits, the individual shall have the option of  
4 designating that the individual's base year shall be the "alternative  
5 base year," which means the last four completed calendar quarters  
6 immediately preceding the period of disability; and except that if  
7 the individual also does not have sufficient qualifying weeks or  
8 wages in the last four completed calendar quarters immediately  
9 preceding the period of disability, "alternative base year" means the  
10 last three completed calendar quarters immediately preceding the  
11 individual's benefit year and, of the calendar quarter in which the  
12 period of disability commences, the portion of the quarter which  
13 occurs before the commencing the period of disability. The  
14 division shall inform the individual of the individual's options  
15 under this subsection. If information regarding weeks and wages  
16 for the calendar quarter or quarters immediately preceding the  
17 period of disability is not available to the division from the regular  
18 quarterly reports of wage information and the division is not able to  
19 obtain the information using other means pursuant to State or  
20 federal law, the division may base the determination of eligibility  
21 for benefits on the affidavit of an individual with respect to weeks  
22 and wages for that calendar quarter. The individual shall furnish  
23 payroll documentation, if available, in support of the affidavit. A  
24 determination of benefits based on an alternative base year shall be  
25 adjusted when the quarterly report of wage information from the  
26 employer is received if that information causes a change in the  
27 determination.<sup>2</sup>

28 (cf: P.L.2018, c.128, s.1)

29

30 <sup>29.</sup> Section 8 of P.L.1948, c.110 (C.43:21-32) is amended to  
31 read as follows:

32 8. Establishment of private plans. Any covered employer may  
33 establish a private plan for the payment of disability benefits in lieu  
34 of the benefits of the State plan hereinafter established. Benefits  
35 under such a private plan may be provided by a contract of  
36 insurance issued by an insurer duly authorized and admitted to do  
37 business in this State, or by an agreement between the employer and  
38 a union or association representing his employees, or by a specific  
39 undertaking by the employer as a self-insurer. Subject to the  
40 insurance laws of this State, such a contract of insurance may be  
41 between the insurer and the employer; or may be between the  
42 insurer and two or more employers, acting for the purpose through a  
43 nominee, designee or trustee; or may be between the insurer and the  
44 union or association with which the employer has an agreement  
45 with respect thereto. Each such private plan shall be submitted in  
46 detail to the Division of Employment Security and shall be  
47 approved by the division, to take effect as of the first day of the  
48 calendar quarter next following, or as of an earlier date if requested

1 by the employer and approved by the Division of Employment  
2 Security, if it finds that:

3 (a) all of the employees of the employer are to be covered under  
4 the provisions of such plan with respect to any disability  
5 commencing after the effective date of such plan, except as  
6 otherwise provided in this section; and

7 (b) eligibility requirements for benefits are no more restrictive  
8 than as provided in this act for benefits payable by the State plan;  
9 and

10 (c) the weekly benefits payable under such plan for any week of  
11 disability are at least equal to the weekly benefit amount payable by  
12 the State plan, taking into consideration any coverage with respect  
13 to concurrent employment by another employer, and the total  
14 number of weeks of disability for which benefits are payable under  
15 such plan is at least equal to the total number of weeks for which  
16 benefits would have been payable by the State plan; and

17 (d) no greater amount is required to be paid by employees  
18 toward the cost of benefits than that prescribed by law as the  
19 amount of worker contribution to the State disability benefits fund  
20 for covered individuals under the State plan; and

21 (e) coverage is continued under the plan while an employee  
22 remains a covered individual as defined in section three of this act,  
23 but not after the employee may become employed by another  
24 employer following termination of employment to which the plan  
25 relates;

26 (f) if the employees are subject to the provisions of a collective  
27 bargaining agreement, a majority of the employees to be covered by  
28 the plan have or shall have agreed to the plan prior to the effective  
29 date thereof, if employees are required to contribute to the cost of  
30 the private plan and the collective bargaining agreement does not  
31 expressly waive the employees' right to a majority election as a  
32 condition for the private plan, as provided in section **[nine]** 9 of  
33 P.L.1948, c.110 (C.43:21-33).

34 Subject to the approval of the Division of Employment Security,  
35 any such private plan may exclude a class or classes of employees,  
36 except a class or classes determined by the age, sex or race of the  
37 employees, or by the wages paid such employees, the exclusion of  
38 which, in the opinion of the division, will result in a substantial  
39 selection of risk adverse to the State plan. Covered individuals so  
40 excluded shall be covered by the State plan and subject to the  
41 employee contribution required by law to be paid into the State  
42 disability benefits fund.

43 Notice, in a form approved by the director, of the benefits  
44 provided by the private plan shall be furnished to the covered  
45 employees by the employer by a conspicuous and continuing  
46 posting at the place of employment, and by personal notice to each  
47 employee at the time of the establishment of the private plan, at any  
48 subsequent time of hire, and within three business days of when the



1 employer knows or should know that the employee may have a need  
2 for disability benefits or family temporary disability benefits. This  
3 notice shall reflect current rates, eligibility requirements, benefit  
4 entitlements, and rights of the employees under a private plan  
5 pursuant to the provisions of P.L.1948, c.110 (C.43:21-25 et seq.),  
6 including appeal rights to the division, and shall include contact  
7 information for the private plan and instructions as to how to file  
8 for benefits with the private plan.

9 The division shall permit any application for approval by the  
10 division of a private plan to be submitted to the division by means  
11 of electronic communication, and permit the use of an electronic  
12 signature for any signature required in the application, as the term  
13 electronic signature is defined in section 2 of P.L.2001, c.116,  
14 (C.12A:12-2).<sup>2</sup>

15 (cf: P.L.1953, c.426, s.1)

16  
17 <sup>2</sup>10. Section 9 of P.L.1948, c.110 (C.43:21-33) is amended to  
18 read as follows:

19 9. Election of employees; deduction of contributions. If  
20 employees who are subject to the provisions of a collective  
21 bargaining agreement are to be required to contribute toward the  
22 cost of benefits under a private plan, such plan shall not become  
23 effective unless prior to the effective date a majority of the  
24 employees in the class or classes to be covered thereby have agreed  
25 thereto by written election, unless the collective bargaining  
26 agreement expressly waives the employees' right to a majority  
27 election as a condition for the private plan. In the case of  
28 employees not subject to a collective bargaining agreement, no  
29 employee consent or written election is required for the withdrawal  
30 from the State plan or the establishment of a private plan. [In such  
31 event] Whether or not an election is required, the employer may  
32 during the continuance of the approved private plan collect the  
33 required contributions thereto by deduction from the wages paid to  
34 covered individuals under such plan, which deduction may be  
35 combined with that deduction required by Revised Statutes, section  
36 43:21-7(d)(1) if reasonable notice is given covered individuals  
37 concerning such combined deduction by the employer; provided,  
38 that if any employer fails to deduct the contributions of any of his  
39 employees at the time their wages are paid, or fails to make a  
40 deduction therefor at the time wages are paid for the next  
41 succeeding payroll period, he may not thereafter collect a  
42 contribution with respect to such wages previously paid. Written  
43 elections held pursuant to this section may conducted by electronic  
44 communications evidenced by the electronic signature of the  
45 employee, as the term electronic signature is defined in section 2 of  
46 P.L.2001, c.116, (C.12A:12-2), but shall not be conducted in a  
47 manner inconsistent with any applicable terms of a collective  
48 bargaining agreement.

1 A covered individual shall not be entitled to any benefits from  
2 the State disability benefits fund with respect to any period of  
3 disability commencing while he is covered under an approved  
4 private plan.<sup>2</sup>

5 (cf: P.L.1950, c.173, s.3)

6  
7 <sup>1</sup>[7.] <sup>2</sup>[8.1] 11.<sup>2</sup> Section 14 of P.L.1948, c.110 (C.43:21-38) is  
8 amended to read as follows:

9 14. With respect to any period of disability for an individual's  
10 own disability commencing on or after January 1, 1953, disability  
11 benefits, not in excess of an individual's maximum benefits, shall be  
12 payable with respect to disability which commences while a person  
13 is a covered individual under the Temporary Disability Benefits  
14 Law, and shall be payable with respect to the eighth consecutive  
15 day of such disability and each day thereafter that such period of  
16 disability continues; and if benefits shall be payable for three  
17 consecutive weeks with respect to any period of disability  
18 commencing on or after January 1, 1968, then benefits shall also be  
19 payable with respect to the first seven days thereof. With respect to  
20 any period of family temporary disability leave commencing on or  
21 after July 1, 2009 and while an individual is a covered individual,  
22 family temporary disability benefits, not in excess of the  
23 individual's maximum benefits, shall be payable with respect to the  
24 first day of leave taken after the first one-week period following the  
25 commencement of the period of family temporary disability leave  
26 and each subsequent day of leave during that period of family  
27 temporary disability leave; and if benefits become payable on any  
28 day after the first three weeks in which leave is taken, then benefits  
29 shall also be payable with respect to any leave taken during the first  
30 one-week period in which leave is taken. <sup>1</sup>With respect to any  
31 period of family temporary disability leave commencing on or after  
32 July 1, 2019 and while an individual is a covered individual, family  
33 temporary disability benefits, not in excess of the individual's  
34 maximum benefits, shall be payable with respect to the first day of  
35 leave taken upon the commencement of the period of family  
36 temporary disability leave and each subsequent day of leave during  
37 that period of family temporary disability leave.<sup>1</sup> The maximum  
38 total benefits payable to any eligible individual for any period of  
39 disability of the individual commencing on or after January 1, 1968,  
40 shall be either 26 times his weekly benefit amount or 1/3 of his total  
41 wages in his base year, whichever is the lesser; provided that such  
42 maximum amount shall be computed in the next lower multiple of  
43 \$1.00 if not already a multiple thereof. The maximum total benefits  
44 payable to any eligible individual for any period of family  
45 temporary disability leave commencing on or after July 1, 2009 and  
46 before July 1, <sup>2</sup>[2019] 2020<sup>2</sup>, shall be six times the individual's  
47 weekly benefit amount or 1/3 of his total wages in his base year,

1 whichever is the lesser; provided that the maximum amount shall be  
 2 computed in the next lower multiple of \$1.00, if not already a  
 3 multiple thereof. The maximum total benefits payable to any  
 4 eligible individual for any period of family temporary disability  
 5 leave commencing on or after July 1, <sup>2</sup>[2019] 2020<sup>2</sup>, shall be  
 6 twelve times the individual's weekly benefit amount; provided that  
 7 the maximum amount shall be computed in the next lower multiple  
 8 of \$1.00, if not already a multiple thereof.

9 (cf: P.L.2008, c.17, s.5)

10

11 <sup>1</sup>[8.] <sup>2</sup>[9.1] 12.<sup>2</sup> Section 15 of P.L.1948, c.110 (C.43:21-39) is  
 12 amended to read as follows:

13 15. Limitation of benefits. Notwithstanding any other provision  
 14 of the "Temporary Disability Benefits Law," P.L.1948, c.110  
 15 (C.43:21-25 et al.), no benefits shall be payable under the State plan  
 16 to any individual:

17 (a) for the first seven consecutive days of each period of  
 18 disability; except that:

19 (1) if benefits shall be payable for three consecutive weeks with  
 20 respect to any period of <sup>2</sup>[<sup>1</sup>the individual's own<sup>1</sup>]<sup>2</sup> disability, then  
 21 benefits shall also be payable with respect to the first seven days  
 22 thereof; <sup>2</sup>and<sup>2</sup>

23 (2) <sup>2</sup>[in the case of intermittent leave in a single period of  
 24 family temporary disability leave taken to provide care for a family  
 25 member of the individual with a serious health condition, benefits  
 26 shall be payable with respect to the first day of leave taken <sup>1</sup>[after  
 27 the first one-week period following] upon<sup>1</sup> the commencement of  
 28 the period of family temporary disability leave and each subsequent  
 29 day of leave during that period of family temporary disability leave;  
 30 and if benefits become payable on any day after the first three  
 31 weeks in which leave is taken, then benefits shall also be payable  
 32 with respect to any leave taken during the first one-week period in  
 33 which leave is taken; and] (Deleted by amendment, P.L. , c. )  
 34 (pending before the Legislature, as this bill)<sup>2</sup>;

35 (3) in the case of an individual taking family temporary  
 36 disability leave <sup>1</sup>[immediately after the individual has a period of  
 37 disability for the individual's own disability]<sup>1</sup>, there shall be no  
 38 waiting period <sup>1</sup>[between the period of the individual's own  
 39 disability and the period of family temporary disability]<sup>1</sup>;

40 (b) (1) for more than 26 weeks with respect to any one period  
 41 of disability of the individual;

42 (2) for more than six weeks with respect to any one period of  
 43 family temporary disability leave commencing before July 1,  
 44 <sup>2</sup>[2019] 2020<sup>2</sup> and more than 12 weeks if the period of leave  
 45 commences on or after July 1, <sup>2</sup>[2019] 2020<sup>2</sup>, or for more than 42  
 46 days with respect to any one period of family temporary disability

1 leave commencing before July 1, <sup>2</sup>[2019] 2020<sup>2</sup> and more than  
2 <sup>2</sup>[84] <sup>3</sup>[52<sup>2</sup>] 56<sup>3</sup> days if the period of leave commences on or after  
3 July 1, <sup>2</sup>[2019, in the case of leave] 2020, and is<sup>2</sup> taken on an  
4 intermittent basis <sup>2</sup>[to provide care for a family member of the  
5 individual with a serious health condition]<sup>2</sup> ; and

6 (3) for more than six weeks of family temporary disability leave  
7 during any 12-month period commencing before July 1, <sup>2</sup>[2019]  
8 2020<sup>2</sup> and more than 12 weeks for any 12-month period  
9 commencing on or after July 1, <sup>2</sup>[2019] 2020<sup>2</sup>, or for more than 42  
10 days of family temporary disability leave taken during any 12-  
11 month period commencing before July 1, <sup>2</sup>[2019] 2020<sup>2</sup> and more  
12 than <sup>2</sup>[84] <sup>3</sup>[52<sup>2</sup>] 56<sup>3</sup> days if the period of leave commences on or  
13 after July 1, <sup>2</sup>[2019] 2020<sup>2</sup>, on an intermittent basis <sup>2</sup>[to provide  
14 care for a family member of the individual with a serious health  
15 condition]<sup>2</sup>, including family temporary disability leave taken  
16 pursuant to R.S.43:21-4(f)(2) while unemployed;

17 (c) for any period of disability which did not commence while  
18 the claimant was a covered individual;

19 (d) for any period of disability of a claimant during which the  
20 claimant is not under the care of a legally licensed physician,  
21 dentist, optometrist, podiatrist, practicing psychologist, advanced  
22 practice nurse, certified nurse midwife, or chiropractor, who, when  
23 requested by the division, shall certify within the scope of the  
24 practitioner's practice, the disability of the claimant, the probable  
25 duration thereof, and, where applicable, the medical facts within the  
26 practitioner's knowledge or for any period of family temporary  
27 disability leave for a serious health condition of a family member of  
28 the claimant, during which the family member is not receiving  
29 inpatient care in a hospital, hospice, or residential medical care  
30 facility or is not subject to continuing medical treatment or  
31 continuing supervision by a health care provider, who, when  
32 requested by the division, shall certify within the scope of the  
33 provider's practice, the serious health condition of the family  
34 member, the probable duration thereof, and, where applicable, the  
35 medical facts within the provider's knowledge;

36 (e) (Deleted by amendment, P.L.1980, c.90.)

37 (f) for any period of disability due to willfully and intentionally  
38 self-inflicted injury, or to injury sustained in the perpetration by the  
39 claimant of a crime of the first, second, third, or fourth degree, or  
40 for any period during which a covered individual would be  
41 disqualified for unemployment compensation benefits for gross  
42 misconduct under subsection (b) of R.S.43:21-5;

43 (g) for any period during which the claimant performs any work  
44 for remuneration or profit<sup>1</sup>, except that, in a case of a claim for  
45 benefits for a period family temporary disability on or after July 1,  
46 2020 in which the covered individual has more than one employer,  
47 the individual shall have the option of claiming benefits for leave

1 taken from one employer, based on wages paid by that employer, on  
2 the condition that the individual does not, during the period for  
3 which the benefits are paid, increase the amount of employment  
4 time with any other employer<sup>1</sup>;

5 (h) in a weekly amount which together with any remuneration  
6 the claimant continues to receive from the employer would exceed  
7 regular weekly wages immediately prior to disability;

8 (i) for any period during which a covered individual would be  
9 disqualified for unemployment compensation benefits under  
10 subsection (d) of R.S.43:21-5, unless the disability commenced  
11 prior to such disqualification;

12 <sup>2</sup>(j) for any period during which the claimant receives any paid  
13 sick leave, vacation time or other leave at full pay from the  
14 employer of the individual;<sup>2</sup>

15 and there shall be no other cause of disqualification or ineligibility  
16 to receive disability benefits hereunder except as may be  
17 specifically provided in this act.

18 (cf: P.L.2009, c.114, s.1)

19

20 <sup>1</sup>~~9.~~ <sup>2</sup>~~10.~~<sup>1</sup> Section 10 of P.L.2008, c.17 (C.43:21-39.1) is  
21 amended to read as follows:

22 10. a. Family temporary disability leave shall be compensable  
23 subject to the limitations of P.L.2008, c.17 (C.43:21-39.1 et al.) for  
24 any period of family temporary disability leave taken by a covered  
25 individual which commences after June 30, 2009.

26 b. An individual shall not simultaneously receive disability  
27 benefits for family temporary disability leave and any other disability  
28 benefits pursuant to P.L.1948, c.110 (C.43:21-25 et al.) or any  
29 unemployment compensation.

30 c. The employer of an individual may, notwithstanding any other  
31 provision of law, including the provisions of N.J.S.18A:30-1 et seq.,  
32 permit ~~or require~~ the individual, during a period of family temporary  
33 disability leave, to use any paid sick leave, vacation time or other leave  
34 at full pay made available by the employer before the individual ~~is~~  
35 eligible for] uses disability benefits for family temporary disability  
36 leave pursuant to P.L.2008, c.17 (C.43:21-39.1 et al.)], except that the  
37 employer may not require the individual to use more than two weeks  
38 worth of leave at full pay]. ~~The employer may also have the total~~  
39 number of days worth of disability benefits paid pursuant to P.L.2008,  
40 c.17 (C.43:21-39.1 et al.) to the individual during a period of family  
41 temporary disability leave reduced by the number of days of leave at  
42 full pay paid by the employer to the individual during that period.]

43 <sup>1</sup>~~If the employer~~ <sup>1</sup>~~requires~~ <sup>1</sup>~~permits~~ the individual to use leave at  
44 full pay, the employee shall also be permitted to take that fully-paid  
45 leave during the waiting period required pursuant to subsection (a) of  
46 section 15 of P.L.1948, c.110 (C.43:21-39).] <sup>1</sup> Nothing in P.L.2008,  
47 c.17 (C.43:21-39.1 et al.) shall be construed as nullifying any

1 provision of an existing collective bargaining agreement or employer  
2 policy, or preventing any new provision of a collective bargaining  
3 agreement or employer policy, which provides employees more  
4 generous leave or gives employees greater rights to select which kind  
5 of leave is used or select the order in which the different kinds of leave  
6 are used. Nothing in P.L.2008, c.17 (C.43:21-39.1 et al.) shall be  
7 construed as preventing an employer from providing more generous  
8 benefits than are provided under P.L.2008, c.17 (C.43:21-39.1 et al.)  
9 or providing benefits which supplement the benefits provided under  
10 P.L.2008, c.17 (C.43:21-39.1 et al.) for some or all of the employer's  
11 employees.

12 d. An individual who is entitled to leave under the provisions of  
13 the "Family Leave Act," P.L.1989, c.261 (C.34:11B-1 et seq.) or the  
14 federal "Family and Medical Leave Act of 1993," Pub.L.103-3 (29  
15 U.S.C. s.2601 et seq.), shall take any benefits provided for family  
16 temporary disability leave pursuant to P.L.2008, c.17 (C.43:21-39.1 et  
17 al.) concurrently with leave taken pursuant to the "Family Leave Act,"  
18 P.L.1989, c.261 (C.34:11B-1 et seq.) or the federal "Family and  
19 Medical Leave Act of 1993," Pub.L.103-3 (29 U.S.C. s.2601 et seq.).  
20 Nothing in P.L.2008, c.17 (C.43:21-39.1 et al.) shall be construed to  
21 grant an employee any entitlement to be restored by the employer to  
22 employment held by the employee prior to taking family temporary  
23 disability leave or any right to take action against an employer who  
24 refuses to restore the employee to employment after the leave.  
25 Nothing in P.L.2008, c.17 (C.43:21-39.1 et al.) shall be construed to  
26 increase, reduce or otherwise modify any entitlement of an employee  
27 to return to employment or right of the employee to take action under  
28 the provisions of the "Family Leave Act," P.L.1989, c.261 (C.34:11B-  
29 1 et seq.) <sup>1</sup>or the federal "Family and Medical Leave Act of 1993,"  
30 Pub.L.103-3 (29 U.S.C. s.2601 et seq.)<sup>1</sup>. If an employee receives  
31 benefits for family temporary disability leave pursuant to P.L.2008,  
32 c.17 (C.43:21-39.1 et al.) with respect to employment with an  
33 employer who is not an employer as defined in the "Family Leave  
34 Act," P.L.1989, c.261 (C.34:11B-1 et seq.) and that employer fails or  
35 refuses to restore the employee to employment after the period of  
36 family temporary disability leave, that failure or refusal shall not be a  
37 wrongful discharge in violation of a clear mandate of public policy,  
38 and the employee shall not have a cause of action against that  
39 employer, in tort, or for breach of an implied provision of the  
40 employment agreement, or under common law, for that failure or  
41 refusal.

42 e. An employee taking family temporary disability leave or an  
43 employer from whom the employee is taking the leave shall have the  
44 same right to appeal a determination of a benefit for the family  
45 temporary disability leave made under P.L.2008, c.17 (C.43:21-39.1 et  
46 al.) as an employee or employer has to appeal a determination of a  
47 benefit for the disability of the employee under the "Temporary  
48 Disability Benefits Law," P.L.1948, c.110 (C.43:21-25 et al.), and any

1 regulations adopted pursuant to the "Temporary Disability Benefits  
2 Law," P.L.1948, c.110 (C.43:21-25 et al.).

3 f. In the event of a period of family temporary disability leave of  
4 any individual covered under the State plan, the employer shall, not  
5 later than the ninth day of the period of family temporary disability  
6 leave, including any waiting period or time in which the employer  
7 provides sick leave, vacation or other fully paid leave, issue to the  
8 individual and to the division printed notices on division forms  
9 containing the name, address and Social Security number of the  
10 individual, such wage information as the division may require to  
11 determine the individual's eligibility for benefits, including any sick  
12 pay, vacation or other fully paid time off provided by the employer  
13 during the period of family temporary disability leave, and the name,  
14 address, and division identity number of the employer. Not later than  
15 30 days after the commencement of the period of family temporary  
16 disability leave for which the notice is furnished by the employer, the  
17 individual shall furnish to the division a notice and claim for family  
18 temporary disability leave benefits. Upon the submission of the  
19 notices by the employer and the individual, the division may issue  
20 benefit payments. In the case of family temporary disability leave  
21 taken to care for a family member with a serious health condition, the  
22 benefits may be paid for periods not exceeding three weeks pending  
23 the receipt of the certification required pursuant to subsection b. of  
24 section 11 of P.L.2008, c.17 (C.43:21-39.2). Failure to furnish notice  
25 and certification in the manner above provided shall not invalidate or  
26 reduce any claim if it shall be shown to the satisfaction of the division  
27 not to have been reasonably possible to furnish the notice and  
28 certification and that the notice and certification was furnished as soon  
29 as reasonably possible.

30 g. Each covered employer shall conspicuously post notification,  
31 in a place or places accessible to all employees in each of the  
32 employer's workplaces, in a form issued by regulation promulgated by  
33 the commissioner, of each covered employee's rights regarding  
34 benefits payable pursuant to this section. The employer shall also  
35 provide each employee of the employer with a written copy of the  
36 notification: (1) not later than 30 days after the form of the notification  
37 is issued by regulation; (2) at the time of the employee's hiring, if the  
38 employee is hired after the issuance; (3) whenever the employee  
39 notifies the employer that the employee is taking time off for  
40 circumstances under which the employee is eligible for benefits  
41 pursuant to this section; and (4) at any time, upon the first request of  
42 the employee.

43 (cf: P.L.2008, c.17, s.10)<sup>2</sup>

44  
45 <sup>2</sup>13. Section 10 of P.L.2008, c.17 (C.43:21-39.1) is amended to  
46 read as follows:

47 10. a. Family temporary disability leave shall be compensable  
48 subject to the limitations of P.L.2008, c.17 (C.43:21-39.1 et al.) for

1 any period of family temporary disability leave taken by a covered  
2 individual which commences after June 30, 2009.

3 b. An individual shall not simultaneously receive disability  
4 benefits for family temporary disability leave and any other  
5 disability benefits pursuant to P.L.1948, c.110 (C.43:21-25 et al.) or  
6 any unemployment compensation, or any paid sick leave, vacation  
7 time or other leave at full pay from the employer of the individual.

8 c. The employer of an individual may, notwithstanding any  
9 other provision of law, including the provisions of N.J.S.18A:30-1  
10 et seq., permit **【or require】** the individual, during a period of family  
11 temporary disability leave, to use any paid sick leave, vacation time  
12 or other leave at full pay made available by the employer before the  
13 individual **【is eligible for】** uses disability benefits for family  
14 temporary disability leave pursuant to P.L.2008, c.17 (C.43:21-39.1  
15 et al.)**【**, except that the employer may not require the individual to  
16 use more than two weeks worth of leave at full pay**】**. **【**The  
17 employer may also have the total number of days worth of disability  
18 benefits paid pursuant to P.L.2008, c.17 (C.43:21-39.1 et al.) to the  
19 individual during a period of family temporary disability leave  
20 reduced by the number of days of leave at full pay paid by the  
21 employer to the individual during that period. If the employer  
22 requires the individual to use leave at full pay, the employee shall  
23 be permitted to take that fully-paid leave during the waiting period  
24 required pursuant to subsection (a) of section 15 of P.L.1948, c.110  
25 (C.43:21-39.)**】** Nothing in P.L.2008, c.17 (C.43:21-39.1 et al.) shall  
26 be construed as nullifying any provision of an existing collective  
27 bargaining agreement or employer policy, or preventing any new  
28 provision of a collective bargaining agreement or employer policy,  
29 which provides employees more generous leave or gives employees  
30 greater rights to select which kind of leave is used or select the  
31 order in which the different kinds of leave are used. Nothing in  
32 P.L.2008, c.17 (C.43:21-39.1 et al.) shall be construed as preventing  
33 an employer from providing more generous benefits than are  
34 provided under P.L.2008, c.17 (C.43:21-39.1 et al.) or providing  
35 benefits which supplement the benefits provided under P.L.2008,  
36 c.17 (C.43:21-39.1 et al.) for some or all of the employer's  
37 employees.

38 d. An individual who is entitled to leave under the provisions  
39 of the "Family Leave Act," P.L.1989, c.261 (C.34:11B-1 et seq.) or  
40 the federal "Family and Medical Leave Act of 1993," Pub.L.103-3  
41 (29 U.S.C. s.2601 et seq.), shall take any benefits provided for  
42 family temporary disability leave pursuant to P.L.2008, c.17  
43 (C.43:21-39.1 et al.) concurrently with leave taken pursuant to the  
44 "Family Leave Act," P.L.1989, c.261 (C.34:11B-1 et seq.) or the  
45 federal "Family and Medical Leave Act of 1993," Pub.L.103-3 (29  
46 U.S.C. s.2601 et seq.). Nothing in P.L.2008, c.17 (C.43:21-39.1 et  
47 al.) shall be construed to grant an employee any entitlement to be



1 restored by the employer to employment held by the employee prior  
2 to taking family temporary disability leave or any right to take  
3 action against an employer who refuses to restore the employee to  
4 employment after the leave. Nothing in P.L.2008, c.17 (C.43:21-  
5 39.1 et al.) shall be construed to increase, reduce or otherwise  
6 modify any entitlement of an employee to return to employment or  
7 right of the employee to take action under the provisions of the  
8 "Family Leave Act," P.L.1989, c.261 (C.34:11B-1 et seq.) [or the  
9 federal "Family and Medical Leave Act of 1993," Pub.L.103-3 (29  
10 U.S.C. s.2601 et seq.)] . If an employee receives benefits for  
11 family temporary disability leave pursuant to P.L.2008, c.17  
12 (C.43:21-39.1 et al.) with respect to employment with an employer  
13 who is not an employer as defined in the "Family Leave Act,"  
14 P.L.1989, c.261 (C.34:11B-1 et seq.) and that employer fails or  
15 refuses to restore the employee to employment after the period of  
16 family temporary disability leave, that failure or refusal shall not be  
17 a wrongful discharge in violation of a clear mandate of public  
18 policy, and the employee shall not have a cause of action against  
19 that employer, in tort, or for breach of an implied provision of the  
20 employment agreement, or under common law, for that failure or  
21 refusal.

22 e. An employee taking family temporary disability leave or an  
23 employer from whom the employee is taking the leave shall have  
24 the same right to appeal a determination of a benefit for the family  
25 temporary disability leave made under P.L.2008, c.17 (C.43:21-39.1  
26 et al.) as an employee or employer has to appeal a determination of  
27 a benefit for the disability of the employee under the "Temporary  
28 Disability Benefits Law," P.L.1948, c.110 (C.43:21-25 et al.), and  
29 any regulations adopted pursuant to the "Temporary Disability  
30 Benefits Law," P.L.1948, c.110 (C.43:21-25 et al.).

31 f. In the event of a period of family temporary disability leave  
32 of any individual covered under the State plan, the employer shall,  
33 not later than the ninth day of the period of family temporary  
34 disability leave, or not later than the ninth day after the employee  
35 notifies the employer of an anticipated period of family temporary  
36 disability leave pursuant to subsection h. of this section, whichever  
37 comes first, including any [waiting period or] time in which the  
38 employer provides sick leave, vacation or other fully paid leave,  
39 issue to the individual and to the division printed notices on  
40 division forms containing the name, address and Social Security  
41 number of the individual, such wage information as the division  
42 may require to determine the individual's eligibility for benefits,  
43 including any sick pay, vacation or other fully paid time off  
44 provided by the employer during the period of family temporary  
45 disability leave, and the name, address, and division identity  
46 number of the employer. Not later than 30 days after the  
47 commencement of the period of family temporary disability leave  
48 for which the notice is furnished by the employer, the individual

1 shall furnish to the division a notice and claim for family temporary  
2 disability leave benefits. Upon the submission of the notices by the  
3 employer and the individual, and the commencement of the  
4 compensable portion of the family temporary disability leave  
5 pursuant to P.L.2008, c.17 (C.43:21-39.1 et al.), the division may  
6 issue benefit payments. In the case of family temporary disability  
7 leave taken to care for a family member with a serious health  
8 condition, the benefits may be paid for periods not exceeding three  
9 weeks pending the receipt of the certification required pursuant to  
10 subsection b. of section 11 of P.L.2008, c.17 (C.43:21-39.2).  
11 Failure to furnish notice and certification in the manner above  
12 provided shall not invalidate or reduce any claim if it shall be  
13 shown to the satisfaction of the division not to have been  
14 reasonably possible to furnish the notice and certification and that  
15 the notice and certification was furnished as soon as reasonably  
16 possible.

17 g. Each covered employer shall conspicuously post  
18 notification, in a place or places accessible to all employees in each  
19 of the employer's workplaces, in a form issued by regulation  
20 promulgated by the commissioner, of each covered employee's  
21 rights regarding benefits payable pursuant to this section. The  
22 employer shall also provide each employee of the employer with a  
23 written copy of the notification: (1) not later than 30 days after the  
24 form of the notification is issued by regulation; (2) at the time of the  
25 employee's hiring, if the employee is hired after the issuance; (3)  
26 whenever the employee notifies the employer that the employee is  
27 taking time off for circumstances under which the employee is  
28 eligible for benefits pursuant to this section; and (4) at any time,  
29 upon the first request of the employee.

30 h. With respect to any period of family temporary disability  
31 leave commencing on or after **January 1, 2018,** October 4, 2019  
32 if an individual knows in advance when the period will commence,  
33 the individual may notify the employer of the anticipated period of  
34 family temporary disability leave and submit to the division a claim  
35 for benefits for that period, which shall include a statement of when  
36 the period will commence and any certification required pursuant to  
37 subsection b. of section 11 of P.L.2008, c.17 (C.43:21-39.2), prior  
38 to, but not more than 60 days prior to, the date that the period will  
39 commence. The division shall process that claim immediately and,  
40 upon finding that the claim is valid, shall pay the benefit upon the  
41 commencement of the period of family temporary disability leave  
42 **or after any applicable one week waiting period**, except that if  
43 division receives the claim less than 30 days before the  
44 commencement of the period, the division shall make the payment  
45 not more than 30 days after the receipt of the claim. The periods of  
46 family temporary disability leave to which the provisions of this  
47 subsection apply shall include, but not be limited to, any of the  
48 following if the commencement date of the leave is known in

1 advance: periods of leave for care of a child of the individual after  
2 adoption, the placement of a child into foster care, or childbirth,  
3 including childbirth under a valid agreement between the individual  
4 and a gestational carrier; periods of leave for scheduled medical  
5 procedures, treatments, or appointments for a family member of the  
6 individual; and periods of leave for scheduled ongoing care of a  
7 family member of the individual. If the individual did not establish  
8 enough base weeks or have enough total earnings during the **【52**  
9 **weeks】** base year preceding the week the individual submits the  
10 claim, the division shall notify the individual that the individual  
11 may file the claim again upon or after the commencement of the  
12 period of family temporary disability leave and the division shall  
13 then reconsider the individual's eligibility for benefits based on the  
14 **【52 weeks】** base year preceding the week in which the period of  
15 family temporary disability leave commences.<sup>2</sup>

16 (cf: P.L.2018, c.128, s.2)

17

18 <sup>2</sup>14. Section 11 of P.L.2008, c.17 (C.43:21-39.2) is amended to  
19 read as follows:

20 11. a. In the case of a family member who has a serious health  
21 condition, the benefits for family temporary disability leave may be  
22 taken intermittently when medically necessary, if: the total time  
23 within which the leave is taken does not exceed 12 months; the  
24 covered individual provides the employer with a copy of the  
25 certification required pursuant to subsection b. of this section; the  
26 covered individual provides the employer with prior notice of the  
27 leave not less than 15 days before the first day on which benefits  
28 are paid for the intermittent leave, unless an emergency or other  
29 unforeseen circumstance precludes prior notice; and the covered  
30 individual makes a reasonable effort to schedule the leave so as not  
31 to unduly disrupt the operations of the employer and, if possible,  
32 provide the employer, prior to the commencement of intermittent  
33 leave, with a regular schedule of the days or days of the week on  
34 which the intermittent leave will be taken. In the case of family  
35 temporary disability leave benefits to care for a family member with  
36 a serious health condition which are taken on a continuous, non-  
37 intermittent basis, the covered individual shall: provide the  
38 employer with prior notice of the leave in a reasonable and  
39 practicable manner, unless an emergency or other unforeseen  
40 circumstance precludes prior notice; provide a copy of the  
41 certification required pursuant to subsection b. of this section; make  
42 a reasonable effort to schedule the leave so as not to unduly disrupt  
43 the operations of the employer.

44 b. Any period of family temporary disability leave for the  
45 serious health condition of a family member of the covered  
46 individual shall be supported by certification provided by a health  
47 care provider. The certification shall be sufficient if it states:

- 1 (1) The date, if known, on which the serious health condition  
2 commenced;
- 3 (2) The probable duration of the condition;
- 4 (3) The medical facts within the knowledge of the provider of  
5 the certification regarding the condition;
- 6 (4) A statement that the serious health condition warrants the  
7 participation of the covered individual in providing health care, as  
8 provided in the "Family Leave Act," P.L.1989, c.261 (C.34:11B-1  
9 et seq.) and regulations adopted pursuant to that act;
- 10 (5) An estimate of the amount of time that the covered  
11 individual is needed for participation in the care of the family  
12 member;
- 13 (6) If the leave is intermittent, a statement of the medical  
14 necessity for the intermittent leave and the expected duration of the  
15 intermittent leave; and
- 16 (7) If the leave is intermittent and for planned medical  
17 treatment, the dates of the treatment.
- 18 c. A covered individual claiming benefits to provide care for a  
19 family member with a serious health condition under the State plan  
20 or during unemployment shall, if requested by the division, have the  
21 family member submit to an examination by a health care provider  
22 designated by the division. The examinations shall not be more  
23 frequent than once a week, shall be made without cost to the  
24 claimant and shall be held at a reasonable time and place. Refusal  
25 of the family member to submit to an examination requested  
26 pursuant to this subsection shall disqualify the claimant from all  
27 benefits for the period in question, except from benefits already  
28 paid.
- 29 d. Any period of family temporary disability leave to engage in  
30 activities for which unpaid leave may be taken pursuant to section 3  
31 of the "New Jersey Security and Financial Empowerment Act,"  
32 P.L.2013, c.82 (C.34:11C-3), on the individual's own behalf, if the  
33 individual is a victim of an incident of domestic violence or a  
34 sexually violent offense, or to assist a family member of the  
35 individual who has been a victim of an incident of domestic  
36 violence or a sexually violent offense, shall, if requested by the  
37 division, be supported with certification provided to the division  
38 which meets the standards regarding sufficient documentation  
39 specified by subsection c. of section 3 of P.L.2013, c.82 (C.34:11C-  
40 3), whether or not the employer of the individual requires that  
41 documentation. Prior to taking the leave provided for in this  
42 subsection, an employee shall, if the necessity for the leave is  
43 foreseeable, and unless an emergency or other unforeseen  
44 circumstances precludes prior notice, provide the employer with  
45 written notice of the need for the leave, which shall be provided to  
46 the employer as far in advance as is reasonable and practical under  
47 the circumstances.<sup>2</sup>
- 48 (cf: P.L.2008, c.17, s.11)

1           <sup>1</sup>【10.】<sup>2</sup>【11.】<sup>1</sup> 15.<sup>2</sup> Section 12 of P.L.2008, c.17 (C.43:21-39.3)  
2 is amended to read as follows:

3           12. a. (1) All of the disability benefits paid to a covered  
4 individual during a period of family temporary disability leave with  
5 respect to any one birth<sup>1</sup>, placement in foster care,<sup>1</sup> or adoption shall  
6 be for a single continuous period of time **【**, except that the employer of  
7 the covered individual may permit the covered individual to receive  
8 the disability benefits**】** or during non-consecutive weeks **【**in a manner  
9 mutually agreed to by the employer and the covered individual and**】** or  
10 days on an intermittent basis pursuant to paragraph (2) of this  
11 subsection, which shall be disclosed to the division by the employer.

12           (2) In the case of intermittent benefits for family temporary  
13 disability leave with respect to a birth<sup>1</sup>, placement in foster care,<sup>1</sup> or  
14 adoption, the covered individual shall provide the employer with prior  
15 notice of the leave not less than 15 days before the first day on which  
16 benefits are paid for the intermittent leave, unless an emergency or  
17 other unforeseen circumstance precludes prior notice; and the covered  
18 individual makes a reasonable effort to schedule the leave so as not to  
19 unduly disrupt the operations of the employer and, if possible, provide  
20 the employer, prior to the commencement of intermittent leave, with a  
21 regular schedule of the days or days of the week on which the  
22 intermittent leave will be taken.

23           b. **【The】** In the case of single continuous benefits for family  
24 temporary disability leave with respect to birth<sup>1</sup>, placement in foster  
25 care,<sup>1</sup> or adoption, the covered individual shall provide the employer  
26 with prior notice of the **【**period of family temporary disability**】** leave  
27 **【**with respect to birth or adoption**】** not less than 30 days before the  
28 leave commences, unless it commences while the individual is  
29 receiving unemployment benefits, in which case the covered  
30 individual shall notify the division. The amount of benefits shall be  
31 reduced by two weeks worth of benefits if the individual does not  
32 provide notice to an employer as required by this subsection b., unless  
33 the time of the leave is unforeseeable or the time of the leave changes  
34 for unforeseeable reasons.

35           c. Family temporary disability leave taken because of the birth or  
36 placement <sup>1</sup>in foster care or<sup>1</sup> for adoption of a child may be taken at  
37 any time within a year after the date of the birth or placement <sup>1</sup>in  
38 foster care or<sup>1</sup> for adoption.

39 (cf: P.L.2008, c.17, s.12)

40

41           <sup>1</sup>【11.】<sup>2</sup>【12.】<sup>1</sup> Section 13 of P.L.2008, c.17 (C.43:21-39.4) is  
42 amended to read as follows:

43           13. a. The Commissioner of Labor and Workforce Development  
44 shall issue and make available to the public, not later than December  
45 31, 2010, and each subsequent year, annual reports providing data on  
46 temporary disability benefits, including separate data for claims

1 involving pregnancy and childbirth, and family temporary disability  
2 benefits, including separate data for each of the following categories of  
3 claims: care of newborn children; care of newly adopted children; care  
4 of sick children; care of sick spouses, and care of other sick family  
5 members. The reports shall include, for each category of claims, the  
6 number of workers receiving the benefits, the amount of benefits paid,  
7 the average duration of benefits, the average weekly benefit, and, in  
8 the case of family temporary disability benefits, any reported amount  
9 of sick leave, vacation or other fully paid time which resulted in  
10 reduced benefit duration. The report shall provide data by gender and  
11 by any other demographic factors determined to be relevant by the  
12 commissioner. The reports shall also provide, for all temporary  
13 disability benefits and for all family temporary disability benefits, the  
14 total costs of benefits and the total cost of administration, the portion  
15 of benefits for claims during unemployment, and the total revenues  
16 from: employer assessments, where applicable; employee assessments;  
17 and other sources. For each of the reports issued not later than  
18 December 31 of 2019 and each subsequent year, the report shall also  
19 provide<sup>1</sup>]: the number of claims for bonding, and care for family  
20 members, broken down by relationship; demographic information:  
21 income, age, gender, ethnicity, occupation, full or part-time  
22 employment status; what portion of the leave is taken on an  
23 intermittent basis; the percentage of bonding leave applicants who  
24 report providing their employer with 50 or more days of notice of  
25 leave-taking; for all claims, the percentage of employers who reported  
26 that the employee will have additional paid time off with the source  
27 being the difference between their regular weekly wages and the  
28 maximum benefit provided under P.L.2008, c.17 (C.43:21-39.1 et al.);  
29 and]<sup>1</sup> the amount and rate of contributions, with the amount of the tax  
30 base, made by employers for each of the following: benefits for  
31 periods of pregnancy temporary disability, and benefits for periods of  
32 all other disability, and the amount and rate of contributions, with the  
33 amount of the tax base, made by workers for each of the following:  
34 benefits for periods of pregnancy temporary disability, benefits for  
35 periods of all other disability, and benefits for periods of temporary  
36 disability leave.

37 b. The commissioner may, in his discretion, conduct surveys and  
38 other research regarding, and include in the annual reports descriptions  
39 and evaluations of, the impact and potential future impact of the  
40 provisions of P.L.2008, c.17 (C.43:21-39.1 et al.) on the State  
41 disability benefits fund, and other effects of those provisions,  
42 including the costs and benefits resulting from the provisions of  
43 P.L.2008, c.17 (C.43:21-39.1 et al.) for:

44 (1) Employees and their families, including surveys and  
45 evaluations of: what portion of the total number of employees taking  
46 leave would not have taken leave, or would have taken less leave,  
47 without the availability of benefits; what portion of employees return  
48 to work after receiving benefits and what portion are not permitted to

1 return to work; and what portion of employees who are eligible for  
2 benefits do not claim or receive them and why they do not;

3 (2) Employers, including benefits such as reduced training and  
4 other costs related to reduced turnover of personnel, and increased  
5 affordability of family temporary disability leave insurance through  
6 the State plan, with special attention given to small businesses; and

7 (3) The public, including savings caused by any reduction in the  
8 number of people receiving public assistance.

9 c. The total amount of any expenses which the commissioner  
10 determines are necessary to carry out his duties pursuant to this section  
11 shall be charged to the Family Temporary Disability Leave Account of  
12 the State disability benefits fund, except that the amount shall in no  
13 case exceed \$150,000 during any fiscal year.

14 (cf: P.L.2008, c.17, s.13).<sup>2</sup>

15

16 <sup>2</sup>16. Section 13 of P.L.2008, c.17 (C.43:21-39.4) is amended to  
17 read as follows:

18 13. a. (1). The Commissioner of Labor and Workforce  
19 Development shall issue and make available to the public, not later  
20 than December 31, 2010, and each subsequent year, annual reports  
21 providing data on temporary disability benefits, and, for each  
22 annual report issued not later than December 31 of 2019 and each  
23 subsequent year, all of the data required by this paragraph (1) as  
24 amended by P.L.2018, c.123, including separate data for claims  
25 involving pregnancy and childbirth, and family temporary disability  
26 benefits, including separate data for each of the following  
27 categories of claims: care of newborn children; care of newly  
28 adopted children; care of sick children; care of sick spouses, and  
29 care of other sick family members. The reports shall include, for  
30 each category of claims, the occupations of the workers receiving  
31 the benefits, the regular weekly wages earned by the workers  
32 receiving the benefits, the number of workers receiving the benefits,  
33 the number of workers receiving the benefits that work full-time,  
34 the number of workers receiving the benefits that work part-time,  
35 the number of workers receiving the benefits that belong to a labor  
36 union or employee organization, the number of employers  
37 employing each worker in the worker's base year, the amount of  
38 benefits paid, the average duration of benefits, the average weekly  
39 benefit, the county in which the employer is located, whether the  
40 employer is private or a governmental entity, the employer size  
41 based on whether the employer employs less than 30 workers or  
42 employs 30 or more workers, and, in the case of family temporary  
43 disability benefits, any reported amount of sick leave, vacation or  
44 other fully paid time which resulted in reduced benefit duration, and  
45 the number of workers claiming intermittent benefits. The report  
46 shall provide data by: gender; race, ethnicity or national origin;  
47 level of educational attainment; and by any other demographic  
48 factors determined to be relevant by the commissioner. The reports

1 shall also provide, for all temporary disability benefits and for all  
2 family temporary disability benefits, the number of workers  
3 claiming both temporary disability benefits and family temporary  
4 disability benefits in the same calendar year, the total costs of  
5 benefits and the total cost of administration, the portion of benefits  
6 for claims during unemployment, and the total revenues from:  
7 employer assessments, where applicable; employee assessments;  
8 and other sources.

9 (2) For each of the reports issued not later than December 31 of  
10 2019 and each subsequent year, the report shall also provide the  
11 amount and rate of contributions, with the amount of the tax base,  
12 made by employers, including, separately, the amounts paid by  
13 employers with private plans, for benefits for periods of disability  
14 and periods of family disability leave, and the amount and rate of  
15 contributions, with the amount of the tax base, made by workers,  
16 and benefits paid to workers, including, separately, benefits paid to,  
17 and contributions paid by, workers in private plans, for each of the  
18 following: benefits for periods of disability, and benefits for periods  
19 of family temporary disability leave. The portion of the report  
20 regarding private plans shall include: the number of claims  
21 received, the number of claims accepted, the amount of benefits  
22 paid, the number of workers covered, the administrative costs, and,  
23 in the case of private plans in which insurance companies assume  
24 the liability for benefits, in addition to the foregoing, premiums  
25 earned, dividends to policy holders, benefit losses, and expenses  
26 incurred, and in the case of private plans in which insurance  
27 companies do not assume the liability for benefits, the amount  
28 contributed by workers.

29 b. The commissioner may, in his discretion, conduct surveys  
30 and other research regarding, and include in the annual reports  
31 descriptions and evaluations of, the impact and potential future  
32 impact of the provisions of P.L.2008, c.17 (C.43:21-39.1 et al.) on  
33 the State disability benefits fund, and other effects of those  
34 provisions, including the costs and benefits resulting from the  
35 provisions of P.L.2008, c.17 (C.43:21-39.1 et al.) for:

36 (1) Employees and their families, including surveys and  
37 evaluations of: what portion of the total number of employees  
38 taking leave would not have taken leave, or would have taken less  
39 leave, without the availability of benefits; what portion of  
40 employees return to work after receiving benefits and what portion  
41 are not permitted to return to work; and what portion of employees  
42 who are eligible for benefits do not claim or receive them and why  
43 they do not;

44 (2) Employers, including benefits such as reduced training and  
45 other costs related to reduced turnover of personnel, and increased  
46 affordability of family temporary disability leave insurance through  
47 the State plan, with special attention given to small businesses; and



1 (3) The public, including savings caused by any reduction in the  
2 number of people receiving public assistance.

3 c. The total amount of any expenses which the commissioner  
4 determines are necessary to carry out his duties pursuant to this  
5 section shall be charged to the Family Temporary Disability Leave  
6 Account of the State disability benefits fund, except that the amount  
7 shall in no case exceed \$150,000 during any fiscal year.<sup>2</sup>

8 (cf: P.L.2018, c.123, s.1)

9

10 <sup>1</sup>~~12.~~ <sup>2</sup>~~13.1~~ <sup>17.</sup><sup>2</sup> Section 16 of P.L.1948, c.110 (C.43:21-40)  
11 is amended to read as follows:

12 16. ~~With respect to periods of disability commencing on or~~  
13 ~~after July 1, 1961, an individual's weekly benefit amount shall be~~  
14 ~~determined and computed by the division on the same basis as the~~  
15 ~~weekly benefit rate is determined and computed pursuant to~~  
16 ~~subsection (c) of R.S. 43:21-3, except that for~~ a. ~~For periods of~~  
17 ~~disability commencing on or after October 1, 1984, an individual's~~  
18 ~~weekly benefit rate shall be two-thirds of his average weekly wage,~~  
19 ~~subject to a maximum of 53% of the Statewide average weekly~~  
20 ~~remuneration paid to workers by employers, as determined under~~  
21 ~~subsection (c) of R.S. 43:21-3~~; ~~provided, however, that such~~,  
22 except as provided in subsection b. of this section.

23 b. ~~For periods of disability~~ <sup>2</sup>~~in cases of pregnancy or recovery~~  
24 ~~from childbirth~~ <sup>2</sup> commencing on or after July 1, <sup>2</sup>~~2019~~ <sup>2020</sup>,  
25 and for periods of family temporary disability leave commencing on  
26 or after July 1, <sup>2</sup>~~2019~~ <sup>2020</sup>, an individual's weekly benefit rate  
27 shall be <sup>2</sup>~~90%~~ <sup>85%</sup> of the individual's average weekly wage,  
28 subject to a maximum of <sup>2</sup>~~100%~~ <sup>70%</sup> of the Statewide average  
29 weekly remuneration paid to workers by employers.

30 c. ~~Each individual's benefit rate shall be computed to the next~~  
31 ~~lower multiple of \$1.00 if not already a multiple thereof. The~~  
32 ~~amount of benefits for each day of disability for which benefits are~~  
33 ~~payable shall be one-seventh of the corresponding weekly benefit~~  
34 ~~amount; provided that the total benefits for a fractional part of a~~  
35 ~~week shall be computed to the next lower multiple of \$1.00 if not~~  
36 ~~already a multiple thereof.~~

37 <sup>2</sup>d. ~~For any week beginning on or after the effective date of~~  
38 ~~P.L. , c. (pending before the Legislature as Senate bill, No.~~  
39 ~~844(1R)), with respect to a period of disability of an individual who~~  
40 ~~is otherwise eligible for benefits but only able to return to work on a~~  
41 ~~reduced basis while recovering from the disability, the individual, if~~  
42 ~~permitted by the employer to return to work on the reduced basis,~~  
43 ~~shall be paid an amount of benefits with respect to that week such~~  
44 ~~that the sum of the wages and those benefits paid to the individual,~~  
45 ~~rounded to the next lower multiple of \$1.00, will equal the weekly~~  
46 ~~benefit amount the individual would have been paid if totally~~

1 unable to perform the duties of employment due to disability,  
 2 provided that:

3 (1) The individual must have been totally unable to perform the  
 4 duties of employment due to disability and receiving full benefits  
 5 for at least seven consecutive days prior to claiming partial benefits  
 6 under this subsection;

7 (2) The maximum duration of partial benefits paid pursuant to  
 8 this subsection is eight weeks, unless the division, after a review of  
 9 medical documentation from a qualified healthcare provider,  
 10 approves in writing an extension beyond eight weeks, but in no case  
 11 shall the duration be extended to more than 12 weeks; and

12 (3) If the individual is able to return to work on a reduced basis  
 13 but the employer is unable or otherwise chooses not to permit the  
 14 individual to do so, the individual will continue to be eligible for  
 15 benefits until the individual is fully recovered from the disability  
 16 and able to perform the duties of employment, but nothing in this  
 17 subsection shall be construed as increasing the total number of  
 18 weeks of disability benefits for which the individual is eligible.

19 For the purposes of this section, “qualified healthcare provider”  
 20 means a legally licensed physician, dentist, podiatrist, chiropractor,  
 21 certified nurse midwife, advanced practice nurse or public health  
 22 nurse designated by the division.<sup>2</sup>

23 (cf: P.L.1984, c.104, s.3)

24  
 25 <sup>2</sup>18. Section 17 of P. L.1948, c.110 (C.43:21-41) is amended to  
 26 read as follows:

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

28 (b) (Deleted by amendment, P.L.2001, c.17).

29 (c) (Deleted by amendment, P.L.2001, c.17).

30 (d) (1) (Deleted by amendment, P.L.2008, c.17).

31 (2) With respect to periods of disability commencing on or after  
 32 January 1, 2001 and before <sup>3</sup>**【January 1, 2019】** the effective date of  
 33 P.L. , c. (C. ) (pending before the Legislature as this bill)<sup>3</sup>, no  
 34 individual shall be entitled to benefits under this act unless the  
 35 individual has, within the 52 calendar weeks preceding the week in  
 36 which the individual's period of disability commenced, **【**or within  
 37 the 52 weeks preceding the week in which the individual submits a  
 38 claim for benefits pursuant to subsection h. of section 10 of  
 39 P.L.2008, c.17 (C.43:21-39.1) or paragraph (3) of subsection (a) of  
 40 section 25 of P.L.1948, c.110 (C.43:21-49),**】** established at least 20  
 41 base weeks or earned not less than 1,000 times the minimum wage  
 42 in effect pursuant to section 5 of **【P.L.1996】** P.L.1966, c.113  
 43 (C.34:11-56a4) on October 1 of the calendar year preceding the  
 44 calendar year in which the disability commences, which amount  
 45 shall be adjusted to the next higher multiple of \$100.00, if not  
 46 already a multiple thereof.

1       (3) With respect to periods of disability commencing on or after  
 2 <sup>3</sup>【October 4, 2019】 the effective date of P.L.     , c.     (C.     )  
 3 (pending before the Legislature as this bill)<sup>3</sup>, no individual shall be  
 4 entitled to benefits under this act unless the individual has, within  
 5 the base year preceding the week in which the individual's period of  
 6 disability commenced, or within the base year preceding the week  
 7 in which the individual submits a claim for benefits pursuant to  
 8 subsection h. of section 10 of P.L.2008, c.17 (C.43:21-39.1) or  
 9 paragraph (3) of subsection (a) of section 25 of P.L.1948, c.110  
 10 (C.43:21-49), established at least 20 base weeks or earned not less  
 11 than 1,000 times the minimum wage in effect pursuant to section 5  
 12 of P.L.1966, c.113 (C.34:11-56a4) on October 1 of the calendar  
 13 year preceding the calendar year in which the disability commences,  
 14 which amount shall be adjusted to the next higher multiple of  
 15 \$100.00, if not already a multiple thereof.

16       If an individual who submits a claim for benefits pursuant to  
 17 subsection h. of section 10 of P.L.2008, c.17 (C.43:21-39.1) or  
 18 paragraph (3) of subsection (a) of section 25 of P.L.1948, c.110  
 19 (C.43:21-49) did not establish enough base weeks or have enough  
 20 total earnings during the **【52 weeks】** base year preceding the week  
 21 the individual submits the claim, the division shall notify the  
 22 individual that the individual may file the claim again upon or after  
 23 the commencement of the period of disability or family temporary  
 24 disability leave and the division shall then reconsider the  
 25 individual's eligibility for benefits based on the **【52 weeks】** base  
 26 year preceding the week in which the period of disability or family  
 27 temporary disability leave commences.

28       (e) With respect to a period of family temporary disability leave  
 29 for an individual who has a period of family temporary disability  
 30 immediately after the individual has a period of disability for the  
 31 individual's own disability, the period of disability is deemed, for  
 32 the purposes of specifying the time of the 52-week period or base  
 33 year in which base weeks or earnings are required to be established  
 34 for benefit eligibility pursuant to this subsection (e), to have  
 35 commenced at the beginning of the period of disability for the  
 36 individual's own disability, not the period of family temporary  
 37 disability.<sup>2</sup>

38 (cf: P.L.2018, c.128, s.3)

39

40       <sup>2</sup>**【15.】** 19.<sup>2</sup> Section 22 of P.L.1948, c.110 (C.43:21-46) is  
 41 amended to read as follows:

42       22. State disability benefits fund. (a) The State disability benefits  
 43 fund, hereinafter referred to as the fund, is hereby established. The  
 44 fund shall remain in the custody of the State Treasurer, and to the  
 45 extent of its cash requirements shall be deposited in authorized public  
 46 depositories in the State of New Jersey. There shall be deposited in  
 47 and credited to the fund the amount of worker and employer

1 contributions provided under subparagraph (G) of paragraph (1) of  
2 subsection (d) of R.S.43:21-7 and subsection (e) of R.S.43:21-7, less  
3 refunds authorized by the chapter (R.S.43:21-1 et seq.) to which this  
4 act is a supplement, and the entire amount of interest and earnings  
5 from investments of the fund, and all assessments, fines and penalties  
6 collected under this act. The fund shall be held in trust for the payment  
7 of disability benefits pursuant to this act, for the payment of benefits  
8 pursuant to subsection (f) of R.S.43:21-4, and for the payment of any  
9 authorized refunds of contributions. All warrants for the payment of  
10 benefits shall be issued by and bear only the signature of the Director  
11 of the Division of Unemployment and Temporary Disability Insurance  
12 or his duly authorized agent for that purpose. All other moneys  
13 withdrawn from the fund shall be upon warrant signed by the State  
14 Treasurer and countersigned by the Director of the Division of  
15 Unemployment and Temporary Disability Insurance of the Department  
16 of Labor of the State of New Jersey. The Treasurer shall maintain  
17 books, records and accounts for the fund, appoint personnel and fix  
18 their compensation within the limits of available appropriations. The  
19 expenses of the Treasurer in administering the fund and its accounts  
20 shall be charged against the administration account, as hereinafter  
21 established. A separate account, to be known as the administration  
22 account, shall be maintained in the fund, and there shall be credited to  
23 such account an amount determined to be sufficient for proper  
24 administration, not to exceed, however, 1/10 of 1% of the wages with  
25 respect to which current contributions are payable into the fund  
26 pursuant to paragraph (3), but not paragraph (4), of subsection (a) of  
27 R.S.43:21-7, and the entire amount of any assessments against covered  
28 employers, as hereinafter provided, for costs of administration prorated  
29 among approved private plans. The costs of administration of this act,  
30 including R.S.43:21-4(f), shall be charged to the administration  
31 account.

32 (b) A further separate account, to be known as the unemployment  
33 disability account, shall be maintained in the fund. Such account shall  
34 be charged with all benefit payments under R.S.43:21-4(f).

35 Prior to July 1 of each calendar year, the Division of  
36 Unemployment and Temporary Disability Insurance of the Department  
37 of Labor of the State of New Jersey shall determine the average rate of  
38 interest and other earnings on all investments of the State disability  
39 benefits fund for the preceding calendar year. An amount equal to the  
40 sum of the amounts withdrawn from the unemployment trust fund  
41 pursuant to section 23 hereof multiplied by such average rate shall be  
42 determined by the division and credited to the unemployment  
43 disability account as of the end of the preceding calendar year.

44 If the unemployment disability account shall show an accumulated  
45 deficit in excess of \$200,000.00 at the end of any calendar year after  
46 interest and other earnings have been credited as provided  
47 hereinabove, the division shall determine the ratio of such deficit to the  
48 total of all taxable wages paid during the preceding calendar year, and

1 shall make an assessment against all employers in an amount equal to  
2 the taxable wages paid by them during such preceding calendar year to  
3 employees, multiplied by such ratio, but in no event shall any such  
4 assessment exceed 1/10 or 1% of such wages; provided, however, that  
5 the assessment made against the State (including Rutgers, The State  
6 University and the New Jersey Institute of Technology) shall not  
7 exceed the sum of all benefits paid under the provisions of R.S.43:21-  
8 4(f) as the result of employment with the State. Such amounts shall be  
9 collectible by the division in the same manner as provided for the  
10 collection of employee contributions under this chapter (R.S.43:21-1 et  
11 seq.). In making this assessment, the division shall furnish to each  
12 affected employer a brief summary of the determination thereof. The  
13 amount of such assessments collected by the division shall be credited  
14 to the unemployment disability account.

15 As used in this section, "taxable wages" shall mean wages with  
16 respect to which employer contributions have been paid or are payable  
17 pursuant to subsections (a), (b) and (c) of R.S.43:21-7.

18 (c) A board of trustees, consisting of the State Treasurer, the  
19 Secretary of State, the Commissioner of Labor and Industry, the  
20 director of the division, and the State Comptroller, is hereby created.  
21 The board shall invest and reinvest all moneys in the fund in excess of  
22 its cash requirements, and such investments shall be made in  
23 obligations legal for savings banks; provided, however, that the  
24 provisions of this subsection shall in all respects be subject to the  
25 provisions of P.L.1950, c.270 (C.52:18A-79 et seq.).

26 (d) There is hereby appropriated, to be paid out of the fund, such  
27 amounts as may from time to time be required for the payment of  
28 disability benefits, and such amounts as may be required each year, as  
29 contained in the annual appropriation act, for the administration of this  
30 act, including R.S.43:21-4(f).<sup>1</sup>

31 (cf: P.L.2012, c.45, s.126)

32

33 <sup>2</sup>20. Section 25 of P.L.1948, c.110 (C.43:21-49) is amended to  
34 read as follows:

35 25. (a) (1) Every employer shall post, in prominent locations,  
36 notices to employees in the form provided by the division of  
37 whether the employer is permitted or required to participate in a  
38 temporary disability benefits program pursuant to the "Temporary  
39 Disability Benefits Law," P.L.1948, c.110 (C.43:21-25 et seq.), and  
40 whether the employer does or does not participate. For employers  
41 who participate in a temporary disability benefits program, the  
42 notice shall also describe the temporary disability benefits available  
43 to the employees and prominently disclose that pregnancy is  
44 regarded by law as a disability and that pregnant employees are  
45 regarded as disabled and entitled to temporary disability benefits to  
46 the same extent as other disabled employees. Upon the request of  
47 an employer, the division shall, without charge, provide the  
48 employer with a copy of each applicable notice, suitable for

1 reproduction by the employer. Each employer participating in the  
2 State plan or a private plan shall give a printed copy of benefit  
3 instructions to any disabled employee as soon as the employer  
4 becomes aware of the disability.

5 (2) In addition, in the event of the disability of any individual  
6 covered under the State plan, the employer shall, not later than the  
7 ninth day of disability, or not later than the ninth day after the  
8 individual notifies the employer of an anticipated period of  
9 disability pursuant to paragraph (3) of this section, whichever  
10 comes first, issue to the individual and to the division printed  
11 notices on division forms containing the name, address and Social  
12 Security number of the individual, such wage information as the  
13 division may require to determine the individual's eligibility for  
14 benefits, and the name, address, and division identity number of the  
15 employer. Not later than 30 days after the commencement of the  
16 period of disability for which such notice is furnished, the  
17 individual shall furnish to the division a notice and claim for  
18 disability benefits under the State plan or for disability during  
19 unemployment. Upon the submission of such notices by the  
20 employer and the individual, and the commencement of the  
21 compensable portion of the disability leave pursuant to the  
22 "Temporary Disability Benefits Law," P.L.1948, c.110 (C.43:21-25  
23 et seq.), the division may issue benefit payments for periods not  
24 exceeding three weeks pending the receipt of medical proof. When  
25 requested by the division, such notice and proof shall include  
26 certification of total disability by the attending physician, or a  
27 record of hospital confinement. Failure to furnish notice and proof  
28 within the time or in the manner above provided shall not invalidate  
29 or reduce any claim if it shall be shown to the satisfaction of the  
30 division not to have been reasonably possible to furnish such notice  
31 and proof and that such notice and proof was furnished as soon as  
32 reasonably possible.

33 (3) With respect to any period of disability commencing on or  
34 after <sup>3</sup>January 1 ~~October 4~~<sup>3</sup>, ~~2018,~~ <sup>2019</sup><sup>3,3</sup> if an individual  
35 knows in advance when the period will commence, the individual  
36 may notify the employer of the anticipated period of disability and  
37 submit to the division a claim for benefits for that period, which  
38 shall include a statement of when the period will commence and  
39 any certification requested by the division pursuant to this section,  
40 prior to, but not more than 60 days prior to, the date on which the  
41 period will commence. The division shall process that claim  
42 immediately and, upon a finding that the claim is valid, shall pay  
43 the benefit upon the commencement of the period ~~or after any~~  
44 ~~applicable one week waiting period~~, except that if the division  
45 receives the claim less than 30 days before the commencement of  
46 the period, the division shall make the payment not more than 30  
47 days after the receipt of the claim. The periods of disability leave  
48 to which the provisions of this paragraph apply shall include, but

1 not be limited to, any of the following if the commencement date of  
2 the leave is known in advance: disability related to pregnancy or  
3 childbirth; disability related to scheduled medical procedures,  
4 treatments, or appointments for the individual; and disability related  
5 to scheduled ongoing care of the individual. If an individual did not  
6 establish enough base weeks or have enough total earnings during  
7 the **[52 weeks]** base year preceding the week the individual submits  
8 the claim for benefits, the division shall notify the individual that  
9 the individual may file the claim again upon or after the  
10 commencement of the period of disability and the division shall  
11 then reconsider the individual's eligibility for benefits based on the  
12 **[52 weeks]** base year preceding the week in which the period of  
13 disability commences.

14 (b) A person claiming benefits under the State plan or for  
15 disability during unemployment shall, when requested by the  
16 division, submit at intervals, but not more often than once a week,  
17 to an examination by a legally licensed physician, dentist,  
18 podiatrist, chiropractor, certified nurse midwife, advanced practice  
19 nurse or public health nurse designated by the division. In all cases  
20 of physical examination of a claimant, the examination shall be  
21 made by a designee of the division, who shall be the same sex as the  
22 claimant if so requested by the claimant. All such examinations by  
23 physicians, dentists, podiatrists, chiropractors, certified nurse  
24 midwives or nurses designated by the division shall be without cost  
25 to the claimant and shall be held at a reasonable time and place.  
26 Refusal to submit to such a requested examination shall disqualify  
27 the claimant from all benefits for the period of disability in  
28 question, except as to benefits already paid.

29 (c) All medical records of the division, except to the extent  
30 necessary for the proper administration of this act, shall be  
31 confidential and shall not be published or be open to public  
32 inspection (other than to public employees in the performance of  
33 their public duties) in any manner revealing the identity of the  
34 claimant, or the nature or cause of disability nor admissible in  
35 evidence in any action or special proceeding other than one arising  
36 under this act.<sup>2</sup>

37 (cf: P.L.2018, c.128, s.4)

38

39 <sup>1</sup>**[13.]** <sup>2</sup>**[14.1]** 21.<sup>2</sup> (New section) a. The division shall  
40 implement disability insurance goals for the timely determination  
41 and <sup>2</sup>prompt<sup>2</sup> payment of temporary disability benefits and family  
42 temporary disability benefits under the State plan, as follows:

43 (1) for temporary disability benefits, in each calendar year:

44 (a) not less than 40 percent of the original benefit  
45 determinations shall be completed within seven days after the  
46 commencement of the disability, or the receipt of the benefit claims  
47 by the division, whichever is later;

1 (b) not less than 75 percent of the original benefit  
2 determinations shall be completed within 14 days after the  
3 commencement of the disability, or the receipt of the benefit claims  
4 by the division, whichever is later;

5 (c) not less than 85 percent of the original benefit  
6 determinations shall be completed within 21 days after the  
7 commencement of the disability, or the receipt of the benefit claims  
8 by the division, whichever is later; and

9 (d) not less than 90 percent of the original benefit  
10 determinations shall be completed within 28 days after the  
11 commencement of the disability, or the receipt of the benefit claims  
12 by the division, whichever is later; and

13 (2) for family temporary disability benefits, in each calendar  
14 year:

15 (a) not less than 80 percent of the original benefit  
16 determinations shall be completed within seven days after the  
17 commencement of the period of family temporary disability leave,  
18 or the receipt of the benefit claims by the division, whichever is  
19 later;

20 (b) not less than 85 percent of the original benefit  
21 determinations shall be completed within 14 days after the  
22 commencement of the period of family temporary disability leave,  
23 or the receipt of the benefit claims by the division, whichever is  
24 later;

25 (c) not less than 90 percent of the original benefit  
26 determinations shall be completed within 21 days after the  
27 commencement of the period of family temporary disability leave,  
28 or the receipt of the benefit claims by the division, whichever is  
29 later; and

30 (d) not less than 95 percent of the original benefit  
31 determinations shall be completed within 28 days after the  
32 commencement of the period of family temporary disability leave,  
33 or the receipt of the benefit claims by the division, whichever is  
34 later.

35 b. The commissioner shall, not later than September 30 of 2019  
36 and each subsequent year, issue, provide to the Legislature, and  
37 make available to the public on the department's webpage, a report  
38 regarding division efforts in the preceding calendar year to attain  
39 the disability insurance goals set pursuant to this section for  
40 temporary disability benefits, and a report regarding those efforts  
41 for family temporary disability benefits. Each report shall include:

42 (1) the total number of claims and the number and percentage of  
43 original determinations completed within each number of days  
44 specified in the goals set pursuant to this section, and the number  
45 and percentage of original determinations completed within the  
46 following number of days after the receipt of the benefit claims or  
47 the commencement of disability or family temporary disability,  
48 whichever is later: 35 days, 42 days, 49 days and 56 days, and the



1 number and percentage of original determinations completed more  
2 than 56 days after the receipt of the claims or the commencement of  
3 disability or family temporary disability and the average number of  
4 days to make the determinations for the claims that took more than  
5 56 days;

6 (2) the number and percentage of claims received with  
7 insufficient information, what portion of those claims were because  
8 of failure of claimants to provide sufficient information, what  
9 portion of those claims were because of failures of medical  
10 providers of claimants to provide sufficient information, and what  
11 portion of those claims were because of failures of employers to  
12 provide sufficient information;

13 (3) the number and percentage of claims for which  
14 determinations were delayed because of employer failure to make  
15 the notifications or disclosures to employees and the division within  
16 the amount of time required by subsection (a) of section 25 of  
17 P.L.1948, c.110 (C.43:21-49) or subsections f. or g. of section 10 of  
18 P.L.2008, c.17 (C.43:21-39.1), the number of complaints received  
19 related to employer noncompliance with those requirements, and  
20 the number of employers which have been, because of the failures,  
21 required, pursuant to section 31 of P.L.1948, c.110 (C.43:21-55), to  
22 pay fines or penalties to the division or added amounts to claimants,  
23 the total amount of payments to the division, and the total amount  
24 of payments to claimants;

25 (4) the number of personnel in the division and the budgeted  
26 cost of salaries and benefits for those personnel; the number of  
27 personnel who are processing family temporary disability benefit  
28 claims, the number processing other temporary disability claims,  
29 and the budgeted cost of salaries and benefits for those personnel;  
30 what percentage of total division administrative costs is comprised  
31 of those categories of personnel costs; and a comparison of total  
32 division administrative costs to the maximum amount permitted to  
33 be expended for those division administrative costs pursuant to  
34 section 22 of P.L.1948, c.110 (C.43:21-46); and

35 (5) if any of the disability insurance goals set pursuant to this  
36 section were not attained during the year, <sup>2</sup>or it is determined that  
37 there are other significant problems in the administration of the  
38 disability insurance system,<sup>2</sup> the report shall provide an evaluation  
39 of the causes of the deficiencies and a plan to correct them and that  
40 plan shall include:

41 (a) any increase in personnel needed to process claims <sup>2</sup>and  
42 make benefit payments expeditiously and accurately<sup>2</sup>;

43 (b) any measures needed to enforce notification and reporting  
44 requirements;

45 (c) any measures needed to inform employers and employees of  
46 their responsibilities to facilitate the timely provision of benefits;

47 <sup>2</sup>**[and]**<sup>2</sup>

1 (d) any improvements needed in data processing<sup>2</sup>, telephone and  
2 other communications technology, staff training,<sup>2</sup> and other  
3 administrative services and equipment<sup>2</sup>;

4 (e) any measures needed to improve service to claimants and  
5 beneficiaries, including implementing easy-to-use, user-friendly  
6 application processes, facilitating rapid response times to inquiries  
7 and applications, and providing easy access to assistance; and

8 (f) any other measures appropriate for a full modernization of  
9 the administration of all aspects of the disability insurance system<sup>2</sup>.

10 The plan shall specify any added costs entailed in implementing  
11 the plan, which shall be regarded as costs of administration of  
12 family temporary disability benefits, and shall specify the amount  
13 of any resulting increase in the estimate made pursuant to  
14 R.S.43:21-7(d)(1)(G)(i), <sup>2</sup>and<sup>2</sup> (ii), <sup>2</sup>[and (iii)]<sup>2</sup> of the amount  
15 needed to provide 100 percent of the cost of administration of  
16 family temporary disability benefits.

17 The commissioner shall use that increased estimate in setting the  
18 rate of contributions pursuant to those subsections, except that the  
19 increase may not result in the total amount credited to those  
20 administrative costs exceeding the maximum amount permitted  
21 pursuant to subsection (a) of section 22 of P.L.1948, c.110  
22 (C.43:21-46).

23 c. (1) The division shall, during each <sup>2</sup>[calendar] fiscal<sup>2</sup> year  
24 <sup>2</sup>[beginning with] commencing on or after July 1,<sup>2</sup> 2019, allocate  
25 not less than \$1,200,000 to disseminate information about the rights  
26 and responsibilities of employers and employees regarding  
27 temporary disability benefits and family temporary disability  
28 benefits by means of programs of educational outreach in  
29 communities and workplaces. Of that <sup>2</sup>annual<sup>2</sup> allocation, not less  
30 than \$600,000 shall be used by the division to enter into contracts  
31 with community-based organizations to disseminate information to  
32 workers regarding temporary disability benefits and family  
33 temporary disability benefits. That allocation shall be regarded as a  
34 cost of administration of temporary disability and family temporary  
35 disability benefits and be charged to the administration account of  
36 the State disability benefit fund. Of the costs charged to the  
37 administration account of the State disability benefit fund pursuant  
38 to this subsection, the percentage which is charged to the Family  
39 Temporary Disability Leave Account shall be equal to the  
40 percentage that family temporary disability benefits represents of all  
41 temporary disability benefits paid from the State disability benefits  
42 fund during the preceding calendar year. The allocation made  
43 pursuant to this subsection, including any adjustments in the  
44 allocation specified in the plan provided pursuant to paragraph (2)  
45 of this subsection, shall not result in the total amount credited to  
46 administrative costs exceeding the maximum amount permitted

1 pursuant to subsection (a) of section 22 of P.L.1948, c.110  
2 (C.43:21-46).

3 (2) The commissioner shall, not later than September 30 of  
4 <sup>2</sup>~~[2019]~~ 2020<sup>2</sup> and September 30 of each subsequent year, issue,  
5 provide to the Legislature, and make available to the public on the  
6 department's webpage, a report regarding efforts made during the  
7 preceding calendar year by the division and by community-based  
8 organizations to disseminate information about the rights and  
9 responsibilities of employers and employees regarding temporary  
10 disability and family temporary disability benefits. Each report  
11 shall include, for that preceding calendar year:

12 (a) an accounting of all funds allocated pursuant to this  
13 subsection and all expenditures made from those funds by the  
14 division and each community-based organization entering into  
15 contracts with the division pursuant to this subsection, and  
16 estimates of the number of employers and the number of workers to  
17 which the information was disseminated;

18 (b) an estimate of the number of workers who were eligible for  
19 temporary disability and family temporary disability benefits and  
20 what percentage of those workers received those benefits, including  
21 an assessment of whatever progress was made to increase that  
22 percentage; and

23 (c) a plan to increase the percentage of workers who are aware  
24 of the benefits which specifies the amounts to be allocated to the  
25 division and community-based organizations for the purposes of  
26 this subsection during the subsequent calendar year, provided that  
27 the amounts specified shall not be less than or more than the  
28 minimum and maximum amounts indicated in paragraph (1) of this  
29 subsection.

30

31 <sup>2</sup>22. (New section) a. Notwithstanding the provisions of any  
32 other law to the contrary, a contract for technical and support  
33 services and equipment to increase the ability of the Department of  
34 Labor and Workforce Development to adapt and increase the  
35 functionality and dependability of the administrative system of the  
36 State plan for temporary disability and family temporary disability  
37 leave, provide accurate and timely reporting, increase customer  
38 accessibility, and implement timely payment of temporary disability  
39 and family temporary disability benefits in accordance with section  
40 21 of P.L. , c. (C. ) (pending before the Legislature as this  
41 bill) may be procured in the most expeditious means possible and in  
42 the manner provided by this section.

43 b. The Division of Purchase and Property in the Department of  
44 the Treasury may procure, without the need for advertisement in  
45 accordance with subsection (b), (c), (d) and (e) of P.L.1954, c.48  
46 (C.52:34-12), but through the solicitation of proposals from at least  
47 three vendors, qualified vendors for technical and support services  
48 and, to the extent necessary, equipment based upon price and other

1 factors. The Director of the Division of Purchase and Property shall  
2 award the contract(s) to the vendor whose proposal is most  
3 advantageous to the State, price and other factors considered.

4 c. Notwithstanding the provisions of any other law to the  
5 contrary, for the purpose of expediting the procurements, the  
6 following provisions shall apply as modifications to law or  
7 regulation that may interfere with the expedited award of contracts  
8 for the above services:

9 (1) the timeframes for challenging the specifications and award  
10 shall be modified as determined by the division;

11 (2) in lieu of advertising in accordance with section 7 of  
12 P.L.1954, c. 48 (C.52:34-12), the Division of Purchase and Property  
13 shall solicit proposals as set forth in paragraph (b) above and post  
14 the request for proposals for the above services and equipment and  
15 any addenda thereto on its website;

16 (3) the period of time that the State Comptroller has to review  
17 the request for proposals for these procurements for compliance  
18 with applicable public contracting laws, rules and regulations,  
19 pursuant to section 10 of P.L.2007, c.52 (C.52:15C-10), shall be 10  
20 business days or less if practicable, as determined by the State  
21 Comptroller;

22 (4) the timeframes for submission under section 4 of P.L.2012,  
23 c.25 (C.52:32-58) and section 1 of P.L.1977, c.33 (C.52:25-24.2)  
24 shall be extended to prior to the issuance of a Notice of Intent to  
25 Award;

26 (5) the provision of section 1 of P.L.2005, c.92 (C.52:34-13.2)  
27 shall not apply to technical and support services under this section  
28 provided by a vendor using a "24/7 follow-the-sun model," as long  
29 as the contractor is able to provide such services in the United  
30 States during the business day; and

31 (6) notwithstanding the provision of subparagraph (f) of  
32 subsection a. of section 7 of P.L.1954, c.48 (C.52:34-12), the  
33 Division shall negotiate the final terms and conditions of the  
34 contract, including price and may, as part of those negotiations,  
35 disclose to any bidder, the prices included in another bidder's  
36 proposal.<sup>2</sup>

37

38 <sup>1</sup>~~[14.]~~ <sup>2</sup>~~[16.1]~~ <sup>23.</sup><sup>2</sup> Section 31 of P.L.1948, c.110 (C.43:21-55)  
39 is amended to read as follows:

40 31. Penalties. (a) Whoever makes a false statement or  
41 representation knowing it to be false or knowingly fails to disclose  
42 a material fact, and each such false statement or representation or  
43 failure to disclose a material fact shall constitute a separate offense,  
44 to obtain or increase any disability benefit under the State plan or  
45 an approved private plan, or for a disability during unemployment,  
46 including any benefit during a period of family temporary disability  
47 leave, either for himself or for any other person, shall be liable for a  
48 fine of \$250 to be paid to the division. Upon refusal to pay such

1 fine, the same shall be recovered in a civil action by the division in  
2 the name of the State of New Jersey. If in any case liability for the  
3 payment of a fine as aforesaid shall be determined, any person who  
4 shall have received any benefits hereunder by reason of the making  
5 of such false statements or representations or failure to disclose a  
6 material fact, shall not be entitled to any benefits under this act for  
7 any disability occurring prior to the time he shall have discharged  
8 his liability hereunder to pay such fine.

9 (b) Any employer or any officer or agent of any employer or  
10 any other person who makes a false statement or representation  
11 knowing it to be false or knowingly fails to disclose a material fact,  
12 to prevent or reduce the benefits to any person entitled thereto, or to  
13 avoid becoming or remaining subject hereto or to avoid or reduce  
14 any contribution or other payment required from an employer under  
15 this act, or who willfully fails or refuses to make any such  
16 contributions or other payment or to furnish any reports required  
17 hereunder or to produce or permit the inspection or copying of  
18 records as required hereunder, or who fails to provide any  
19 notification or disclosure to the division or the employee required  
20 by subsection (a) of section 25 of P.L.1948, c.110 (C.43:21-49) or  
21 subsections f. or g. of section 10 of P.L.2008, c.17 (C.43:21-39.1) at  
22 the time and in the manner required by those sections, including  
23 disclosure of the information the division requires for the  
24 processing of a claim, shall be liable for a fine of \$250 to be paid to  
25 the division<sup>2</sup>], and, if a failure of an employer to provide the  
26 notification or disclosure to the division or the employee results in a  
27 delay in the payment of benefits, the employer shall also be liable  
28 for an added amount, to be paid to the claimant, equal to the  
29 benefits due from the time that the employer was required to  
30 provide the notification or disclosure until the time that the benefit  
31 payments commenced]<sup>2</sup>. Upon refusal to pay such fine <sup>2</sup>[or added  
32 payments to a claimant]<sup>2</sup>, the same shall be recovered in a civil  
33 action by the division in the name of the State of New Jersey.

34 (c) Any person who shall willfully violate any provision hereof  
35 or any rule or regulation made hereunder, for which a fine is neither  
36 prescribed herein nor provided by any other applicable statute, shall  
37 be liable to a fine of \$500 to be paid to the division. Upon the  
38 refusal to pay such fine, the same shall be recovered in a civil  
39 action by the division in the name of the State of New Jersey.

40 (d) Any person, employing unit, employer or entity violating  
41 any of the provisions of the above subsections with intent to  
42 defraud the division shall in addition to the penalties hereinbefore  
43 described, be liable for each offense upon conviction before the  
44 Superior Court or any municipal court for a fine not to exceed  
45 \$1,000 or by imprisonment for a term not to exceed ninety days, or  
46 both, at the discretion of the court. The fine upon conviction shall  
47 be payable to the State disability benefits fund of the division. Any

1 penalties imposed by this subsection shall be in addition to those  
2 otherwise prescribed in this chapter (R.S.43:21-1 et seq.).

3 (e) Any sum collected as a fine or penalty pursuant to this  
4 section shall be deposited in the administration account of the State  
5 disability benefits fund and applied toward enforcement and other  
6 administrative costs of the division.

7 (cf: P.L.2008, c.17, s.8)

8  
9 <sup>1</sup>[15.] <sup>2</sup>[17. <sup>1</sup>] 24.<sup>2</sup> (New section) a. An employer shall not  
10 discharge, harass, threaten, or otherwise discriminate or retaliate  
11 against an employee with respect to the compensation, terms,  
12 conditions, or privileges of employment on the basis that the  
13 employee requested or took any temporary disability benefits  
14 pursuant to P.L.1948, c.110 (C.43:21-25 et al.), or family temporary  
15 disability leave benefits pursuant to P.L.2008, c.17 (C.43:21-39.1 et  
16 al.), <sup>2</sup>[provided] including retaliation by refusing to restore the  
17 employee following a period of leave, except<sup>2</sup> that, pursuant to  
18 section 2 of P.L.1948, c.110 (C.43:21-26), nothing in this section or  
19 any other section of P.L.1948, c.110 (C.43:21-25 et al.) or  
20 P.L.2008, c.17 (C.43:21-39.1 et al.) shall be construed as  
21 increasing, reducing or otherwise modifying any entitlement  
22 provided to a worker by the provisions of the "Family Leave Act,"  
23 P.L.1989, c.261 (C.34:11B-1 et seq.) to be restored to employment  
24 by the employer after a period of family temporary disability leave.

25 b. Upon a violation of subsection a. of this section, an  
26 employee or former employee may institute a civil action in the  
27 Superior Court for relief. All remedies available in common law  
28 tort actions shall be available to a prevailing plaintiff. The court  
29 may also order any or all of the following relief:

30 (1) an assessment of a civil fine of not less than \$1,000 and not  
31 more than \$2,000 for the first violation of any of the provisions of  
32 this section and not more than \$5,000 for each subsequent violation;

33 (2) an injunction to restrain the continued violation of any of the  
34 provisions of this section;

35 (3) reinstatement of the employee to the same position or to a  
36 position equivalent to that which the employee held prior to  
37 unlawful discharge or retaliatory action;

38 (4) reinstatement of full fringe benefits and seniority rights;

39 (5) compensation for any lost wages, benefits and other  
40 remuneration; and

41 (6) payment of reasonable costs and attorney's fees.

42

43 <sup>3</sup>25. Section 2 of P.L.1997, c.318 (C.43:21-55.1), is amended to  
44 read as follows:

45 2. (a) If it is determined by the division that an individual for  
46 any reason has received, under the State plan, an approved private  
47 plan or for a disability during unemployment, any sum of disability  
48 benefits, including benefits during a period of family temporary

1 disability leave, to which the individual was not entitled, the  
 2 individual shall, except as provided in subsection (b) of this section,  
 3 be liable to repay the sum in full. Except as provided in subsection  
 4 (b) of this section, the sum that the individual is liable to repay shall  
 5 be deducted from future benefits payable to the individual under  
 6 P.L.1948, c.110 (C.43:21-25 et al.) or subsection (f) of R.S.43:21-4,  
 7 or shall be repaid by the individual to the division, the employer or  
 8 the insurer, and that sum shall be collectible in the manner provided  
 9 for by law, including, but not limited to, the filing of a certificate of  
 10 debt with the Clerk of the Superior Court of New Jersey; except that  
 11 no individual who does not knowingly misrepresent or withhold any  
 12 material fact to obtain benefits shall be liable for any repayments or  
 13 deductions against future benefits unless notified before four years  
 14 have elapsed from the time the benefits in question were paid. The  
 15 division shall promptly notify the individual by mail of the  
 16 determination and the reasons for the determination. Unless the  
 17 individual files an appeal of the determination within 20 calendar  
 18 days following the receipt of the notice, or, within 24 days after the  
 19 notice was mailed to the individual's last known address, the  
 20 determination shall be final.

21 (b) If the individual received the overpayment of benefits  
 22 because of error made by the division, the employer or the  
 23 physician, and if the individual did not knowingly misrepresent or  
 24 withhold any material fact to obtain the benefits, the following  
 25 limits shall apply:

26 (1) The amount withheld from any subsequent benefit check  
 27 shall be an amount not greater than 50% of the amount of the check;  
 28 and

29 (2) ~~Any~~ repayments of the overpayments by the  
 30 individual or the estate of the individual ~~shall~~ may be waived  
 31 ~~if~~, but all repayments of overpayments shall be waived in cases in  
 32 which the individual is deceased or permanently disabled.

33 Any demand for repayment from an individual pursuant to this  
 34 subsection shall include an explanation of the provisions of this  
 35 subsection.<sup>3</sup>

36 (cf: P.L.2008, c.17, s.9)

37

38 <sup>1</sup>~~[16.]~~ <sup>2</sup>~~[18.]~~ <sup>3</sup>~~[25.]~~ 26.<sup>3</sup> This act shall take effect <sup>3</sup>~~[on]~~<sup>3</sup>  
 39 <sup>1</sup>~~[the first day of the third month next following enactment]~~ <sup>3</sup>~~[on~~  
 40 January 1, 2019, except that the commissioner] <sup>3</sup> <sup>2</sup>~~[shall have power~~  
 41 immediately to promulgate rules and regulations as may be  
 42 necessary to carry out the provisions of this act, and do such other  
 43 things as may be necessary to implement the provisions] <sup>3</sup>~~[may~~  
 44 take any anticipatory administrative action in advance as shall be  
 45 necessary for implementation<sup>2</sup> of this act<sup>1</sup> immediately upon  
 46 enactment<sup>3</sup>.

1

2        \_\_\_\_\_  
3        Revises law concerning family leave, temporary disability and  
4        family temporary disability leave, and domestic or sexual violence  
      safety leave.



# ASSEMBLY, No. 3975

## STATE OF NEW JERSEY 218th LEGISLATURE

INTRODUCED MAY 17, 2018

**Sponsored by:**

**Assemblywoman ANNETTE QUIJANO**

**District 20 (Union)**

**Assemblyman THOMAS P. GIBLIN**

**District 34 (Essex and Passaic)**

**Assemblywoman JOANN DOWNEY**

**District 11 (Monmouth)**

**Co-Sponsored by:**

**Assemblywoman Murphy and Assemblyman Benson**

**SYNOPSIS**

Revises law concerning family leave, temporary disability and family temporary disability leave, and domestic or sexual violence safety leave.

**CURRENT VERSION OF TEXT**

As introduced.



**(Sponsorship Updated As Of: 6/19/2018)**

1 AN ACT concerning family leave, temporary disability and family  
2 temporary disability leave, and domestic or sexual violence  
3 safety leave, amending various parts of the statutory law and  
4 supplementing P.L.1948, c.100.

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

8  
9 1. Section 3 of P.L.1989, c.261 (C.34:11B-3) is amended to  
10 read as follows:

11 3. As used in this act:

12 a. "Child" means a biological, adopted, foster child, or resource  
13 family child, stepchild, legal ward, or child of a parent, **[who is**

14 (1) under 18 years of age; or

15 (2) 18 years of age or older but incapable of self-care because of  
16 a mental or physical impairment] including a child who becomes  
17 the child of a parent pursuant to a valid written agreement between  
18 the parent and a gestational carrier.

19 b. "Director" means the Director of the Division on Civil  
20 Rights.

21 c. "Division" means the Division on Civil Rights in the  
22 Department of Law and Public Safety.

23 d. "Employ" means to suffer or permit to work for  
24 compensation, and includes ongoing, contractual relationships in  
25 which the employer retains substantial direct or indirect control  
26 over the employee's employment opportunities or terms and  
27 conditions of employment.

28 e. "Employee" means a person who is employed for at least 12  
29 months by an employer, with respect to whom benefits are sought  
30 under this act, for not less than 1,000 base hours during the  
31 immediately preceding 12-month period. Any time, up to a  
32 maximum of 90 calendar days, during which a person is laid off or  
33 furloughed by an employer due to that employer curtailing  
34 operations because of a state of emergency declared after October  
35 22, 2012, shall be regarded as time in which the person is employed  
36 for the purpose of determining eligibility for leave time under this  
37 act. In making the determination, the base hours per week during  
38 the layoff or furlough shall be deemed to be the same as the average  
39 number of hours worked per week during the rest of the 12-month  
40 period.

41 f. "Employer" means a person or corporation, partnership,  
42 individual proprietorship, joint venture, firm or company or other  
43 similar legal entity which engages the services of an employee and  
44 which:

**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 (1) ~~With respect to the period of time from the effective date of~~  
2 ~~this act until the 365th day following the effective date of this act,~~  
3 ~~employs 100 or more employees for each working day during each~~  
4 ~~of 20 or more calendar workweeks in the then current or~~  
5 ~~immediately preceding calendar year~~ (Deleted by amendment,  
6 P.L., c. (pending before the Legislature as this bill));

7 (2) ~~With respect to the period of time from the 366th day~~  
8 ~~following the effective date of this act until the 1,095th day~~  
9 ~~following the effective date of this act, employs 75 or more~~  
10 ~~employees for each working day during each of 20 or more calendar~~  
11 ~~workweeks in the then current or immediately preceding calendar~~  
12 ~~year~~ (Deleted by amendment, P.L. , c. (pending before the  
13 Legislature as this bill); [and]

14 (3) With respect to ~~any~~ the period of time ~~after~~ from the  
15 1,095th day following the effective date of ~~this act~~ P.L.1989,  
16 c.261 (C.34:11B-1 et seq.) through June 30, 2019, employs 50 or  
17 more employees for each working day during each of 20 or more  
18 calendar workweeks in the then current or immediately preceding  
19 calendar year; and

20 (4) With respect to any period of time after June 30, 2019,  
21 employs 30 or more employees for each working day during each of  
22 20 or more calendar workweeks in the then current or immediately  
23 preceding calendar year.

24 "Employer" includes the State, any political subdivision thereof,  
25 and all public offices, agencies, boards or bodies.

26 g. "Employment benefits" means all benefits and policies  
27 provided or made available to employees by an employer, and  
28 includes group life insurance, health insurance, disability insurance,  
29 sick leave, annual leave, pensions, or other similar benefits.

30 h. "Parent" means a person who is the biological parent,  
31 adoptive parent, foster parent, resource family parent, step-parent,  
32 parent-in-law or legal guardian, having a "parent-child relationship"  
33 with a child as defined by law, or having sole or joint legal or  
34 physical custody, care, guardianship, or visitation with a child, or  
35 who became the parent of the child pursuant to a valid written  
36 agreement between the parent and a gestational carrier.

37 i. "Family leave" means leave from employment so that the  
38 employee may provide care made necessary by reason of:

39 (1) the birth of a child of the employee, including a child born  
40 pursuant to a valid written agreement between the employee and a  
41 gestational carrier;

42 (2) the placement of a child with the employee in connection  
43 with adoption of such child by the employee; or

44 (3) the serious health condition of a family member of the  
45 employee.

46 j. "Family member" means a child, parent, parent-in-law,  
47 sibling, grandparent, grandchild, spouse, or one partner in a civil

1 union couple, or any other individual related by blood to the  
2 employee, and any other individual whose close association with  
3 the employee is the equivalent of a family relationship.

4 k. "Reduced leave schedule" means leave scheduled for fewer  
5 than an employee's usual number of hours worked per workweek  
6 but not for fewer than an employee's usual number of hours worked  
7 per workday, unless agreed to by the employee and the employer.

8 l. "Serious health condition" means an illness, injury,  
9 impairment, or physical or mental condition which requires:

10 (1) inpatient care in a hospital, hospice, or residential medical  
11 care facility; or

12 (2) continuing medical treatment or continuing supervision by a  
13 health care provider.

14 m. "State of emergency" means a natural or man-made disaster  
15 or emergency for which a state of emergency has been declared by  
16 the President of the United States or the Governor, or for which a  
17 state of emergency has been declared by a municipal emergency  
18 management coordinator.

19 (cf: P.L.2013, c.221, s.1)

20

21 2. Section 3 of P.L.2013, c.82 (C.34:11C-3) is amended to read  
22 as follows:

23 3. a. Any employee of an employer in the State who was a  
24 victim of an incident of domestic violence as defined in section 3 of  
25 P.L.1991, c.261 (C.2C:25-19) or a sexually violent offense as  
26 defined in section 3 of P.L.1998, c.71 (C.30:4-27.26), or whose  
27 parent-in-law, sibling, grandparent, grandchild, child, parent,  
28 spouse, domestic partner, or civil union partner individual, or any  
29 other individual related by blood to the employee, and any other  
30 individual whose close association with the employee is the  
31 equivalent of a family relationship, was a victim shall be entitled to  
32 unpaid leave of no more than 20 days in one 12-month period, to be  
33 used in the 12-month period next following any incident of  
34 domestic violence or any sexually violent offense as provided in  
35 this section. For purposes of this section, each incident of domestic  
36 violence or any sexually violent offense shall constitute a separate  
37 offense for which an employee is entitled to unpaid leave, provided  
38 that the employee has not exhausted the allotted 20 days for the 12-  
39 month period. The unpaid leave may be taken intermittently in  
40 intervals of no less than one day, as needed for the purpose of  
41 engaging in any of the following activities as they relate to the  
42 incident of domestic violence or sexually violent offense:

43 (1) seeking medical attention for, or recovering from, physical  
44 or psychological injuries caused by domestic or sexual violence to  
45 the employee or the employee's parent-in-law, sibling, grandparent,  
46 grandchild, child, parent, spouse, domestic partner, or civil union  
47 partner individual, or any other individual related by blood to the

1 employee, and any other individual whose close association with  
2 the employee is the equivalent of a family relationship;

3 (2) obtaining services from a victim services organization for  
4 the employee or the employee's parent-in-law, sibling, grandparent,  
5 grandchild, child, parent, spouse, domestic partner, or civil union  
6 partner individual, or any other individual related by blood to the  
7 employee, and any other individual whose close association with  
8 the employee is the equivalent of a family relationship;

9 (3) obtaining psychological or other counseling for the  
10 employee or the employee's parent-in-law, sibling, grandparent,  
11 grandchild, child, parent, spouse, domestic partner, or civil union  
12 partner individual, or any other individual related by blood to the  
13 employee, and any other individual whose close association with  
14 the employee is the equivalent of a family relationship;

15 (4) participating in safety planning, temporarily or permanently  
16 relocating, or taking other actions to increase the safety of the  
17 employee or the employee's parent-in-law, sibling, grandparent,  
18 grandchild, child, parent, spouse, domestic partner, or civil union  
19 partner individual, or any other individual related by blood to the  
20 employee, and any other individual whose close association with  
21 the employee is the equivalent of a family relationship, from future  
22 domestic or sexual violence or to ensure economic security;

23 (5) seeking legal assistance or remedies to ensure the health and  
24 safety of the employee or the employee's parent-in-law, sibling,  
25 grandparent, grandchild, child, parent, spouse, domestic partner, or  
26 civil union partner, individual, or any other individual related by  
27 blood to the employee, and any other individual whose close  
28 association with the employee is the equivalent of a family  
29 relationship, including preparing for, or participating in, any civil or  
30 criminal legal proceeding related to or derived from domestic or  
31 sexual violence; or

32 (6) attending, participating in, or preparing for a criminal or  
33 civil court proceeding relating to an incident of domestic or sexual  
34 violence of which the employee or the employee's parent-in-law,  
35 sibling, grandparent, grandchild, child, parent, spouse, domestic  
36 partner, or civil union partner, or any other individual related by  
37 blood to the employee, and any other individual whose close  
38 association with the employee is the equivalent of a family  
39 relationship, was a victim.

40 An eligible employee may elect[, or an employer may require  
41 the employee,] to use any of the accrued paid vacation leave,  
42 personal leave, or medical or sick leave of the employee, or any  
43 family temporary disability leave benefits provided pursuant to  
44 section 3 of P.L.1948, c.110 (C.43:21-27), during any part of the  
45 20-day period of unpaid leave provided under this subsection. In  
46 such case, any paid leave provided by the employer, and accrued  
47 pursuant to established policies of the employer, or family  
48 temporary disability leave benefits, shall run concurrently with the

1 unpaid leave provided under this subsection and, accordingly, the  
2 employee shall receive pay pursuant to the employer's applicable  
3 paid leave policy, or family temporary disability leave benefits,  
4 during the period of otherwise unpaid leave. If an employee  
5 requests leave for a reason covered by both this subsection and the  
6 "Family Leave Act," P.L.1989, c.261 (C.34:11B-1 et seq.) or the  
7 federal "Family and Medical Leave Act of 1993," Pub.L.103-3 (29  
8 U.S.C. s.2601 et seq.), the leave shall count simultaneously against  
9 the employee's entitlement under each respective law.

10 Leave granted under this section shall not conflict with any  
11 rights pursuant to the "Family Leave Act," P.L.1989, c.261  
12 (C.34:11B-1 et seq.), the "Temporary Disability Benefits Law,"  
13 P.L.1948, c.110 (C.43:21-25 et **[seq.] al.**), or the federal "Family  
14 and Medical Leave Act of 1993," Pub.L.103-3 (29 U.S.C. s.2601 et  
15 seq.).

16 b. Prior to taking the leave provided for in this section, an  
17 employee shall, if the necessity for the leave is foreseeable, provide  
18 the employer with written notice of the need for the leave. The  
19 notice shall be provided to the employer as far in advance as is  
20 reasonable and practical under the circumstances.

21 c. Nothing contained in this act shall be construed to prohibit  
22 an employer from requiring that a period of leave provided pursuant  
23 to this section be supported by the employee with documentation of  
24 the domestic violence or sexually violent offense which is the basis  
25 for the leave. If the employer requires the documentation, the  
26 employee shall be regarded as having provided sufficient  
27 documentation if the employee provides one or more of the  
28 following:

29 (1) a domestic violence restraining order or other documentation  
30 of equitable relief issued by a court of competent jurisdiction;

31 (2) a letter or other written documentation from the county or  
32 municipal prosecutor documenting the domestic violence or  
33 sexually violent offense;

34 (3) documentation of the conviction of a person for the domestic  
35 violence or sexually violent offense;

36 (4) medical documentation of the domestic violence or sexually  
37 violent offense;

38 (5) certification from a certified Domestic Violence Specialist or  
39 the director of a designated domestic violence agency or Rape  
40 Crisis Center, that the employee or employee's parent-in-law,  
41 sibling, grandparent, grandchild, child, parent, spouse, domestic  
42 partner, or civil union partner, or any other individual related by  
43 blood to the employee, and any other individual whose close  
44 association with the employee is the equivalent of a family  
45 relationship, is a victim of domestic violence or a sexually violent  
46 offense; or

47 (6) other documentation or certification of the domestic violence  
48 or sexually violent offense provided by a social worker, member of

1 the clergy, shelter worker, or other professional who has assisted  
2 the employee or employee's parent-in-law, sibling, grandparent,  
3 grandchild, child, parent, spouse, domestic partner, or civil union  
4 partner, or any other individual related by blood to the employee,  
5 and any other individual whose close association with the employee  
6 is the equivalent of a family relationship, in dealing with the  
7 domestic violence or sexually violent offenses.

8 For the purposes of this subsection:

9 "Certified Domestic Violence Specialist" means a person who  
10 has fulfilled the requirements of certification as a Domestic  
11 Violence Specialist established by the New Jersey Association of  
12 Domestic Violence Professionals; and "designated domestic  
13 violence agency" means a county-wide organization with a primary  
14 purpose to provide services to victims of domestic violence, and  
15 which provides services that conform to the core domestic violence  
16 services profile as defined by the Division of Child Protection and  
17 Permanency in the Department of Children and Families and is  
18 under contract with the division for the express purpose of  
19 providing the services.

20 "Rape Crisis Center" means an office, institution, or center  
21 offering assistance to victims of sexual offenses through crisis  
22 intervention, medical and legal information, and follow-up  
23 counseling.

24 d. An employer shall display conspicuous notice of its  
25 employees' rights and obligations pursuant to the provisions of this  
26 act, in such form and in such manner as the Commissioner of Labor  
27 and Workforce Development shall prescribe, and use other  
28 appropriate means to keep its employees so informed.

29 e. No provision of this act shall be construed as requiring or  
30 permitting an employer to reduce employment benefits provided by  
31 the employer or required by a collective bargaining agreement  
32 which are in excess of those required by this act. Nor shall any  
33 provision of this act be construed to prohibit the negotiation and  
34 provision through collective bargaining agreements of leave  
35 policies or benefit programs which provide benefits in excess of  
36 those required by this act. This provision shall apply irrespective of  
37 the date that a collective bargaining agreement takes effect.

38 Nothing contained in this act shall be construed as permitting an  
39 employer to:

40 (1) rescind or reduce any employment benefit accrued prior to  
41 the date on which the leave taken pursuant to this act commenced;  
42 or

43 (2) rescind or reduce any employment benefit, unless the  
44 rescission or reduction of the benefit is based on changes that would  
45 have occurred if an employee continued to work without taking the  
46 leave provided pursuant to this section.

47 f. All information provided to an employer pursuant to  
48 subsection c. of this section, and any information regarding a leave

1 taken pursuant to this section and any failure of an employee to  
2 return to work, shall be retained in the strictest confidentiality,  
3 unless the disclosure is voluntarily authorized in writing by the  
4 employee or is required by a federal or State law, rule, or  
5 regulation.

6 (cf: P.L.2013, c.82, s.3)

7

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

9 43:21-7. Employers other than governmental entities, whose  
10 benefit financing provisions are set forth in section 4 of P.L.1971,  
11 c.346 (C.43:21-7.3), and those nonprofit organizations liable for  
12 payment in lieu of contributions on the basis set forth in section 3 of  
13 P.L.1971, c.346 (C.43:21-7.2), shall pay to the controller for the  
14 unemployment compensation fund, contributions as set forth in  
15 subsections (a), (b) and (c) hereof, and the provisions of subsections  
16 (d) and (e) shall be applicable to all employers, consistent with the  
17 provisions of the "unemployment compensation law" and the  
18 "Temporary Disability Benefits Law," P.L.1948, c.110 (C.43:21-25  
19 et al.).

20 (a) Payment.

21 (1) Contributions shall accrue and become payable by each  
22 employer for each calendar year in which he is subject to this  
23 chapter (R.S.43:21-1 et seq.), with respect to having individuals in  
24 his employ during that calendar year, at the rates and on the basis  
25 hereinafter set forth. Such contributions shall become due and be  
26 paid by each employer to the controller for the fund, in accordance  
27 with such regulations as may be prescribed, and shall not be  
28 deducted, in whole or in part, from the remuneration of individuals  
29 in his employ.

30 (2) In the payment of any contributions, a fractional part of a  
31 cent shall be disregarded unless it amounts to \$0.005 or more, in  
32 which case it shall be increased to \$0.01.

33 (b) Rate of contributions. Each employer shall pay the following  
34 contributions:

35 (1) For the calendar year 1947, and each calendar year  
36 thereafter, 2 7/10% of wages paid by him during each such calendar  
37 year, except as otherwise prescribed by subsection (c) of this  
38 section.

39 (2) The "wages" of any individual, with respect to any one  
40 employer, as the term is used in this subsection (b) and in  
41 subsections (c), (d) and (e) of this section 7, shall include the first  
42 \$4,800.00 paid during calendar year 1975, for services performed  
43 either within or without this State; provided that no contribution  
44 shall be required by this State with respect to services performed in  
45 another state if such other state imposes contribution liability with  
46 respect thereto. If an employer (hereinafter referred to as a  
47 successor employer) during any calendar year acquires substantially  
48 all the property used in a trade or business of another employer



1 (hereinafter referred to as a predecessor), or used in a separate unit  
2 of a trade or business of a predecessor, and immediately after the  
3 acquisition employs in his trade or business an individual who  
4 immediately prior to the acquisition was employed in the trade or  
5 business of such predecessors, then, for the purpose of determining  
6 whether the successor employer has paid wages with respect to  
7 employment equal to the first \$4,800.00 paid during calendar year  
8 1975, any wages paid to such individual by such predecessor during  
9 such calendar year and prior to such acquisition shall be considered  
10 as having been paid by such successor employer.

11 (3) For calendar years beginning on and after January 1, 1976,  
12 the "wages" of any individual, as defined in the preceding  
13 paragraph (2) of this subsection (b), shall be established and  
14 promulgated by the Commissioner of Labor and Workforce  
15 Development on or before September 1 of the preceding year and,  
16 except as provided in paragraph (4) of this subsection (b), shall be,  
17 28 times the Statewide average weekly remuneration paid to  
18 workers by employers, as determined under R.S.43:21-3(c), raised  
19 to the next higher multiple of \$100.00 if not already a multiple  
20 thereof, provided that if the amount of wages so determined for a  
21 calendar year is less than the amount similarly determined for the  
22 preceding year, the greater amount will be used; provided, further,  
23 that if the amount of such wages so determined does not equal or  
24 exceed the amount of wages as defined in subsection (b) of section  
25 3306 of the Internal Revenue Code of 1986 (26 U.S.C. s.3306(b)),  
26 the wages as determined in this paragraph in any calendar year shall  
27 be raised to equal the amount established under the "Federal  
28 Unemployment Tax Act," chapter 23 of the Internal Revenue Code  
29 of 1986 (26 U.S.C. s.3301 et seq.), for that calendar year.

30 (4) For calendar years beginning on and after January 1, 2019,  
31 the "wages" of any individual, as defined in the preceding  
32 paragraph (2) of this subsection (b) for purposes of contributions of  
33 workers to the "Family Temporary Disability Leave Account" and  
34 the "Pregnancy Temporary Disability Account" of the State  
35 disability benefits fund pursuant to subsection (d) of this section,  
36 shall be established and promulgated by the Commissioner of Labor  
37 and Workforce Development on or before September 1 of the  
38 preceding year and shall be 52 times the Statewide average weekly  
39 remuneration paid to workers by employers, as determined under  
40 R.S.43:21-3(c), raised to the next higher multiple of \$100.00 if not  
41 already a multiple thereof, provided that if the amount of wages so  
42 determined for a calendar year is less than the amount similarly  
43 determined for the preceding year, the greater amount will be used.

44 (c) Future rates based on benefit experience.

45 (1) A separate account for each employer shall be maintained  
46 and this shall be credited with all the contributions which he has  
47 paid on his own behalf on or before January 31 of any calendar year  
48 with respect to employment occurring in the preceding calendar

1 year; provided, however, that if January 31 of any calendar year  
2 falls on a Saturday or Sunday, an employer's account shall be  
3 credited as of January 31 of such calendar year with all the  
4 contributions which he has paid on or before the next succeeding  
5 day which is not a Saturday or Sunday. But nothing in this chapter  
6 (R.S.43:21-1 et seq.) shall be construed to grant any employer or  
7 individuals in his service prior claims or rights to the amounts paid  
8 by him into the fund either on his own behalf or on behalf of such  
9 individuals. Benefits paid with respect to benefit years commencing  
10 on and after January 1, 1953, to any individual on or before  
11 December 31 of any calendar year with respect to unemployment in  
12 such calendar year and in preceding calendar years shall be charged  
13 against the account or accounts of the employer or employers in  
14 whose employment such individual established base weeks  
15 constituting the basis of such benefits, except that, with respect to  
16 benefit years commencing after January 4, 1998, an employer's  
17 account shall not be charged for benefits paid to a claimant if the  
18 claimant's employment by that employer was ended in any way  
19 which, pursuant to subsection (a), (b), (c), (f), (g) or (h) of  
20 R.S.43:21-5, would have disqualified the claimant for benefits if the  
21 claimant had applied for benefits at the time when that employment  
22 ended. Benefits paid under a given benefit determination shall be  
23 charged against the account of the employer to whom such  
24 determination relates. When each benefit payment is made,  
25 notification shall be promptly provided to each employer included  
26 in the unemployment insurance monetary calculation of benefits.  
27 Such notification shall identify the employer against whose account  
28 the amount of such payment is being charged, shall show at least  
29 the name and social security account number of the claimant and  
30 shall specify the period of unemployment to which said benefit  
31 payment applies.

32 An annual summary statement of unemployment benefits  
33 charged to the employer's account shall be provided.

34 (2) Regulations may be prescribed for the establishment,  
35 maintenance, and dissolution of joint accounts by two or more  
36 employers, and shall, in accordance with such regulations and upon  
37 application by two or more employers to establish such an account,  
38 or to merge their several individual accounts in a joint account,  
39 maintain such joint account as if it constituted a single employer's  
40 account.

41 (3) No employer's rate shall be lower than 5.4% unless  
42 assignment of such lower rate is consistent with the conditions  
43 applicable to additional credit allowance for such year under section  
44 3303(a)(1) of the Internal Revenue Code of 1986 (26 U.S.C.  
45 s.3303(a)(1)), any other provision of this section to the contrary  
46 notwithstanding.

47 (4) Employer Reserve Ratio. (A) Each employer's rate shall be 2  
48 8/10%, except as otherwise provided in the following provisions.

1 No employer's rate for the 12 months commencing July 1 of any  
2 calendar year shall be other than  $2 \frac{8}{10}\%$ , unless as of the  
3 preceding January 31 such employer shall have paid contributions  
4 with respect to wages paid in each of the three calendar years  
5 immediately preceding such year, in which case such employer's  
6 rate for the 12 months commencing July 1 of any calendar year  
7 shall be determined on the basis of his record up to the beginning of  
8 such calendar year. If, at the beginning of such calendar year, the  
9 total of all his contributions, paid on his own behalf, for all past  
10 years exceeds the total benefits charged to his account for all such  
11 years, his contribution rate shall be:

12 (1)  $2 \frac{5}{10}\%$ , if such excess equals or exceeds 4%, but less than  
13 5%, of his average annual payroll (as defined in paragraph (2),  
14 subsection (a) of R.S.43:21-19);

15 (2)  $2 \frac{2}{10}\%$ , if such excess equals or exceeds 5%, but is less  
16 than 6%, of his average annual payroll;

17 (3)  $1 \frac{9}{10}\%$ , if such excess equals or exceeds 6%, but is less  
18 than 7%, of his average annual payroll;

19 (4)  $1 \frac{6}{10}\%$ , if such excess equals or exceeds 7%, but is less  
20 than 8%, of his average annual payroll;

21 (5)  $1 \frac{3}{10}\%$ , if such excess equals or exceeds 8%, but is less  
22 than 9%, of his average annual payroll;

23 (6) 1%, if such excess equals or exceeds 9%, but is less than  
24 10%, of his average annual payroll;

25 (7)  $\frac{7}{10}$  of 1%, if such excess equals or exceeds 10%, but is less  
26 than 11%, of his average annual payroll;

27 (8)  $\frac{4}{10}$  of 1%, if such excess equals or exceeds 11% of his  
28 average annual payroll.

29 (B) If the total of an employer's contributions, paid on his own  
30 behalf, for all past periods for the purposes of this paragraph (4), is  
31 less than the total benefits charged against his account during the  
32 same period, his rate shall be:

33 (1) 4%, if such excess is less than 10% of his average annual  
34 payroll;

35 (2)  $4 \frac{3}{10}\%$ , if such excess equals or exceeds 10%, but is less  
36 than 20%, of his average annual payroll;

37 (3)  $4 \frac{6}{10}\%$ , if such excess equals or exceeds 20% of his  
38 average annual payroll.

39 (C) Specially assigned rates.

40 (i) If no contributions were paid on wages for employment in  
41 any calendar year used in determining the average annual payroll of  
42 an employer eligible for an assigned rate under this paragraph (4),  
43 the employer's rate shall be specially assigned as follows:

44 if the reserve balance in its account is positive, its assigned rate  
45 shall be the highest rate in effect for positive balance accounts for  
46 that period, or 5.4%, whichever is higher, and

47 if the reserve balance in its account is negative, its assigned rate  
48 shall be the highest rate in effect for deficit accounts for that period.

1 (ii) If, following the purchase of a corporation with little or no  
2 activity, known as a corporate shell, the resulting employing unit  
3 operates a new or different business activity, the employing unit  
4 shall be assigned a new employer rate.

5 (iii) Entities operating under common ownership, management or  
6 control, when the operation of the entities is not identifiable,  
7 distinguishable and severable, shall be considered a single employer  
8 for the purposes of this chapter (R.S.43:21-1 et seq.).

9 (D) The contribution rates prescribed by subparagraphs (A) and  
10 (B) of this paragraph (4) shall be increased or decreased in  
11 accordance with the provisions of paragraph (5) of this subsection  
12 (c) for experience rating periods through June 30, 1986.

13 (5) (A) Unemployment Trust Fund Reserve Ratio. If on March  
14 31 of any calendar year the balance in the unemployment trust fund  
15 equals or exceeds 4% but is less than 7% of the total taxable wages  
16 reported to the controller as of that date in respect to employment  
17 during the preceding calendar year, the contribution rate, effective  
18 July 1 following, of each employer eligible for a contribution rate  
19 calculation based upon benefit experience, shall be increased by  
20  $\frac{3}{10}$  of 1% over the contribution rate otherwise established under  
21 the provisions of paragraph (3) or (4) of this subsection. If on  
22 March 31 of any calendar year the balance of the unemployment  
23 trust fund exceeds  $2\frac{1}{2}\%$  but is less than 4% of the total taxable  
24 wages reported to the controller as of that date in respect to  
25 employment during the preceding calendar year, the contribution  
26 rate, effective July 1 following, of each employer eligible for a  
27 contribution rate calculation based upon benefit experience, shall be  
28 increased by  $\frac{6}{10}$  of 1% over the contribution rate otherwise  
29 established under the provisions of paragraph (3) or (4) of this  
30 subsection.

31 If on March 31 of any calendar year the balance of the  
32 unemployment trust fund is less than  $2\frac{1}{2}\%$  of the total taxable  
33 wages reported to the controller as of that date in respect to  
34 employment during the preceding calendar year, the contribution  
35 rate, effective July 1 following, of each employer: (1) eligible for a  
36 contribution rate calculation based upon benefit experience, shall be  
37 increased by (i)  $\frac{6}{10}$  of 1% over the contribution rate otherwise  
38 established under the provisions of paragraph (3), (4)(A) or (4)(B)  
39 of this subsection, and (ii) an additional amount equal to 20% of the  
40 total rate established herein, provided, however, that the final  
41 contribution rate for each employer shall be computed to the nearest  
42 multiple of  $\frac{1}{10}\%$  if not already a multiple thereof; (2) not eligible  
43 for a contribution rate calculation based upon benefit experience,  
44 shall be increased by  $\frac{6}{10}$  of 1% over the contribution rate  
45 otherwise established under the provisions of paragraph (4) of this  
46 subsection. For the period commencing July 1, 1984 and ending  
47 June 30, 1986, the contribution rate for each employer liable to pay  
48 contributions under R.S.43:21-7 shall be increased by a factor of

1 10% computed to the nearest multiple of 1/10% if not already a  
2 multiple thereof.

3 (B) If on March 31 of any calendar year the balance in the  
4 unemployment trust fund equals or exceeds 10% but is less than 12  
5 1/2% of the total taxable wages reported to the controller as of that  
6 date in respect to employment during the preceding calendar year,  
7 the contribution rate, effective July 1 following, of each employer  
8 eligible for a contribution rate calculation based upon benefit  
9 experience, shall be reduced by 3/10 of 1% under the contribution  
10 rate otherwise established under the provisions of paragraphs (3)  
11 and (4) of this subsection; provided that in no event shall the  
12 contribution rate of any employer be reduced to less than 4/10 of  
13 1%. If on March 31 of any calendar year the balance in the  
14 unemployment trust fund equals or exceeds 12 1/2% of the total  
15 taxable wages reported to the controller as of that date in respect to  
16 employment during the preceding calendar year, the contribution  
17 rate, effective July 1 following, of each employer eligible for a  
18 contribution rate calculation based upon benefit experience, shall be  
19 reduced by 6/10 of 1% if his account for all past periods reflects an  
20 excess of contributions paid over total benefits charged of 3% or  
21 more of his average annual payroll, otherwise by 3/10 of 1% under  
22 the contribution rate otherwise established under the provisions of  
23 paragraphs (3) and (4) of this subsection; provided that in no event  
24 shall the contribution rate of any employer be reduced to less than  
25 4/10 of 1%.

26 (C) The "balance" in the unemployment trust fund, as the term is  
27 used in subparagraphs (A) and (B) above, shall not include moneys  
28 credited to the State's account under section 903 of the Social  
29 Security Act, as amended (42 U.S.C. s.1103), during any period in  
30 which such moneys are appropriated for the payment of expenses  
31 incurred in the administration of the "unemployment compensation  
32 law."

33 (D) Prior to July 1 of each calendar year the controller shall  
34 determine the Unemployment Trust Fund Reserve Ratio, which  
35 shall be calculated by dividing the balance of the unemployment  
36 trust fund as of the prior March 31 by total taxable wages reported  
37 to the controller by all employers as of March 31 with respect to  
38 their employment during the last calendar year.

39 (E) (i) (Deleted by amendment, P.L.1997, c.263).

40 (ii) (Deleted by amendment, P.L.2001, c.152).

41 (iii) (Deleted by amendment, P.L.2003, c.107).

42 (iv) (Deleted by amendment, P.L.2004, c.45).

43 (v) (Deleted by amendment, P.L.2008, c.17).

44 (vi) (Deleted by amendment, P.L.2013, c.75).

45 (vii) With respect to experience rating years beginning on or  
46 after July 1, 2011, the new employer rate or the unemployment  
47 experience rate of an employer under this section shall be the rate  
48 which appears in the column headed by the Unemployment Trust

1 Fund Reserve Ratio as of the applicable calculation date and on the  
 2 line with the Employer Reserve Ratio, as defined in paragraph (4)  
 3 of this subsection (R.S.43:21-7 (c)(4)), as set forth in the following  
 4 table:

5 EXPERIENCE RATING TAX TABLE

6	Fund Reserve Ratio <sup>1</sup>					
	7	8	9	10	11	
12	13	14	15	16	17	
18	19	20	21	22	23	
24	25	26	27	28	29	
Employer Reserve Ratio <sup>2</sup>	and Over	to 3.49%	to 2.99%	to 2.49%	and Under	
	A	B	C	D	E	
11 Positive Reserve Ratio:						
12	17% and over	0.3	0.4	0.5	0.6	1.2
13	16.00% to 16.99%	0.4	0.5	0.6	0.6	1.2
14	15.00% to 15.99%	0.4	0.6	0.7	0.7	1.2
15	14.00% to 14.99%	0.5	0.6	0.7	0.8	1.2
16	13.00% to 13.99%	0.6	0.7	0.8	0.9	1.2
17	12.00% to 12.99%	0.6	0.8	0.9	1.0	1.2
18	11.00% to 11.99%	0.7	0.8	1.0	1.1	1.2
19	10.00% to 10.99%	0.9	1.1	1.3	1.5	1.6
20	9.00% to 9.99%	1.0	1.3	1.6	1.7	1.9
21	8.00% to 8.99%	1.3	1.6	1.9	2.1	2.3
22	7.00% to 7.99%	1.4	1.8	2.2	2.4	2.6
23	6.00% to 6.99%	1.7	2.1	2.5	2.8	3.0
24	5.00% to 5.99%	1.9	2.4	2.8	3.1	3.4
25	4.00% to 4.99%	2.0	2.6	3.1	3.4	3.7
26	3.00% to 3.99%	2.1	2.7	3.2	3.6	3.9
27	2.00% to 2.99%	2.2	2.8	3.3	3.7	4.0
28	1.00% to 1.99%	2.3	2.9	3.4	3.8	4.1
29	0.00% to 0.99%	2.4	3.0	3.6	4.0	4.3
30 Deficit Reserve Ratio:						
31	-0.00% to -2.99%	3.4	4.3	5.1	5.6	6.1
32	-3.00% to -5.99%	3.4	4.3	5.1	5.7	6.2
33	-6.00% to -8.99%	3.5	4.4	5.2	5.8	6.3
34	-9.00% to -11.99%	3.5	4.5	5.3	5.9	6.4
35	-12.00% to -14.99%	3.6	4.6	5.4	6.0	6.5
36	-15.00% to -19.99%	3.6	4.6	5.5	6.1	6.6
37	-20.00% to -24.99%	3.7	4.7	5.6	6.2	6.7
38	-25.00% to -29.99%	3.7	4.8	5.6	6.3	6.8
39	-30.00% to -34.99%	3.8	4.8	5.7	6.3	6.9
40	-35.00% and under	5.4	5.4	5.8	6.4	7.0
41	New Employer Rate	2.8	2.8	2.8	3.1	3.4

42 <sup>1</sup>Fund balance as of March 31 as a percentage of taxable wages  
 43 in the prior calendar year.

44 <sup>2</sup>Employer Reserve Ratio (Contributions minus benefits as a  
 45 percentage of employer's taxable wages).

46 (F) (i) (Deleted by amendment, P.L.1997, c.263).

47 (ii) (Deleted by amendment, P.L.2008, c.17).

48 (iii) (Deleted by amendment, P.L.2013, c.75).

1 (iv) With respect to experience rating years beginning on or after  
2 July 1, 2011 and before July 1, 2013, if the fund reserve ratio, based  
3 on the fund balance as of the prior March 31, is less than 1.0%, the  
4 contribution rate for each employer liable to pay contributions, as  
5 computed under subparagraph (E) of this paragraph (5), shall be  
6 increased by a factor of 10% computed to the nearest multiple of  
7 1/10% if not already a multiple thereof.

8 (v) With respect to experience rating years beginning on or after  
9 July 1, 2014, if the fund reserve ratio, based on the fund balance as  
10 of the prior March 31, is less than 1.0%, the contribution rate for  
11 each employer liable to pay contributions, as computed under  
12 subparagraph (E) of this paragraph (5), shall be increased by a  
13 factor of 10% computed to the nearest multiple of 1/10% if not  
14 already a multiple thereof.

15 (G) On or after January 1, 1993, notwithstanding any other  
16 provisions of this paragraph (5), the contribution rate for each  
17 employer liable to pay contributions, as computed under  
18 subparagraph (E) of this paragraph (5), shall be decreased by 0.1%,  
19 except that, during any experience rating year starting before  
20 January 1, 1998 in which the fund reserve ratio is equal to or greater  
21 than 7.00% or during any experience rating year starting on or after  
22 January 1, 1998, in which the fund reserve ratio is equal to or  
23 greater than 3.5%, there shall be no decrease pursuant to this  
24 subparagraph (G) in the contribution of any employer who has a  
25 deficit reserve ratio of negative 35.00% or under.

26 (H) On and after January 1, 1998 until December 31, 2000 and  
27 on or after January 1, 2002 until June 30, 2006, the contribution rate  
28 for each employer liable to pay contributions, as computed under  
29 subparagraph (E) of this paragraph (5), shall be decreased by a  
30 factor, as set out below, computed to the nearest multiple of 1/10%,  
31 except that, if an employer has a deficit reserve ratio of negative  
32 35.0% or under, the employer's rate of contribution shall not be  
33 reduced pursuant to this subparagraph (H) to less than 5.4%:

34 From January 1, 1998 until December 31, 1998, a factor of 12%;  
35 From January 1, 1999 until December 31, 1999, a factor of 10%;  
36 From January 1, 2000 until December 31, 2000, a factor of 7%;  
37 From January 1, 2002 until March 31, 2002, a factor of 36%;  
38 From April 1, 2002 until June 30, 2002, a factor of 85%;  
39 From July 1, 2002 until June 30, 2003, a factor of 15%;  
40 From July 1, 2003 until June 30, 2004, a factor of 15%;  
41 From July 1, 2004 until June 30, 2005, a factor of 7%;  
42 From July 1, 2005 until December 31, 2005, a factor of 16%; and  
43 From January 1, 2006 until June 30, 2006, a factor of 34%.

44 The amount of the reduction in the employer contributions  
45 stipulated by this subparagraph (H) shall be in addition to the  
46 amount of the reduction in the employer contributions stipulated by  
47 subparagraph (G) of this paragraph (5), except that the rate of  
48 contribution of an employer who has a deficit reserve ratio of

1 negative 35.0% or under shall not be reduced pursuant to this  
2 subparagraph (H) to less than 5.4% and the rate of contribution of  
3 any other employer shall not be reduced to less than 0.0%.

4 (I) (Deleted by amendment, P.L.2008, c.17).

5 (J) On or after July 1, 2001, notwithstanding any other  
6 provisions of this paragraph (5), the contribution rate for each  
7 employer liable to pay contributions, as computed under  
8 subparagraph (E) of this paragraph (5), shall be decreased by  
9 0.0175%, except that, during any experience rating year starting on  
10 or after July 1, 2001, in which the fund reserve ratio is equal to or  
11 greater than 3.5%, there shall be no decrease pursuant to this  
12 subparagraph (J) in the contribution of any employer who has a  
13 deficit reserve ratio of negative 35.00% or under. The amount of the  
14 reduction in the employer contributions stipulated by this  
15 subparagraph (J) shall be in addition to the amount of the reduction  
16 in the employer contributions stipulated by subparagraphs (G) and  
17 (H) of this paragraph (5), except that the rate of contribution of an  
18 employer who has a deficit reserve ratio of negative 35.0% or under  
19 shall not be reduced pursuant to this subparagraph (J) to less than  
20 5.4% and the rate of contribution of any other employer shall not be  
21 reduced to less than 0.0%.

22 (K) With respect to experience rating years beginning on or after  
23 July 1, 2009, if the fund reserve ratio, based on the fund balance as  
24 of the prior March 31, is:

25 (i) Equal to or greater than 5.00% but less than 7.5%, the  
26 contribution rate for each employer liable to pay contributions, as  
27 computed under subparagraph (E) of this paragraph (5), shall be  
28 reduced by a factor of 25% computed to the nearest multiple of  
29 1/10% if not already a multiple thereof except that there shall be no  
30 decrease pursuant to this subparagraph (K) in the contribution of  
31 any employer who has a deficit reserve ratio of 35.00% or under;

32 (ii) Equal to or greater than 7.5%, the contribution rate for each  
33 employer liable to pay contributions, as computed under  
34 subparagraph (E) of this paragraph (5), shall be reduced by a factor  
35 of 50% computed to the nearest multiple of 1/10% if not already a  
36 multiple thereof except that there shall be no decrease pursuant to  
37 this subparagraph (K) in the contribution of any employer who has  
38 a deficit reserve ratio of 35.00% or under.

39 (L) Notwithstanding any other provision of this paragraph (5)  
40 and notwithstanding the actual fund reserve ratio, the contribution  
41 rate for employers liable to pay contributions, as computed under  
42 subparagraph (E) of this paragraph (5), shall be, for fiscal year  
43 2011, the rates set by column "C" of the table in that subparagraph.

44 (M) Notwithstanding any other provision of this paragraph (5)  
45 and notwithstanding the actual fund reserve ratio, the contribution  
46 rate for employers liable to pay contributions, as computed under  
47 subparagraph (E) of this paragraph (5), shall be, for fiscal year  
48 2012, the rates set by column "D" of the table in that subparagraph.



1 (N) Notwithstanding any other provision of this paragraph (5)  
2 and notwithstanding the actual fund reserve ratio, the contribution  
3 rate for employers liable to pay contributions, as computed under  
4 subparagraph (E) of this paragraph (5), shall be, for fiscal year  
5 2013, the rates set by column "E" of the table in that subparagraph.

6 (6) Additional contributions.

7 Notwithstanding any other provision of law, any employer who  
8 has been assigned a contribution rate pursuant to subsection (c) of  
9 this section for the year commencing July 1, 1948, and for any year  
10 commencing July 1 thereafter, may voluntarily make payment of  
11 additional contributions, and upon such payment shall receive a  
12 recomputation of the experience rate applicable to such employer,  
13 including in the calculation the additional contribution so made,  
14 except that, following a transfer as described under R.S.43:21-  
15 7(c)(7)(D), neither the predecessor nor successor in interest shall be  
16 eligible to make a voluntary payment of additional contributions  
17 during the year the transfer occurs and the next full calendar year.  
18 Any such additional contribution shall be made during the 30-day  
19 period following the notification to the employer of his contribution  
20 rate as prescribed in this section, unless, for good cause, the time  
21 for payment has been extended by the controller for not to exceed  
22 an additional 60 days; provided that in no event may such payments  
23 which are made later than 120 days after the beginning of the year  
24 for which such rates are effective be considered in determining the  
25 experience rate for the year in which the payment is made. Any  
26 employer receiving any extended period of time within which to  
27 make such additional payment and failing to make such payment  
28 timely shall be, in addition to the required amount of additional  
29 payment, liable for a penalty of 5% thereof or \$5.00, whichever is  
30 greater, not to exceed \$50.00. Any adjustment under this subsection  
31 shall be made only in the form of credits against accrued or future  
32 contributions.

33 (7) Transfers.

34 (A) Upon the transfer of the organization, trade or business, or  
35 substantially all the assets of an employer to a successor in interest,  
36 whether by merger, consolidation, sale, transfer, descent or  
37 otherwise, the controller shall transfer the employment experience  
38 of the predecessor employer to the successor in interest, including  
39 credit for past years, contributions paid, annual payrolls, benefit  
40 charges, et cetera, applicable to such predecessor employer,  
41 pursuant to regulation, if it is determined that the employment  
42 experience of the predecessor employer with respect to the  
43 organization, trade, assets or business which has been transferred  
44 may be considered indicative of the future employment experience  
45 of the successor in interest. The successor in interest may, within  
46 four months of the date of such transfer of the organization, trade,  
47 assets or business, or thereafter upon good cause shown, request a  
48 reconsideration of the transfer of employment experience of the

1 predecessor employer. The request for reconsideration shall  
2 demonstrate, to the satisfaction of the controller, that the  
3 employment experience of the predecessor is not indicative of the  
4 future employment experience of the successor.

5 (B) An employer who transfers part of his or its organization,  
6 trade, assets or business to a successor in interest, whether by  
7 merger, consolidation, sale, transfer, descent or otherwise, may  
8 jointly make application with such successor in interest for transfer  
9 of that portion of the employment experience of the predecessor  
10 employer relating to the portion of the organization, trade, assets or  
11 business transferred to the successor in interest, including credit for  
12 past years, contributions paid, annual payrolls, benefit charges, et  
13 cetera, applicable to such predecessor employer. The transfer of  
14 employment experience may be allowed pursuant to regulation only  
15 if it is found that the employment experience of the predecessor  
16 employer with respect to the portion of the organization, trade,  
17 assets or business which has been transferred may be considered  
18 indicative of the future employment experience of the successor in  
19 interest. Credit shall be given to the successor in interest only for  
20 the years during which contributions were paid by the predecessor  
21 employer with respect to that part of the organization, trade, assets  
22 or business transferred.

23 (C) A transfer of the employment experience in whole or in part  
24 having become final, the predecessor employer thereafter shall not  
25 be entitled to consideration for an adjusted rate based upon his or its  
26 experience or the part thereof, as the case may be, which has thus  
27 been transferred. A successor in interest to whom employment  
28 experience or a part thereof is transferred pursuant to this  
29 subsection shall, as of the date of the transfer of the organization,  
30 trade, assets or business, or part thereof, immediately become an  
31 employer if not theretofore an employer subject to this chapter  
32 (R.S.43:21-1 et seq.).

33 (D) If an employer transfers in whole or in part his or its  
34 organization, trade, assets or business to a successor in interest,  
35 whether by merger, consolidation, sale, transfer, descent or  
36 otherwise and both the employer and successor in interest are at the  
37 time of the transfer under common ownership, management or  
38 control, then the employment experience attributable to the  
39 transferred business shall also be transferred to and combined with  
40 the employment experience of the successor in interest. The  
41 transfer of the employment experience is mandatory and not subject  
42 to appeal or protest.

43 (E) The transfer of part of an employer's employment experience  
44 to a successor in interest shall become effective as of the first day of  
45 the calendar quarter following the acquisition by the successor in  
46 interest. As of the effective date, the successor in interest shall  
47 have its employer rate recalculated by merging its existing  
48 employment experience, if any, with the employment experience

1 acquired. If the successor in interest is not an employer as of the  
2 date of acquisition, it shall be assigned the new employer rate until  
3 the effective date of the transfer of employment experience.

4 (F) Upon the transfer in whole or in part of the organization,  
5 trade, assets or business to a successor in interest, the employment  
6 experience shall not be transferred if the successor in interest is not  
7 an employer at the time of the acquisition and the controller finds  
8 that the successor in interest acquired the business solely or  
9 primarily for the purpose of obtaining a lower rate of contributions.

10 (d) Contributions of workers to the unemployment  
11 compensation fund and the State disability benefits fund.

12 (1) (A) For periods after January 1, 1975, each worker shall  
13 contribute to the fund 1% of his wages with respect to his  
14 employment with an employer, which occurs on and after January  
15 1, 1975, after such employer has satisfied the condition set forth in  
16 subsection (h) of R.S.43:21-19 with respect to becoming an  
17 employer; provided, however, that such contributions shall be at the  
18 rate of 1/2 of 1% of wages paid with respect to employment while  
19 the worker is in the employ of the State of New Jersey, or any  
20 governmental entity or instrumentality which is an employer as  
21 defined under R.S.43:21-19(h)(5), or is covered by an approved  
22 private plan under the "Temporary Disability Benefits Law" or  
23 while the worker is exempt from the provisions of the "Temporary  
24 Disability Benefits Law" under section 7 of that law, P.L.1948,  
25 c.110 (C.43:21-31).

26 (B) Effective January 1, 1978 there shall be no contributions by  
27 workers in the employ of any governmental or nongovernmental  
28 employer electing or required to make payments in lieu of  
29 contributions unless the employer is covered by the State plan under  
30 the "Temporary Disability Benefits Law" (C.43:21-25 et al.), and in  
31 that case contributions shall be at the rate of 1/2 of 1%, except that  
32 commencing July 1, 1986, workers in the employ of any  
33 nongovernmental employer electing or required to make payments  
34 in lieu of contributions shall be required to make contributions to  
35 the fund at the same rate prescribed for workers of other  
36 nongovernmental employers.

37 (C) (i) Notwithstanding the above provisions of this paragraph  
38 (1), during the period starting July 1, 1986 and ending December  
39 31, 1992, each worker shall contribute to the fund 1.125% of wages  
40 paid with respect to his employment with a governmental employer  
41 electing or required to pay contributions or nongovernmental  
42 employer, including a nonprofit organization which is an employer  
43 as defined under R.S.43:21-19(h)(6), regardless of whether that  
44 nonprofit organization elects or is required to finance its benefit  
45 costs with contributions to the fund or by payments in lieu of  
46 contributions, after that employer has satisfied the conditions set  
47 forth in subsection R.S.43:21-19(h) with respect to becoming an  
48 employer. Contributions, however, shall be at the rate of 0.625%

1 while the worker is covered by an approved private plan under the  
2 "Temporary Disability Benefits Law" or while the worker is exempt  
3 under section 7 of that law, P.L.1948, c.110 (C.43:21-31) or any  
4 other provision of that law; provided that such contributions shall  
5 be at the rate of 0.625% of wages paid with respect to employment  
6 with the State of New Jersey or any other governmental entity or  
7 instrumentality electing or required to make payments in lieu of  
8 contributions and which is covered by the State plan under the  
9 "Temporary Disability Benefits Law," except that, while the worker  
10 is exempt from the provisions of the "Temporary Disability Benefits  
11 Law" under section 7 of that law, P.L.1948, c.110 (C.43:21-31) or  
12 any other provision of that law, or is covered for disability benefits  
13 by an approved private plan of the employer, the contributions to  
14 the fund shall be 0.125%.

15 (ii) (Deleted by amendment, P.L.1995, c.422.)

16 (D) Notwithstanding any other provisions of this paragraph (1),  
17 during the period starting January 1, 1993 and ending June 30,  
18 1994, each worker shall contribute to the unemployment  
19 compensation fund 0.5% of wages paid with respect to the worker's  
20 employment with a governmental employer electing or required to  
21 pay contributions or nongovernmental employer, including a  
22 nonprofit organization which is an employer as defined under  
23 paragraph (6) of subsection (h) of R.S.43:21-19, regardless of  
24 whether that nonprofit organization elects or is required to finance  
25 its benefit costs with contributions to the fund or by payments in  
26 lieu of contributions, after that employer has satisfied the conditions  
27 set forth in subsection (h) of R.S.43:21-19 with respect to becoming  
28 an employer. No contributions, however, shall be made by the  
29 worker while the worker is covered by an approved private plan  
30 under the "Temporary Disability Benefits Law," P.L.1948, c.110  
31 (C.43:21-25 et al.) or while the worker is exempt under section 7 of  
32 P.L.1948, c.110 (C.43:21-31) or any other provision of that law;  
33 provided that the contributions shall be at the rate of 0.50% of  
34 wages paid with respect to employment with the State of New  
35 Jersey or any other governmental entity or instrumentality electing  
36 or required to make payments in lieu of contributions and which is  
37 covered by the State plan under the "Temporary Disability Benefits  
38 Law," except that, while the worker is exempt from the provisions  
39 of the "Temporary Disability Benefits Law" under section 7 of that  
40 law, P.L.1948, c.110 (C.43:21-31) or any other provision of that  
41 law, or is covered for disability benefits by an approved private plan  
42 of the employer, no contributions shall be made to the fund.

43 Each worker shall, starting on January 1, 1996 and ending March  
44 31, 1996, contribute to the unemployment compensation fund  
45 0.60% of wages paid with respect to the worker's employment with  
46 a governmental employer electing or required to pay contributions  
47 or nongovernmental employer, including a nonprofit organization  
48 which is an employer as defined under paragraph (6) of subsection

1 (h) of R.S.43:21-19, regardless of whether that nonprofit  
2 organization elects or is required to finance its benefit costs with  
3 contributions to the fund or by payments in lieu of contributions,  
4 after that employer has satisfied the conditions set forth in  
5 subsection (h) of R.S.43:21-19 with respect to becoming an  
6 employer, provided that the contributions shall be at the rate of  
7 0.10% of wages paid with respect to employment with the State of  
8 New Jersey or any other governmental entity or instrumentality  
9 electing or required to make payments in lieu of contributions.

10 Each worker shall, starting on January 1, 1998 and ending  
11 December 31, 1998, contribute to the unemployment compensation  
12 fund 0.10% of wages paid with respect to the worker's employment  
13 with a governmental employer electing or required to pay  
14 contributions or nongovernmental employer, including a nonprofit  
15 organization which is an employer as defined under paragraph (6)  
16 of subsection (h) of R.S.43:21-19, regardless of whether that  
17 nonprofit organization elects or is required to finance its benefit  
18 costs with contributions to the fund or by payments in lieu of  
19 contributions, after that employer has satisfied the conditions set  
20 forth in subsection (h) of R.S.43:21-19 with respect to becoming an  
21 employer, provided that the contributions shall be at the rate of  
22 0.10% of wages paid with respect to employment with the State of  
23 New Jersey or any other governmental entity or instrumentality  
24 electing or required to make payments in lieu of contributions.

25 Each worker shall, starting on January 1, 1999 until December  
26 31, 1999, contribute to the unemployment compensation fund  
27 0.15% of wages paid with respect to the worker's employment with  
28 a governmental employer electing or required to pay contributions  
29 or nongovernmental employer, including a nonprofit organization  
30 which is an employer as defined under paragraph (6) of subsection  
31 (h) of R.S.43:21-19, regardless of whether that nonprofit  
32 organization elects or is required to finance its benefit costs with  
33 contributions to the fund or by payments in lieu of contributions,  
34 after that employer has satisfied the conditions set forth in  
35 subsection (h) of R.S.43:21-19 with respect to becoming an  
36 employer, provided that the contributions shall be at the rate of  
37 0.10% of wages paid with respect to employment with the State of  
38 New Jersey or any other governmental entity or instrumentality  
39 electing or required to make payments in lieu of contributions.

40 Each worker shall, starting on January 1, 2000 until December  
41 31, 2001, contribute to the unemployment compensation fund  
42 0.20% of wages paid with respect to the worker's employment with  
43 a governmental employer electing or required to pay contributions  
44 or nongovernmental employer, including a nonprofit organization  
45 which is an employer as defined under paragraph (6) of subsection  
46 (h) of R.S.43:21-19, regardless of whether that nonprofit  
47 organization elects or is required to finance its benefit costs with  
48 contributions to the fund or by payments in lieu of contributions,

1 after that employer has satisfied the conditions set forth in  
2 subsection (h) of R.S.43:21-19 with respect to becoming an  
3 employer, provided that the contributions shall be at the rate of  
4 0.10% of wages paid with respect to employment with the State of  
5 New Jersey or any other governmental entity or instrumentality  
6 electing or required to make payments in lieu of contributions.

7 Each worker shall, starting on January 1, 2002 until June 30,  
8 2004, contribute to the unemployment compensation fund 0.1825%  
9 of wages paid with respect to the worker's employment with a  
10 governmental employer electing or required to pay contributions or  
11 a nongovernmental employer, including a nonprofit organization  
12 which is an employer as defined under paragraph (6) of subsection  
13 (h) of R.S.43:21-19, regardless of whether that nonprofit  
14 organization elects or is required to finance its benefit costs with  
15 contributions to the fund or by payments in lieu of contributions,  
16 after that employer has satisfied the conditions set forth in  
17 subsection (h) of R.S.43:21-19 with respect to becoming an  
18 employer, provided that the contributions shall be at the rate of  
19 0.0825% of wages paid with respect to employment with the State  
20 of New Jersey or any other governmental entity or instrumentality  
21 electing or required to make payments in lieu of contributions.

22 Each worker shall, starting on and after July 1, 2004, contribute  
23 to the unemployment compensation fund 0.3825% of wages paid  
24 with respect to the worker's employment with a governmental  
25 employer electing or required to pay contributions or  
26 nongovernmental employer, including a nonprofit organization  
27 which is an employer as defined under paragraph (6) of subsection  
28 (h) of R.S.43:21-19, regardless of whether that nonprofit  
29 organization elects or is required to finance its benefit costs with  
30 contributions to the fund or by payments in lieu of contributions,  
31 after that employer has satisfied the conditions set forth in  
32 subsection (h) of R.S.43:21-19 with respect to becoming an  
33 employer, provided that the contributions shall be at the rate of  
34 0.0825% of wages paid with respect to employment with the State  
35 of New Jersey or any other governmental entity or instrumentality  
36 electing or required to make payments in lieu of contributions.

37 (E) Each employer shall, notwithstanding any provision of law  
38 in this State to the contrary, withhold in trust the amount of his  
39 workers' contributions from their wages at the time such wages are  
40 paid, shall show such deduction on his payroll records, shall furnish  
41 such evidence thereof to his workers as the division or controller  
42 may prescribe, and shall transmit all such contributions, in addition  
43 to his own contributions, to the office of the controller in such  
44 manner and at such times as may be prescribed. If any employer  
45 fails to deduct the contributions of any of his workers at the time  
46 their wages are paid, or fails to make a deduction therefor at the  
47 time wages are paid for the next succeeding payroll period, he alone  
48 shall thereafter be liable for such contributions, and for the purpose

1 of R.S.43:21-14, such contributions shall be treated as employer's  
2 contributions required from him.

3 (F) As used in this chapter (R.S.43:21-1 et seq.), except when  
4 the context clearly requires otherwise, the term "contributions" shall  
5 include the contributions of workers pursuant to this section.

6 (G) (i) **【**Each worker shall, starting on July 1, 1994 and ending  
7 on December 31, 2011, contribute to the State disability benefits  
8 fund an amount equal to 0.50% of wages paid with respect to the  
9 worker's employment with a government employer electing or  
10 required to pay contributions to the State disability benefits fund or  
11 nongovernmental employer, including a nonprofit organization  
12 which is an employer as defined under paragraph (6) of subsection  
13 (h) of R.S.43:21-19, unless the employer is covered by an approved  
14 private disability plan or is exempt from the provisions of the  
15 "Temporary Disability Benefits Law," P.L.1948, c.110 (C.43:21-25  
16 et al.) under section 7 of that law (C.43:21-31) or any other  
17 provision of that law.**】** Each worker, with respect to the worker's  
18 employment with a government employer electing or required to  
19 pay contributions to the State disability benefits fund or  
20 nongovernmental employer, including a nonprofit organization  
21 which is an employer as defined under paragraph (6) of subsection  
22 (h) of R.S.43:21-19, unless the employer is covered by an approved  
23 private disability plan or is exempt from the provisions of the  
24 "Temporary Disability Benefits Law," P.L.1948, c.110 (C.43:21-25  
25 et al.) under section 7 of that law (C.43:21-31) or any other  
26 provision of that law, shall, for calendar year 2012 and each  
27 subsequent calendar year, make contributions to the State disability  
28 benefits fund at the annual rate of contribution necessary to obtain a  
29 total amount of contributions, which, when added to employer  
30 contributions made to the State disability benefits fund pursuant to  
31 subsection (e) of this section, is, for calendar years prior to calendar  
32 year 2018, equal to 120% of the benefits paid for periods of  
33 disability, excluding periods of family temporary disability, during  
34 the immediately preceding calendar year plus an amount equal to  
35 100% of the cost of administration of the payment of those benefits  
36 during the immediately preceding calendar year, less the amount of  
37 net assets remaining in the State disability benefits fund, excluding  
38 net assets remaining in the "Family Temporary Disability Leave  
39 Account" of that fund, as of December 31 of the immediately  
40 preceding year, and is, for calendar year 2018 **【**and subsequent  
41 calendar years**】**, equal to 120% of the benefits paid for periods of  
42 disability, excluding periods of family temporary disability, during  
43 the last preceding full fiscal year plus an amount equal to 100% of  
44 the cost of administration of the payment of those benefits during  
45 the last preceding full fiscal year, less the amount of net assets  
46 anticipated to be remaining in the "Family Temporary Disability  
47 Leave Account" of that fund, as of December 31 of the immediately  
48 preceding calendar year, and is, for each of calendar years 2019 and

1 2020, equal to 120% of the benefits which the department  
2 anticipates will be paid for periods of disability, excluding periods  
3 of family temporary disability and pregnancy temporary disability,  
4 during the respective calendar year plus an amount equal to 100%  
5 of the cost of administration of the payment of those benefits which  
6 the department anticipates during the respective calendar year, less  
7 the amount of net assets anticipated to be remaining in the "Family  
8 Temporary Disability Leave Account" of that fund, as of December  
9 31 of the immediately preceding calendar year, and is, for calendar  
10 year 2021 and any subsequent calendar year, equal to 120% of the  
11 benefits paid for periods of disability, excluding periods of family  
12 temporary disability and pregnancy temporary disability, during the  
13 last preceding full fiscal year plus an amount equal to 100% of the  
14 cost of administration of the payment of those benefits during the  
15 last preceding full fiscal year, less the amount of net assets  
16 anticipated to be remaining in the "Family Temporary Disability  
17 Leave Account" and the "Pregnancy Temporary Disability Leave  
18 Account" of that fund, as of December 31 of the immediately  
19 preceding calendar year. The estimated rates for the next calendar  
20 year shall be made available on the department's website no later  
21 than 60 days after the end of the last preceding full fiscal year. The  
22 rates of employer contributions determined pursuant to subsection  
23 (e) of this section for any year shall be determined prior to the  
24 determination of the rate of employee contributions pursuant to this  
25 subparagraph (i) and any consideration of employee contributions in  
26 determining employer rates for any year shall be based on amounts  
27 of employee contributions made prior to the year to which the rate  
28 of employee contributions applies and shall not be based on any  
29 projection or estimate of the amount of employee contributions for  
30 the year to which that rate applies.

31 (ii) Each worker shall contribute to the State disability benefits  
32 fund, in addition to any amount contributed pursuant to  
33 subparagraph (i) of this paragraph (1)(G), an amount equal to,  
34 during calendar year 2009, 0.09%, and during calendar year 2010  
35 0.12%, of wages paid with respect to the worker's employment with  
36 any covered employer, including a governmental employer which is  
37 an employer as defined under R.S.43:21-19(h)(5), unless the  
38 employer is covered by an approved private disability plan for  
39 benefits during periods of family temporary disability leave. The  
40 contributions made pursuant to this subparagraph (ii) to the State  
41 disability benefits fund shall be deposited into an account of that  
42 fund reserved for the payment of benefits during periods of family  
43 temporary disability leave as defined in section 3 of the "Temporary  
44 Disability Benefits Law," P.L.1948, c.110 (C.43:21-27) and for the  
45 administration of those payments and shall not be used for any other  
46 purpose. This account shall be known as the "Family Temporary  
47 Disability Leave Account." For calendar year 2011 and each  
48 subsequent calendar year until 2018, the annual rate of contribution



1 to be paid by workers pursuant to this subparagraph (ii) shall be, for  
2 calendar years prior to calendar year 2018, the rate necessary to  
3 obtain a total amount of contributions equal to 125% of the benefits  
4 paid for periods of family temporary disability leave during the  
5 immediately preceding calendar year plus an amount equal to 100%  
6 of the cost of administration of the payment of those benefits during  
7 the immediately preceding calendar year, less the amount of net  
8 assets remaining in the account as of December 31 of the  
9 immediately preceding year, and shall be, for calendar year 2018  
10 **【and subsequent calendar years】**, the rate necessary to obtain a total  
11 amount of contributions equal to 125% of the benefits paid for  
12 periods of family temporary disability leave during the last  
13 preceding full fiscal year plus an amount equal to 100% of the cost  
14 of administration of the payment of those benefits during the last  
15 preceding full fiscal year, less the amount of net assets anticipated  
16 to be remaining in the account as of December 31 of the  
17 immediately preceding calendar year. For each of calendar years  
18 2019 and 2020, the annual rate of contribution to be paid by  
19 workers pursuant to this subparagraph (ii) shall be the rate  
20 necessary to obtain a total amount of contributions equal to 125% of  
21 the benefits which the department anticipates will be paid for  
22 periods of family temporary disability leave during the respective  
23 calendar year plus an amount equal to 100% of the cost of  
24 administration of the payment of those benefits which the  
25 department anticipates during the respective calendar year, less the  
26 amount of net assets remaining in the account as of December 31 of  
27 the immediately preceding calendar year. For 2021 and any  
28 subsequent calendar year, the annual rate of contribution to be paid  
29 by workers pursuant to this subparagraph (ii) shall be the rate  
30 necessary to obtain a total amount of contributions equal to 125% of  
31 the benefits which were paid for periods of family temporary  
32 disability leave during the last preceding full fiscal year plus an  
33 amount equal to 100% of the cost of administration of the payment  
34 of those benefits during the last preceding full fiscal year, less the  
35 amount of net assets remaining in the account as of December 31 of  
36 the immediately preceding calendar year. All increases in the cost  
37 of benefits for periods of family temporary disability leave caused  
38 by the increases in the weekly benefit rate commencing July 1, 2019  
39 pursuant to section 16 of P.L.1948, c.110 (C.43:21-40) and  
40 increases in the maximum duration of benefits commencing July 1,  
41 2019 pursuant to sections 14 and 15 of P.L.1948, c.110 (C.43:21-38  
42 and 43:21-39) shall be funded by contributions made by workers  
43 pursuant to this paragraph (ii) and none of those increases shall be  
44 funded by employer contributions. The estimated rates for the next  
45 calendar year shall be made available on the department's website  
46 no later than 60 days after the end of the last preceding full fiscal  
47 year. Necessary administrative costs shall include the cost of an  
48 outreach program to inform employees of the availability of the

1 benefits and the cost of issuing the reports required or permitted  
2 pursuant to section 13 of P.L.2008, c.17 (C.43:21-39.4). No  
3 monies, other than the funds in the "Family Temporary Disability  
4 Leave Account," shall be used for the payment of benefits during  
5 periods of family temporary disability leave or for the  
6 administration of those payments, with the sole exception that,  
7 during calendar years 2008 and 2009, a total amount not exceeding  
8 \$25 million may be transferred to that account from the revenues  
9 received in the State disability benefits fund pursuant to  
10 subparagraph (i) of this paragraph (1)(G) and be expended for those  
11 payments and their administration, including the administration of  
12 the collection of contributions made pursuant to this subparagraph  
13 (ii) and any other necessary administrative costs. Any amount  
14 transferred to the account pursuant to this subparagraph (ii) shall be  
15 repaid during a period beginning not later than January 1, 2011 and  
16 ending not later than December 31, 2015. No monies, other than  
17 the funds in the "Family Temporary Disability Leave Account,"  
18 shall be used under any circumstances after December 31, 2009, for  
19 the payment of benefits during periods of family temporary  
20 disability leave or for the administration of those payments,  
21 including for the administration of the collection of contributions  
22 made pursuant to this subparagraph (ii).

23 (iii) Each worker, with respect to the worker's employment with  
24 a government employer electing or required to pay contributions to  
25 the State disability benefits fund or nongovernmental employer,  
26 including a nonprofit organization which is an employer as defined  
27 under paragraph (6) of subsection (h) of R.S.43:21-19, unless the  
28 employer is covered by an approved private disability plan or is  
29 exempt from the provisions of the "Temporary Disability Benefits  
30 Law," P.L.1948, c.110 (C.43:21-25 et al.) under section 7 of that  
31 law (C.43:21-31) or any other provision of that law, shall make  
32 contributions to the State disability benefits fund, in addition to any  
33 amount contributed pursuant to subparagraph (i) of this paragraph  
34 (1)(G), for the purpose of funding the provision of pregnancy  
35 temporary disability benefits. The contributions made pursuant to  
36 this subparagraph (iii) to the State disability benefits fund shall be  
37 deposited into an account of that fund reserved for the payment of  
38 benefits during periods of pregnancy temporary disability and for  
39 the administration of those payments and shall not be used for any  
40 other purpose. This account shall be known as the "Pregnancy  
41 Temporary Disability Account." For each of calendar years 2019  
42 and 2020, the annual rate of contribution to be paid by workers  
43 pursuant to this subparagraph (iii) shall be the rate necessary to  
44 obtain a total amount of contributions, which, when added to the  
45 portion of employer contributions made to the State disability  
46 benefits fund pursuant to subsection (e) of this section which is  
47 allocated to benefits for periods of pregnancy temporary disability,  
48 is equal to 120% of the benefits which the department anticipates

1 will be paid for periods of pregnancy temporary disability during  
2 the respective calendar year plus an amount equal to 100% of the  
3 cost of administration of the payment of those benefits which the  
4 department anticipates during the respective calendar year, less the  
5 amount of net assets remaining in the account as of December 31 of  
6 the immediately preceding calendar year. For calendar year 2021  
7 and any subsequent calendar year, the annual rate of contribution to  
8 be paid by workers pursuant to this subparagraph (iii) shall be the  
9 rate necessary to obtain a total amount of contributions, which,  
10 when added to the portion of employer contributions made to the  
11 State disability benefits fund pursuant to subsection (e) of this  
12 section which is allocated to benefits for a period of pregnancy  
13 temporary disability, is equal to 120% of the benefits which were  
14 paid for periods of pregnancy temporary disability during the last  
15 preceding full fiscal year plus an amount equal to 100% of the cost  
16 of administration of the payment of those benefits during the last  
17 preceding full fiscal year, less the amount of net assets remaining in  
18 the account as of December 31 of the immediately preceding  
19 calendar year. The estimated rates for the next calendar year shall  
20 be made available on the department's website no later than 60 days  
21 after the end of the last preceding full fiscal year. No monies, other  
22 than the funds in the "Pregnancy Temporary Disability Leave  
23 Account" contributed by workers, and the portion of employer  
24 contributions to the State disability benefits fund which the  
25 department determines is allocated to benefits for periods of  
26 pregnancy temporary disability, shall be used for the payment of  
27 benefits during periods of pregnancy temporary disability or for the  
28 administration of those payments, including for the administration  
29 of the collection of contributions made pursuant to this  
30 subparagraph (iii). The department shall base its determination of  
31 what portion of employer contributions to the State disability  
32 benefits fund is allocated to benefits for periods of pregnancy  
33 temporary disability on the percentage that the total amount of  
34 benefits for periods of pregnancy temporary disability benefits  
35 would represent of the total amount of all disability benefits if the  
36 increases in the weekly benefit rate for benefits for periods of  
37 pregnancy temporary disability commencing July 1, 2019 pursuant  
38 to section 16 of P.L.1948, c.110 (C.43:21-40) were not in effect.  
39 All increases in the cost of benefits for periods of pregnancy  
40 temporary disability caused by increases in the weekly benefit rate  
41 for those benefits commencing July 1, 2019 pursuant to section 16  
42 of P.L.1948, c.110 (C.43:21-40) shall be funded by contributions  
43 made by workers pursuant to this paragraph (iii) and none of those  
44 increases shall be funded by employer contributions.

45 For the purposes of this section, periods of "pregnancy  
46 temporary disability" means periods of disability due to pregnancy  
47 or recovery from childbirth.

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

1 (B) (Deleted by amendment, P.L.1984, c.24.)  
2 (C) (Deleted by amendment, P.L.1994, c.112.)  
3 (D) (Deleted by amendment, P.L.1994, c.112.)  
4 (E) (i) (Deleted by amendment, P.L.1994, c.112.)  
5 (ii) (Deleted by amendment, P.L.1996, c.28.)  
6 (iii) (Deleted by amendment, P.L.1994, c.112.)  
7 (3) (A) If an employee receives wages from more than one  
8 employer during any calendar year, and either the sum of his  
9 contributions deposited in and credited to the State disability  
10 benefits fund plus the amount of his contributions, if any, required  
11 towards the costs of benefits under one or more approved private  
12 plans under the provisions of section 9 of the "Temporary Disability  
13 Benefits Law" (C.43:21-33) and deducted from his wages, or the  
14 sum of such latter contributions, if the employee is covered during  
15 such calendar year only by two or more private plans, exceeds an  
16 amount equal to 1/2 of 1% of the "wages" determined in accordance  
17 with the provisions of R.S.43:21-7(b)(3) during the calendar years  
18 beginning on or after January 1, 1976 or, during calendar year 2012  
19 or any subsequent calendar year, the total amount of his  
20 contributions for the year exceeds the amount set by the annual rate  
21 of contribution determined by the Commissioner of Labor and  
22 Workforce Development pursuant to subparagraph (i) and, during  
23 calendar year 2019 and subsequent calendar years, subparagraph  
24 (iii), of paragraph (1)(G) of this subsection (d), the employee shall  
25 be entitled to a refund of the excess if he makes a claim to the  
26 controller within two years after the end of the calendar year in  
27 which the wages are received with respect to which the refund is  
28 claimed and establishes his right to such refund. Such refund shall  
29 be made by the controller from the State disability benefits fund. No  
30 interest shall be allowed or paid with respect to any such refund.  
31 The controller shall, in accordance with prescribed regulations,  
32 determine the portion of the aggregate amount of such refunds made  
33 during any calendar year which is applicable to private plans for  
34 which deductions were made under section 9 of the "Temporary  
35 Disability Benefits Law" (C.43:21-33) such determination to be  
36 based upon the ratio of the amount of such wages exempt from  
37 contributions to such fund, as provided in subparagraph (B) of  
38 paragraph (1) of this subsection with respect to coverage under  
39 private plans, to the total wages so exempt plus the amount of such  
40 wages subject to contributions to the disability benefits fund, as  
41 provided in subparagraph (G) of paragraph (1) of this subsection.  
42 The controller shall, in accordance with prescribed regulations,  
43 prorate the amount so determined among the applicable private  
44 plans in the proportion that the wages covered by each plan bear to  
45 the total private plan wages involved in such refunds, and shall  
46 assess against and recover from the employer, or the insurer if the  
47 insurer has indemnified the employer with respect thereto, the  
48 amount so prorated. The provisions of R.S.43:21-14 with respect to

1 collection of employer contributions shall apply to such  
2 assessments. The amount so recovered by the controller shall be  
3 paid into the State disability benefits fund.

4 (B) If an employee receives wages from more than one employer  
5 during any calendar year, and the sum of his contributions deposited  
6 in the "Family Temporary Disability Leave Account" of the State  
7 disability benefits fund plus the amount of his contributions, if any,  
8 required towards the costs of family temporary disability leave  
9 benefits under one or more approved private plans under the  
10 provisions of the "Temporary Disability Benefits Law" (C.43:21-25  
11 et al.) and deducted from his wages, exceeds an amount equal to,  
12 during calendar year 2009, 0.09% of the "wages" determined in  
13 accordance with the provisions of R.S.43:21-7(b)(3), or during  
14 calendar year 2010, 0.12% of those wages, or, during calendar year  
15 2011 or any subsequent calendar year, the percentage of those  
16 wages set by the annual rate of contribution determined by the  
17 Commissioner of Labor and Workforce Development pursuant to  
18 subparagraph (ii) of paragraph (1)(G) of this subsection (d), the  
19 employee shall be entitled to a refund of the excess if he makes a  
20 claim to the controller within two years after the end of the calendar  
21 year in which the wages are received with respect to which the  
22 refund is claimed and establishes his right to the refund. The refund  
23 shall be made by the controller from the "Family Temporary  
24 Disability Leave Account" of the State disability benefits fund. No  
25 interest shall be allowed or paid with respect to any such refund.  
26 The controller shall, in accordance with prescribed regulations,  
27 determine the portion of the aggregate amount of the refunds made  
28 during any calendar year which is applicable to private plans for  
29 which deductions were made under section 9 of the "Temporary  
30 Disability Benefits Law" (C.43:21-33), with that determination  
31 based upon the ratio of the amount of such wages exempt from  
32 contributions to the fund, as provided in paragraph (1)(B) of this  
33 subsection (d) with respect to coverage under private plans, to the  
34 total wages so exempt plus the amount of such wages subject to  
35 contributions to the "Family Temporary Disability Leave Account"  
36 of the State disability benefits fund, as provided in subparagraph (ii)  
37 of paragraph (1)(G) of this subsection (d). The controller shall, in  
38 accordance with prescribed regulations, prorate the amount so  
39 determined among the applicable private plans in the proportion  
40 that the wages covered by each plan bear to the total private plan  
41 wages involved in such refunds, and shall assess against and  
42 recover from the employer, or the insurer if the insurer has  
43 indemnified the employer with respect thereto, the prorated amount.  
44 The provisions of R.S.43:21-14 with respect to collection of  
45 employer contributions shall apply to such assessments. The  
46 amount so recovered by the controller shall be paid into the "Family  
47 Temporary Disability Leave Account" of the State disability  
48 benefits fund.

1 (4) If an individual does not receive any wages from the  
2 employing unit which for the purposes of this chapter (R.S.43:21-1  
3 et seq.) is treated as his employer, or receives his wages from some  
4 other employing unit, such employer shall nevertheless be liable for  
5 such individual's contributions in the first instance; and after  
6 payment thereof such employer may deduct the amount of such  
7 contributions from any sums payable by him to such employing  
8 unit, or may recover the amount of such contributions from such  
9 employing unit, or, in the absence of such an employing unit, from  
10 such individual, in a civil action; provided proceedings therefor are  
11 instituted within three months after the date on which such  
12 contributions are payable. General rules shall be prescribed  
13 whereby such an employing unit may recover the amount of such  
14 contributions from such individuals in the same manner as if it were  
15 the employer.

16 (5) Every employer who has elected to become an employer  
17 subject to this chapter (R.S.43:21-1 et seq.), or to cease to be an  
18 employer subject to this chapter (R.S.43:21-1 et seq.), pursuant to  
19 the provisions of R.S.43:21-8, shall post and maintain printed  
20 notices of such election on his premises, of such design, in such  
21 numbers, and at such places as the director may determine to be  
22 necessary to give notice thereof to persons in his service.

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

26 (e) Contributions by employers to the State disability benefits  
27 fund.

28 (1) Except as hereinafter provided, each employer shall, in  
29 addition to the contributions required by subsections (a), (b), and  
30 (c) of this section, contribute 1/2 of 1% of the wages paid by such  
31 employer to workers with respect to employment unless he is not a  
32 covered employer as defined in subsection (a) of section 3 of the  
33 "Temporary Disability Benefits Law" (C.43:21-27 (a)), except that  
34 the rate for the State of New Jersey shall be 1/10 of 1% for the  
35 calendar year 1980 and for the first six months of 1981. Prior to  
36 July 1, 1981 and prior to July 1 each year thereafter, the controller  
37 shall review the experience accumulated in the account of the State  
38 of New Jersey and establish a rate for the next following fiscal year  
39 which, in combination with worker contributions, will produce  
40 sufficient revenue to keep the account in balance; except that the  
41 rate so established shall not be less than 1/10 of 1%. Such  
42 contributions shall become due and be paid by the employer to the  
43 controller for the State disability benefits fund as established by  
44 law, in accordance with such regulations as may be prescribed, and  
45 shall not be deducted, in whole or in part, from the remuneration of  
46 individuals in his employ. In the payment of any contributions, a  
47 fractional part of a cent shall be disregarded unless it amounts to  
48 \$0.005 or more, in which case it shall be increased to \$0.01.

1 (2) During the continuance of coverage of a worker by an  
2 approved private plan of disability benefits under the "Temporary  
3 Disability Benefits Law," the employer shall be exempt from the  
4 contributions required by paragraph (1) above with respect to wages  
5 paid to such worker.

6 (3) (A) The rates of contribution as specified in paragraph (1)  
7 above shall be subject to modification as provided herein with  
8 respect to employer contributions due on and after July 1, 1951.

9 (B) A separate disability benefits account shall be maintained for  
10 each employer required to contribute to the State disability benefits  
11 fund and such account shall be credited with contributions  
12 deposited in and credited to such fund with respect to employment  
13 occurring on and after January 1, 1949. Each employer's account  
14 shall be credited with all contributions paid on or before January 31  
15 of any calendar year on his own behalf and on behalf of individuals  
16 in his service with respect to employment occurring in preceding  
17 calendar years; provided, however, that if January 31 of any  
18 calendar year falls on a Saturday or Sunday an employer's account  
19 shall be credited as of January 31 of such calendar year with all the  
20 contributions which he has paid on or before the next succeeding  
21 day which is not a Saturday or Sunday. But nothing in this act shall  
22 be construed to grant any employer or individuals in his service  
23 prior claims or rights to the amounts paid by him to the fund either  
24 on his own behalf or on behalf of such individuals. Benefits paid to  
25 any covered individual in accordance with Article III of the  
26 "Temporary Disability Benefits Law" on or before December 31 of  
27 any calendar year with respect to disability in such calendar year  
28 and in preceding calendar years shall be charged against the account  
29 of the employer by whom such individual was employed at the  
30 commencement of such disability or by whom he was last  
31 employed, if out of employment.

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

39 (D) Prior to July 1 of each calendar year, the controller shall  
40 make a preliminary determination of the rate of contribution for the  
41 12 months commencing on such July 1 for each employer subject to  
42 the contribution requirements of this subsection (e).

43 (1) Such preliminary rate shall be 1/2 of 1% unless on the  
44 preceding January 31 of such year such employer shall have been a  
45 covered employer who has paid contributions to the State disability  
46 benefits fund with respect to employment in the three calendar  
47 years immediately preceding such year.

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

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

8 (ii)  $15/100$  of 1% if such excess over \$500.00 equals or exceeds  
9  $1\ 1/4\%$  but is less than  $1\ 1/2\%$  of his average annual payroll;

10 (iii)  $1/10$  of 1% if such excess over \$500.00 equals or exceeds  $1\ 1/2\%$   
11 of his average annual payroll.

12 (3) If the minimum requirements in subparagraph (D) (1) above  
13 have been fulfilled and the contributions credited exceed the  
14 benefits charged but by not more than \$500.00 plus 1% of his  
15 average annual payroll, or if the benefits charged exceed the  
16 contributions credited but by not more than \$500.00, the  
17 preliminary rate shall be  $1/4$  of 1%.

18 (4) If the minimum requirements in subparagraph (D) (1) above  
19 have been fulfilled and the benefits charged exceed the  
20 contributions credited by more than \$500.00, such preliminary rate  
21 shall be as follows:

22 (i)  $35/100$  of 1% if such excess over \$500.00 is less than  $1/4$  of  
23 1% of his average annual payroll;

24 (ii)  $45/100$  of 1% if such excess over \$500.00 equals or exceeds  
25  $1/4$  of 1% but is less than  $1/2$  of 1% of his average annual payroll;

26 (iii)  $55/100$  of 1% if such excess over \$500.00 equals or exceeds  
27  $1/2$  of 1% but is less than  $3/4$  of 1% of his average annual payroll;

28 (iv)  $65/100$  of 1% if such excess over \$500.00 equals or exceeds  
29  $3/4$  of 1% but is less than 1% of his average annual payroll;

30 (v)  $75/100$  of 1% if such excess over \$500.00 equals or exceeds  
31 1% of his average annual payroll.

32 (5) Determination of the preliminary rate as specified in  
33 subparagraphs (D)(2), (3) and (4) above shall be subject, however,  
34 to the condition that it shall in no event be decreased by more than  
35  $1/10$  of 1% of wages or increased by more than  $2/10$  of 1% of  
36 wages from the preliminary rate determined for the preceding year  
37 in accordance with subparagraph (D) (1), (2), (3) or (4), whichever  
38 shall have been applicable.

39 (E) (1) Prior to July 1 of each calendar year the controller shall  
40 determine the amount of the State disability benefits fund as of  
41 December 31 of the preceding calendar year, increased by the  
42 contributions paid thereto during January of the current calendar  
43 year with respect to employment occurring in the preceding  
44 calendar year. If such amount exceeds the net amount withdrawn  
45 from the unemployment trust fund pursuant to section 23 of the  
46 "Temporary Disability Benefits Law," P.L.1948, c.110 (C.43:21-47)  
47 plus the amount at the end of such preceding calendar year of the  
48 unemployment disability account as defined in section 22 of said



1 law (C.43:21-46), such excess shall be expressed as a percentage of  
2 the wages on which contributions were paid to the State disability  
3 benefits fund on or before January 31 with respect to employment  
4 in the preceding calendar year.

5 (2) The controller shall then make a final determination of the  
6 rates of contribution for the 12 months commencing July 1 of such  
7 year for employers whose preliminary rates are determined as  
8 provided in subparagraph (D) hereof, as follows:

9 (i) If the percentage determined in accordance with  
10 subparagraph (E)(1) of this paragraph equals or exceeds  $1\frac{1}{4}\%$ , the  
11 final employer rates shall be the preliminary rates determined as  
12 provided in subparagraph (D) hereof, except that if the employer's  
13 preliminary rate is determined as provided in subparagraph (D)(2)  
14 or subparagraph (D)(3) hereof, the final employer rate shall be the  
15 preliminary employer rate decreased by such percentage of excess  
16 taken to the nearest  $\frac{5}{100}$  of 1%, but in no case shall such final rate  
17 be less than  $\frac{1}{10}$  of 1%.

18 (ii) If the percentage determined in accordance with  
19 subparagraph (E)(1) of this paragraph equals or exceeds  $\frac{3}{4}$  of 1%  
20 and is less than  $1\frac{1}{4}$  of 1%, the final employer rates shall be the  
21 preliminary employer rates.

22 (iii) If the percentage determined in accordance with  
23 subparagraph (E)(1) of this paragraph is less than  $\frac{3}{4}$  of 1%, but in  
24 excess of  $\frac{1}{4}$  of 1%, the final employer rates shall be the  
25 preliminary employer rates determined as provided in subparagraph  
26 (D) hereof increased by the difference between  $\frac{3}{4}$  of 1% and such  
27 percentage taken to the nearest  $\frac{5}{100}$  of 1%; provided, however,  
28 that no such final rate shall be more than  $\frac{1}{4}$  of 1% in the case of an  
29 employer whose preliminary rate is determined as provided in  
30 subparagraph (D)(2) hereof, more than  $\frac{1}{2}$  of 1% in the case of an  
31 employer whose preliminary rate is determined as provided in  
32 subparagraph (D)(1) and subparagraph (D)(3) hereof, nor more than  
33  $\frac{3}{4}$  of 1% in the case of an employer whose preliminary rate is  
34 determined as provided in subparagraph (D)(4) hereof.

35 (iv) If the amount of the State disability benefits fund determined  
36 as provided in subparagraph (E)(1) of this paragraph is equal to or  
37 less than  $\frac{1}{4}$  of 1%, then the final rate shall be  $\frac{2}{5}$  of 1% in the case  
38 of an employer whose preliminary rate is determined as provided in  
39 subparagraph (D)(2) hereof,  $\frac{7}{10}$  of 1% in the case of an employer  
40 whose preliminary rate is determined as provided in subparagraph  
41 (D)(1) and subparagraph (D)(3) hereof, and 1.1% in the case of an  
42 employer whose preliminary rate is determined as provided in  
43 subparagraph (D)(4) hereof. Notwithstanding any other provision of  
44 law or any determination made by the controller with respect to any  
45 12-month period commencing on July 1, 1970, the final rates for all  
46 employers for the period beginning January 1, 1971, shall be as set  
47 forth herein.

- 1 (F) Notwithstanding any other provisions of this subsection (e),  
2 the rate of contribution paid to the State disability benefits fund by  
3 each covered employer as defined in paragraph (1) of subsection (a)  
4 of section 3 of P.L.1948, c.110 (C.43:21-27), shall be determined as  
5 if:
- 6 (i) No disability benefits have been paid with respect to periods  
7 of family temporary disability leave;
- 8 (ii) No worker paid any contributions to the State disability  
9 benefits fund pursuant to paragraph (1)(G)(ii) or paragraph  
10 (1)(G)(iii) of subsection (d) of this section; **[and]**
- 11 (iii) No amounts were transferred from the State disability  
12 benefits fund to the "Family Temporary Disability Leave Account"  
13 pursuant to paragraph (1)(G)(ii) of subsection (d) of this section;  
14 and
- 15 (iv) The total amount of benefits paid for periods of pregnancy  
16 temporary disability were not subject to the increases in the weekly  
17 benefit rate for those benefits commencing July 1, 2019 pursuant to  
18 section 16 of P.L.1948, c.110 (C.43:21-40).  
19 (cf: P.L.2017, c.138. s.1)

20  
21 4. Section 2 of P.L.1948, c.110 (C.43:21-26) is amended to  
22 read as follows:

23 2. Purpose. This act shall be liberally construed as remedial  
24 legislation enacted upon the following declarations of public policy  
25 and legislative findings of fact:

26 The public policy of this State, already established, is to protect  
27 employees against the suffering and hardship generally caused by  
28 involuntary unemployment. But the "unemployment compensation  
29 law" provides benefit payments to replace wage loss caused by  
30 involuntary unemployment only so long as an individual is "able to  
31 work, and is available for work," and fails to provide any protection  
32 against wage loss suffered because of inability to perform the duties  
33 of a job interrupted by nonoccupational illness, injury, or other  
34 disability of the individual or of members of the individual's family.  
35 Nor is there any other comprehensive and systematic provision for  
36 the protection of working people against loss of earnings due to a  
37 nonoccupational sickness, accident, or other disability.

38 The prevalence and incidence of nonoccupational sickness,  
39 accident, and other disability among employed people is greatest  
40 among the lower income groups, who either cannot or will not  
41 voluntarily provide out of their own resources against the hazard of  
42 an earnings loss caused by nonoccupational sickness, accident, or  
43 other disability. Disabling sickness or accident occurs throughout  
44 the working population at one time or another, and approximately  
45 fifteen per centum (15%) of the number of people at work may be  
46 expected to suffer disabling illness of more than one week each  
47 year.

1       It was found, prior to the enactment of the "Temporary Disability  
2 Benefits Law," P.L.1948, c.110 (C.43:21-25 et al.), that then  
3 existing voluntary plans for the payment of cash sickness benefits  
4 covered less than one-half of the number of working people of this  
5 State who were covered by the "unemployment compensation law,"  
6 and that even that degree of voluntary protection afforded uneven,  
7 unequal and sometimes uncertain protection among the various  
8 voluntary benefit programs.

9       While the enactment of that law has provided stable protection  
10 for New Jersey's disabled workers, very few workers are protected  
11 from income losses caused by the need to take time off from work  
12 to care for family members who are incapable of self-care,  
13 including newborn and newly-adopted children. The growing  
14 portion of middle-income families in which all adult family  
15 members work, largely due to economic necessity, points to the  
16 desperate need for replacement income when a working family  
17 member must take time to care for family members who are unable  
18 to take care of themselves. Moreover, the United States is the only  
19 industrialized nation in the world which does not have a mandatory  
20 workplace-based program for such income support. It is therefore  
21 desirable and necessary to fill the gap in existing provisions for  
22 protection against the loss of earnings caused by involuntary  
23 unemployment, by extending such protection to meet the hazard of  
24 earnings loss due to inability to work caused by nonoccupational  
25 sickness, accidents, or other disabilities of workers and members of  
26 their families. Developing systems that help families adapt to the  
27 competing interests of work and home not only benefits workers,  
28 but also benefits employers by reducing employee turnover and  
29 increasing worker productivity.

30       The foregoing facts and considerations require that there be a  
31 uniform minimum program providing in a systematic manner for  
32 the payment of reasonable benefits to replace partially such  
33 earnings loss and to meet the continuing need for benefits where an  
34 individual becomes disabled during unemployment or needs to care  
35 for family members incapable of self-care. In order to maintain  
36 consumer purchasing power, relieve the serious menace to health,  
37 morals and welfare of the people caused by insecurity and the loss  
38 of earnings, to reduce the necessity for public relief of needy  
39 persons, to increase workplace productivity and alleviate the  
40 enormous and growing stress on working families of balancing the  
41 demands of work and family needs, and in the interest of the health,  
42 welfare and security of the people of this State, such a system,  
43 enacted under the police power, is hereby established, requiring the  
44 payment of reasonable cash benefits to eligible individuals who are  
45 subject to accident or illness which is not compensable under the  
46 worker's compensation law or who need to care for family members  
47 incapable of self-care.

1 While the Legislature recognizes the pressing need for benefits  
2 for workers taking leave to care for family members incapable of  
3 self-care, it also finds that the need of workers for leave during their  
4 own disability continues to be especially acute, as a disabled worker  
5 has less discretion about taking time off from work than a worker  
6 caring for a family member. Notwithstanding any interpretation of  
7 law which may be construed as providing a worker with rights to  
8 take action against an employer who fails or refuses to restore the  
9 worker to employment after the worker's own disability, the  
10 Legislature does not intend that the policy established by P.L.2008,  
11 c.17 (C.43:21-39.1 et al.) of providing benefits for workers during  
12 periods of family temporary disability leave to care for family  
13 members incapable of self-care be construed as granting any worker  
14 an entitlement to be restored by the employer to employment held  
15 by the worker prior to taking family temporary disability leave or  
16 any right to take action, in tort, or for breach of an implied  
17 provision of the employment agreement, or under common law,  
18 against an employer who fails or refuses to restore the worker to  
19 employment after the family temporary disability leave, and the  
20 Legislature does not intend that the policy of providing benefits  
21 during family temporary disability leave be construed as increasing,  
22 reducing or otherwise modifying any entitlement of a worker to  
23 return to employment or right of the worker to take action under the  
24 provisions of the "Family Leave Act," P.L.1989, c.261 (C.34:11B-1  
25 et seq.)**】**, or the federal "Family and Medical Leave Act of 1993,"  
26 Pub.L.103-3 (29 U.S.C. s.2601 et seq.)**】**.

27 Since the enactment of the "Temporary Disability Benefits Law,"  
28 P.L.1948, c.110 (C.43:21-25 et al.), the State government-operated  
29 State temporary disability benefits plan, or "State plan," has proven  
30 to be highly efficient and cost effective in providing temporary  
31 disability benefits to New Jersey workers. The State plan  
32 guarantees the availability of coverage for all employers, regardless  
33 of experience, with low overhead costs and a rapid processing of  
34 claims and appeals by knowledgeable, impartial public employees.  
35 Consequently, the percentage of all employers using the State plan  
36 increased from 64% in 1952 to 98% in 2006, while the percentage  
37 of employees covered by the State plan increased from 28% to 83%.  
38 A publicly-operated, nonprofit State plan is therefore indispensable  
39 to achieving the goals of the "Temporary Disability Benefits Law,"  
40 P.L.1948, c.110 (C.43:21-25 et al.).  
41 (cf: P.L.2008, c.17, s.1)

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

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

47 (a) (1) "Covered employer" means, with respect to whether an  
48 employer is required to provide benefits during an employee's own

1 disability pursuant to P.L.1948, c.110 (C.43:21-25 et al.), any  
2 individual or type of organization, including any partnership,  
3 association, trust, estate, joint-stock company, insurance company  
4 or corporation, whether domestic or foreign, or the receiver, trustee  
5 in bankruptcy, trustee or successor thereof, or the legal  
6 representative of a deceased person, who is an employer subject to  
7 the "unemployment compensation law" (R.S.43:21-1 et seq.),  
8 except the State, its political subdivisions, and any instrumentality  
9 of the State unless such governmental entity elects to become a  
10 covered employer pursuant to paragraph (2) of this subsection (a);  
11 provided, however, that commencing with the effective date of this  
12 act, the State of New Jersey, including Rutgers, The State  
13 University and the New Jersey Institute of Technology, shall be  
14 deemed a covered employer, as defined herein.

15 "Covered employer" means, after June 30, 2009, with respect to  
16 whether the employer is an employer whose employees are eligible  
17 for benefits during periods of family temporary disability leave  
18 pursuant to P.L.1948, c.110 (C.43:21-25 et al.), and, after December  
19 31, 2008, whether employees of the employer are required to make  
20 contributions pursuant to R.S.43:21-7(d)(1)(G)(ii), any individual  
21 or type of organization, including any partnership, association,  
22 trust, estate, joint-stock company, insurance company or domestic  
23 or foreign corporation, or the receiver, trustee in bankruptcy, trustee  
24 or successor thereof, or the legal representative of a deceased  
25 person, who is an employer subject to the "unemployment  
26 compensation law" (R.S.43:21-1 et seq.), including any  
27 governmental entity or instrumentality which is an employer under  
28 R.S.43:21-19(h)(5), notwithstanding that the governmental entity or  
29 instrumentality has not elected to be a covered employer pursuant to  
30 paragraph (2) of this subsection (a).

31 (2) Any governmental entity or instrumentality which is an  
32 employer under R.S.43:21-19(h)(5) may, with respect to the  
33 provision of benefits during an employee's own disability pursuant  
34 to P.L.1948, c.110 (C.43:21-25 et al.), elect to become a "covered  
35 employer" under this subsection beginning with the date on which  
36 its coverage under R.S.43:21-19(h)(5) begins or as of January 1 of  
37 any year thereafter by filing written notice of such election with the  
38 division within at least 30 days of the effective date. Such election  
39 shall remain in effect for at least two full calendar years and may be  
40 terminated as of January 1 of any year thereafter by filing with the  
41 division a written notice of termination at least 30 days prior to the  
42 termination date.

43 (b) (1) "Covered individual" means, with respect to whether an  
44 individual is eligible for benefits during an individual's own  
45 disability pursuant to P.L.1948, c.110 (C.43:21-25 et al.), any  
46 person who is in employment, as defined in the "unemployment  
47 compensation law" (R.S.43:21-1 et seq.), for which the individual is  
48 entitled to remuneration from a covered employer, or who has been

1 out of such employment for less than two weeks, except that a  
2 "covered individual" who is employed by the State of New Jersey,  
3 including Rutgers, The State University or the New Jersey Institute  
4 of Technology, or by any governmental entity or instrumentality  
5 which elects to become a "covered employer" pursuant to this  
6 amendatory act, shall not be eligible to receive any benefits under  
7 the "Temporary Disability Benefits Law" until such individual has  
8 exhausted all sick leave accumulated as an employee in the  
9 classified service of the State or accumulated under terms and  
10 conditions similar to classified employees or accumulated under the  
11 terms and conditions pursuant to the laws of this State or as the  
12 result of a negotiated contract with any governmental entity or  
13 instrumentality which elects to become a "covered employer."

14 "Covered individual" shall not mean, with respect to whether an  
15 individual is eligible for benefits during an individual's own  
16 disability pursuant to P.L.1948, c.110 (C.43:21-25 et al.), any  
17 member of the Division of State Police in the Department of Law  
18 and Public Safety.

19 (2) "Covered individual" means, with respect to whether an  
20 individual is eligible for benefits during the individual's period of  
21 family temporary disability leave pursuant to P.L.1948, c.110  
22 (C.43:21-25 et al.), any individual who is in employment, as  
23 defined in the "unemployment compensation law" (R.S.43:21-1 et  
24 seq.), for which the individual is entitled to remuneration from a  
25 covered employer, or who has been out of that employment for less  
26 than two weeks.

27 (c) "Division" or "commission" means the Division of  
28 Temporary Disability Insurance of the Department of Labor and  
29 Workforce Development, and any transaction or exercise of  
30 authority by the director of the division shall be deemed to be  
31 performed by the division.

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

34 (e) "Disability" shall mean such disability as is compensable  
35 under section 5 of P.L.1948, c.110 (C.43:21-29).

36 (f) "Disability benefits" shall mean any cash payments which  
37 are payable to a covered individual for all or part of a period of  
38 disability pursuant to P.L.1948, c.110 (C.43:21-25 et al.).

39 (g) "Period of disability" with respect to any covered individual  
40 shall mean:

41 (1) The entire period of time during which the covered  
42 individual is continuously and totally unable to perform the duties  
43 of the covered individual's employment because of the covered  
44 individual's own disability, except that two periods of disability due  
45 to the same or related cause or condition and separated by a period  
46 of not more than 14 days shall be considered as one continuous  
47 period of disability; provided the individual has earned wages  
48 during such 14-day period with the employer who was the

1 individual's last employer immediately preceding the first period of  
2 disability; and

3 (2) On or after July 1, 2009, the entire period of family  
4 temporary disability leave taken from employment by the covered  
5 individual.

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

10 (i) (1) (Deleted by amendment, P.L.2001, c.17).

11 (2) (Deleted by amendment, P.L.2001, c.17).

12 (3) (Deleted by amendment, P.L.2013, c.221).

13 (4) "Base week" with respect to periods of disability  
14 commencing on or after January 1, 2001, means any calendar week  
15 of a covered individual's base year during which the covered  
16 individual earned in employment from a covered employer  
17 remuneration not less than an amount 20 times the minimum wage  
18 in effect pursuant to section 5 of P.L.1966, c.113 (C.34:11-56a4) on  
19 October 1 of the calendar year preceding the calendar year in which  
20 the benefit year commences, which amount shall be adjusted to the  
21 next higher multiple of \$1.00 if not already a multiple thereof,  
22 except that if in any calendar week an individual subject to this  
23 paragraph is in employment with more than one employer, the  
24 covered individual may in that calendar week establish a base week  
25 with respect to each of the employers from whom the covered  
26 individual earns remuneration equal to not less than the amount  
27 defined in this paragraph during that week.

28 (5) In the case of an individual who is laid off or furloughed by  
29 an employer curtailing operations because of a state of emergency  
30 declared after October 22, 2012, any week in which the individual  
31 is separated from employment due to that layoff or furlough, up to a  
32 maximum of 13 weeks, shall be regarded as a week which is a "base  
33 week" for the purpose of determining whether the individual  
34 becomes eligible for benefits pursuant to subsection (d) or (e) of  
35 section 17 of P.L.1948, c.110 (C.43:21-41), but shall not be  
36 regarded as a base week when calculating the "average weekly  
37 wage" pursuant to subsection (j) of this section.

38 (j) (1) "Average weekly wage" means the amount derived by  
39 dividing a covered individual's total wages earned from the  
40 individual's most recent covered employer during the base weeks in  
41 the eight calendar weeks immediately preceding the calendar week  
42 in which a period of disability commenced, by the number of such  
43 base weeks.

44 (2) If the computation in paragraph (1) of this subsection (j)  
45 yields a result which is less than the individual's average weekly  
46 earnings in employment with all covered employers during the base  
47 weeks in such eight calendar weeks, then the average weekly wage  
48 shall be computed on the basis of earnings from all covered

1 employers during the base weeks in the eight calendar weeks  
2 immediately preceding the week in which the period of disability  
3 commenced.

4 (3) For periods of disability commencing on or after July 1,  
5 2009, if the computations in paragraphs (1) and (2) of this  
6 subsection (j) both yield a result which is less than the individual's  
7 average weekly earnings in employment with all covered employers  
8 during the base weeks in the 26 calendar weeks immediately  
9 preceding the week in which the period of disability commenced,  
10 then the average weekly wage shall, upon a written request to the  
11 department by the individual on a form provided by the department,  
12 be computed by the department on the basis of earnings from all  
13 covered employers of the individual during the base weeks in those  
14 26 calendar weeks, and, in the case of a claim for benefits from a  
15 private plan, that computation of the average weekly wage shall be  
16 provided by the department to the individual and the individual's  
17 employer.

18 When determining the "average weekly wage" with respect to a  
19 period of family temporary disability leave for an individual who  
20 has a period of family temporary disability immediately after the  
21 individual has a period of disability for the individual's own  
22 disability, the period of disability is deemed to have commenced at  
23 the beginning of the period of disability for the individual's own  
24 disability, not the period of family temporary disability.

25 (k) "Child" means a biological, adopted, or foster child,  
26 stepchild or legal ward of a covered individual, child of a domestic  
27 partner of the covered individual, or child of a civil union partner of  
28 the covered individual, parent, **【**who is less than 19 years of age or  
29 is 19 years of age or older but incapable of self-care because of  
30 mental or physical impairment**】** including a child who becomes the  
31 child of a parent pursuant to a valid written agreement between the  
32 parent and a gestational carrier.

33 (l) "Domestic partner" means a domestic partner as defined in  
34 section 3 of P.L.2003, c.246 (C.26:8A-3).

35 (m) "Civil union" means a civil union as defined in section 2 of  
36 P.L.2006, c.103 (C.37:1-29).

37 (n) "Family member" means a sibling, grandparent, grandchild,  
38 child, spouse, domestic partner, civil union partner, parent-in-law,  
39 or parent of a covered individual, or any other individual related by  
40 blood to the employee, and any other individual whose close  
41 association with the employee is the equivalent of a family  
42 relationship.

43 (o) "Family temporary disability leave" means leave taken by a  
44 covered individual from work with an employer to:

45 (1) participate in the providing of care, as defined in the "Family  
46 Leave Act," P.L.1989, c.261 (C.34:11B-1 et seq.) and regulations  
47 adopted pursuant to that act, for a family member of the individual



1 made necessary by a serious health condition of the family member;

2 **[or]**

3 (2) be with a child during the first 12 months after the child's  
4 birth, if the individual, or the domestic partner or civil union partner  
5 of the individual, is a biological parent of the child, or is a parent of  
6 the child pursuant to a valid gestational carrier agreement, or the  
7 first 12 months after the placement of the child for adoption or as a  
8 foster child with the individual; or

9 (3) engage in activities for which unpaid leave may be taken  
10 pursuant to section 3 of the "New Jersey Security and Financial  
11 Empowerment Act," P.L.2013, c.82 (C.34:11C-3), on the  
12 individual's own behalf, if the individual is a victim of an incident  
13 of domestic violence a sexually violent offense, or to assist a family  
14 member of the individual who has been a victim of an incident of  
15 domestic violence a sexually violent offense, provided that any time  
16 taken by an individual who has been a victim of an incident of  
17 domestic violence a sexually violent offense for which the  
18 individual receives benefits for a disability caused by the violence  
19 or offense shall be regarded as a period of disability of the  
20 individual and not as a period of family temporary disability leave.

21 "Family temporary disability leave" does not include any period  
22 of time in which a covered individual is paid benefits pursuant to  
23 P.L.1948, c.110 (C.43:21-25 et al.) because the individual is unable  
24 to perform the duties of the individual's employment due to the  
25 individual's own disability.

26 (p) "Health care provider" means a health care provider as  
27 defined in the "Family Leave Act," P.L.1989, c.261 (C.34:11B-1 et  
28 seq.), and any regulations adopted pursuant to that act.

29 (q) "Parent of a covered individual" means a biological parent,  
30 foster parent, adoptive parent, or stepparent of the covered  
31 individual or a person who was a legal guardian of the covered  
32 individual when the covered individual was a child, or who became  
33 the parent of the child pursuant to a valid written agreement  
34 between the parent and a gestational carrier.

35 (r) "Placement for adoption" means the time when a covered  
36 individual adopts a child or becomes responsible for a child pending  
37 adoption by the covered individual.

38 (s) "Serious health condition" means an illness, injury,  
39 impairment or physical or mental condition which requires:  
40 inpatient care in a hospital, hospice, or residential medical care  
41 facility; or continuing medical treatment or continuing supervision  
42 by a health care provider.

43 (t) "12-month period" means, with respect to an individual who  
44 establishes a valid claim for disability benefits during a period of  
45 family temporary disability leave, the 365 consecutive days that  
46 begin with the first day that the individual first establishes the  
47 claim.

1 (u) "State of emergency" means a natural or man-made disaster  
2 or emergency for which a state of emergency has been declared by  
3 the President of the United States or the Governor, or for which a  
4 state of emergency has been declared by a municipal emergency  
5 management coordinator.

6 (cf: P.L.2013, c.221, s.3)

7  
8 6. Section 11 of P.L.1948, c.110 (C.43:21-35) is amended to  
9 read as follows:

10 11. (a) If the division is furnished satisfactory evidence that a  
11 majority of the employees covered by an approved private plan  
12 have made election in writing to discontinue such plan, the division  
13 shall withdraw its approval of such plan effective at the end of the  
14 calendar quarter next succeeding that in which such evidence is  
15 furnished. Upon receipt of a petition therefor signed by not less  
16 than 10% of the employees covered by an approved private plan,  
17 the division shall require the employer upon 30 days' written notice  
18 to conduct an election by ballot in writing to determine whether or  
19 not a majority of the employees covered by such private plan favor  
20 discontinuance thereof; provided, that such election shall not be  
21 required more often than once in any 12-month period.

22 (b) Unless sooner permitted, for cause, by the division, no  
23 approved private plan shall be terminated by an employer, in whole  
24 or in part, until at least 30 days after written notice of intention so  
25 to do has been given by the employer to the division and after  
26 notices are conspicuously posted so as reasonably to assure their  
27 being seen, or after individual notices are given to the employees  
28 concerned.

29 (c) The division may, after notice and hearing, withdraw its  
30 approval of any approved private plan if it finds that there is danger  
31 that the benefits accrued or to accrue will not be paid, that the  
32 security for such payment is insufficient, or for other good cause  
33 shown. No employer, and no union or association representing  
34 employees, shall so administer or apply the provisions of an  
35 approved private plan as to derive any profit therefrom. The  
36 division may withdraw its approval from any private plan which is  
37 administered or applied in violation of this provision.

38 (d) No termination of an approved private plan shall affect the  
39 payment of benefits, in accordance with the provisions of the plan,  
40 to employees whose period of disability commenced prior to the  
41 date of termination. Employees who have ceased to be covered by  
42 an approved private plan because of its termination shall, subject to  
43 the limitations and restrictions of this act, become eligible forthwith  
44 for benefits from the State Disability Benefits Fund for a period of  
45 disability commencing after such cessation, and contributions with  
46 respect to their wages shall immediately become payable as  
47 otherwise provided by law. Any withdrawal of approval of a  
48 private plan pursuant to this section shall be reviewable by writ of

1 certiorari or by such other procedure as may be provided by law.  
2 With respect to a period of family temporary disability leave  
3 immediately after the individual has a period of disability during the  
4 individual's own disability, the period of disability is deemed, for  
5 the purposes of determining whether the period of disability  
6 commenced prior to the date of the termination, to have commenced  
7 at the beginning of the period of disability during the individual's  
8 own disability, not the period of family temporary disability leave.

9 (e) Anything in this act to the contrary notwithstanding, a  
10 covered employer who, under an approved private plan, is  
11 providing benefits at least equal to those required by the State plan,  
12 may modify the benefits under the private plan so as to provide  
13 benefits not less than the benefits required by the State plan.  
14 Individuals covered under a private plan shall not be required to  
15 contribute to the plan at a rate exceeding  $\frac{3}{4}$  of 1% of the amount of  
16 "wages" established for any calendar year under the provisions of  
17 R.S.43:21-7(b) prior to January 1, 1975, and  $\frac{1}{2}$  of 1% for calendar  
18 years beginning on or after January 1, 1975 and before January 1,  
19 2009. For a calendar year beginning on or after January 1, 2009  
20 and before January 1, 2012: an employer providing a private plan  
21 only for benefits for employees during their own disabilities may  
22 require the employees to contribute to the plan at a rate not  
23 exceeding 0.5% of the amount of "wages" established for the  
24 calendar year under the provisions of R.S.43:21-7(b); an employer  
25 providing a private plan only for benefits for employees during  
26 periods of family temporary disability may require the individuals  
27 covered by the private plan to contribute an amount not exceeding  
28 the amount the individuals would pay pursuant to R.S.43:21-  
29 7(d)(1)(G)(ii); an employer providing a private plan both for  
30 benefits for employees during their own disabilities and for benefits  
31 during periods of family temporary disability may require the  
32 employees to contribute to the plan at a rate not exceeding 0.5% of  
33 the amount of "wages" established for the calendar year under the  
34 provisions of R.S.43:21-7(b) plus an additional amount not  
35 exceeding the amount the individuals would pay pursuant to  
36 R.S.43:21-7(d)(1)(G)(ii). For a calendar year beginning on or after  
37 January 1, 2012: an employer providing a private plan only for  
38 benefits for employees during their own disabilities may require the  
39 employees to contribute to the plan at a rate not exceeding the  
40 amount the individuals would pay pursuant to R.S.43:21-  
41 7(d)(1)(G)(i) and R.S.43:21-7(d)(1)(G)(iii); an employer providing  
42 a private plan only for benefits for employees during periods of  
43 family temporary disability may require the individuals covered by  
44 the private plan to contribute an amount not exceeding the amount  
45 the individuals would pay pursuant to R.S.43:21-7(d)(1)(G)(ii); an  
46 employer providing a private plan both for benefits for employees  
47 during their own disabilities and for benefits during periods of  
48 family temporary disability may require the employees to contribute

1 to the plan an amount not exceeding the amount the individuals  
2 would pay pursuant to R.S.43:21-7(d)(1)(G)(i), R.S.43:21-  
3 7(d)(1)(G)(iii), and R.S.43:21-7(d)(1)(G)(ii). Notification of the  
4 proposed modification shall be given by the employer to the  
5 division and to the individuals covered under the plan.

6 (cf: P.L.2011, c.88, s.2)

7

8 7. Section 14 of P.L.1948, c.110 (C.43:21-38) is amended to  
9 read as follows:

10 14. With respect to any period of disability for an individual's  
11 own disability commencing on or after January 1, 1953, disability  
12 benefits, not in excess of an individual's maximum benefits, shall be  
13 payable with respect to disability which commences while a person  
14 is a covered individual under the Temporary Disability Benefits  
15 Law, and shall be payable with respect to the eighth consecutive  
16 day of such disability and each day thereafter that such period of  
17 disability continues; and if benefits shall be payable for three  
18 consecutive weeks with respect to any period of disability  
19 commencing on or after January 1, 1968, then benefits shall also be  
20 payable with respect to the first seven days thereof. With respect to  
21 any period of family temporary disability leave commencing on or  
22 after July 1, 2009 and while an individual is a covered individual,  
23 family temporary disability benefits, not in excess of the  
24 individual's maximum benefits, shall be payable with respect to the  
25 first day of leave taken after the first one-week period following the  
26 commencement of the period of family temporary disability leave  
27 and each subsequent day of leave during that period of family  
28 temporary disability leave; and if benefits become payable on any  
29 day after the first three weeks in which leave is taken, then benefits  
30 shall also be payable with respect to any leave taken during the first  
31 one-week period in which leave is taken. The maximum total  
32 benefits payable to any eligible individual for any period of  
33 disability of the individual commencing on or after January 1, 1968,  
34 shall be either 26 times his weekly benefit amount or 1/3 of his total  
35 wages in his base year, whichever is the lesser; provided that such  
36 maximum amount shall be computed in the next lower multiple of  
37 \$1.00 if not already a multiple thereof. The maximum total benefits  
38 payable to any eligible individual for any period of family  
39 temporary disability leave commencing on or after July 1, 2009 and  
40 before July 1, 2019, shall be six times the individual's weekly  
41 benefit amount or 1/3 of his total wages in his base year, whichever  
42 is the lesser; provided that the maximum amount shall be computed  
43 in the next lower multiple of \$1.00, if not already a multiple  
44 thereof. The maximum total benefits payable to any eligible  
45 individual for any period of family temporary disability leave  
46 commencing on or after July 1, 2019, shall be twelve times the  
47 individual's weekly benefit amount; provided that the maximum

1 amount shall be computed in the next lower multiple of \$1.00, if not  
2 already a multiple thereof.

3 (cf: P.L.2008, c.17, s.5)

4

5 8. Section 15 of P.L.1948, c.110 (C.43:21-39) is amended to  
6 read as follows:

7 15. Limitation of benefits. Notwithstanding any other provision  
8 of the "Temporary Disability Benefits Law," P.L.1948, c.110  
9 (C.43:21-25 et al.), no benefits shall be payable under the State plan  
10 to any individual:

11 (a) for the first seven consecutive days of each period of  
12 disability; except that:

13 (1) if benefits shall be payable for three consecutive weeks with  
14 respect to any period of disability, then benefits shall also be  
15 payable with respect to the first seven days thereof;

16 (2) in the case of intermittent leave in a single period of family  
17 temporary disability leave taken to provide care for a family  
18 member of the individual with a serious health condition, benefits  
19 shall be payable with respect to the first day of leave taken after the  
20 first one-week period following the commencement of the period of  
21 family temporary disability leave and each subsequent day of leave  
22 during that period of family temporary disability leave; and if  
23 benefits become payable on any day after the first three weeks in  
24 which leave is taken, then benefits shall also be payable with  
25 respect to any leave taken during the first one-week period in which  
26 leave is taken; and

27 (3) in the case of an individual taking family temporary  
28 disability leave immediately after the individual has a period of  
29 disability for the individual's own disability, there shall be no  
30 waiting period between the period of the individual's own disability  
31 and the period of family temporary disability;

32 (b) (1) for more than 26 weeks with respect to any one period of  
33 disability of the individual;

34 (2) for more than six weeks with respect to any one period of  
35 family temporary disability leave commencing before July 1, 2019  
36 and more than 12 weeks if the period of leave commences on or  
37 after July 1, 2019, or for more than 42 days with respect to any one  
38 period of family temporary disability leave commencing before July  
39 1, 2019 and more than 84 days if the period of leave commences on  
40 or after July 1, 2019, in the case of leave taken on an intermittent  
41 basis to provide care for a family member of the individual with a  
42 serious health condition; and

43 (3) for more than six weeks of family temporary disability leave  
44 during any 12-month period commencing before July 1, 2019 and  
45 more than 12 weeks for any 12-month period commencing on or  
46 after July 1, 2019, or for more than 42 days of family temporary  
47 disability leave taken during any 12-month period commencing  
48 before July 1, 2019 and more than 84 days if the period of leave

1 commences on or after July 1, 2019, on an intermittent basis to  
2 provide care for a family member of the individual with a serious  
3 health condition, including family temporary disability leave taken  
4 pursuant to R.S.43:21-4(f)(2) while unemployed;

5 (c) for any period of disability which did not commence while  
6 the claimant was a covered individual;

7 (d) for any period of disability of a claimant during which the  
8 claimant is not under the care of a legally licensed physician,  
9 dentist, optometrist, podiatrist, practicing psychologist, advanced  
10 practice nurse, certified nurse midwife, or chiropractor, who, when  
11 requested by the division, shall certify within the scope of the  
12 practitioner's practice, the disability of the claimant, the probable  
13 duration thereof, and, where applicable, the medical facts within the  
14 practitioner's knowledge or for any period of family temporary  
15 disability leave for a serious health condition of a family member of  
16 the claimant, during which the family member is not receiving  
17 inpatient care in a hospital, hospice, or residential medical care  
18 facility or is not subject to continuing medical treatment or  
19 continuing supervision by a health care provider, who, when  
20 requested by the division, shall certify within the scope of the  
21 provider's practice, the serious health condition of the family  
22 member, the probable duration thereof, and, where applicable, the  
23 medical facts within the provider's knowledge;

24 (e) (Deleted by amendment, P.L.1980, c.90.)

25 (f) for any period of disability due to willfully and intentionally  
26 self-inflicted injury, or to injury sustained in the perpetration by the  
27 claimant of a crime of the first, second, third, or fourth degree, or  
28 for any period during which a covered individual would be  
29 disqualified for unemployment compensation benefits for gross  
30 misconduct under subsection (b) of R.S.43:21-5;

31 (g) for any period during which the claimant performs any work  
32 for remuneration or profit;

33 (h) in a weekly amount which together with any remuneration  
34 the claimant continues to receive from the employer would exceed  
35 regular weekly wages immediately prior to disability;

36 (i) for any period during which a covered individual would be  
37 disqualified for unemployment compensation benefits under  
38 subsection (d) of R.S.43:21-5, unless the disability commenced  
39 prior to such disqualification;

40 and there shall be no other cause of disqualification or ineligibility  
41 to receive disability benefits hereunder except as may be  
42 specifically provided in this act.

43 (cf: P.L.2009, c.114, s.1)

44

45 9. Section 10 of P.L.2008, c.17 (C.43:21-39.1) is amended to  
46 read as follows:

47 10. a. Family temporary disability leave shall be compensable  
48 subject to the limitations of P.L.2008, c.17 (C.43:21-39.1 et al.) for

1 any period of family temporary disability leave taken by a covered  
2 individual which commences after June 30, 2009.

3 b. An individual shall not simultaneously receive disability  
4 benefits for family temporary disability leave and any other  
5 disability benefits pursuant to P.L.1948, c.110 (C.43:21-25 et al.) or  
6 any unemployment compensation.

7 c. The employer of an individual may, notwithstanding any  
8 other provision of law, including the provisions of N.J.S.18A:30-1  
9 et seq., permit **【or require】** the individual, during a period of family  
10 temporary disability leave, to use any paid sick leave, vacation time  
11 or other leave at full pay made available by the employer before the  
12 individual **【is eligible for】** uses disability benefits for family  
13 temporary disability leave pursuant to P.L.2008, c.17 (C.43:21-39.1  
14 et al.)**【,** except that the employer may not require the individual to  
15 use more than two weeks worth of leave at full pay**】**. **【The**  
16 employer may also have the total number of days worth of disability  
17 benefits paid pursuant to P.L.2008, c.17 (C.43:21-39.1 et al.) to the  
18 individual during a period of family temporary disability leave  
19 reduced by the number of days of leave at full pay paid by the  
20 employer to the individual during that period.**】** If the employer  
21 **【requires】** permits the individual to use leave at full pay, the  
22 employee shall also be permitted to take that fully-paid leave during  
23 the waiting period required pursuant to subsection (a) of section 15  
24 of P.L.1948, c.110 (C.43:21-39). Nothing in P.L.2008, c.17  
25 (C.43:21-39.1 et al.) shall be construed as nullifying any provision  
26 of an existing collective bargaining agreement or employer policy,  
27 or preventing any new provision of a collective bargaining  
28 agreement or employer policy, which provides employees more  
29 generous leave or gives employees greater rights to select which  
30 kind of leave is used or select the order in which the different kinds  
31 of leave are used. Nothing in P.L.2008, c.17 (C.43:21-39.1 et al.)  
32 shall be construed as preventing an employer from providing more  
33 generous benefits than are provided under P.L.2008, c.17 (C.43:21-  
34 39.1 et al.) or providing benefits which supplement the benefits  
35 provided under P.L.2008, c.17 (C.43:21-39.1 et al.) for some or all  
36 of the employer's employees.

37 d. An individual who is entitled to leave under the provisions  
38 of the "Family Leave Act," P.L.1989, c.261 (C.34:11B-1 et seq.) or  
39 the federal "Family and Medical Leave Act of 1993," Pub.L.103-3  
40 (29 U.S.C. s.2601 et seq.), shall take any benefits provided for  
41 family temporary disability leave pursuant to P.L.2008, c.17  
42 (C.43:21-39.1 et al.) concurrently with leave taken pursuant to the  
43 "Family Leave Act," P.L.1989, c.261 (C.34:11B-1 et seq.) or the  
44 federal "Family and Medical Leave Act of 1993," Pub.L.103-3 (29  
45 U.S.C. s.2601 et seq.). Nothing in P.L.2008, c.17 (C.43:21-39.1 et  
46 al.) shall be construed to grant an employee any entitlement to be  
47 restored by the employer to employment held by the employee prior

1 to taking family temporary disability leave or any right to take  
2 action against an employer who refuses to restore the employee to  
3 employment after the leave. Nothing in P.L.2008, c.17 (C.43:21-  
4 39.1 et al.) shall be construed to increase, reduce or otherwise  
5 modify any entitlement of an employee to return to employment or  
6 right of the employee to take action under the provisions of the  
7 "Family Leave Act," P.L.1989, c.261 (C.34:11B-1 et seq.) or the  
8 federal "Family and Medical Leave Act of 1993," Pub.L.103-3 (29  
9 U.S.C. s.2601 et seq.). If an employee receives benefits for family  
10 temporary disability leave pursuant to P.L.2008, c.17 (C.43:21-39.1  
11 et al.) with respect to employment with an employer who is not an  
12 employer as defined in the "Family Leave Act," P.L.1989, c.261  
13 (C.34:11B-1 et seq.) and that employer fails or refuses to restore the  
14 employee to employment after the period of family temporary  
15 disability leave, that failure or refusal shall not be a wrongful  
16 discharge in violation of a clear mandate of public policy, and the  
17 employee shall not have a cause of action against that employer, in  
18 tort, or for breach of an implied provision of the employment  
19 agreement, or under common law, for that failure or refusal.

20 e. An employee taking family temporary disability leave or an  
21 employer from whom the employee is taking the leave shall have  
22 the same right to appeal a determination of a benefit for the family  
23 temporary disability leave made under P.L.2008, c.17 (C.43:21-39.1  
24 et al.) as an employee or employer has to appeal a determination of  
25 a benefit for the disability of the employee under the "Temporary  
26 Disability Benefits Law," P.L.1948, c.110 (C.43:21-25 et al.), and  
27 any regulations adopted pursuant to the "Temporary Disability  
28 Benefits Law," P.L.1948, c.110 (C.43:21-25 et al.).

29 f. In the event of a period of family temporary disability leave  
30 of any individual covered under the State plan, the employer shall,  
31 not later than the ninth day of the period of family temporary  
32 disability leave, including any waiting period or time in which the  
33 employer provides sick leave, vacation or other fully paid leave,  
34 issue to the individual and to the division printed notices on  
35 division forms containing the name, address and Social Security  
36 number of the individual, such wage information as the division  
37 may require to determine the individual's eligibility for benefits,  
38 including any sick pay, vacation or other fully paid time off  
39 provided by the employer during the period of family temporary  
40 disability leave, and the name, address, and division identity  
41 number of the employer. Not later than 30 days after the  
42 commencement of the period of family temporary disability leave  
43 for which the notice is furnished by the employer, the individual  
44 shall furnish to the division a notice and claim for family temporary  
45 disability leave benefits. Upon the submission of the notices by the  
46 employer and the individual, the division may issue benefit  
47 payments. In the case of family temporary disability leave taken to  
48 care for a family member with a serious health condition, the



1 benefits may be paid for periods not exceeding three weeks pending  
2 the receipt of the certification required pursuant to subsection b. of  
3 section 11 of P.L.2008, c.17 (C.43:21-39.2). Failure to furnish  
4 notice and certification in the manner above provided shall not  
5 invalidate or reduce any claim if it shall be shown to the satisfaction  
6 of the division not to have been reasonably possible to furnish the  
7 notice and certification and that the notice and certification was  
8 furnished as soon as reasonably possible.

9 g. Each covered employer shall conspicuously post  
10 notification, in a place or places accessible to all employees in each  
11 of the employer's workplaces, in a form issued by regulation  
12 promulgated by the commissioner, of each covered employee's  
13 rights regarding benefits payable pursuant to this section. The  
14 employer shall also provide each employee of the employer with a  
15 written copy of the notification: (1) not later than 30 days after the  
16 form of the notification is issued by regulation; (2) at the time of the  
17 employee's hiring, if the employee is hired after the issuance; (3)  
18 whenever the employee notifies the employer that the employee is  
19 taking time off for circumstances under which the employee is  
20 eligible for benefits pursuant to this section; and (4) at any time,  
21 upon the first request of the employee.

22 (cf:P.L.2008, c.17, s.10)

23  
24 10. Section 12 of P.L.2008, c.17 (C.43:21-39.3) is amended to  
25 read as follows:

26 12. a. (1) All of the disability benefits paid to a covered  
27 individual during a period of family temporary disability leave with  
28 respect to any one birth or adoption shall be for a single continuous  
29 period of time **】, except that the employer of the covered individual**  
30 **may permit the covered individual to receive the disability benefits**  
31 **or during non-consecutive weeks** **【in a manner mutually agreed to**  
32 **by the employer and the covered individual and】** **or days on an**  
33 **intermittent basis pursuant to paragraph (2) of this subsection,**  
34 **which shall be disclosed to the division by the employer.**

35 **(2) In the case of intermittent benefits for family temporary**  
36 **disability leave with respect to a birth or adoption, the covered**  
37 **individual shall provide the employer with prior notice of the leave**  
38 **not less than 15 days before the first day on which benefits are paid**  
39 **for the intermittent leave, unless an emergency or other unforeseen**  
40 **circumstance precludes prior notice; and the covered individual**  
41 **makes a reasonable effort to schedule the leave so as not to unduly**  
42 **disrupt the operations of the employer and, if possible, provide the**  
43 **employer, prior to the commencement of intermittent leave, with a**  
44 **regular schedule of the days or days of the week on which the**  
45 **intermittent leave will be taken.**

46 b. **【The】** **In the case of single continuous benefits for family**  
47 **temporary disability leave with respect to birth or adoption, the**

1 covered individual shall provide the employer with prior notice of  
2 the **【period of family temporary disability】** leave **【with respect to**  
3 **birth or adoption】** not less than 30 days before the leave  
4 commences, unless it commences while the individual is receiving  
5 unemployment benefits, in which case the covered individual shall  
6 notify the division. The amount of benefits shall be reduced by two  
7 weeks worth of benefits if the individual does not provide notice to  
8 an employer as required by this subsection b., unless the time of the  
9 leave is unforeseeable or the time of the leave changes for  
10 unforeseeable reasons.

11 c. Family temporary disability leave taken because of the birth  
12 or placement for adoption of a child may be taken at any time  
13 within a year after the date of the birth or placement for adoption.  
14 (cf: P.L.2008, c.17, s.12)

15

16 11. Section 13 of P.L.2008, c.17 (C.43:21-39.4) is amended to  
17 read as follows:

18 13. a. The Commissioner of Labor and Workforce Development  
19 shall issue and make available to the public, not later than  
20 December 31, 2010, and each subsequent year, annual reports  
21 providing data on temporary disability benefits, including separate  
22 data for claims involving pregnancy and childbirth, and family  
23 temporary disability benefits, including separate data for each of the  
24 following categories of claims: care of newborn children; care of  
25 newly adopted children; care of sick children; care of sick spouses,  
26 and care of other sick family members. The reports shall include,  
27 for each category of claims, the number of workers receiving the  
28 benefits, the amount of benefits paid, the average duration of  
29 benefits, the average weekly benefit, and, in the case of family  
30 temporary disability benefits, any reported amount of sick leave,  
31 vacation or other fully paid time which resulted in reduced benefit  
32 duration. The report shall provide data by gender and by any other  
33 demographic factors determined to be relevant by the  
34 commissioner. The reports shall also provide, for all temporary  
35 disability benefits and for all family temporary disability benefits,  
36 the total costs of benefits and the total cost of administration, the  
37 portion of benefits for claims during unemployment, and the total  
38 revenues from: employer assessments, where applicable; employee  
39 assessments; and other sources. For each of the reports issued not  
40 later than December 31 of 2019 and each subsequent year, the  
41 report shall also provide: the number of claims for bonding, and  
42 care for family members, broken down by relationship;  
43 demographic information: income, age, gender, ethnicity,  
44 occupation, full or part-time employment status; what portion of the  
45 leave is taken on an intermittent basis; the percentage of bonding  
46 leave applicants who report providing their employer with 50 or  
47 more days of notice of leave-taking; for all claims, the percentage  
48 of employers who reported that the employee will have additional

1 paid time off with the source being the difference between their  
2 regular weekly wages and the maximum benefit provided under  
3 P.L.2008, c.17 (C.43:21-39.1 et al.); and the amount and rate of  
4 contributions, with the amount of the tax base, made by employers  
5 for each of the following: benefits for periods of pregnancy  
6 temporary disability, and benefits for periods of all other disability,  
7 and the amount and rate of contributions, with the amount of the tax  
8 base, made by workers for each of the following: benefits for  
9 periods of pregnancy temporary disability, benefits for periods of  
10 all other disability, and benefits for periods of temporary disability  
11 leave.

12 b. The commissioner may, in his discretion, conduct surveys  
13 and other research regarding, and include in the annual reports  
14 descriptions and evaluations of, the impact and potential future  
15 impact of the provisions of P.L.2008, c.17 (C.43:21-39.1 et al.) on  
16 the State disability benefits fund, and other effects of those  
17 provisions, including the costs and benefits resulting from the  
18 provisions of P.L.2008, c.17 (C.43:21-39.1 et al.) for:

19 (1) Employees and their families, including surveys and  
20 evaluations of: what portion of the total number of employees  
21 taking leave would not have taken leave, or would have taken less  
22 leave, without the availability of benefits; what portion of  
23 employees return to work after receiving benefits and what portion  
24 are not permitted to return to work; and what portion of employees  
25 who are eligible for benefits do not claim or receive them and why  
26 they do not;

27 (2) Employers, including benefits such as reduced training and  
28 other costs related to reduced turnover of personnel, and increased  
29 affordability of family temporary disability leave insurance through  
30 the State plan, with special attention given to small businesses; and

31 (3) The public, including savings caused by any reduction in the  
32 number of people receiving public assistance.

33 c. The total amount of any expenses which the commissioner  
34 determines are necessary to carry out his duties pursuant to this  
35 section shall be charged to the Family Temporary Disability Leave  
36 Account of the State disability benefits fund, except that the amount  
37 shall in no case exceed \$150,000 during any fiscal year.

38 (cf: P.L.2008, c.17, s.13).

39

40 12. Section 16 of P.L.1948, c.110 (C.43:21-40) is amended to  
41 read as follows:

42 16. **【**With respect to periods of disability commencing on or  
43 after July 1, 1961, an individual's weekly benefit amount shall be  
44 determined and computed by the division on the same basis as the  
45 weekly benefit rate is determined and computed pursuant to  
46 subsection (c) of R.S. 43:21-3, except that for **】** a. For periods of  
47 disability commencing on or after October 1, 1984, an individual's  
48 weekly benefit rate shall be two-thirds of his average weekly wage,

1 subject to a maximum of 53% of the Statewide average weekly  
2 remuneration paid to workers by employers, as determined under  
3 subsection (c) of R.S. 43:21-3[; provided, however, that such],  
4 except as provided in subsection b. of this section.

5 b. For periods of disability in cases of pregnancy or recovery  
6 from childbirth commencing on or after July 1, 2019, and for  
7 periods of family temporary disability leave commencing on or  
8 after July 1, 2019, an individual's weekly benefit rate shall be 90%  
9 of the individual's average weekly wage, subject to a maximum of  
10 100% of the Statewide average weekly remuneration paid to  
11 workers by employers.

12 c. Each individual's benefit rate shall be computed to the next  
13 lower multiple of \$1.00 if not already a multiple thereof. The  
14 amount of benefits for each day of disability for which benefits are  
15 payable shall be one-seventh of the corresponding weekly benefit  
16 amount; provided that the total benefits for a fractional part of a  
17 week shall be computed to the next lower multiple of \$1.00 if not  
18 already a multiple thereof.

19 (cf: P.L.1984, c.104, s.3)

20

21 13. (New section) a. The division shall implement disability  
22 insurance goals for the timely determination and payment of  
23 temporary disability benefits and family temporary disability  
24 benefits under the State plan, as follows:

25 (1) for temporary disability benefits, in each calendar year:

26 (a) not less than 40 percent of the original benefit  
27 determinations shall be completed within seven days after the  
28 commencement of the disability, or the receipt of the benefit claims  
29 by the division, whichever is later;

30 (b) not less than 75 percent of the original benefit  
31 determinations shall be completed within 14 days after the  
32 commencement of the disability, or the receipt of the benefit claims  
33 by the division, whichever is later;

34 (c) not less than 85 percent of the original benefit  
35 determinations shall be completed within 21 days after the  
36 commencement of the disability, or the receipt of the benefit claims  
37 by the division, whichever is later; and

38 (d) not less than 90 percent of the original benefit  
39 determinations shall be completed within 28 days after the  
40 commencement of the disability, or the receipt of the benefit claims  
41 by the division, whichever is later; and

42 (2) for family temporary disability benefits, in each calendar  
43 year:

44 (a) not less than 80 percent of the original benefit  
45 determinations shall be completed within seven days after the  
46 commencement of the period of family temporary disability leave,  
47 or the receipt of the benefit claims by the division, whichever is  
48 later;

1 (b) not less than 85 percent of the original benefit  
2 determinations shall be completed within 14 days after the  
3 commencement of the period of family temporary disability leave,  
4 or the receipt of the benefit claims by the division, whichever is  
5 later;

6 (c) not less than 90 percent of the original benefit  
7 determinations shall be completed within 21 days after the  
8 commencement of the period of family temporary disability leave,  
9 or the receipt of the benefit claims by the division, whichever is  
10 later; and

11 (d) not less than 95 percent of the original benefit  
12 determinations shall be completed within 28 days after the  
13 commencement of the period of family temporary disability leave,  
14 or the receipt of the benefit claims by the division, whichever is  
15 later.

16 b. The commissioner shall, not later than September 30 of 2019  
17 and each subsequent year, issue, provide to the Legislature, and  
18 make available to the public on the department's webpage, a report  
19 regarding division efforts in the preceding calendar year to attain  
20 the disability insurance goals set pursuant to this section for  
21 temporary disability benefits, and a report regarding those efforts  
22 for family temporary disability benefits. Each report shall include:

23 (1) the total number of claims and the number and percentage of  
24 original determinations completed within each number of days  
25 specified in the goals set pursuant to this section, and the number  
26 and percentage of original determinations completed within the  
27 following number of days after the receipt of the benefit claims or  
28 the commencement of disability or family temporary disability,  
29 whichever is later: 35 days, 42 days, 49 days and 56 days, and the  
30 number and percentage of original determinations completed more  
31 than 56 days after the receipt of the claims or the commencement of  
32 disability or family temporary disability and the average number of  
33 days to make the determinations for the claims that took more than  
34 56 days;

35 (2) the number and percentage of claims received with  
36 insufficient information, what portion of those claims were because  
37 of failure of claimants to provide sufficient information, what  
38 portion of those claims were because of failures of medical  
39 providers of claimants to provide sufficient information, and what  
40 portion of those claims were because of failures of employers to  
41 provide sufficient information;

42 (3) the number and percentage of claims for which  
43 determinations were delayed because of employer failure to make  
44 the notifications or disclosures to employees and the division within  
45 the amount of time required by subsection (a) of section 25 of  
46 P.L.1948, c.110 (C.43:21-49) or subsections f. or g. of section 10 of  
47 P.L.2008, c.17 (C.43:21-39.1), the number of complaints received  
48 related to employer noncompliance with those requirements, and

1 the number of employers which have been, because of the failures,  
2 required, pursuant to section 31 of P.L.1948, c.110 (C.43:21-55), to  
3 pay fines or penalties to the division or added amounts to claimants,  
4 the total amount of payments to the division, and the total amount  
5 of payments to claimants;

6 (4) the number of personnel in the division and the budgeted  
7 cost of salaries and benefits for those personnel; the number of  
8 personnel who are processing family temporary disability benefit  
9 claims, the number processing other temporary disability claims,  
10 and the budgeted cost of salaries and benefits for those personnel;  
11 what percentage of total division administrative costs is comprised  
12 of those categories of personnel costs; and a comparison of total  
13 division administrative costs to the maximum amount permitted to  
14 be expended for those division administrative costs pursuant to  
15 section 22 of P.L.1948, c.110 (C.43:21-46); and

16 (5) if any of the disability insurance goals set pursuant to this  
17 section were not attained during the year, the report shall provide an  
18 evaluation of the causes of the deficiencies and a plan to correct  
19 them and that plan shall include:

20 (a) any increase in personnel needed to process claims;

21 (b) any measures needed to enforce notification and reporting  
22 requirements;

23 (c) any measures needed to inform employers and employees of  
24 their responsibilities to facilitate the timely provision of benefits;  
25 and

26 (d) any improvements needed in data processing and other  
27 administrative services and equipment.

28 The plan shall specify any added costs entailed in implementing  
29 the plan, which shall be regarded as costs of administration of  
30 family temporary disability benefits, and shall specify the amount  
31 of any resulting increase in the estimate made pursuant to  
32 R.S.43:21-7(d)(1)(G)(i), (ii), and (iii) of the amount needed to  
33 provide 100 percent of the cost of administration of family  
34 temporary disability benefits.

35 The commissioner shall use that increased estimate in setting the  
36 rate of contributions pursuant to those subsections, except that the  
37 increase may not result in the total amount credited to those  
38 administrative costs exceeding the maximum amount permitted  
39 pursuant to subsection (a) of section 22 of P.L.1948, c.110  
40 (C.43:21-46).

41 c. (1) The division shall, during each calendar year beginning  
42 with 2019, allocate not less than \$1,200,000 to disseminate  
43 information about the rights and responsibilities of employers and  
44 employees regarding temporary disability benefits and family  
45 temporary disability benefits by means of programs of educational  
46 outreach in communities and workplaces. Of that allocation, not  
47 less than \$600,000 shall be used by the division to enter into  
48 contracts with community-based organizations to disseminate

1 information to workers regarding temporary disability benefits and  
2 family temporary disability benefits. That allocation shall be  
3 regarded as a cost of administration of temporary disability and  
4 family temporary disability benefits and be charged to the  
5 administration account of the State disability benefit fund. Of the  
6 costs charged to the administration account of the State disability  
7 benefit fund pursuant to this subsection, the percentage which is  
8 charged to the Family Temporary Disability Leave Account shall be  
9 equal to the percentage that family temporary disability benefits  
10 represents of all temporary disability benefits paid from the State  
11 disability benefits fund during the preceding calendar year. The  
12 allocation made pursuant to this subsection, including any  
13 adjustments in the allocation specified in the plan provided pursuant  
14 to paragraph (2) of this subsection, shall not result in the total  
15 amount credited to administrative costs exceeding the maximum  
16 amount permitted pursuant to subsection (a) of section 22 of  
17 P.L.1948, c.110 (C.43:21-46).

18 (2) The commissioner shall, not later than September 30 of 2019  
19 and September 30 of each subsequent year, issue, provide to the  
20 Legislature, and make available to the public on the department's  
21 webpage, a report regarding efforts made during the preceding  
22 calendar year by the division and by community-based  
23 organizations to disseminate information about the rights and  
24 responsibilities of employers and employees regarding temporary  
25 disability and family temporary disability benefits. Each report  
26 shall include, for that preceding calendar year:

27 (a) an accounting of all funds allocated pursuant to this  
28 subsection and all expenditures made from those funds by the  
29 division and each community-based organization entering into  
30 contracts with the division pursuant to this subsection, and  
31 estimates of the number of employers and the number of workers to  
32 which the information was disseminated;

33 (b) an estimate of the number of workers who were eligible for  
34 temporary disability and family temporary disability benefits and  
35 what percentage of those workers received those benefits, including  
36 an assessment of whatever progress was made to increase that  
37 percentage; and

38 (c) a plan to increase the percentage of workers who are aware  
39 of the benefits which specifies the amounts to be allocated to the  
40 division and community-based organizations for the purposes of  
41 this subsection during the subsequent calendar year, provided that  
42 the amounts specified shall not be less than or more than the  
43 minimum and maximum amounts indicated in paragraph (1) of this  
44 subsection.

45

46 14. Section 31 of P.L.1948, c.110 (C.43:21-55) is amended to  
47 read as follows:

1       31. Penalties. (a) Whoever makes a false statement or  
2 representation knowing it to be false or knowingly fails to disclose  
3 a material fact, and each such false statement or representation or  
4 failure to disclose a material fact shall constitute a separate offense,  
5 to obtain or increase any disability benefit under the State plan or  
6 an approved private plan, or for a disability during unemployment,  
7 including any benefit during a period of family temporary disability  
8 leave, either for himself or for any other person, shall be liable for a  
9 fine of \$250 to be paid to the division. Upon refusal to pay such  
10 fine, the same shall be recovered in a civil action by the division in  
11 the name of the State of New Jersey. If in any case liability for the  
12 payment of a fine as aforesaid shall be determined, any person who  
13 shall have received any benefits hereunder by reason of the making  
14 of such false statements or representations or failure to disclose a  
15 material fact, shall not be entitled to any benefits under this act for  
16 any disability occurring prior to the time he shall have discharged  
17 his liability hereunder to pay such fine.

18       (b) Any employer or any officer or agent of any employer or  
19 any other person who makes a false statement or representation  
20 knowing it to be false or knowingly fails to disclose a material fact,  
21 to prevent or reduce the benefits to any person entitled thereto, or to  
22 avoid becoming or remaining subject hereto or to avoid or reduce  
23 any contribution or other payment required from an employer under  
24 this act, or who willfully fails or refuses to make any such  
25 contributions or other payment or to furnish any reports required  
26 hereunder or to produce or permit the inspection or copying of  
27 records as required hereunder, or who fails to provide any  
28 notification or disclosure to the division or the employee required  
29 by subsection (a) of section 25 of P.L.1948, c.110 (C.43:21-49) or  
30 subsections f. or g. of section 10 of P.L.2008, c.17 (C.43:21-39.1) at  
31 the time and in the manner required by those sections, including  
32 disclosure of the information the division requires for the  
33 processing of a claim, shall be liable for a fine of \$250 to be paid to  
34 the division, and, if a failure of an employer to provide the  
35 notification or disclosure to the division or the employee results in a  
36 delay in the payment of benefits, the employer shall also be liable  
37 for an added amount, to be paid to the claimant, equal to the  
38 benefits due from the time that the employer was required to  
39 provide the notification or disclosure until the time that the benefit  
40 payments commenced. Upon refusal to pay such fine or added  
41 payments to a claimant, the same shall be recovered in a civil action  
42 by the division in the name of the State of New Jersey.

43       (c) Any person who shall willfully violate any provision hereof  
44 or any rule or regulation made hereunder, for which a fine is neither  
45 prescribed herein nor provided by any other applicable statute, shall  
46 be liable to a fine of \$500 to be paid to the division. Upon the  
47 refusal to pay such fine, the same shall be recovered in a civil  
48 action by the division in the name of the State of New Jersey.



1 (d) Any person, employing unit, employer or entity violating  
2 any of the provisions of the above subsections with intent to  
3 defraud the division shall in addition to the penalties hereinbefore  
4 described, be liable for each offense upon conviction before the  
5 Superior Court or any municipal court for a fine not to exceed  
6 \$1,000 or by imprisonment for a term not to exceed ninety days, or  
7 both, at the discretion of the court. The fine upon conviction shall  
8 be payable to the State disability benefits fund of the division. Any  
9 penalties imposed by this subsection shall be in addition to those  
10 otherwise prescribed in this chapter (R.S.43:21-1 et seq.).

11 (e) Any sum collected as a fine or penalty pursuant to this  
12 section shall be deposited in the administration account of the State  
13 disability benefits fund and applied toward enforcement and other  
14 administrative costs of the division.

15 (cf: P.L.2008, c.17, s.8)

16

17 15. (New section) a. An employer shall not discharge, harass,  
18 threaten, or otherwise discriminate or retaliate against an employee  
19 with respect to the compensation, terms, conditions, or privileges of  
20 employment on the basis that the employee requested or took any  
21 temporary disability benefits pursuant to P.L.1948, c.110 (C.43:21-  
22 25 et al.), or family temporary disability leave benefits pursuant to  
23 P.L.2008, c.17 (C.43:21-39.1 et al.), provided that, pursuant to  
24 section 2 of P.L.1948, c.110 (C.43:21-26), nothing in this section or  
25 any other section of P.L.1948, c.110 (C.43:21-25 et al.) or  
26 P.L.2008, c.17 (C.43:21-39.1 et al.) shall be construed as  
27 increasing, reducing or otherwise modifying any entitlement  
28 provided to a worker by the provisions of the "Family Leave Act,"  
29 P.L.1989, c.261 (C.34:11B-1 et seq.) to be restored to employment  
30 by the employer after a period of family temporary disability leave.

31 b. Upon a violation of subsection a. of this section, an  
32 employee or former employee may institute a civil action in the  
33 Superior Court for relief. All remedies available in common law  
34 tort actions shall be available to a prevailing plaintiff. The court  
35 may also order any or all of the following relief:

36 (1) an assessment of a civil fine of not less than \$1,000 and not  
37 more than \$2,000 for the first violation of any of the provisions of  
38 this section and not more than \$5,000 for each subsequent violation;

39 (2) an injunction to restrain the continued violation of any of the  
40 provisions of this section;

41 (3) reinstatement of the employee to the same position or to a  
42 position equivalent to that which the employee held prior to  
43 unlawful discharge or retaliatory action;

44 (4) reinstatement of full fringe benefits and seniority rights;

45 (5) compensation for any lost wages, benefits and other  
46 remuneration; and

47 (6) payment of reasonable costs and attorney's fees.



1       The bill provides that an employer may not retaliate against an  
2 employee with respect to the compensation, terms, conditions, or  
3 privileges of employment on the basis that the employee took or  
4 requested any TDI or FLI benefits, except that not reinstating an  
5 employee after a period of FLI benefits is not to be regarded as  
6 retaliation in the case of an employer who is exempt from the FLA  
7 because the employer has less than 30 employees. The bill provides  
8 various remedies in cases of such retaliation, and applies existing  
9 penalties of the TDI law to employers who fail to provide the  
10 notifications and disclosures at the time and in the manner required  
11 by the TDI and FLI laws. If the failure causes a delay in benefit  
12 payments, the employer is required to pay the claimant an added  
13 amount equal to the benefits due from the time that the notification  
14 or disclosure was required until the benefit payments commence.

15       The bill also requires the division to implement goals for the  
16 timely determination and payment of TDI and FLI benefits. For  
17 TDI benefit claims, the goals specified by the bill set minimum  
18 percentages of initial claims to be completed within specified time  
19 spans as follows: 40 percent within seven days, 75 percent within  
20 14 days, 85 percent within 21 days, and 90 percent within 28 days.  
21 For FLI benefit claims, the goals specified by the bill set the  
22 minimum percentages at 80 percent within seven days, 85 percent  
23 within 14 days, 90 percent within 21 days, and 95 percent within 28  
24 days.

25       The bill requires the issuing of annual reports regarding efforts to  
26 attain those goals. Each report is required to include data  
27 regarding: claims completed within the stated goal periods; claims  
28 received with insufficient information causing delays in benefit  
29 payment and any related fines, penalties or payments to claimants;  
30 personnel processing TDI and FLI claims and related administrative  
31 costs; along with an evaluation of the causes of any failures to meet  
32 the goals, and a plan to correct them, including any needed increase  
33 in personnel, any enforcement or educational measures, or  
34 improvements in data processing and other administrative services  
35 and equipment. The plans should specify any increase needed to  
36 implement the plan in the estimate made pursuant to the TDI and  
37 FLI laws of the amounts needed to provide the cost of  
38 administration of TDI and FLI benefits. The commissioner is  
39 required to use that increased estimate in setting the rate of TDI and  
40 FLI worker taxes. The bill allocates \$1.2 million to education and  
41 outreach efforts for the programs, of which not less than \$600,000  
42 would be allocated to contracts with community-based  
43 organizations.

44       The bill directs the department to disseminate information about  
45 the rights and responsibilities of employers and employees  
46 regarding family temporary disability benefits, and allows it to  
47 contract with community-based organizations to assist.

# ASSEMBLY LABOR COMMITTEE

## STATEMENT TO

### ASSEMBLY, No. 3975

# STATE OF NEW JERSEY

DATED: JUNE 14, 2018

The Assembly Labor Committee reports favorably Assembly Bill No. 3975.

This bill revises the laws concerning family leave, pregnancy temporary disability leave, family temporary disability leave, and domestic or sexual violence safety leave.

The bill expands the maximum total benefits payable to any eligible individual for periods of family temporary disability leave (often referred to as family leave insurance, or “FLI”) and periods of disability covered under Temporary Disability Insurance (“TDI”) related to pregnancy and recovery from childbirth. The bill also increases the maximum length of time for which FLI benefits will be paid from six to 12 weeks during any 12-month period. In cases of intermittent leave, the maximum FLI leave is increased from 42 days to 84 days. The bill increases the amount of weekly benefits for FLI leave and TDI pregnancy leave from two-thirds of a claimant’s average weekly wage to 90 percent of that wage, subject to a maximum amount, which the bill increases from 53 percent of the State average weekly wage (“SAWW”) for all workers to 100 percent of the SAWW. The bill provides that the costs of all of those increases in benefits will be borne exclusively through increases in worker contributions, without any increases in employer contribution rates.

The bill expands the family members for whom individuals covered under the FLI law may receive paid benefits during periods of leave from employment to care for to include siblings, grandparents, grandchildren, parents-in-law, and others related by blood or relationship equivalent to a family relationship, and expands the “Family Leave Act” (“FLA”) and the “NJ SAFE Act” to include the same groups. The bill provides that FLI benefits may be taken by a covered individual while taking time off from work, pursuant to the NJ SAFE Act, to assist a family member who is a victim of domestic or sexual violence.

The bill amends the FLA and the FLI law to provide an employee who becomes a parent of a child pursuant to a gestational carrier agreement with the same rights to unpaid and paid family leave as those laws currently provide to an employee who is a parent of a newborn child.

The bill provides that FLI benefits with respect to a birth or adoption may be taken on an intermittent basis, if the individual

provides the employer with prior notice not less than 15 days before the first day on which benefits are paid, unless unforeseen circumstances preclude prior notice. The individual must make a reasonable effort to schedule the leave to not disrupt employer operations and, if possible, to provide a regular schedule of the days, days of the week, or weeks of the intermittent leave.

The bill provides that an employer may not retaliate against an employee with respect to the compensation, terms, conditions, or privileges of employment on the basis that the employee took or requested any TDI or FLI benefits, except that not reinstating an employee after a period of FLI benefits is not to be regarded as retaliation in the case of an employer who is exempt from the FLA because the employer has less than 30 employees. The bill provides various remedies in cases of such retaliation, and applies existing penalties of the TDI law to employers who fail to provide the notifications and disclosures at the time and in the manner required by the TDI and FLI laws. If the failure causes a delay in benefit payments, the employer is required to pay the claimant an added amount equal to the benefits due from the time that the notification or disclosure was required until the benefit payments commence.

The bill also requires the division to implement goals for the timely determination and payment of TDI and FLI benefits. For TDI benefit claims, the goals specified by the bill set minimum percentages of initial claims to be completed within specified time spans as follows: 40 percent within seven days, 75 percent within 14 days, 85 percent within 21 days, and 90 percent within 28 days. For FLI benefit claims, the goals specified by the bill set the minimum percentages at 80 percent within seven days, 85 percent within 14 days, 90 percent within 21 days, and 95 percent within 28 days.

The bill requires the issuing of annual reports regarding efforts to attain those goals. Each report is required to include data regarding: claims completed within the stated goal periods; claims received with insufficient information causing delays in benefit payment and any related fines, penalties or payments to claimants; personnel processing TDI and FLI claims and related administrative costs; along with an evaluation of the causes of any failures to meet the goals, and a plan to correct them, including any needed increase in personnel, any enforcement or educational measures, or improvements in data processing and other administrative services and equipment. The plans should specify any increase needed to implement the plan in the estimate made pursuant to the TDI and FLI laws of the amounts needed to provide the cost of administration of TDI and FLI benefits. The commissioner is required to use that increased estimate in setting the rate of TDI and FLI worker taxes. The bill allocates \$1.2 million to education and outreach efforts for the programs, of which not less than \$600,000 would be allocated to contracts with community-based organizations.

The bill directs the department to disseminate information about the rights and responsibilities of employers and employees regarding family temporary disability benefits, and allows it to contract with community-based organizations to assist.

# ASSEMBLY BUDGET COMMITTEE

## STATEMENT TO

### ASSEMBLY, No. 3975

with committee amendments

# STATE OF NEW JERSEY

DATED: JUNE 18, 2018

The Assembly Budget Committee reports favorably Assembly Bill No. 3975, with committee amendments.

The bill, as amended by the committee, revises the laws concerning family leave, pregnancy temporary disability leave, family temporary disability leave, and domestic or sexual violence safety leave.

The bill expands the maximum total benefits payable to any eligible individual for periods of family temporary disability leave (often referred to as family leave insurance, or “FLI”) and periods of disability covered under Temporary Disability Insurance (“TDI”) related to pregnancy and recovery from childbirth. The bill also increases the maximum length of time for which FLI benefits will be paid from six to 12 weeks during any 12-month period. In cases of intermittent leave, the maximum FLI leave is increased from 42 days to 84 days. The bill increases the amount of weekly benefits for FLI leave and TDI pregnancy leave from two-thirds of a claimant’s average weekly wage to 90 percent of that wage, subject to a maximum amount, which the bill increases from 53 percent of the State average weekly wage (“SAWW”) for all workers to 100 percent of the SAWW. The bill provides that the costs of all of those increases in benefits will be borne exclusively through increases in worker contributions, without any increases in employer contribution rates.

The bill expands the family members for whom individuals covered under the FLI law may receive paid benefits during periods of leave from employment to care for to include siblings, grandparents, grandchildren, parents-in-law, and others related by blood or relationship equivalent to a family relationship, and expands the “Family Leave Act” (“FLA”) and the “NJ SAFE Act” to include the same groups. The bill provides that FLI benefits may be taken by a covered individual while taking time off from work, pursuant to the NJ SAFE Act, to assist a family member who is a victim of domestic or sexual violence.

The bill amends the FLA and the FLI law to provide an employee who becomes a parent of a child pursuant to a gestational carrier agreement with the same rights to unpaid and paid family leave as

those laws currently provide to an employee who is a parent of a newborn child.

The bill provides that FLI benefits, with FLA protections, in cases of birth, placement in foster care, or adoption may be taken on an intermittent basis, if the individual provides the employer with prior notice not less than 15 days before the first day on which benefits are paid, unless unforeseen circumstances preclude prior notice. The individual must make a reasonable effort to schedule the leave to not disrupt employer operations and, if possible, to provide a regular schedule of the days, days of the week, or weeks of the intermittent leave.

The bill eliminates the one-week waiting period for FLI benefits in all cases and limits the amount of accrued sick leave that certain public employees may be required to use before receiving TDI benefits.

The bill provides that an employer may not retaliate against an employee with respect to the compensation, terms, conditions, or privileges of employment on the basis that the employee took or requested any TDI or FLI benefits, except that not reinstating an employee after a period of FLI benefits is not to be regarded as retaliation in the case of an employer who is exempt from the FLA because the employer has less than 30 employees. The bill provides various remedies in cases of such retaliation, and applies existing penalties of the TDI law to employers who fail to provide the notifications and disclosures at the time and in the manner required by the TDI and FLI laws. If the failure causes a delay in benefit payments, the employer is required to pay the claimant an added amount equal to the benefits due from the time that the notification or disclosure was required until the benefit payments commence.

The bill also requires the division to implement goals for the timely determination and payment of TDI and FLI benefits. For TDI benefit claims, the goals specified by the bill set minimum percentages of initial claims to be completed within specified time spans as follows: 40 percent within seven days, 75 percent within 14 days, 85 percent within 21 days, and 90 percent within 28 days. For FLI benefit claims, the goals specified by the bill set the minimum percentages at 80 percent within seven days, 85 percent within 14 days, 90 percent within 21 days, and 95 percent within 28 days.

The bill requires the issuing of annual reports regarding efforts to attain those goals. Each report is required to include data regarding: claims completed within the stated goal periods; claims received with insufficient information causing delays in benefit payment and any related fines, penalties or payments to claimants; personnel processing TDI and FLI claims and related administrative costs; along with an evaluation of the causes of any failures to meet the goals, and a plan to correct them, including any needed increase in personnel, any enforcement or educational measures, or improvements in data processing and other administrative services and equipment. The



plans should specify any increase needed to implement the plan in the estimate made pursuant to the TDI and FLI laws of the amounts needed to provide the cost of administration of TDI and FLI benefits. The commissioner is required to use that increased estimate in setting the rate of TDI and FLI worker taxes. The bill allocates \$1.2 million to education and outreach efforts for the programs, of which not less than \$600,000 would be allocated to contracts with community-based organizations.

The bill directs the department to disseminate information about the rights and responsibilities of employers and employees regarding FLI benefits, and allows it to contract with community-based organizations to assist.

COMMITTEE AMENDMENTS:

The committee amended the bill to:

1. Limit to two weeks the amount of accrued sick leave certain public employees may be required to use before receiving TDI benefits, with the further limitation that they may not be required to use their last week of accrued sick leave before receiving TDI benefits;
2. Permit a worker with more than one employer to receive FLI benefits for leave taken from one employer while continuing other employment so long as the worker does not increase the amount of any other employment during the time of leave;
3. Extend FLA protections to individuals allowed by the bill to take FLI benefits on an intermittent basis, including in cases of placement in foster care;
4. Extend FLA protections to domestic partners;
5. Specify that, when benefits are provided to a worker providing care for an individual whose close association is equivalent to a family relationship, the worker is expected to give evidence of that association;
6. Specify that the limit on the administration expenses for the TDI and FLI programs of 0.1% is applied to the current TDI tax base, not on the bill's new FLI tax base;
7. Remove the one week waiting period before receiving FLI benefits; and
8. Change the effective date of the bill to January 1, 2019.

FISCAL IMPACT:

The Office of Legislative Services (OLS) estimates that the bill will result in a significant annual increase in State Disability Benefits Fund (SDBF) revenue collections and expenditures.

The OLS estimates that SDBF expenditures will rise due to an increase in the payment of FLI benefits and TDI benefits in case of pregnancy and recovery from childbirth, as well as potential increase in benefit users, resulting from the provisions of the bill.

The OLS estimates that if the benefit increases of the bill had been in effect in 2018, FLI benefits would have increased by more than \$200 million and FLI pregnancy benefits by more than \$50 million.

The OLS notes that the Department of Labor and Workforce Development may incur indeterminate costs associated with certain reporting and other administrative requirements under the bill.

The OLS further notes that the bill may result in an indeterminate annual increase in State revenue due to the collection of penalties from employers who fail to provide the department with certain information regarding an employee's claim.

The benefits and costs associated with the FLI program are funded entirely through an additional assessment on workers' wages subject to TDI taxes. The OLS notes that any increase in FLI benefit payments, along with the associated administrative costs, resulting from the bill will be funded through these employee taxes and not through any assessment on employers.

STATEMENT TO  
[First Reprint]  
**ASSEMBLY, No. 3975**

with Assembly Floor Amendments  
(Proposed by Assemblywoman QUIJANO)

ADOPTED: OCTOBER 29, 2018

These floor amendments make this bill identical to Senate No. 2528 (2R). Further, these amendments incorporate updates to existing law by deleting outdated sections of law and inserting current sections of law. Specifically, these amendments:

1. Reduce the maximum number of days of intermittent FLI leave from 84 days in the bill as introduced to 52 days;
2. Reduce weekly TDI and FLI benefit rates from 90% to 85% of a workers' average wage and reduce the maximum weekly benefit from 100% to 70% of the State average weekly wage;
3. Make the increased weekly benefits available in all TDI claims, not just pregnancy and childbirth-related claims;
4. Require the division to permit applications for approval of TDI or FLI private plans to be submitted by means of electronic communication, including the use of an electronic signature;
5. Permit the department to process claims more rapidly by calculating eligibility for, and the amount of, benefits by using wage data for base years similar to those used for unemployment benefits, instead of data from the last 52 weeks before the disability;
6. Amend the current law to delay, from January 1, 2019 to October 4, 2019, the date on which TDI and FLI claims may be filed before benefits commence in cases in which the beginning of the benefit period is predictable, such as childbirth or scheduled surgery;
7. Specify that the limit on the administration expenses for the TDI and FLI programs of 0.1% is applied to the current TDI tax base, not on the bill's new FLI tax base;
8. Permit the department to use expedited methods in obtaining outside contractors to assist in implementing the provisions of the bill.
9. Change the years in which \$1.2 million is allocated for the dissemination of program information from calendar years to fiscal years, so that the allocation will commence on July 1, 2019, instead of January 1, 2019;
10. Increase the maximum amount of wages which are subject to employee TDI and FLI contributions from 52 to 107 times the State average weekly wage, which would make the TDI and FLI tax bases approximately equal to the federal Social Security tax base; and
11. In cases of employees who are not subject to a collective bargaining agreement, remove the current provision of the "Temporary Disability Benefits Law" that, if employees are required to contribute toward the cost of disability benefits, the employer is not permitted to

establish a private which replaces the State plan unless a majority of the affected employees agree in a written election to that replacement. The current requirement of agreement by a majority of employees would continue to apply in cases where the employees are subject to a collective bargaining agreement, unless the collective bargaining agreement expressly waives the employees' right to a majority election as a condition for the private plan. The amendments also set requirements for notification to employees by employers of the benefits provided by a private plan.

STATEMENT TO  
[Second Reprint]  
**ASSEMBLY, No. 3975**

with Senate Floor Amendments  
(Proposed by Senator DIEGNAN)

ADOPTED: JANUARY 31, 2019

These floor amendments:

1. Make the bill effective immediately upon enactment, and change certain dates in the text of the bill to reflect this revised effective date.
2. Change the date on which employers become subject to certain provisions of the law from December 31, 2018 to June 30, 2019.
3. Clarify that employees foreseeing need for FLI due to placement of a child into foster care must provide prior notice to their employers
4. Increase the maximum number of days of intermittent FLI leave from 52 days to 56 days.
5. Clarify that any repayments of overpayments of TDI may be waived, but such repayments must be waived if the individual is deceased or permanently disabled.

# LEGISLATIVE FISCAL ESTIMATE

[Second Reprint]

## ASSEMBLY, No. 3975

### STATE OF NEW JERSEY 218th LEGISLATURE

DATED: JANUARY 29, 2019

#### SUMMARY

- Synopsis:** Revises law concerning family leave, temporary disability and family temporary disability leave, and domestic or sexual violence safety leave.
- Type of Impact:** Annual expenditure and revenue increases to the State Disability Benefits Fund.
- Agencies Affected:** Department of Labor and Workforce Development.

#### Office of Legislative Services Estimate

<b>Fiscal Impact</b>	<b><u>CY 2020</u></b>	<b><u>CY 2021</u></b>	<b><u>CY 2022</u></b>
<b>State Expenditure Increase</b>	\$139,700,000 to \$182,800,000	\$278,200,000 to \$364,500,000	\$278,200,000 to \$364,500,000
<b>State Revenue Increase</b>	\$171,200,000 to \$225,100,000	\$309,700,000 to \$406,800,000	\$278,200,000 to \$364,500,000

- The Office of Legislative Services (OLS) estimates that the bill, once its changes in benefits and taxes are fully phased in starting in calendar year (CY) 2022, will result in an annual increase in State Disability Benefits Fund (SDBF) revenue collections and expenditures ranging from \$278.2 million to \$364.5 million, including \$277.0 million to \$363.3 million for expanded family leave insurance (FLI) and temporary disability insurance (TDI) benefits and \$1.2 million for increased administrative costs. The OLS notes that, starting in the second year following implementation, the bill may increase the Department of Labor and Workforce Development's (DOLWD) administrative costs further due to fulfilling the requirements regarding the timely determination and payment of benefits and the production of certain annual reports.
- The FLI and TDI benefit expansion will take effect on July 1, 2020. As a result, the OLS projects that CY 2020 expenditure and revenue increases will equal 50 percent of the estimated full-year impacts.

- The estimated CY 2020 and CY 2021 revenue increases include the build-up of SDBF reserves for the additional FLI and TDI benefit payments, as required by existing statutes.
- The OLS notes that employees will pay for the entire cost of the bill through increases in employee FLI and TDI wage tax assessments.

## **BILL DESCRIPTION**

The bill expands TDI and FLI benefits, establishes new administrative requirements for the TDI and FLI programs, and increases TDI and FLI payroll taxes.

For leave periods beginning on or after July 1, 2020, the amount of weekly FLI and TDI benefits is to increase from two-thirds of a claimant's average weekly wage to 85 percent of that wage, subject to a maximum amount. The maximum, in turn, is to rise from 53 percent to 70 percent of the Statewide average weekly wage (SAWW) for all workers.

The maximum FLI benefit period increases from six to 12 weeks during any one-year period and the maximum intermittent FLI leave from 42 to 52 days. Moreover, the bill expands the family members for whose care individuals may receive FLI benefits during periods of leave from employment to siblings, grandparents, grandchildren, parents-in-law, and others related by blood or relationship equivalent to a family relationship. FLI benefits are also extended to individuals who take time off from work to assist a family member who is a victim of domestic or sexual violence.

The bill facilitates access to FLI and TDI benefits by: a) eliminating the one-week waiting period before the payment of FLI benefits; b) lowering from 50 to 30 employees the threshold at and above which employers must grant unpaid family leave to employees for up to 12 weeks in a 24-month period without terminating employment because of the leave; c) no longer allowing employers to require that employees use all their paid leave, up to two weeks, before the payment of FLI benefits; and d) limiting to two weeks the amount of sick leave State and certain local government employees must use before receiving TDI benefits, whereas current law requires them to exhaust their entire sick leave first.

The bill establishes new penalties for violations of the TDI and FLI laws. Specifically, employers who fail to provide certain notifications and disclosures as required will be fined up to \$1,000 and in certain cases imprisoned for up to 90 days. In addition, the bill prohibits employer retaliation against an employee for taking or requesting TDI or FLI benefits, except that employers with fewer than 30 employees are not required to reinstate an employee after a period of FLI leave. The civil fine for the first act of prohibited retaliation ranges from \$1,000 to \$2,000 with each subsequent violation resulting in a fine not to exceed \$5,000.

Furthermore, the DOLWD must implement goals for the timely determination of TDI and FLI benefit eligibility and amounts, and issue an annual report regarding efforts to attain those goals. The report must contain specific recommendations regarding any increased funding needed to achieve the goals and modernize the administration of the TDI and FLI programs. The department is to include the recommended funding increases in setting the annual rate of TDI and FLI taxes.

In addition, the bill allocates \$1.2 million annually to education and outreach efforts for the TDI and FLI programs, requires the DOLWD to publish an annual report on these efforts, and expands other existing TDI and FLI reporting requirements.

The bill increases the amount of payroll taxes that is to be raised to pay for the benefit expansion and additional program administration expenditures, and expands the wage base on which the taxes are imposed from 28 times to 107 times the SAWW. The benefit increases and higher administrative costs are to be charged exclusively to workers. The

DOLWD sets the annual TDI and FLI assessment rates according to existing statutory formulae that consider estimated annual benefit payments, estimated administrative costs, and any unexpended account balances.

## **FISCAL ANALYSIS**

### ***EXECUTIVE BRANCH***

None received.

### ***OFFICE OF LEGISLATIVE SERVICES***

The OLS estimates that the bill, once its changes in benefits and taxes are fully phased in starting in CY 2022, will result in an annual increase in SDBF revenue collections and expenditures ranging from \$278.2 million to \$364.5 million, including \$277.0 million to \$363.3 million for increased benefits and at least \$1.2 million for increased administrative costs. Starting in the second year following implementation, this bill may lead to an additional increase in the DOLWD's administrative costs due to the fulfillment of the bill's requirements regarding the timely determination and payment of benefits and the production of certain annual reports.

### **BENEFIT COSTS**

The OLS estimates that the bill will increase annual FLI and TDI benefit payments by a range of \$277.0 million to \$363.3 million starting in CY 2021. Because the benefit expansion will not take effect until July 1, 2020, CY 2020 benefit payments are projected to equal 50 percent of the estimated full-year impact, or \$138.5 million to \$181.6 million.

The OLS model considers changes in the following variables. First, the bill raises weekly benefits for both FLI and TDI claims from 66.7 percent to 85.0 percent of a worker's average weekly wage up to a maximum amount, which the bill increases from 53 percent of the SAWW (\$651 per week in CY 2019) to 70 percent of the SAWW (\$860 per week in CY 2019).

Second, the bill increases the maximum duration for FLI benefits from six weeks to 12 weeks. While the benefit expansion makes it probable that the average FLI leave period will rise, not every claimant will take advantage of the 12-week maximum period. For instance, 12 percent of FLI benefits are currently paid to workers taking time to care for family members, and those claims have an average duration of four weeks out of the six available weeks, suggesting that these workers may not take 12 weeks of FLI leave if the bill is enacted.

Finally, the OLS estimates that lowering from 50 to 30 employees the threshold at and above which employers must grant protected unpaid family leave to employees will increase usage of FLI benefits by eight percent.

This estimate does not factor in the extent to which the higher weekly benefit rates and the education and outreach efforts mandated by the bill may cause individuals to file for FLI and TDI benefits who under current law would not do so. The OLS notes, however, that any increase in the number of claimants is likely to be diminished by the fact that many high-income workers historically have been provided the highest rates of fully-paid leave by their employers.



## ADMINISTRATIVE COSTS

The bill will increase annual FLI and TDI administrative expenditures by at least \$1.2 million. The bill requires the expenditure of \$1.2 million annually for FLI and TDI education and outreach efforts. The bill may also increase DOLWD administrative costs starting in the second year of implementation to fulfill the requirements regarding the timely determination and payment of TDI and FLI benefits, and the production of certain annual reports. If the DOLWD attempted to meet the goals by restoring program staffing to the level of 2008, when the speed of determinations was closest to the goals, the number of program personnel would have to grow from 125 to 170, an increase of 36 percent. The OLS, however, does not include such an increase of personnel in its estimate because of possible alternative approaches the department may implement to meet the claims processing goals, such as the increased use of automation in claims processing and the use of data currently available from the unemployment insurance program's automated wage data systems, instead of making time-consuming requests of employers for wage information after claims are made.

## REVENUE COLLECTIONS

Employee Wage Tax Revenue: The OLS estimates that the bill will increase annual FLI and TDI wage tax collections by a range of \$278.2 million to \$364.5 million starting in CY 2022. Additional wage tax collections in CY 2020 are projected to range from \$171.2 million to \$225.1 million, reflecting the mechanics of existing statutory TDI and FLI revenue determination calculations and the July 1, 2020 effective date for the benefit expansion. Additional wage tax collections in CY 2021 are projected to range from \$309.7 million to \$406.8 million, reflecting the mechanics of existing statutory revenue determination calculations.

The FLI program is funded entirely through an assessment on workers' wages, the rate of which is set by the DOLWD annually to cover anticipated program expenditures and a reserve requirement. The assessment equals the rate which is projected to generate contributions equal to 125 percent of estimated annual FLI benefits plus 100 percent of estimated administrative costs, reduced by any unexpended prior-year account balances. The same method is used to set the TDI tax rate, except that the assessment amount for TDI benefits is 120 percent of estimated benefits.

CY 2017 employer and employee contributions to the TDI program totaled \$436.0 million (\$259.0 million by employers and \$177.0 million by employees), and the DOLWD estimated combined CY 2018 contributions at \$417.9 million (\$267.8 million by employers and \$150.1 million by employees). Employers do not contribute to the FLI program. CY 2017 employee FLI contributions totaled \$108.6 million with the DOLWD projecting CY 2018 collections at \$106.0 million. The bill charges all of the increases in benefits and administrative costs to employee TDI and FLI wage taxes.

Penalty Collections: The OLS estimates that the bill may result in an indeterminate annual increase in SDBF revenues from penalties collected for violations established in the bill. This bill applies existing TDI law penalties to employers who fail to provide notifications and disclosures as required under the TDI and FLI laws, and imposes additional penalties for certain employers who retaliate against employees for taking or requesting TDI or FLI benefits. The OLS cannot determine the number of violations that employers may commit under the bill and, therefore, the amount of penalty revenue that may be generated.

*Section: Commerce, Labor and Industry*

*Analysts: Juan C. Rodriguez  
Associate Fiscal Analyst*

*Gregory L. Williams  
Lead Research Analyst*

*Approved: Frank W. Haines III  
Legislative Budget and Finance Officer*

This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).

# LEGISLATIVE FISCAL ESTIMATE

[Third Reprint]

## ASSEMBLY, No. 3975

### STATE OF NEW JERSEY 218th LEGISLATURE

DATED: FEBRUARY 15, 2019

#### SUMMARY

- Synopsis:** Revises law concerning family leave, temporary disability and family temporary disability leave, and domestic or sexual violence safety leave.
- Type of Impact:** Annual expenditure and revenue increases to the State Disability Benefits Fund.
- Agencies Affected:** Department of Labor and Workforce Development.

#### Office of Legislative Services Estimate

<b>Fiscal Impact</b>	<b><u>CY 2019</u></b>	<b><u>CY 2020</u></b>	<b><u>CY 2021</u></b>	<b><u>CY 2022</u></b>
<b>State Expenditure</b>	\$3,800,000 to	\$143,500,000 to	\$278,200,000 to	\$278,200,000 to
<b>Increase</b>	\$4,700,000	\$187,300,000	\$364,500,000	\$364,500,000
<b>State Revenue</b>	\$0	\$180,700,000 to	\$303,900,000 to	\$278,200,000 to
<b>Increase</b>		\$236,500,000	\$399,200,000	\$364,500,000

- The Office of Legislative Services (OLS) estimates that the bill, once its changes in benefits and taxes are fully phased in starting in calendar year (CY) 2022, will result in an annual increase in State Disability Benefits Fund (SDBF) revenue collections and expenditures ranging from \$278.2 million to \$364.5 million, including \$277.0 million to \$363.3 million for expanded family leave insurance (FLI) and temporary disability insurance (TDI) benefits and at least \$1.2 million for increased administrative costs. The OLS notes that, starting in the second year following implementation, the bill may increase the Department of Labor and Workforce Development's (DOLWD) administrative costs further due to fulfilling the requirements regarding the timely determination and payment of benefits and the production of certain annual reports.
- The FLI and TDI benefit expansion will take effect on July 1, 2020. As a result, the OLS projects that the CY 2020 expenditure increase will approximate 50 percent of the estimated full-year impact. The estimated CY 2019 increase in FLI benefit payments of \$3.8 million to \$4.7 million, in turn, is attributable to additional FLI claims resulting from the lowering from 50 to 30 employees of the threshold at and above which employers

must grant unpaid family leave to employees without terminating employment because of the leave. This provision takes effect as of June 30, 2019.

- The estimated CY 2020 and CY 2021 revenue increases include the build-up of SDBF reserves for the additional FLI and TDI benefit payments, as required by existing statutes.
- The OLS notes that employees will pay for the entire cost of the bill through increases in employee FLI and TDI wage tax assessments.

## **BILL DESCRIPTION**

The bill expands TDI and FLI benefits, establishes new administrative requirements for the TDI and FLI programs, and increases TDI and FLI payroll taxes.

For leave periods beginning on or after July 1, 2020, the amount of weekly FLI and TDI benefits is to increase from two-thirds of a claimant's average weekly wage to 85 percent of that wage, subject to a maximum amount. The maximum, in turn, is to rise from 53 percent to 70 percent of the Statewide average weekly wage (SAWW) for all workers.

The maximum FLI benefit period increases from six to 12 weeks during any one-year period and the maximum intermittent FLI leave from 42 to 56 days. Moreover, the bill expands the family members for whose care individuals may receive FLI benefits during periods of leave from employment to siblings, grandparents, grandchildren, parents-in-law, and others related by blood or relationship equivalent to a family relationship. FLI benefits are also extended to individuals who take time off from work to assist a family member who is a victim of domestic or sexual violence.

The bill facilitates access to FLI and TDI benefits by: a) eliminating the one-week waiting period before the payment of FLI benefits; b) effective as of June 30, 2019, lowering from 50 to 30 employees the threshold at and above which employers must grant unpaid family leave to employees for up to 12 weeks in a 24-month period without terminating employment because of the leave; c) no longer allowing employers to require that employees use all their paid leave, up to two weeks, before the payment of FLI benefits; and d) limiting to two weeks the amount of sick leave State and certain local government employees must use before receiving TDI benefits, whereas current law requires them to exhaust their entire sick leave first.

The bill establishes new penalties for violations of the TDI and FLI laws. Specifically, employers who fail to provide certain notifications and disclosures as required will be fined up to \$1,000 and in certain cases imprisoned for up to 90 days. In addition, the bill prohibits employer retaliation against an employee for taking or requesting TDI or FLI benefits, except that employers with fewer than 30 employees are not required to reinstate an employee after a period of FLI leave. The civil fine for the first act of prohibited retaliation ranges from \$1,000 to \$2,000 with each subsequent violation resulting in a fine not to exceed \$5,000.

Furthermore, the DOLWD must implement goals for the timely determination of TDI and FLI benefit eligibility and amounts, and issue an annual report regarding efforts to attain those goals. The report must contain specific recommendations regarding any increased funding needed to achieve the goals and modernize the administration of the TDI and FLI programs. The department is to include the recommended funding increases in setting the annual rate of TDI and FLI taxes.

In addition, the bill allocates \$1.2 million annually to education and outreach efforts for the TDI and FLI programs, requires the DOLWD to publish an annual report on these efforts, and expands other existing TDI and FLI reporting requirements.

The bill increases the amount of payroll taxes that is to be raised to pay for the benefit expansion and additional program administration expenditures, and expands the wage base on which the taxes are imposed from 28 times to 107 times the SAWW. The benefit increases and higher administrative costs are to be charged exclusively to workers. The DOLWD sets the annual TDI and FLI assessment rates according to existing statutory formulae that consider estimated annual benefit payments, estimated administrative costs, and any unexpended account balances.

## **FISCAL ANALYSIS**

### ***EXECUTIVE BRANCH***

None received.

### ***OFFICE OF LEGISLATIVE SERVICES***

The OLS estimates that the bill, once its changes in benefits and taxes are fully phased in starting in CY 2022, will result in an annual increase in SDBF revenue collections and expenditures ranging from \$278.2 million to \$364.5 million, including \$277.0 million to \$363.3 million for increased benefits and at least \$1.2 million for increased administrative costs. Starting in the second year following implementation, this bill may lead to an additional increase in the DOLWD's administrative costs due to the fulfillment of the bill's requirements regarding the timely determination and payment of benefits and the production of certain annual reports.

### **BENEFIT COSTS**

The OLS estimates that the bill will increase annual FLI and TDI benefit payments by a range of \$277.0 million to \$363.3 million starting in CY 2021. Because the benefit expansion will not take effect until July 1, 2020, CY 2020 benefit payments are projected to approximate 50 percent of the estimated full-year impact, or \$143.5 million to \$187.3 million.

The estimated CY 2019 increase in FLI benefit payments of \$3.8 million to \$4.7 million, in turn, is attributable to additional FLI claims resulting from the lowering from 50 to 30 employees of the threshold at and above which employers must grant unpaid family leave to employees without terminating employment because of the leave. This provision takes effect as of June 30, 2019.

The OLS model considers changes in the following variables. First, the bill raises weekly benefits for both FLI and TDI claims from 66.7 percent to 85.0 percent of a worker's average weekly wage up to a maximum amount, which the bill increases from 53 percent of the SAWW (\$651 per week in CY 2019) to 70 percent of the SAWW (\$860 per week in CY 2019).

Second, the bill increases the maximum duration for FLI benefits from six weeks to 12 weeks. While the benefit expansion makes it probable that the average FLI leave period will rise, not every claimant will take advantage of the 12-week maximum period. For instance, 12 percent of FLI benefits are currently paid to workers taking time to care for family members, and those claims have an average duration of four weeks out of the six available weeks, suggesting that these workers may not take 12 weeks of FLI leave if the bill is enacted.

Finally, the OLS estimates that lowering from 50 to 30 employees the threshold at and above which employers must grant protected unpaid family leave to employees will increase usage of FLI benefits by eight percent.

This estimate does not factor in the extent to which the higher weekly benefit rates and the education and outreach efforts mandated by the bill may cause individuals to file for FLI and TDI benefits who under current law would not do so. The OLS notes, however, that any increase in the number of claimants is likely to be diminished by the fact that many high-income workers historically have been provided the highest rates of fully-paid leave by their employers.

## **ADMINISTRATIVE COSTS**

The bill will increase annual FLI and TDI administrative expenditures by at least \$1.2 million. The bill requires the expenditure of \$1.2 million annually for FLI and TDI education and outreach efforts. The bill may also increase DOLWD administrative costs starting in the second year of implementation to fulfill the requirements regarding the timely determination and payment of TDI and FLI benefits, and the production of certain annual reports. If the DOLWD attempted to meet the goals by restoring program staffing to the level of 2008, when the speed of determinations was closest to the goals, the number of program personnel would have to grow from 125 to 170, an increase of 36 percent. The OLS, however, does not include such an increase of personnel in its estimate because of possible alternative approaches the department may implement to meet the claims processing goals, such as the increased use of automation in claims processing and the use of data currently available from the unemployment insurance program's automated wage data systems, instead of making time-consuming requests of employers for wage information after claims are made.

## **REVENUE COLLECTIONS**

Employee Wage Tax Revenue: The OLS estimates that the bill will increase annual FLI and TDI wage tax collections by a range of \$278.2 million to \$364.5 million starting in CY 2022.

Additional wage tax collections in CY 2020 are projected to range from \$180.7 million to \$236.5 million, reflecting existing statutory TDI and FLI revenue determination calculations and the July 1, 2020 effective date for the benefit expansion. Additional wage tax collections in CY 2021 are projected to range from \$303.9 million to \$399.2 million, reflecting existing statutory revenue determination calculations. There will be no revenue increase in CY 2019 because the FLI and TDI wage tax rates are already set for the year.

The FLI program is funded entirely through an assessment on workers' wages, the rate of which is set by the DOLWD annually to cover anticipated program expenditures and a reserve requirement. The assessment equals the rate which is projected to generate contributions equal to 125 percent of estimated annual FLI benefits plus 100 percent of estimated administrative costs, reduced by any unexpended prior-year account balances. The same method is used to set the TDI tax rate, except that the assessment amount for TDI benefits is 120 percent of estimated benefits.

CY 2017 employer and employee contributions to the TDI program totaled \$436.0 million (\$259.0 million by employers and \$177.0 million by employees), and the DOLWD estimated combined CY 2018 contributions at \$417.9 million (\$267.8 million by employers and \$150.1 million by employees). Employers do not contribute to the FLI program. CY 2017 employee FLI contributions totaled \$108.6 million with the DOLWD projecting CY 2018 collections at \$106.0 million. The bill charges all of the increases in benefits and administrative costs to employee TDI and FLI wage taxes.

Penalty Collections: The OLS estimates that the bill may result in an indeterminate annual increase in SDBF revenues from penalties collected for violations established in the bill. This bill applies existing TDI law penalties to employers who fail to provide notifications and disclosures as required under the TDI and FLI laws, and imposes additional penalties for certain employers who retaliate against employees for taking or requesting TDI or FLI benefits. The OLS cannot determine the number of violations that employers may commit under the bill and, therefore, the amount of penalty revenue that may be generated.

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**SENATE, No. 2528**

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**STATE OF NEW JERSEY**  
**218th LEGISLATURE**

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INTRODUCED MAY 10, 2018

**Sponsored by:**

**Senator STEPHEN M. SWEENEY**

**District 3 (Cumberland, Gloucester and Salem)**

**Senator PATRICK J. DIEGNAN, JR.**

**District 18 (Middlesex)**

**Senator M. TERESA RUIZ**

**District 29 (Essex)**

**SYNOPSIS**

Revises law concerning family leave, temporary disability and family temporary disability leave, and domestic or sexual violence safety leave.

**CURRENT VERSION OF TEXT**

As introduced.





1 AN ACT concerning family leave, temporary disability and family  
2 temporary disability leave, and domestic or sexual violence  
3 safety leave, amending various parts of the statutory law and  
4 supplementing P.L.1948, c.100.

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

8  
9 1. Section 3 of P.L.1989, c.261 (C.34:11B-3) is amended to  
10 read as follows:

11 3. As used in this act:

12 a. "Child" means a biological, adopted, foster child, or resource  
13 family child, stepchild, legal ward, or child of a parent, **[who is**

14 (1) under 18 years of age; or

15 (2) 18 years of age or older but incapable of self-care because of  
16 a mental or physical impairment] including a child who becomes  
17 the child of a parent pursuant to a valid written agreement between  
18 the parent and a gestational carrier.

19 b. "Director" means the Director of the Division on Civil  
20 Rights.

21 c. "Division" means the Division on Civil Rights in the  
22 Department of Law and Public Safety.

23 d. "Employ" means to suffer or permit to work for  
24 compensation, and includes ongoing, contractual relationships in  
25 which the employer retains substantial direct or indirect control  
26 over the employee's employment opportunities or terms and  
27 conditions of employment.

28 e. "Employee" means a person who is employed for at least 12  
29 months by an employer, with respect to whom benefits are sought  
30 under this act, for not less than 1,000 base hours during the  
31 immediately preceding 12-month period. Any time, up to a  
32 maximum of 90 calendar days, during which a person is laid off or  
33 furloughed by an employer due to that employer curtailing  
34 operations because of a state of emergency declared after October  
35 22, 2012, shall be regarded as time in which the person is employed  
36 for the purpose of determining eligibility for leave time under this  
37 act. In making the determination, the base hours per week during  
38 the layoff or furlough shall be deemed to be the same as the average  
39 number of hours worked per week during the rest of the 12-month  
40 period.

41 f. "Employer" means a person or corporation, partnership,  
42 individual proprietorship, joint venture, firm or company or other  
43 similar legal entity which engages the services of an employee and  
44 which:

**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 (1) ~~With respect to the period of time from the effective date of~~  
2 ~~this act until the 365th day following the effective date of this act,~~  
3 ~~employs 100 or more employees for each working day during each~~  
4 ~~of 20 or more calendar workweeks in the then current or~~  
5 ~~immediately preceding calendar year~~ (Deleted by amendment,  
6 P.L. , c. (pending before the Legislature as this bill));

7 (2) ~~With respect to the period of time from the 366th day~~  
8 ~~following the effective date of this act until the 1,095th day~~  
9 ~~following the effective date of this act, employs 75 or more~~  
10 ~~employees for each working day during each of 20 or more calendar~~  
11 ~~workweeks in the then current or immediately preceding calendar~~  
12 ~~year~~ (Deleted by amendment, P.L. , c. (pending before the  
13 Legislature as this bill); ~~and~~

14 (3) With respect to ~~any~~ the period of time ~~after~~ from the  
15 1,095th day following the effective date of ~~this act~~ P.L.1989,  
16 c.261 (C.34:11B-1 et seq.) through June 30, 2019, employs 50 or  
17 more employees for each working day during each of 20 or more  
18 calendar workweeks in the then current or immediately preceding  
19 calendar year; ~~and~~

20 (4) With respect to any period of time after June 30, 2019,  
21 employs 30 or more employees for each working day during each of  
22 20 or more calendar workweeks in the then current or immediately  
23 preceding calendar year.

24 "Employer" includes the State, any political subdivision thereof,  
25 and all public offices, agencies, boards or bodies.

26 g. "Employment benefits" means all benefits and policies  
27 provided or made available to employees by an employer, and  
28 includes group life insurance, health insurance, disability insurance,  
29 sick leave, annual leave, pensions, or other similar benefits.

30 h. "Parent" means a person who is the biological parent,  
31 adoptive parent, foster parent, resource family parent, step-parent,  
32 parent-in-law or legal guardian, having a "parent-child relationship"  
33 with a child as defined by law, or having sole or joint legal or  
34 physical custody, care, guardianship, or visitation with a child, or  
35 who became the parent of the child pursuant to a valid written  
36 agreement between the parent and a gestational carrier.

37 i. "Family leave" means leave from employment so that the  
38 employee may provide care made necessary by reason of:

39 (1) the birth of a child of the employee, including a child born  
40 pursuant to a valid written agreement between the employee and a  
41 gestational carrier;

42 (2) the placement of a child with the employee in connection  
43 with adoption of such child by the employee; or

44 (3) the serious health condition of a family member of the  
45 employee.

46 j. "Family member" means a child, parent, parent-in-law,  
47 sibling, grandparent, grandchild, spouse, or one partner in a civil

1 union couple, or any other individual related by blood to the  
2 employee, and any other individual whose close association with  
3 the employee is the equivalent of a family relationship.

4 k. "Reduced leave schedule" means leave scheduled for fewer  
5 than an employee's usual number of hours worked per workweek  
6 but not for fewer than an employee's usual number of hours worked  
7 per workday, unless agreed to by the employee and the employer.

8 l. "Serious health condition" means an illness, injury,  
9 impairment, or physical or mental condition which requires:

10 (1) inpatient care in a hospital, hospice, or residential medical  
11 care facility; or

12 (2) continuing medical treatment or continuing supervision by a  
13 health care provider.

14 m. "State of emergency" means a natural or man-made disaster  
15 or emergency for which a state of emergency has been declared by  
16 the President of the United States or the Governor, or for which a  
17 state of emergency has been declared by a municipal emergency  
18 management coordinator.

19 (cf: P.L.2013, c.221, s.1)

20

21 2. Section 3 of P.L.2013, c.82 (C.34:11C-3) is amended to read  
22 as follows:

23 3. a. Any employee of an employer in the State who was a  
24 victim of an incident of domestic violence as defined in section 3 of  
25 P.L.1991, c.261 (C.2C:25-19) or a sexually violent offense as  
26 defined in section 3 of P.L.1998, c.71 (C.30:4-27.26), or whose  
27 parent-in-law, sibling, grandparent, grandchild, child, parent,  
28 spouse, domestic partner, or civil union partner individual, or any  
29 other individual related by blood to the employee, and any other  
30 individual whose close association with the employee is the  
31 equivalent of a family relationship, was a victim shall be entitled to  
32 unpaid leave of no more than 20 days in one 12-month period, to be  
33 used in the 12-month period next following any incident of  
34 domestic violence or any sexually violent offense as provided in  
35 this section. For purposes of this section, each incident of domestic  
36 violence or any sexually violent offense shall constitute a separate  
37 offense for which an employee is entitled to unpaid leave, provided  
38 that the employee has not exhausted the allotted 20 days for the 12-  
39 month period. The unpaid leave may be taken intermittently in  
40 intervals of no less than one day, as needed for the purpose of  
41 engaging in any of the following activities as they relate to the  
42 incident of domestic violence or sexually violent offense:

43 (1) seeking medical attention for, or recovering from, physical  
44 or psychological injuries caused by domestic or sexual violence to  
45 the employee or the employee's parent-in-law, sibling, grandparent,  
46 grandchild, child, parent, spouse, domestic partner, or civil union  
47 partner individual, or any other individual related by blood to the

1 employee, and any other individual whose close association with  
2 the employee is the equivalent of a family relationship;

3 (2) obtaining services from a victim services organization for  
4 the employee or the employee's parent-in-law, sibling, grandparent,  
5 grandchild, child, parent, spouse, domestic partner, or civil union  
6 partner individual, or any other individual related by blood to the  
7 employee, and any other individual whose close association with  
8 the employee is the equivalent of a family relationship;

9 (3) obtaining psychological or other counseling for the  
10 employee or the employee's parent-in-law, sibling, grandparent,  
11 grandchild, child, parent, spouse, domestic partner, or civil union  
12 partner individual, or any other individual related by blood to the  
13 employee, and any other individual whose close association with  
14 the employee is the equivalent of a family relationship;

15 (4) participating in safety planning, temporarily or permanently  
16 relocating, or taking other actions to increase the safety of the  
17 employee or the employee's parent-in-law, sibling, grandparent,  
18 grandchild, child, parent, spouse, domestic partner, or civil union  
19 partner individual, or any other individual related by blood to the  
20 employee, and any other individual whose close association with  
21 the employee is the equivalent of a family relationship, from future  
22 domestic or sexual violence or to ensure economic security;

23 (5) seeking legal assistance or remedies to ensure the health and  
24 safety of the employee or the employee's parent-in-law, sibling,  
25 grandparent, grandchild, child, parent, spouse, domestic partner, or  
26 civil union partner, individual, or any other individual related by  
27 blood to the employee, and any other individual whose close  
28 association with the employee is the equivalent of a family  
29 relationship, including preparing for, or participating in, any civil or  
30 criminal legal proceeding related to or derived from domestic or  
31 sexual violence; or

32 (6) attending, participating in, or preparing for a criminal or  
33 civil court proceeding relating to an incident of domestic or sexual  
34 violence of which the employee or the employee's parent-in-law,  
35 sibling, grandparent, grandchild, child, parent, spouse, domestic  
36 partner, or civil union partner, or any other individual related by  
37 blood to the employee, and any other individual whose close  
38 association with the employee is the equivalent of a family  
39 relationship, was a victim.

40 An eligible employee may elect[, or an employer may require  
41 the employee,] to use any of the accrued paid vacation leave,  
42 personal leave, or medical or sick leave of the employee, or any  
43 family temporary disability leave benefits provided pursuant to  
44 section 3 of P.L.1948, c.110 (C.43:21-27), during any part of the  
45 20-day period of unpaid leave provided under this subsection. In  
46 such case, any paid leave provided by the employer, and accrued  
47 pursuant to established policies of the employer, or family  
48 temporary disability leave benefits, shall run concurrently with the

1 unpaid leave provided under this subsection and, accordingly, the  
2 employee shall receive pay pursuant to the employer's applicable  
3 paid leave policy, or family temporary disability leave benefits,  
4 during the period of otherwise unpaid leave. If an employee  
5 requests leave for a reason covered by both this subsection and the  
6 "Family Leave Act," P.L.1989, c.261 (C.34:11B-1 et seq.) or the  
7 federal "Family and Medical Leave Act of 1993," Pub.L.103-3 (29  
8 U.S.C. s.2601 et seq.), the leave shall count simultaneously against  
9 the employee's entitlement under each respective law.

10 Leave granted under this section shall not conflict with any  
11 rights pursuant to the "Family Leave Act," P.L.1989, c.261  
12 (C.34:11B-1 et seq.), the "Temporary Disability Benefits Law,"  
13 P.L.1948, c.110 (C.43:21-25 et **[seq.] al.**), or the federal "Family  
14 and Medical Leave Act of 1993," Pub.L.103-3 (29 U.S.C. s.2601 et  
15 seq.).

16 b. Prior to taking the leave provided for in this section, an  
17 employee shall, if the necessity for the leave is foreseeable, provide  
18 the employer with written notice of the need for the leave. The  
19 notice shall be provided to the employer as far in advance as is  
20 reasonable and practical under the circumstances.

21 c. Nothing contained in this act shall be construed to prohibit  
22 an employer from requiring that a period of leave provided pursuant  
23 to this section be supported by the employee with documentation of  
24 the domestic violence or sexually violent offense which is the basis  
25 for the leave. If the employer requires the documentation, the  
26 employee shall be regarded as having provided sufficient  
27 documentation if the employee provides one or more of the  
28 following:

29 (1) a domestic violence restraining order or other documentation  
30 of equitable relief issued by a court of competent jurisdiction;

31 (2) a letter or other written documentation from the county or  
32 municipal prosecutor documenting the domestic violence or  
33 sexually violent offense;

34 (3) documentation of the conviction of a person for the domestic  
35 violence or sexually violent offense;

36 (4) medical documentation of the domestic violence or sexually  
37 violent offense;

38 (5) certification from a certified Domestic Violence Specialist or  
39 the director of a designated domestic violence agency or Rape  
40 Crisis Center, that the employee or employee's parent-in-law,  
41 sibling, grandparent, grandchild, child, parent, spouse, domestic  
42 partner, or civil union partner, or any other individual related by  
43 blood to the employee, and any other individual whose close  
44 association with the employee is the equivalent of a family  
45 relationship, is a victim of domestic violence or a sexually violent  
46 offense; or

47 (6) other documentation or certification of the domestic violence  
48 or sexually violent offense provided by a social worker, member of

1 the clergy, shelter worker, or other professional who has assisted  
2 the employee or employee's parent-in-law, sibling, grandparent,  
3 grandchild, child, parent, spouse, domestic partner, or civil union  
4 partner, or any other individual related by blood to the employee,  
5 and any other individual whose close association with the employee  
6 is the equivalent of a family relationship, in dealing with the  
7 domestic violence or sexually violent offenses.

8 For the purposes of this subsection:

9 "Certified Domestic Violence Specialist" means a person who  
10 has fulfilled the requirements of certification as a Domestic  
11 Violence Specialist established by the New Jersey Association of  
12 Domestic Violence Professionals; and "designated domestic  
13 violence agency" means a county-wide organization with a primary  
14 purpose to provide services to victims of domestic violence, and  
15 which provides services that conform to the core domestic violence  
16 services profile as defined by the Division of Child Protection and  
17 Permanency in the Department of Children and Families and is  
18 under contract with the division for the express purpose of  
19 providing the services.

20 "Rape Crisis Center" means an office, institution, or center  
21 offering assistance to victims of sexual offenses through crisis  
22 intervention, medical and legal information, and follow-up  
23 counseling.

24 d. An employer shall display conspicuous notice of its  
25 employees' rights and obligations pursuant to the provisions of this  
26 act, in such form and in such manner as the Commissioner of Labor  
27 and Workforce Development shall prescribe, and use other  
28 appropriate means to keep its employees so informed.

29 e. No provision of this act shall be construed as requiring or  
30 permitting an employer to reduce employment benefits provided by  
31 the employer or required by a collective bargaining agreement  
32 which are in excess of those required by this act. Nor shall any  
33 provision of this act be construed to prohibit the negotiation and  
34 provision through collective bargaining agreements of leave  
35 policies or benefit programs which provide benefits in excess of  
36 those required by this act. This provision shall apply irrespective of  
37 the date that a collective bargaining agreement takes effect.

38 Nothing contained in this act shall be construed as permitting an  
39 employer to:

40 (1) rescind or reduce any employment benefit accrued prior to  
41 the date on which the leave taken pursuant to this act commenced;  
42 or

43 (2) rescind or reduce any employment benefit, unless the  
44 rescission or reduction of the benefit is based on changes that would  
45 have occurred if an employee continued to work without taking the  
46 leave provided pursuant to this section.

47 f. All information provided to an employer pursuant to  
48 subsection c. of this section, and any information regarding a leave

1 taken pursuant to this section and any failure of an employee to  
2 return to work, shall be retained in the strictest confidentiality,  
3 unless the disclosure is voluntarily authorized in writing by the  
4 employee or is required by a federal or State law, rule, or  
5 regulation.

6 (cf: P.L.2013, c.82, s.3)

7

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

9 43:21-7. Employers other than governmental entities, whose  
10 benefit financing provisions are set forth in section 4 of P.L.1971,  
11 c.346 (C.43:21-7.3), and those nonprofit organizations liable for  
12 payment in lieu of contributions on the basis set forth in section 3 of  
13 P.L.1971, c.346 (C.43:21-7.2), shall pay to the controller for the  
14 unemployment compensation fund, contributions as set forth in  
15 subsections (a), (b) and (c) hereof, and the provisions of subsections  
16 (d) and (e) shall be applicable to all employers, consistent with the  
17 provisions of the "unemployment compensation law" and the  
18 "Temporary Disability Benefits Law," P.L.1948, c.110 (C.43:21-25  
19 et al.).

20 (a) Payment.

21 (1) Contributions shall accrue and become payable by each  
22 employer for each calendar year in which he is subject to this  
23 chapter (R.S.43:21-1 et seq.), with respect to having individuals in  
24 his employ during that calendar year, at the rates and on the basis  
25 hereinafter set forth. Such contributions shall become due and be  
26 paid by each employer to the controller for the fund, in accordance  
27 with such regulations as may be prescribed, and shall not be  
28 deducted, in whole or in part, from the remuneration of individuals  
29 in his employ.

30 (2) In the payment of any contributions, a fractional part of a  
31 cent shall be disregarded unless it amounts to \$0.005 or more, in  
32 which case it shall be increased to \$0.01.

33 (b) Rate of contributions. Each employer shall pay the following  
34 contributions:

35 (1) For the calendar year 1947, and each calendar year  
36 thereafter, 2 7/10% of wages paid by him during each such calendar  
37 year, except as otherwise prescribed by subsection (c) of this  
38 section.

39 (2) The "wages" of any individual, with respect to any one  
40 employer, as the term is used in this subsection (b) and in  
41 subsections (c), (d) and (e) of this section 7, shall include the first  
42 \$4,800.00 paid during calendar year 1975, for services performed  
43 either within or without this State; provided that no contribution  
44 shall be required by this State with respect to services performed in  
45 another state if such other state imposes contribution liability with  
46 respect thereto. If an employer (hereinafter referred to as a  
47 successor employer) during any calendar year acquires substantially  
48 all the property used in a trade or business of another employer

1 (hereinafter referred to as a predecessor), or used in a separate unit  
2 of a trade or business of a predecessor, and immediately after the  
3 acquisition employs in his trade or business an individual who  
4 immediately prior to the acquisition was employed in the trade or  
5 business of such predecessors, then, for the purpose of determining  
6 whether the successor employer has paid wages with respect to  
7 employment equal to the first \$4,800.00 paid during calendar year  
8 1975, any wages paid to such individual by such predecessor during  
9 such calendar year and prior to such acquisition shall be considered  
10 as having been paid by such successor employer.

11 (3) For calendar years beginning on and after January 1, 1976,  
12 the "wages" of any individual, as defined in the preceding  
13 paragraph (2) of this subsection (b), shall be established and  
14 promulgated by the Commissioner of Labor and Workforce  
15 Development on or before September 1 of the preceding year and,  
16 except as provided in paragraph (4) of this subsection (b), shall be,  
17 28 times the Statewide average weekly remuneration paid to  
18 workers by employers, as determined under R.S.43:21-3(c), raised  
19 to the next higher multiple of \$100.00 if not already a multiple  
20 thereof, provided that if the amount of wages so determined for a  
21 calendar year is less than the amount similarly determined for the  
22 preceding year, the greater amount will be used; provided, further,  
23 that if the amount of such wages so determined does not equal or  
24 exceed the amount of wages as defined in subsection (b) of section  
25 3306 of the Internal Revenue Code of 1986 (26 U.S.C. s.3306(b)),  
26 the wages as determined in this paragraph in any calendar year shall  
27 be raised to equal the amount established under the "Federal  
28 Unemployment Tax Act," chapter 23 of the Internal Revenue Code  
29 of 1986 (26 U.S.C. s.3301 et seq.), for that calendar year.

30 (4) For calendar years beginning on and after January 1, 2019,  
31 the "wages" of any individual, as defined in the preceding  
32 paragraph (2) of this subsection (b) for purposes of contributions of  
33 workers to the "Family Temporary Disability Leave Account" and  
34 the "Pregnancy Temporary Disability Account" of the State  
35 disability benefits fund pursuant to subsection (d) of this section,  
36 shall be established and promulgated by the Commissioner of Labor  
37 and Workforce Development on or before September 1 of the  
38 preceding year and shall be 52 times the Statewide average weekly  
39 remuneration paid to workers by employers, as determined under  
40 R.S.43:21-3(c), raised to the next higher multiple of \$100.00 if not  
41 already a multiple thereof, provided that if the amount of wages so  
42 determined for a calendar year is less than the amount similarly  
43 determined for the preceding year, the greater amount will be used.

44 (c) Future rates based on benefit experience.

45 (1) A separate account for each employer shall be maintained  
46 and this shall be credited with all the contributions which he has  
47 paid on his own behalf on or before January 31 of any calendar year  
48 with respect to employment occurring in the preceding calendar



1 year; provided, however, that if January 31 of any calendar year  
2 falls on a Saturday or Sunday, an employer's account shall be  
3 credited as of January 31 of such calendar year with all the  
4 contributions which he has paid on or before the next succeeding  
5 day which is not a Saturday or Sunday. But nothing in this chapter  
6 (R.S.43:21-1 et seq.) shall be construed to grant any employer or  
7 individuals in his service prior claims or rights to the amounts paid  
8 by him into the fund either on his own behalf or on behalf of such  
9 individuals. Benefits paid with respect to benefit years commencing  
10 on and after January 1, 1953, to any individual on or before  
11 December 31 of any calendar year with respect to unemployment in  
12 such calendar year and in preceding calendar years shall be charged  
13 against the account or accounts of the employer or employers in  
14 whose employment such individual established base weeks  
15 constituting the basis of such benefits, except that, with respect to  
16 benefit years commencing after January 4, 1998, an employer's  
17 account shall not be charged for benefits paid to a claimant if the  
18 claimant's employment by that employer was ended in any way  
19 which, pursuant to subsection (a), (b), (c), (f), (g) or (h) of  
20 R.S.43:21-5, would have disqualified the claimant for benefits if the  
21 claimant had applied for benefits at the time when that employment  
22 ended. Benefits paid under a given benefit determination shall be  
23 charged against the account of the employer to whom such  
24 determination relates. When each benefit payment is made,  
25 notification shall be promptly provided to each employer included  
26 in the unemployment insurance monetary calculation of benefits.  
27 Such notification shall identify the employer against whose account  
28 the amount of such payment is being charged, shall show at least  
29 the name and social security account number of the claimant and  
30 shall specify the period of unemployment to which said benefit  
31 payment applies.

32 An annual summary statement of unemployment benefits  
33 charged to the employer's account shall be provided.

34 (2) Regulations may be prescribed for the establishment,  
35 maintenance, and dissolution of joint accounts by two or more  
36 employers, and shall, in accordance with such regulations and upon  
37 application by two or more employers to establish such an account,  
38 or to merge their several individual accounts in a joint account,  
39 maintain such joint account as if it constituted a single employer's  
40 account.

41 (3) No employer's rate shall be lower than 5.4% unless  
42 assignment of such lower rate is consistent with the conditions  
43 applicable to additional credit allowance for such year under section  
44 3303(a)(1) of the Internal Revenue Code of 1986 (26 U.S.C.  
45 s.3303(a)(1)), any other provision of this section to the contrary  
46 notwithstanding.

47 (4) Employer Reserve Ratio. (A) Each employer's rate shall be 2  
48 8/10%, except as otherwise provided in the following provisions.

1 No employer's rate for the 12 months commencing July 1 of any  
2 calendar year shall be other than  $2 \frac{8}{10}\%$ , unless as of the  
3 preceding January 31 such employer shall have paid contributions  
4 with respect to wages paid in each of the three calendar years  
5 immediately preceding such year, in which case such employer's  
6 rate for the 12 months commencing July 1 of any calendar year  
7 shall be determined on the basis of his record up to the beginning of  
8 such calendar year. If, at the beginning of such calendar year, the  
9 total of all his contributions, paid on his own behalf, for all past  
10 years exceeds the total benefits charged to his account for all such  
11 years, his contribution rate shall be:

12 (1)  $2 \frac{5}{10}\%$ , if such excess equals or exceeds 4%, but less than  
13 5%, of his average annual payroll (as defined in paragraph (2),  
14 subsection (a) of R.S.43:21-19);

15 (2)  $2 \frac{2}{10}\%$ , if such excess equals or exceeds 5%, but is less  
16 than 6%, of his average annual payroll;

17 (3)  $1 \frac{9}{10}\%$ , if such excess equals or exceeds 6%, but is less  
18 than 7%, of his average annual payroll;

19 (4)  $1 \frac{6}{10}\%$ , if such excess equals or exceeds 7%, but is less  
20 than 8%, of his average annual payroll;

21 (5)  $1 \frac{3}{10}\%$ , if such excess equals or exceeds 8%, but is less  
22 than 9%, of his average annual payroll;

23 (6) 1%, if such excess equals or exceeds 9%, but is less than  
24 10%, of his average annual payroll;

25 (7)  $\frac{7}{10}$  of 1%, if such excess equals or exceeds 10%, but is less  
26 than 11%, of his average annual payroll;

27 (8)  $\frac{4}{10}$  of 1%, if such excess equals or exceeds 11% of his  
28 average annual payroll.

29 (B) If the total of an employer's contributions, paid on his own  
30 behalf, for all past periods for the purposes of this paragraph (4), is  
31 less than the total benefits charged against his account during the  
32 same period, his rate shall be:

33 (1) 4%, if such excess is less than 10% of his average annual  
34 payroll;

35 (2)  $4 \frac{3}{10}\%$ , if such excess equals or exceeds 10%, but is less  
36 than 20%, of his average annual payroll;

37 (3)  $4 \frac{6}{10}\%$ , if such excess equals or exceeds 20% of his  
38 average annual payroll.

39 (C) Specially assigned rates.

40 (i) If no contributions were paid on wages for employment in  
41 any calendar year used in determining the average annual payroll of  
42 an employer eligible for an assigned rate under this paragraph (4),  
43 the employer's rate shall be specially assigned as follows:

44 if the reserve balance in its account is positive, its assigned rate  
45 shall be the highest rate in effect for positive balance accounts for  
46 that period, or 5.4%, whichever is higher, and

47 if the reserve balance in its account is negative, its assigned rate  
48 shall be the highest rate in effect for deficit accounts for that period.

1 (ii) If, following the purchase of a corporation with little or no  
2 activity, known as a corporate shell, the resulting employing unit  
3 operates a new or different business activity, the employing unit  
4 shall be assigned a new employer rate.

5 (iii) Entities operating under common ownership, management or  
6 control, when the operation of the entities is not identifiable,  
7 distinguishable and severable, shall be considered a single employer  
8 for the purposes of this chapter (R.S.43:21-1 et seq.).

9 (D) The contribution rates prescribed by subparagraphs (A) and  
10 (B) of this paragraph (4) shall be increased or decreased in  
11 accordance with the provisions of paragraph (5) of this subsection  
12 (c) for experience rating periods through June 30, 1986.

13 (5) (A) Unemployment Trust Fund Reserve Ratio. If on March  
14 31 of any calendar year the balance in the unemployment trust fund  
15 equals or exceeds 4% but is less than 7% of the total taxable wages  
16 reported to the controller as of that date in respect to employment  
17 during the preceding calendar year, the contribution rate, effective  
18 July 1 following, of each employer eligible for a contribution rate  
19 calculation based upon benefit experience, shall be increased by  
20 3/10 of 1% over the contribution rate otherwise established under  
21 the provisions of paragraph (3) or (4) of this subsection. If on  
22 March 31 of any calendar year the balance of the unemployment  
23 trust fund exceeds 2 1/2% but is less than 4% of the total taxable  
24 wages reported to the controller as of that date in respect to  
25 employment during the preceding calendar year, the contribution  
26 rate, effective July 1 following, of each employer eligible for a  
27 contribution rate calculation based upon benefit experience, shall be  
28 increased by 6/10 of 1% over the contribution rate otherwise  
29 established under the provisions of paragraph (3) or (4) of this  
30 subsection.

31 If on March 31 of any calendar year the balance of the  
32 unemployment trust fund is less than 2 1/2% of the total taxable  
33 wages reported to the controller as of that date in respect to  
34 employment during the preceding calendar year, the contribution  
35 rate, effective July 1 following, of each employer: (1) eligible for a  
36 contribution rate calculation based upon benefit experience, shall be  
37 increased by (i) 6/10 of 1% over the contribution rate otherwise  
38 established under the provisions of paragraph (3), (4)(A) or (4)(B)  
39 of this subsection, and (ii) an additional amount equal to 20% of the  
40 total rate established herein, provided, however, that the final  
41 contribution rate for each employer shall be computed to the nearest  
42 multiple of 1/10% if not already a multiple thereof; (2) not eligible  
43 for a contribution rate calculation based upon benefit experience,  
44 shall be increased by 6/10 of 1% over the contribution rate  
45 otherwise established under the provisions of paragraph (4) of this  
46 subsection. For the period commencing July 1, 1984 and ending  
47 June 30, 1986, the contribution rate for each employer liable to pay  
48 contributions under R.S.43:21-7 shall be increased by a factor of

1 10% computed to the nearest multiple of 1/10% if not already a  
2 multiple thereof.

3 (B) If on March 31 of any calendar year the balance in the  
4 unemployment trust fund equals or exceeds 10% but is less than 12  
5 1/2% of the total taxable wages reported to the controller as of that  
6 date in respect to employment during the preceding calendar year,  
7 the contribution rate, effective July 1 following, of each employer  
8 eligible for a contribution rate calculation based upon benefit  
9 experience, shall be reduced by 3/10 of 1% under the contribution  
10 rate otherwise established under the provisions of paragraphs (3)  
11 and (4) of this subsection; provided that in no event shall the  
12 contribution rate of any employer be reduced to less than 4/10 of  
13 1%. If on March 31 of any calendar year the balance in the  
14 unemployment trust fund equals or exceeds 12 1/2% of the total  
15 taxable wages reported to the controller as of that date in respect to  
16 employment during the preceding calendar year, the contribution  
17 rate, effective July 1 following, of each employer eligible for a  
18 contribution rate calculation based upon benefit experience, shall be  
19 reduced by 6/10 of 1% if his account for all past periods reflects an  
20 excess of contributions paid over total benefits charged of 3% or  
21 more of his average annual payroll, otherwise by 3/10 of 1% under  
22 the contribution rate otherwise established under the provisions of  
23 paragraphs (3) and (4) of this subsection; provided that in no event  
24 shall the contribution rate of any employer be reduced to less than  
25 4/10 of 1%.

26 (C) The "balance" in the unemployment trust fund, as the term is  
27 used in subparagraphs (A) and (B) above, shall not include moneys  
28 credited to the State's account under section 903 of the Social  
29 Security Act, as amended (42 U.S.C. s.1103), during any period in  
30 which such moneys are appropriated for the payment of expenses  
31 incurred in the administration of the "unemployment compensation  
32 law."

33 (D) Prior to July 1 of each calendar year the controller shall  
34 determine the Unemployment Trust Fund Reserve Ratio, which  
35 shall be calculated by dividing the balance of the unemployment  
36 trust fund as of the prior March 31 by total taxable wages reported  
37 to the controller by all employers as of March 31 with respect to  
38 their employment during the last calendar year.

39 (E) (i) (Deleted by amendment, P.L.1997, c.263).

40 (ii) (Deleted by amendment, P.L.2001, c.152).

41 (iii) (Deleted by amendment, P.L.2003, c.107).

42 (iv) (Deleted by amendment, P.L.2004, c.45).

43 (v) (Deleted by amendment, P.L.2008, c.17).

44 (vi) (Deleted by amendment, P.L.2013, c.75).

45 (vii) With respect to experience rating years beginning on or  
46 after July 1, 2011, the new employer rate or the unemployment  
47 experience rate of an employer under this section shall be the rate  
48 which appears in the column headed by the Unemployment Trust

1 Fund Reserve Ratio as of the applicable calculation date and on the  
 2 line with the Employer Reserve Ratio, as defined in paragraph (4)  
 3 of this subsection (R.S.43:21-7 (c)(4)), as set forth in the following  
 4 table:

## EXPERIENCE RATING TAX TABLE

6	7	Fund Reserve Ratio <sup>1</sup>				
		3.50%	3.00%	2.5%	2.0%	1.99%
8	9	and	to	to	to	and
10	11	Over	3.49%	2.99%	2.49%	Under
Ratio <sup>2</sup>		A	B	C	D	E
11	Positive Reserve Ratio:					
12	17% and over	0.3	0.4	0.5	0.6	1.2
13	16.00% to 16.99%	0.4	0.5	0.6	0.6	1.2
14	15.00% to 15.99%	0.4	0.6	0.7	0.7	1.2
15	14.00% to 14.99%	0.5	0.6	0.7	0.8	1.2
16	13.00% to 13.99%	0.6	0.7	0.8	0.9	1.2
17	12.00% to 12.99%	0.6	0.8	0.9	1.0	1.2
18	11.00% to 11.99%	0.7	0.8	1.0	1.1	1.2
19	10.00% to 10.99%	0.9	1.1	1.3	1.5	1.6
20	9.00% to 9.99%	1.0	1.3	1.6	1.7	1.9
21	8.00% to 8.99%	1.3	1.6	1.9	2.1	2.3
22	7.00% to 7.99%	1.4	1.8	2.2	2.4	2.6
23	6.00% to 6.99%	1.7	2.1	2.5	2.8	3.0
24	5.00% to 5.99%	1.9	2.4	2.8	3.1	3.4
25	4.00% to 4.99%	2.0	2.6	3.1	3.4	3.7
26	3.00% to 3.99%	2.1	2.7	3.2	3.6	3.9
27	2.00% to 2.99%	2.2	2.8	3.3	3.7	4.0
28	1.00% to 1.99%	2.3	2.9	3.4	3.8	4.1
29	0.00% to 0.99%	2.4	3.0	3.6	4.0	4.3
30	Deficit Reserve Ratio:					
31	-0.00% to -2.99%	3.4	4.3	5.1	5.6	6.1
32	-3.00% to -5.99%	3.4	4.3	5.1	5.7	6.2
33	-6.00% to -8.99%	3.5	4.4	5.2	5.8	6.3
34	-9.00% to -11.99%	3.5	4.5	5.3	5.9	6.4
35	-12.00% to -14.99%	3.6	4.6	5.4	6.0	6.5
36	-15.00% to -19.99%	3.6	4.6	5.5	6.1	6.6
37	-20.00% to -24.99%	3.7	4.7	5.6	6.2	6.7
38	-25.00% to -29.99%	3.7	4.8	5.6	6.3	6.8
39	-30.00% to -34.99%	3.8	4.8	5.7	6.3	6.9
40	-35.00% and under	5.4	5.4	5.8	6.4	7.0
41	New Employer Rate	2.8	2.8	2.8	3.1	3.4

42 <sup>1</sup>Fund balance as of March 31 as a percentage of taxable wages  
 43 in the prior calendar year.

44 <sup>2</sup>Employer Reserve Ratio (Contributions minus benefits as a  
 45 percentage of employer's taxable wages).

46 (F) (i) (Deleted by amendment, P.L.1997, c.263).

47 (ii) (Deleted by amendment, P.L.2008, c.17).

48 (iii) (Deleted by amendment, P.L.2013, c.75).

1 (iv) With respect to experience rating years beginning on or after  
2 July 1, 2011 and before July 1, 2013, if the fund reserve ratio, based  
3 on the fund balance as of the prior March 31, is less than 1.0%, the  
4 contribution rate for each employer liable to pay contributions, as  
5 computed under subparagraph (E) of this paragraph (5), shall be  
6 increased by a factor of 10% computed to the nearest multiple of  
7 1/10% if not already a multiple thereof.

8 (v) With respect to experience rating years beginning on or after  
9 July 1, 2014, if the fund reserve ratio, based on the fund balance as  
10 of the prior March 31, is less than 1.0%, the contribution rate for  
11 each employer liable to pay contributions, as computed under  
12 subparagraph (E) of this paragraph (5), shall be increased by a  
13 factor of 10% computed to the nearest multiple of 1/10% if not  
14 already a multiple thereof.

15 (G) On or after January 1, 1993, notwithstanding any other  
16 provisions of this paragraph (5), the contribution rate for each  
17 employer liable to pay contributions, as computed under  
18 subparagraph (E) of this paragraph (5), shall be decreased by 0.1%,  
19 except that, during any experience rating year starting before  
20 January 1, 1998 in which the fund reserve ratio is equal to or greater  
21 than 7.00% or during any experience rating year starting on or after  
22 January 1, 1998, in which the fund reserve ratio is equal to or  
23 greater than 3.5%, there shall be no decrease pursuant to this  
24 subparagraph (G) in the contribution of any employer who has a  
25 deficit reserve ratio of negative 35.00% or under.

26 (H) On and after January 1, 1998 until December 31, 2000 and  
27 on or after January 1, 2002 until June 30, 2006, the contribution rate  
28 for each employer liable to pay contributions, as computed under  
29 subparagraph (E) of this paragraph (5), shall be decreased by a  
30 factor, as set out below, computed to the nearest multiple of 1/10%,  
31 except that, if an employer has a deficit reserve ratio of negative  
32 35.0% or under, the employer's rate of contribution shall not be  
33 reduced pursuant to this subparagraph (H) to less than 5.4%:

34 From January 1, 1998 until December 31, 1998, a factor of 12%;  
35 From January 1, 1999 until December 31, 1999, a factor of 10%;  
36 From January 1, 2000 until December 31, 2000, a factor of 7%;  
37 From January 1, 2002 until March 31, 2002, a factor of 36%;  
38 From April 1, 2002 until June 30, 2002, a factor of 85%;  
39 From July 1, 2002 until June 30, 2003, a factor of 15%;  
40 From July 1, 2003 until June 30, 2004, a factor of 15%;  
41 From July 1, 2004 until June 30, 2005, a factor of 7%;  
42 From July 1, 2005 until December 31, 2005, a factor of 16%; and  
43 From January 1, 2006 until June 30, 2006, a factor of 34%.

44 The amount of the reduction in the employer contributions  
45 stipulated by this subparagraph (H) shall be in addition to the  
46 amount of the reduction in the employer contributions stipulated by  
47 subparagraph (G) of this paragraph (5), except that the rate of  
48 contribution of an employer who has a deficit reserve ratio of

1 negative 35.0% or under shall not be reduced pursuant to this  
2 subparagraph (H) to less than 5.4% and the rate of contribution of  
3 any other employer shall not be reduced to less than 0.0%.

4 (I) (Deleted by amendment, P.L.2008, c.17).

5 (J) On or after July 1, 2001, notwithstanding any other  
6 provisions of this paragraph (5), the contribution rate for each  
7 employer liable to pay contributions, as computed under  
8 subparagraph (E) of this paragraph (5), shall be decreased by  
9 0.0175%, except that, during any experience rating year starting on  
10 or after July 1, 2001, in which the fund reserve ratio is equal to or  
11 greater than 3.5%, there shall be no decrease pursuant to this  
12 subparagraph (J) in the contribution of any employer who has a  
13 deficit reserve ratio of negative 35.00% or under. The amount of the  
14 reduction in the employer contributions stipulated by this  
15 subparagraph (J) shall be in addition to the amount of the reduction  
16 in the employer contributions stipulated by subparagraphs (G) and  
17 (H) of this paragraph (5), except that the rate of contribution of an  
18 employer who has a deficit reserve ratio of negative 35.0% or under  
19 shall not be reduced pursuant to this subparagraph (J) to less than  
20 5.4% and the rate of contribution of any other employer shall not be  
21 reduced to less than 0.0%.

22 (K) With respect to experience rating years beginning on or after  
23 July 1, 2009, if the fund reserve ratio, based on the fund balance as  
24 of the prior March 31, is:

25 (i) Equal to or greater than 5.00% but less than 7.5%, the  
26 contribution rate for each employer liable to pay contributions, as  
27 computed under subparagraph (E) of this paragraph (5), shall be  
28 reduced by a factor of 25% computed to the nearest multiple of  
29 1/10% if not already a multiple thereof except that there shall be no  
30 decrease pursuant to this subparagraph (K) in the contribution of  
31 any employer who has a deficit reserve ratio of 35.00% or under;

32 (ii) Equal to or greater than 7.5%, the contribution rate for each  
33 employer liable to pay contributions, as computed under  
34 subparagraph (E) of this paragraph (5), shall be reduced by a factor  
35 of 50% computed to the nearest multiple of 1/10% if not already a  
36 multiple thereof except that there shall be no decrease pursuant to  
37 this subparagraph (K) in the contribution of any employer who has  
38 a deficit reserve ratio of 35.00% or under.

39 (L) Notwithstanding any other provision of this paragraph (5)  
40 and notwithstanding the actual fund reserve ratio, the contribution  
41 rate for employers liable to pay contributions, as computed under  
42 subparagraph (E) of this paragraph (5), shall be, for fiscal year  
43 2011, the rates set by column "C" of the table in that subparagraph.

44 (M) Notwithstanding any other provision of this paragraph (5)  
45 and notwithstanding the actual fund reserve ratio, the contribution  
46 rate for employers liable to pay contributions, as computed under  
47 subparagraph (E) of this paragraph (5), shall be, for fiscal year  
48 2012, the rates set by column "D" of the table in that subparagraph.

1 (N) Notwithstanding any other provision of this paragraph (5)  
2 and notwithstanding the actual fund reserve ratio, the contribution  
3 rate for employers liable to pay contributions, as computed under  
4 subparagraph (E) of this paragraph (5), shall be, for fiscal year  
5 2013, the rates set by column "E" of the table in that subparagraph.

6 (6) Additional contributions.

7 Notwithstanding any other provision of law, any employer who  
8 has been assigned a contribution rate pursuant to subsection (c) of  
9 this section for the year commencing July 1, 1948, and for any year  
10 commencing July 1 thereafter, may voluntarily make payment of  
11 additional contributions, and upon such payment shall receive a  
12 recomputation of the experience rate applicable to such employer,  
13 including in the calculation the additional contribution so made,  
14 except that, following a transfer as described under R.S.43:21-  
15 7(c)(7)(D), neither the predecessor nor successor in interest shall be  
16 eligible to make a voluntary payment of additional contributions  
17 during the year the transfer occurs and the next full calendar year.  
18 Any such additional contribution shall be made during the 30-day  
19 period following the notification to the employer of his contribution  
20 rate as prescribed in this section, unless, for good cause, the time  
21 for payment has been extended by the controller for not to exceed  
22 an additional 60 days; provided that in no event may such payments  
23 which are made later than 120 days after the beginning of the year  
24 for which such rates are effective be considered in determining the  
25 experience rate for the year in which the payment is made. Any  
26 employer receiving any extended period of time within which to  
27 make such additional payment and failing to make such payment  
28 timely shall be, in addition to the required amount of additional  
29 payment, liable for a penalty of 5% thereof or \$5.00, whichever is  
30 greater, not to exceed \$50.00. Any adjustment under this subsection  
31 shall be made only in the form of credits against accrued or future  
32 contributions.

33 (7) Transfers.

34 (A) Upon the transfer of the organization, trade or business, or  
35 substantially all the assets of an employer to a successor in interest,  
36 whether by merger, consolidation, sale, transfer, descent or  
37 otherwise, the controller shall transfer the employment experience  
38 of the predecessor employer to the successor in interest, including  
39 credit for past years, contributions paid, annual payrolls, benefit  
40 charges, et cetera, applicable to such predecessor employer,  
41 pursuant to regulation, if it is determined that the employment  
42 experience of the predecessor employer with respect to the  
43 organization, trade, assets or business which has been transferred  
44 may be considered indicative of the future employment experience  
45 of the successor in interest. The successor in interest may, within  
46 four months of the date of such transfer of the organization, trade,  
47 assets or business, or thereafter upon good cause shown, request a  
48 reconsideration of the transfer of employment experience of the



1 predecessor employer. The request for reconsideration shall  
2 demonstrate, to the satisfaction of the controller, that the  
3 employment experience of the predecessor is not indicative of the  
4 future employment experience of the successor.

5 (B) An employer who transfers part of his or its organization,  
6 trade, assets or business to a successor in interest, whether by  
7 merger, consolidation, sale, transfer, descent or otherwise, may  
8 jointly make application with such successor in interest for transfer  
9 of that portion of the employment experience of the predecessor  
10 employer relating to the portion of the organization, trade, assets or  
11 business transferred to the successor in interest, including credit for  
12 past years, contributions paid, annual payrolls, benefit charges, et  
13 cetera, applicable to such predecessor employer. The transfer of  
14 employment experience may be allowed pursuant to regulation only  
15 if it is found that the employment experience of the predecessor  
16 employer with respect to the portion of the organization, trade,  
17 assets or business which has been transferred may be considered  
18 indicative of the future employment experience of the successor in  
19 interest. Credit shall be given to the successor in interest only for  
20 the years during which contributions were paid by the predecessor  
21 employer with respect to that part of the organization, trade, assets  
22 or business transferred.

23 (C) A transfer of the employment experience in whole or in part  
24 having become final, the predecessor employer thereafter shall not  
25 be entitled to consideration for an adjusted rate based upon his or its  
26 experience or the part thereof, as the case may be, which has thus  
27 been transferred. A successor in interest to whom employment  
28 experience or a part thereof is transferred pursuant to this  
29 subsection shall, as of the date of the transfer of the organization,  
30 trade, assets or business, or part thereof, immediately become an  
31 employer if not theretofore an employer subject to this chapter  
32 (R.S.43:21-1 et seq.).

33 (D) If an employer transfers in whole or in part his or its  
34 organization, trade, assets or business to a successor in interest,  
35 whether by merger, consolidation, sale, transfer, descent or  
36 otherwise and both the employer and successor in interest are at the  
37 time of the transfer under common ownership, management or  
38 control, then the employment experience attributable to the  
39 transferred business shall also be transferred to and combined with  
40 the employment experience of the successor in interest. The  
41 transfer of the employment experience is mandatory and not subject  
42 to appeal or protest.

43 (E) The transfer of part of an employer's employment experience  
44 to a successor in interest shall become effective as of the first day of  
45 the calendar quarter following the acquisition by the successor in  
46 interest. As of the effective date, the successor in interest shall  
47 have its employer rate recalculated by merging its existing  
48 employment experience, if any, with the employment experience

1 acquired. If the successor in interest is not an employer as of the  
2 date of acquisition, it shall be assigned the new employer rate until  
3 the effective date of the transfer of employment experience.

4 (F) Upon the transfer in whole or in part of the organization,  
5 trade, assets or business to a successor in interest, the employment  
6 experience shall not be transferred if the successor in interest is not  
7 an employer at the time of the acquisition and the controller finds  
8 that the successor in interest acquired the business solely or  
9 primarily for the purpose of obtaining a lower rate of contributions.

10 (d) Contributions of workers to the unemployment  
11 compensation fund and the State disability benefits fund.

12 (1) (A) For periods after January 1, 1975, each worker shall  
13 contribute to the fund 1% of his wages with respect to his  
14 employment with an employer, which occurs on and after January  
15 1, 1975, after such employer has satisfied the condition set forth in  
16 subsection (h) of R.S.43:21-19 with respect to becoming an  
17 employer; provided, however, that such contributions shall be at the  
18 rate of 1/2 of 1% of wages paid with respect to employment while  
19 the worker is in the employ of the State of New Jersey, or any  
20 governmental entity or instrumentality which is an employer as  
21 defined under R.S.43:21-19(h)(5), or is covered by an approved  
22 private plan under the "Temporary Disability Benefits Law" or  
23 while the worker is exempt from the provisions of the "Temporary  
24 Disability Benefits Law" under section 7 of that law, P.L.1948,  
25 c.110 (C.43:21-31).

26 (B) Effective January 1, 1978 there shall be no contributions by  
27 workers in the employ of any governmental or nongovernmental  
28 employer electing or required to make payments in lieu of  
29 contributions unless the employer is covered by the State plan under  
30 the "Temporary Disability Benefits Law" (C.43:21-25 et al.), and in  
31 that case contributions shall be at the rate of 1/2 of 1%, except that  
32 commencing July 1, 1986, workers in the employ of any  
33 nongovernmental employer electing or required to make payments  
34 in lieu of contributions shall be required to make contributions to  
35 the fund at the same rate prescribed for workers of other  
36 nongovernmental employers.

37 (C) (i) Notwithstanding the above provisions of this paragraph  
38 (1), during the period starting July 1, 1986 and ending December  
39 31, 1992, each worker shall contribute to the fund 1.125% of wages  
40 paid with respect to his employment with a governmental employer  
41 electing or required to pay contributions or nongovernmental  
42 employer, including a nonprofit organization which is an employer  
43 as defined under R.S.43:21-19(h)(6), regardless of whether that  
44 nonprofit organization elects or is required to finance its benefit  
45 costs with contributions to the fund or by payments in lieu of  
46 contributions, after that employer has satisfied the conditions set  
47 forth in subsection R.S.43:21-19(h) with respect to becoming an  
48 employer. Contributions, however, shall be at the rate of 0.625%

1 while the worker is covered by an approved private plan under the  
2 "Temporary Disability Benefits Law" or while the worker is exempt  
3 under section 7 of that law, P.L.1948, c.110 (C.43:21-31) or any  
4 other provision of that law; provided that such contributions shall  
5 be at the rate of 0.625% of wages paid with respect to employment  
6 with the State of New Jersey or any other governmental entity or  
7 instrumentality electing or required to make payments in lieu of  
8 contributions and which is covered by the State plan under the  
9 "Temporary Disability Benefits Law," except that, while the worker  
10 is exempt from the provisions of the "Temporary Disability Benefits  
11 Law" under section 7 of that law, P.L.1948, c.110 (C.43:21-31) or  
12 any other provision of that law, or is covered for disability benefits  
13 by an approved private plan of the employer, the contributions to  
14 the fund shall be 0.125%.

15 (ii) (Deleted by amendment, P.L.1995, c.422.)

16 (D) Notwithstanding any other provisions of this paragraph (1),  
17 during the period starting January 1, 1993 and ending June 30,  
18 1994, each worker shall contribute to the unemployment  
19 compensation fund 0.5% of wages paid with respect to the worker's  
20 employment with a governmental employer electing or required to  
21 pay contributions or nongovernmental employer, including a  
22 nonprofit organization which is an employer as defined under  
23 paragraph (6) of subsection (h) of R.S.43:21-19, regardless of  
24 whether that nonprofit organization elects or is required to finance  
25 its benefit costs with contributions to the fund or by payments in  
26 lieu of contributions, after that employer has satisfied the conditions  
27 set forth in subsection (h) of R.S.43:21-19 with respect to becoming  
28 an employer. No contributions, however, shall be made by the  
29 worker while the worker is covered by an approved private plan  
30 under the "Temporary Disability Benefits Law," P.L.1948, c.110  
31 (C.43:21-25 et al.) or while the worker is exempt under section 7 of  
32 P.L.1948, c.110 (C.43:21-31) or any other provision of that law;  
33 provided that the contributions shall be at the rate of 0.50% of  
34 wages paid with respect to employment with the State of New  
35 Jersey or any other governmental entity or instrumentality electing  
36 or required to make payments in lieu of contributions and which is  
37 covered by the State plan under the "Temporary Disability Benefits  
38 Law," except that, while the worker is exempt from the provisions  
39 of the "Temporary Disability Benefits Law" under section 7 of that  
40 law, P.L.1948, c.110 (C.43:21-31) or any other provision of that  
41 law, or is covered for disability benefits by an approved private plan  
42 of the employer, no contributions shall be made to the fund.

43 Each worker shall, starting on January 1, 1996 and ending March  
44 31, 1996, contribute to the unemployment compensation fund  
45 0.60% of wages paid with respect to the worker's employment with  
46 a governmental employer electing or required to pay contributions  
47 or nongovernmental employer, including a nonprofit organization  
48 which is an employer as defined under paragraph (6) of subsection

1 (h) of R.S.43:21-19, regardless of whether that nonprofit  
2 organization elects or is required to finance its benefit costs with  
3 contributions to the fund or by payments in lieu of contributions,  
4 after that employer has satisfied the conditions set forth in  
5 subsection (h) of R.S.43:21-19 with respect to becoming an  
6 employer, provided that the contributions shall be at the rate of  
7 0.10% of wages paid with respect to employment with the State of  
8 New Jersey or any other governmental entity or instrumentality  
9 electing or required to make payments in lieu of contributions.

10 Each worker shall, starting on January 1, 1998 and ending  
11 December 31, 1998, contribute to the unemployment compensation  
12 fund 0.10% of wages paid with respect to the worker's employment  
13 with a governmental employer electing or required to pay  
14 contributions or nongovernmental employer, including a nonprofit  
15 organization which is an employer as defined under paragraph (6)  
16 of subsection (h) of R.S.43:21-19, regardless of whether that  
17 nonprofit organization elects or is required to finance its benefit  
18 costs with contributions to the fund or by payments in lieu of  
19 contributions, after that employer has satisfied the conditions set  
20 forth in subsection (h) of R.S.43:21-19 with respect to becoming an  
21 employer, provided that the contributions shall be at the rate of  
22 0.10% of wages paid with respect to employment with the State of  
23 New Jersey or any other governmental entity or instrumentality  
24 electing or required to make payments in lieu of contributions.

25 Each worker shall, starting on January 1, 1999 until December  
26 31, 1999, contribute to the unemployment compensation fund  
27 0.15% of wages paid with respect to the worker's employment with  
28 a governmental employer electing or required to pay contributions  
29 or nongovernmental employer, including a nonprofit organization  
30 which is an employer as defined under paragraph (6) of subsection  
31 (h) of R.S.43:21-19, regardless of whether that nonprofit  
32 organization elects or is required to finance its benefit costs with  
33 contributions to the fund or by payments in lieu of contributions,  
34 after that employer has satisfied the conditions set forth in  
35 subsection (h) of R.S.43:21-19 with respect to becoming an  
36 employer, provided that the contributions shall be at the rate of  
37 0.10% of wages paid with respect to employment with the State of  
38 New Jersey or any other governmental entity or instrumentality  
39 electing or required to make payments in lieu of contributions.

40 Each worker shall, starting on January 1, 2000 until December  
41 31, 2001, contribute to the unemployment compensation fund  
42 0.20% of wages paid with respect to the worker's employment with  
43 a governmental employer electing or required to pay contributions  
44 or nongovernmental employer, including a nonprofit organization  
45 which is an employer as defined under paragraph (6) of subsection  
46 (h) of R.S.43:21-19, regardless of whether that nonprofit  
47 organization elects or is required to finance its benefit costs with  
48 contributions to the fund or by payments in lieu of contributions,

1 after that employer has satisfied the conditions set forth in  
2 subsection (h) of R.S.43:21-19 with respect to becoming an  
3 employer, provided that the contributions shall be at the rate of  
4 0.10% of wages paid with respect to employment with the State of  
5 New Jersey or any other governmental entity or instrumentality  
6 electing or required to make payments in lieu of contributions.

7 Each worker shall, starting on January 1, 2002 until June 30,  
8 2004, contribute to the unemployment compensation fund 0.1825%  
9 of wages paid with respect to the worker's employment with a  
10 governmental employer electing or required to pay contributions or  
11 a nongovernmental employer, including a nonprofit organization  
12 which is an employer as defined under paragraph (6) of subsection  
13 (h) of R.S.43:21-19, regardless of whether that nonprofit  
14 organization elects or is required to finance its benefit costs with  
15 contributions to the fund or by payments in lieu of contributions,  
16 after that employer has satisfied the conditions set forth in  
17 subsection (h) of R.S.43:21-19 with respect to becoming an  
18 employer, provided that the contributions shall be at the rate of  
19 0.0825% of wages paid with respect to employment with the State  
20 of New Jersey or any other governmental entity or instrumentality  
21 electing or required to make payments in lieu of contributions.

22 Each worker shall, starting on and after July 1, 2004, contribute  
23 to the unemployment compensation fund 0.3825% of wages paid  
24 with respect to the worker's employment with a governmental  
25 employer electing or required to pay contributions or  
26 nongovernmental employer, including a nonprofit organization  
27 which is an employer as defined under paragraph (6) of subsection  
28 (h) of R.S.43:21-19, regardless of whether that nonprofit  
29 organization elects or is required to finance its benefit costs with  
30 contributions to the fund or by payments in lieu of contributions,  
31 after that employer has satisfied the conditions set forth in  
32 subsection (h) of R.S.43:21-19 with respect to becoming an  
33 employer, provided that the contributions shall be at the rate of  
34 0.0825% of wages paid with respect to employment with the State  
35 of New Jersey or any other governmental entity or instrumentality  
36 electing or required to make payments in lieu of contributions.

37 (E) Each employer shall, notwithstanding any provision of law  
38 in this State to the contrary, withhold in trust the amount of his  
39 workers' contributions from their wages at the time such wages are  
40 paid, shall show such deduction on his payroll records, shall furnish  
41 such evidence thereof to his workers as the division or controller  
42 may prescribe, and shall transmit all such contributions, in addition  
43 to his own contributions, to the office of the controller in such  
44 manner and at such times as may be prescribed. If any employer  
45 fails to deduct the contributions of any of his workers at the time  
46 their wages are paid, or fails to make a deduction therefor at the  
47 time wages are paid for the next succeeding payroll period, he alone  
48 shall thereafter be liable for such contributions, and for the purpose

1 of R.S.43:21-14, such contributions shall be treated as employer's  
2 contributions required from him.

3 (F) As used in this chapter (R.S.43:21-1 et seq.), except when  
4 the context clearly requires otherwise, the term "contributions" shall  
5 include the contributions of workers pursuant to this section.

6 (G) (i) **【**Each worker shall, starting on July 1, 1994 and ending  
7 on December 31, 2011, contribute to the State disability benefits  
8 fund an amount equal to 0.50% of wages paid with respect to the  
9 worker's employment with a government employer electing or  
10 required to pay contributions to the State disability benefits fund or  
11 nongovernmental employer, including a nonprofit organization  
12 which is an employer as defined under paragraph (6) of subsection  
13 (h) of R.S.43:21-19, unless the employer is covered by an approved  
14 private disability plan or is exempt from the provisions of the  
15 "Temporary Disability Benefits Law," P.L.1948, c.110 (C.43:21-25  
16 et al.) under section 7 of that law (C.43:21-31) or any other  
17 provision of that law.**】** Each worker, with respect to the worker's  
18 employment with a government employer electing or required to  
19 pay contributions to the State disability benefits fund or  
20 nongovernmental employer, including a nonprofit organization  
21 which is an employer as defined under paragraph (6) of subsection  
22 (h) of R.S.43:21-19, unless the employer is covered by an approved  
23 private disability plan or is exempt from the provisions of the  
24 "Temporary Disability Benefits Law," P.L.1948, c.110 (C.43:21-25  
25 et al.) under section 7 of that law (C.43:21-31) or any other  
26 provision of that law, shall, for calendar year 2012 and each  
27 subsequent calendar year, make contributions to the State disability  
28 benefits fund at the annual rate of contribution necessary to obtain a  
29 total amount of contributions, which, when added to employer  
30 contributions made to the State disability benefits fund pursuant to  
31 subsection (e) of this section, is, for calendar years prior to calendar  
32 year 2018, equal to 120% of the benefits paid for periods of  
33 disability, excluding periods of family temporary disability, during  
34 the immediately preceding calendar year plus an amount equal to  
35 100% of the cost of administration of the payment of those benefits  
36 during the immediately preceding calendar year, less the amount of  
37 net assets remaining in the State disability benefits fund, excluding  
38 net assets remaining in the "Family Temporary Disability Leave  
39 Account" of that fund, as of December 31 of the immediately  
40 preceding year, and is, for calendar year 2018 **【**and subsequent  
41 calendar years**】**, equal to 120% of the benefits paid for periods of  
42 disability, excluding periods of family temporary disability, during  
43 the last preceding full fiscal year plus an amount equal to 100% of  
44 the cost of administration of the payment of those benefits during  
45 the last preceding full fiscal year, less the amount of net assets  
46 anticipated to be remaining in the "Family Temporary Disability  
47 Leave Account" of that fund, as of December 31 of the immediately  
48 preceding calendar year, and is, for each of calendar years 2019 and

1 2020, equal to 120% of the benefits which the department  
2 anticipates will be paid for periods of disability, excluding periods  
3 of family temporary disability and pregnancy temporary disability,  
4 during the respective calendar year plus an amount equal to 100%  
5 of the cost of administration of the payment of those benefits which  
6 the department anticipates during the respective calendar year, less  
7 the amount of net assets anticipated to be remaining in the "Family  
8 Temporary Disability Leave Account" of that fund, as of December  
9 31 of the immediately preceding calendar year, and is, for calendar  
10 year 2021 and any subsequent calendar year, equal to 120% of the  
11 benefits paid for periods of disability, excluding periods of family  
12 temporary disability and pregnancy temporary disability, during the  
13 last preceding full fiscal year plus an amount equal to 100% of the  
14 cost of administration of the payment of those benefits during the  
15 last preceding full fiscal year, less the amount of net assets  
16 anticipated to be remaining in the "Family Temporary Disability  
17 Leave Account" and the "Pregnancy Temporary Disability Leave  
18 Account" of that fund, as of December 31 of the immediately  
19 preceding calendar year. The estimated rates for the next calendar  
20 year shall be made available on the department's website no later  
21 than 60 days after the end of the last preceding full fiscal year. The  
22 rates of employer contributions determined pursuant to subsection  
23 (e) of this section for any year shall be determined prior to the  
24 determination of the rate of employee contributions pursuant to this  
25 subparagraph (i) and any consideration of employee contributions in  
26 determining employer rates for any year shall be based on amounts  
27 of employee contributions made prior to the year to which the rate  
28 of employee contributions applies and shall not be based on any  
29 projection or estimate of the amount of employee contributions for  
30 the year to which that rate applies.

31 (ii) Each worker shall contribute to the State disability benefits  
32 fund, in addition to any amount contributed pursuant to  
33 subparagraph (i) of this paragraph (1)(G), an amount equal to,  
34 during calendar year 2009, 0.09%, and during calendar year 2010  
35 0.12%, of wages paid with respect to the worker's employment with  
36 any covered employer, including a governmental employer which is  
37 an employer as defined under R.S.43:21-19(h)(5), unless the  
38 employer is covered by an approved private disability plan for  
39 benefits during periods of family temporary disability leave. The  
40 contributions made pursuant to this subparagraph (ii) to the State  
41 disability benefits fund shall be deposited into an account of that  
42 fund reserved for the payment of benefits during periods of family  
43 temporary disability leave as defined in section 3 of the "Temporary  
44 Disability Benefits Law," P.L.1948, c.110 (C.43:21-27) and for the  
45 administration of those payments and shall not be used for any other  
46 purpose. This account shall be known as the "Family Temporary  
47 Disability Leave Account." For calendar year 2011 and each  
48 subsequent calendar year until 2018, the annual rate of contribution

1 to be paid by workers pursuant to this subparagraph (ii) shall be, for  
2 calendar years prior to calendar year 2018, the rate necessary to  
3 obtain a total amount of contributions equal to 125% of the benefits  
4 paid for periods of family temporary disability leave during the  
5 immediately preceding calendar year plus an amount equal to 100%  
6 of the cost of administration of the payment of those benefits during  
7 the immediately preceding calendar year, less the amount of net  
8 assets remaining in the account as of December 31 of the  
9 immediately preceding year, and shall be, for calendar year 2018  
10 **【and subsequent calendar years】**, the rate necessary to obtain a total  
11 amount of contributions equal to 125% of the benefits paid for  
12 periods of family temporary disability leave during the last  
13 preceding full fiscal year plus an amount equal to 100% of the cost  
14 of administration of the payment of those benefits during the last  
15 preceding full fiscal year, less the amount of net assets anticipated  
16 to be remaining in the account as of December 31 of the  
17 immediately preceding calendar year. For each of calendar years  
18 2019 and 2020, the annual rate of contribution to be paid by  
19 workers pursuant to this subparagraph (ii) shall be the rate  
20 necessary to obtain a total amount of contributions equal to 125% of  
21 the benefits which the department anticipates will be paid for  
22 periods of family temporary disability leave during the respective  
23 calendar year plus an amount equal to 100% of the cost of  
24 administration of the payment of those benefits which the  
25 department anticipates during the respective calendar year, less the  
26 amount of net assets remaining in the account as of December 31 of  
27 the immediately preceding calendar year. For 2021 and any  
28 subsequent calendar year, the annual rate of contribution to be paid  
29 by workers pursuant to this subparagraph (ii) shall be the rate  
30 necessary to obtain a total amount of contributions equal to 125% of  
31 the benefits which were paid for periods of family temporary  
32 disability leave during the last preceding full fiscal year plus an  
33 amount equal to 100% of the cost of administration of the payment  
34 of those benefits during the last preceding full fiscal year, less the  
35 amount of net assets remaining in the account as of December 31 of  
36 the immediately preceding calendar year. All increases in the cost  
37 of benefits for periods of family temporary disability leave caused  
38 by the increases in the weekly benefit rate commencing July 1, 2019  
39 pursuant to section 16 of P.L.1948, c.110 (C.43:21-40) and  
40 increases in the maximum duration of benefits commencing July 1,  
41 2019 pursuant to sections 14 and 15 of P.L.1948, c.110 (C.43:21-38  
42 and 43:21-39) shall be funded by contributions made by workers  
43 pursuant to this paragraph (ii) and none of those increases shall be  
44 funded by employer contributions. The estimated rates for the next  
45 calendar year shall be made available on the department's website  
46 no later than 60 days after the end of the last preceding full fiscal  
47 year. Necessary administrative costs shall include the cost of an  
48 outreach program to inform employees of the availability of the



1 benefits and the cost of issuing the reports required or permitted  
2 pursuant to section 13 of P.L.2008, c.17 (C.43:21-39.4). No  
3 monies, other than the funds in the "Family Temporary Disability  
4 Leave Account," shall be used for the payment of benefits during  
5 periods of family temporary disability leave or for the  
6 administration of those payments, with the sole exception that,  
7 during calendar years 2008 and 2009, a total amount not exceeding  
8 \$25 million may be transferred to that account from the revenues  
9 received in the State disability benefits fund pursuant to  
10 subparagraph (i) of this paragraph (1)(G) and be expended for those  
11 payments and their administration, including the administration of  
12 the collection of contributions made pursuant to this subparagraph  
13 (ii) and any other necessary administrative costs. Any amount  
14 transferred to the account pursuant to this subparagraph (ii) shall be  
15 repaid during a period beginning not later than January 1, 2011 and  
16 ending not later than December 31, 2015. No monies, other than  
17 the funds in the "Family Temporary Disability Leave Account,"  
18 shall be used under any circumstances after December 31, 2009, for  
19 the payment of benefits during periods of family temporary  
20 disability leave or for the administration of those payments,  
21 including for the administration of the collection of contributions  
22 made pursuant to this subparagraph (ii).

23 (iii) Each worker, with respect to the worker's employment with  
24 a government employer electing or required to pay contributions to  
25 the State disability benefits fund or nongovernmental employer,  
26 including a nonprofit organization which is an employer as defined  
27 under paragraph (6) of subsection (h) of R.S.43:21-19, unless the  
28 employer is covered by an approved private disability plan or is  
29 exempt from the provisions of the "Temporary Disability Benefits  
30 Law," P.L.1948, c.110 (C.43:21-25 et al.) under section 7 of that  
31 law (C.43:21-31) or any other provision of that law, shall make  
32 contributions to the State disability benefits fund, in addition to any  
33 amount contributed pursuant to subparagraph (i) of this paragraph  
34 (1)(G), for the purpose of funding the provision of pregnancy  
35 temporary disability benefits. The contributions made pursuant to  
36 this subparagraph (iii) to the State disability benefits fund shall be  
37 deposited into an account of that fund reserved for the payment of  
38 benefits during periods of pregnancy temporary disability and for  
39 the administration of those payments and shall not be used for any  
40 other purpose. This account shall be known as the "Pregnancy  
41 Temporary Disability Account." For each of calendar years 2019  
42 and 2020, the annual rate of contribution to be paid by workers  
43 pursuant to this subparagraph (iii) shall be the rate necessary to  
44 obtain a total amount of contributions, which, when added to the  
45 portion of employer contributions made to the State disability  
46 benefits fund pursuant to subsection (e) of this section which is  
47 allocated to benefits for periods of pregnancy temporary disability,  
48 is equal to 120% of the benefits which the department anticipates

1 will be paid for periods of pregnancy temporary disability during  
2 the respective calendar year plus an amount equal to 100% of the  
3 cost of administration of the payment of those benefits which the  
4 department anticipates during the respective calendar year, less the  
5 amount of net assets remaining in the account as of December 31 of  
6 the immediately preceding calendar year. For calendar year 2021  
7 and any subsequent calendar year, the annual rate of contribution to  
8 be paid by workers pursuant to this subparagraph (iii) shall be the  
9 rate necessary to obtain a total amount of contributions, which,  
10 when added to the portion of employer contributions made to the  
11 State disability benefits fund pursuant to subsection (e) of this  
12 section which is allocated to benefits for a period of pregnancy  
13 temporary disability, is equal to 120% of the benefits which were  
14 paid for periods of pregnancy temporary disability during the last  
15 preceding full fiscal year plus an amount equal to 100% of the cost  
16 of administration of the payment of those benefits during the last  
17 preceding full fiscal year, less the amount of net assets remaining in  
18 the account as of December 31 of the immediately preceding  
19 calendar year. The estimated rates for the next calendar year shall  
20 be made available on the department's website no later than 60 days  
21 after the end of the last preceding full fiscal year. No monies, other  
22 than the funds in the "Pregnancy Temporary Disability Leave  
23 Account" contributed by workers, and the portion of employer  
24 contributions to the State disability benefits fund which the  
25 department determines is allocated to benefits for periods of  
26 pregnancy temporary disability, shall be used for the payment of  
27 benefits during periods of pregnancy temporary disability or for the  
28 administration of those payments, including for the administration  
29 of the collection of contributions made pursuant to this  
30 subparagraph (iii). The department shall base its determination of  
31 what portion of employer contributions to the State disability  
32 benefits fund is allocated to benefits for periods of pregnancy  
33 temporary disability on the percentage that the total amount of  
34 benefits for periods of pregnancy temporary disability benefits  
35 would represent of the total amount of all disability benefits if the  
36 increases in the weekly benefit rate for benefits for periods of  
37 pregnancy temporary disability commencing July 1, 2019 pursuant  
38 to section 16 of P.L.1948, c.110 (C.43:21-40) were not in effect.  
39 All increases in the cost of benefits for periods of pregnancy  
40 temporary disability caused by increases in the weekly benefit rate  
41 for those benefits commencing July 1, 2019 pursuant to section 16  
42 of P.L.1948, c.110 (C.43:21-40) shall be funded by contributions  
43 made by workers pursuant to this paragraph (iii) and none of those  
44 increases shall be funded by employer contributions.

45 For the purposes of this section, periods of "pregnancy  
46 temporary disability" means periods of disability due to pregnancy  
47 or recovery from childbirth.

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

1 (B) (Deleted by amendment, P.L.1984, c.24.)  
2 (C) (Deleted by amendment, P.L.1994, c.112.)  
3 (D) (Deleted by amendment, P.L.1994, c.112.)  
4 (E) (i) (Deleted by amendment, P.L.1994, c.112.)  
5 (ii) (Deleted by amendment, P.L.1996, c.28.)  
6 (iii) (Deleted by amendment, P.L.1994, c.112.)  
7 (3) (A) If an employee receives wages from more than one  
8 employer during any calendar year, and either the sum of his  
9 contributions deposited in and credited to the State disability  
10 benefits fund plus the amount of his contributions, if any, required  
11 towards the costs of benefits under one or more approved private  
12 plans under the provisions of section 9 of the "Temporary Disability  
13 Benefits Law" (C.43:21-33) and deducted from his wages, or the  
14 sum of such latter contributions, if the employee is covered during  
15 such calendar year only by two or more private plans, exceeds an  
16 amount equal to 1/2 of 1% of the "wages" determined in accordance  
17 with the provisions of R.S.43:21-7(b)(3) during the calendar years  
18 beginning on or after January 1, 1976 or, during calendar year 2012  
19 or any subsequent calendar year, the total amount of his  
20 contributions for the year exceeds the amount set by the annual rate  
21 of contribution determined by the Commissioner of Labor and  
22 Workforce Development pursuant to subparagraph (i) and, during  
23 calendar year 2019 and subsequent calendar years, subparagraph  
24 (iii), of paragraph (1)(G) of this subsection (d), the employee shall  
25 be entitled to a refund of the excess if he makes a claim to the  
26 controller within two years after the end of the calendar year in  
27 which the wages are received with respect to which the refund is  
28 claimed and establishes his right to such refund. Such refund shall  
29 be made by the controller from the State disability benefits fund. No  
30 interest shall be allowed or paid with respect to any such refund.  
31 The controller shall, in accordance with prescribed regulations,  
32 determine the portion of the aggregate amount of such refunds made  
33 during any calendar year which is applicable to private plans for  
34 which deductions were made under section 9 of the "Temporary  
35 Disability Benefits Law" (C.43:21-33) such determination to be  
36 based upon the ratio of the amount of such wages exempt from  
37 contributions to such fund, as provided in subparagraph (B) of  
38 paragraph (1) of this subsection with respect to coverage under  
39 private plans, to the total wages so exempt plus the amount of such  
40 wages subject to contributions to the disability benefits fund, as  
41 provided in subparagraph (G) of paragraph (1) of this subsection.  
42 The controller shall, in accordance with prescribed regulations,  
43 prorate the amount so determined among the applicable private  
44 plans in the proportion that the wages covered by each plan bear to  
45 the total private plan wages involved in such refunds, and shall  
46 assess against and recover from the employer, or the insurer if the  
47 insurer has indemnified the employer with respect thereto, the  
48 amount so prorated. The provisions of R.S.43:21-14 with respect to

1 collection of employer contributions shall apply to such  
2 assessments. The amount so recovered by the controller shall be  
3 paid into the State disability benefits fund.

4 (B) If an employee receives wages from more than one employer  
5 during any calendar year, and the sum of his contributions deposited  
6 in the "Family Temporary Disability Leave Account" of the State  
7 disability benefits fund plus the amount of his contributions, if any,  
8 required towards the costs of family temporary disability leave  
9 benefits under one or more approved private plans under the  
10 provisions of the "Temporary Disability Benefits Law" (C.43:21-25  
11 et al.) and deducted from his wages, exceeds an amount equal to,  
12 during calendar year 2009, 0.09% of the "wages" determined in  
13 accordance with the provisions of R.S.43:21-7(b)(3), or during  
14 calendar year 2010, 0.12% of those wages, or, during calendar year  
15 2011 or any subsequent calendar year, the percentage of those  
16 wages set by the annual rate of contribution determined by the  
17 Commissioner of Labor and Workforce Development pursuant to  
18 subparagraph (ii) of paragraph (1)(G) of this subsection (d), the  
19 employee shall be entitled to a refund of the excess if he makes a  
20 claim to the controller within two years after the end of the calendar  
21 year in which the wages are received with respect to which the  
22 refund is claimed and establishes his right to the refund. The refund  
23 shall be made by the controller from the "Family Temporary  
24 Disability Leave Account" of the State disability benefits fund. No  
25 interest shall be allowed or paid with respect to any such refund.  
26 The controller shall, in accordance with prescribed regulations,  
27 determine the portion of the aggregate amount of the refunds made  
28 during any calendar year which is applicable to private plans for  
29 which deductions were made under section 9 of the "Temporary  
30 Disability Benefits Law" (C.43:21-33), with that determination  
31 based upon the ratio of the amount of such wages exempt from  
32 contributions to the fund, as provided in paragraph (1)(B) of this  
33 subsection (d) with respect to coverage under private plans, to the  
34 total wages so exempt plus the amount of such wages subject to  
35 contributions to the "Family Temporary Disability Leave Account"  
36 of the State disability benefits fund, as provided in subparagraph (ii)  
37 of paragraph (1)(G) of this subsection (d). The controller shall, in  
38 accordance with prescribed regulations, prorate the amount so  
39 determined among the applicable private plans in the proportion  
40 that the wages covered by each plan bear to the total private plan  
41 wages involved in such refunds, and shall assess against and  
42 recover from the employer, or the insurer if the insurer has  
43 indemnified the employer with respect thereto, the prorated amount.  
44 The provisions of R.S.43:21-14 with respect to collection of  
45 employer contributions shall apply to such assessments. The  
46 amount so recovered by the controller shall be paid into the "Family  
47 Temporary Disability Leave Account" of the State disability  
48 benefits fund.

1 (4) If an individual does not receive any wages from the  
2 employing unit which for the purposes of this chapter (R.S.43:21-1  
3 et seq.) is treated as his employer, or receives his wages from some  
4 other employing unit, such employer shall nevertheless be liable for  
5 such individual's contributions in the first instance; and after  
6 payment thereof such employer may deduct the amount of such  
7 contributions from any sums payable by him to such employing  
8 unit, or may recover the amount of such contributions from such  
9 employing unit, or, in the absence of such an employing unit, from  
10 such individual, in a civil action; provided proceedings therefor are  
11 instituted within three months after the date on which such  
12 contributions are payable. General rules shall be prescribed  
13 whereby such an employing unit may recover the amount of such  
14 contributions from such individuals in the same manner as if it were  
15 the employer.

16 (5) Every employer who has elected to become an employer  
17 subject to this chapter (R.S.43:21-1 et seq.), or to cease to be an  
18 employer subject to this chapter (R.S.43:21-1 et seq.), pursuant to  
19 the provisions of R.S.43:21-8, shall post and maintain printed  
20 notices of such election on his premises, of such design, in such  
21 numbers, and at such places as the director may determine to be  
22 necessary to give notice thereof to persons in his service.

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

26 (e) Contributions by employers to the State disability benefits  
27 fund.

28 (1) Except as hereinafter provided, each employer shall, in  
29 addition to the contributions required by subsections (a), (b), and  
30 (c) of this section, contribute  $\frac{1}{2}$  of 1% of the wages paid by such  
31 employer to workers with respect to employment unless he is not a  
32 covered employer as defined in subsection (a) of section 3 of the  
33 "Temporary Disability Benefits Law" (C.43:21-27 (a)), except that  
34 the rate for the State of New Jersey shall be  $\frac{1}{10}$  of 1% for the  
35 calendar year 1980 and for the first six months of 1981. Prior to  
36 July 1, 1981 and prior to July 1 each year thereafter, the controller  
37 shall review the experience accumulated in the account of the State  
38 of New Jersey and establish a rate for the next following fiscal year  
39 which, in combination with worker contributions, will produce  
40 sufficient revenue to keep the account in balance; except that the  
41 rate so established shall not be less than  $\frac{1}{10}$  of 1%. Such  
42 contributions shall become due and be paid by the employer to the  
43 controller for the State disability benefits fund as established by  
44 law, in accordance with such regulations as may be prescribed, and  
45 shall not be deducted, in whole or in part, from the remuneration of  
46 individuals in his employ. In the payment of any contributions, a  
47 fractional part of a cent shall be disregarded unless it amounts to  
48 \$0.005 or more, in which case it shall be increased to \$0.01.

1 (2) During the continuance of coverage of a worker by an  
2 approved private plan of disability benefits under the "Temporary  
3 Disability Benefits Law," the employer shall be exempt from the  
4 contributions required by paragraph (1) above with respect to wages  
5 paid to such worker.

6 (3) (A) The rates of contribution as specified in paragraph (1)  
7 above shall be subject to modification as provided herein with  
8 respect to employer contributions due on and after July 1, 1951.

9 (B) A separate disability benefits account shall be maintained for  
10 each employer required to contribute to the State disability benefits  
11 fund and such account shall be credited with contributions  
12 deposited in and credited to such fund with respect to employment  
13 occurring on and after January 1, 1949. Each employer's account  
14 shall be credited with all contributions paid on or before January 31  
15 of any calendar year on his own behalf and on behalf of individuals  
16 in his service with respect to employment occurring in preceding  
17 calendar years; provided, however, that if January 31 of any  
18 calendar year falls on a Saturday or Sunday an employer's account  
19 shall be credited as of January 31 of such calendar year with all the  
20 contributions which he has paid on or before the next succeeding  
21 day which is not a Saturday or Sunday. But nothing in this act shall  
22 be construed to grant any employer or individuals in his service  
23 prior claims or rights to the amounts paid by him to the fund either  
24 on his own behalf or on behalf of such individuals. Benefits paid to  
25 any covered individual in accordance with Article III of the  
26 "Temporary Disability Benefits Law" on or before December 31 of  
27 any calendar year with respect to disability in such calendar year  
28 and in preceding calendar years shall be charged against the account  
29 of the employer by whom such individual was employed at the  
30 commencement of such disability or by whom he was last  
31 employed, if out of employment.

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

39 (D) Prior to July 1 of each calendar year, the controller shall  
40 make a preliminary determination of the rate of contribution for the  
41 12 months commencing on such July 1 for each employer subject to  
42 the contribution requirements of this subsection (e).

43 (1) Such preliminary rate shall be 1/2 of 1% unless on the  
44 preceding January 31 of such year such employer shall have been a  
45 covered employer who has paid contributions to the State disability  
46 benefits fund with respect to employment in the three calendar  
47 years immediately preceding such year.

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

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

8 (ii) 15/100 of 1% if such excess over \$500.00 equals or exceeds  
9 1 1/4% but is less than 1 1/2% of his average annual payroll;

10 (iii) 1/10 of 1% if such excess over \$500.00 equals or exceeds 1  
11 1/2% of his average annual payroll.

12 (3) If the minimum requirements in subparagraph (D) (1) above  
13 have been fulfilled and the contributions credited exceed the  
14 benefits charged but by not more than \$500.00 plus 1% of his  
15 average annual payroll, or if the benefits charged exceed the  
16 contributions credited but by not more than \$500.00, the  
17 preliminary rate shall be 1/4 of 1%.

18 (4) If the minimum requirements in subparagraph (D) (1) above  
19 have been fulfilled and the benefits charged exceed the  
20 contributions credited by more than \$500.00, such preliminary rate  
21 shall be as follows:

22 (i) 35/100 of 1% if such excess over \$500.00 is less than 1/4 of  
23 1% of his average annual payroll;

24 (ii) 45/100 of 1% if such excess over \$500.00 equals or exceeds  
25 1/4 of 1% but is less than 1/2 of 1% of his average annual payroll;

26 (iii) 55/100 of 1% if such excess over \$500.00 equals or exceeds  
27 1/2 of 1% but is less than 3/4 of 1% of his average annual payroll;

28 (iv) 65/100 of 1% if such excess over \$500.00 equals or exceeds  
29 3/4 of 1% but is less than 1% of his average annual payroll;

30 (v) 75/100 of 1% if such excess over \$500.00 equals or exceeds  
31 1% of his average annual payroll.

32 (5) Determination of the preliminary rate as specified in  
33 subparagraphs (D)(2), (3) and (4) above shall be subject, however,  
34 to the condition that it shall in no event be decreased by more than  
35 1/10 of 1% of wages or increased by more than 2/10 of 1% of  
36 wages from the preliminary rate determined for the preceding year  
37 in accordance with subparagraph (D) (1), (2), (3) or (4), whichever  
38 shall have been applicable.

39 (E) (1) Prior to July 1 of each calendar year the controller shall  
40 determine the amount of the State disability benefits fund as of  
41 December 31 of the preceding calendar year, increased by the  
42 contributions paid thereto during January of the current calendar  
43 year with respect to employment occurring in the preceding  
44 calendar year. If such amount exceeds the net amount withdrawn  
45 from the unemployment trust fund pursuant to section 23 of the  
46 "Temporary Disability Benefits Law," P.L.1948, c.110 (C.43:21-47)  
47 plus the amount at the end of such preceding calendar year of the  
48 unemployment disability account as defined in section 22 of said

1 law (C.43:21-46), such excess shall be expressed as a percentage of  
2 the wages on which contributions were paid to the State disability  
3 benefits fund on or before January 31 with respect to employment  
4 in the preceding calendar year.

5 (2) The controller shall then make a final determination of the  
6 rates of contribution for the 12 months commencing July 1 of such  
7 year for employers whose preliminary rates are determined as  
8 provided in subparagraph (D) hereof, as follows:

9 (i) If the percentage determined in accordance with  
10 subparagraph (E)(1) of this paragraph equals or exceeds  $1\frac{1}{4}\%$ , the  
11 final employer rates shall be the preliminary rates determined as  
12 provided in subparagraph (D) hereof, except that if the employer's  
13 preliminary rate is determined as provided in subparagraph (D)(2)  
14 or subparagraph (D)(3) hereof, the final employer rate shall be the  
15 preliminary employer rate decreased by such percentage of excess  
16 taken to the nearest  $\frac{5}{100}$  of 1%, but in no case shall such final rate  
17 be less than  $\frac{1}{10}$  of 1%.

18 (ii) If the percentage determined in accordance with  
19 subparagraph (E)(1) of this paragraph equals or exceeds  $\frac{3}{4}$  of 1%  
20 and is less than  $1\frac{1}{4}$  of 1%, the final employer rates shall be the  
21 preliminary employer rates.

22 (iii) If the percentage determined in accordance with  
23 subparagraph (E)(1) of this paragraph is less than  $\frac{3}{4}$  of 1%, but in  
24 excess of  $\frac{1}{4}$  of 1%, the final employer rates shall be the  
25 preliminary employer rates determined as provided in subparagraph  
26 (D) hereof increased by the difference between  $\frac{3}{4}$  of 1% and such  
27 percentage taken to the nearest  $\frac{5}{100}$  of 1%; provided, however,  
28 that no such final rate shall be more than  $\frac{1}{4}$  of 1% in the case of an  
29 employer whose preliminary rate is determined as provided in  
30 subparagraph (D)(2) hereof, more than  $\frac{1}{2}$  of 1% in the case of an  
31 employer whose preliminary rate is determined as provided in  
32 subparagraph (D)(1) and subparagraph (D)(3) hereof, nor more than  
33  $\frac{3}{4}$  of 1% in the case of an employer whose preliminary rate is  
34 determined as provided in subparagraph (D)(4) hereof.

35 (iv) If the amount of the State disability benefits fund determined  
36 as provided in subparagraph (E)(1) of this paragraph is equal to or  
37 less than  $\frac{1}{4}$  of 1%, then the final rate shall be  $\frac{2}{5}$  of 1% in the case  
38 of an employer whose preliminary rate is determined as provided in  
39 subparagraph (D)(2) hereof,  $\frac{7}{10}$  of 1% in the case of an employer  
40 whose preliminary rate is determined as provided in subparagraph  
41 (D)(1) and subparagraph (D)(3) hereof, and 1.1% in the case of an  
42 employer whose preliminary rate is determined as provided in  
43 subparagraph (D)(4) hereof. Notwithstanding any other provision of  
44 law or any determination made by the controller with respect to any  
45 12-month period commencing on July 1, 1970, the final rates for all  
46 employers for the period beginning January 1, 1971, shall be as set  
47 forth herein.



1 (F) Notwithstanding any other provisions of this subsection (e),  
2 the rate of contribution paid to the State disability benefits fund by  
3 each covered employer as defined in paragraph (1) of subsection (a)  
4 of section 3 of P.L.1948, c.110 (C.43:21-27), shall be determined as  
5 if:

6 (i) No disability benefits have been paid with respect to periods  
7 of family temporary disability leave;

8 (ii) No worker paid any contributions to the State disability  
9 benefits fund pursuant to paragraph (1)(G)(ii) or paragraph  
10 (1)(G)(iii) of subsection (d) of this section; **[and]**

11 (iii) No amounts were transferred from the State disability  
12 benefits fund to the "Family Temporary Disability Leave Account"  
13 pursuant to paragraph (1)(G)(ii) of subsection (d) of this section;  
14 and

15 (iv) The total amount of benefits paid for periods of pregnancy  
16 temporary disability were not subject to the increases in the weekly  
17 benefit rate for those benefits commencing July 1, 2019 pursuant to  
18 section 16 of P.L.1948, c.110 (C.43:21-40).

19 (cf: P.L.2017, c.138. s.1)

20

21 4. Section 2 of P.L.1948, c.110 (C.43:21-26) is amended to  
22 read as follows:

23 2. Purpose. This act shall be liberally construed as remedial  
24 legislation enacted upon the following declarations of public policy  
25 and legislative findings of fact:

26 The public policy of this State, already established, is to protect  
27 employees against the suffering and hardship generally caused by  
28 involuntary unemployment. But the "unemployment compensation  
29 law" provides benefit payments to replace wage loss caused by  
30 involuntary unemployment only so long as an individual is "able to  
31 work, and is available for work," and fails to provide any protection  
32 against wage loss suffered because of inability to perform the duties  
33 of a job interrupted by nonoccupational illness, injury, or other  
34 disability of the individual or of members of the individual's family.  
35 Nor is there any other comprehensive and systematic provision for  
36 the protection of working people against loss of earnings due to a  
37 nonoccupational sickness, accident, or other disability.

38 The prevalence and incidence of nonoccupational sickness,  
39 accident, and other disability among employed people is greatest  
40 among the lower income groups, who either cannot or will not  
41 voluntarily provide out of their own resources against the hazard of  
42 an earnings loss caused by nonoccupational sickness, accident, or  
43 other disability. Disabling sickness or accident occurs throughout  
44 the working population at one time or another, and approximately  
45 fifteen per centum (15%) of the number of people at work may be  
46 expected to suffer disabling illness of more than one week each  
47 year.

1       It was found, prior to the enactment of the "Temporary Disability  
2 Benefits Law," P.L.1948, c.110 (C.43:21-25 et al.), that then  
3 existing voluntary plans for the payment of cash sickness benefits  
4 covered less than one-half of the number of working people of this  
5 State who were covered by the "unemployment compensation law,"  
6 and that even that degree of voluntary protection afforded uneven,  
7 unequal and sometimes uncertain protection among the various  
8 voluntary benefit programs.

9       While the enactment of that law has provided stable protection  
10 for New Jersey's disabled workers, very few workers are protected  
11 from income losses caused by the need to take time off from work  
12 to care for family members who are incapable of self-care,  
13 including newborn and newly-adopted children. The growing  
14 portion of middle-income families in which all adult family  
15 members work, largely due to economic necessity, points to the  
16 desperate need for replacement income when a working family  
17 member must take time to care for family members who are unable  
18 to take care of themselves. Moreover, the United States is the only  
19 industrialized nation in the world which does not have a mandatory  
20 workplace-based program for such income support. It is therefore  
21 desirable and necessary to fill the gap in existing provisions for  
22 protection against the loss of earnings caused by involuntary  
23 unemployment, by extending such protection to meet the hazard of  
24 earnings loss due to inability to work caused by nonoccupational  
25 sickness, accidents, or other disabilities of workers and members of  
26 their families. Developing systems that help families adapt to the  
27 competing interests of work and home not only benefits workers,  
28 but also benefits employers by reducing employee turnover and  
29 increasing worker productivity.

30       The foregoing facts and considerations require that there be a  
31 uniform minimum program providing in a systematic manner for  
32 the payment of reasonable benefits to replace partially such  
33 earnings loss and to meet the continuing need for benefits where an  
34 individual becomes disabled during unemployment or needs to care  
35 for family members incapable of self-care. In order to maintain  
36 consumer purchasing power, relieve the serious menace to health,  
37 morals and welfare of the people caused by insecurity and the loss  
38 of earnings, to reduce the necessity for public relief of needy  
39 persons, to increase workplace productivity and alleviate the  
40 enormous and growing stress on working families of balancing the  
41 demands of work and family needs, and in the interest of the health,  
42 welfare and security of the people of this State, such a system,  
43 enacted under the police power, is hereby established, requiring the  
44 payment of reasonable cash benefits to eligible individuals who are  
45 subject to accident or illness which is not compensable under the  
46 worker's compensation law or who need to care for family members  
47 incapable of self-care.

1 While the Legislature recognizes the pressing need for benefits  
2 for workers taking leave to care for family members incapable of  
3 self-care, it also finds that the need of workers for leave during their  
4 own disability continues to be especially acute, as a disabled worker  
5 has less discretion about taking time off from work than a worker  
6 caring for a family member. Notwithstanding any interpretation of  
7 law which may be construed as providing a worker with rights to  
8 take action against an employer who fails or refuses to restore the  
9 worker to employment after the worker's own disability, the  
10 Legislature does not intend that the policy established by P.L.2008,  
11 c.17 (C.43:21-39.1 et al.) of providing benefits for workers during  
12 periods of family temporary disability leave to care for family  
13 members incapable of self-care be construed as granting any worker  
14 an entitlement to be restored by the employer to employment held  
15 by the worker prior to taking family temporary disability leave or  
16 any right to take action, in tort, or for breach of an implied  
17 provision of the employment agreement, or under common law,  
18 against an employer who fails or refuses to restore the worker to  
19 employment after the family temporary disability leave, and the  
20 Legislature does not intend that the policy of providing benefits  
21 during family temporary disability leave be construed as increasing,  
22 reducing or otherwise modifying any entitlement of a worker to  
23 return to employment or right of the worker to take action under the  
24 provisions of the "Family Leave Act," P.L.1989, c.261 (C.34:11B-1  
25 et seq.)**】**, or the federal "Family and Medical Leave Act of 1993,"  
26 Pub.L.103-3 (29 U.S.C. s.2601 et seq.)**】**.

27 Since the enactment of the "Temporary Disability Benefits Law,"  
28 P.L.1948, c.110 (C.43:21-25 et al.), the State government-operated  
29 State temporary disability benefits plan, or "State plan," has proven  
30 to be highly efficient and cost effective in providing temporary  
31 disability benefits to New Jersey workers. The State plan  
32 guarantees the availability of coverage for all employers, regardless  
33 of experience, with low overhead costs and a rapid processing of  
34 claims and appeals by knowledgeable, impartial public employees.  
35 Consequently, the percentage of all employers using the State plan  
36 increased from 64% in 1952 to 98% in 2006, while the percentage  
37 of employees covered by the State plan increased from 28% to 83%.  
38 A publicly-operated, nonprofit State plan is therefore indispensable  
39 to achieving the goals of the "Temporary Disability Benefits Law,"  
40 P.L.1948, c.110 (C.43:21-25 et al.).  
41 (cf: P.L.2008, c.17, s.1)

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

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

47 (a) (1) "Covered employer" means, with respect to whether an  
48 employer is required to provide benefits during an employee's own

1 disability pursuant to P.L.1948, c.110 (C.43:21-25 et al.), any  
2 individual or type of organization, including any partnership,  
3 association, trust, estate, joint-stock company, insurance company  
4 or corporation, whether domestic or foreign, or the receiver, trustee  
5 in bankruptcy, trustee or successor thereof, or the legal  
6 representative of a deceased person, who is an employer subject to  
7 the "unemployment compensation law" (R.S.43:21-1 et seq.),  
8 except the State, its political subdivisions, and any instrumentality  
9 of the State unless such governmental entity elects to become a  
10 covered employer pursuant to paragraph (2) of this subsection (a);  
11 provided, however, that commencing with the effective date of this  
12 act, the State of New Jersey, including Rutgers, The State  
13 University and the New Jersey Institute of Technology, shall be  
14 deemed a covered employer, as defined herein.

15 "Covered employer" means, after June 30, 2009, with respect to  
16 whether the employer is an employer whose employees are eligible  
17 for benefits during periods of family temporary disability leave  
18 pursuant to P.L.1948, c.110 (C.43:21-25 et al.), and, after December  
19 31, 2008, whether employees of the employer are required to make  
20 contributions pursuant to R.S.43:21-7(d)(1)(G)(ii), any individual  
21 or type of organization, including any partnership, association,  
22 trust, estate, joint-stock company, insurance company or domestic  
23 or foreign corporation, or the receiver, trustee in bankruptcy, trustee  
24 or successor thereof, or the legal representative of a deceased  
25 person, who is an employer subject to the "unemployment  
26 compensation law" (R.S.43:21-1 et seq.), including any  
27 governmental entity or instrumentality which is an employer under  
28 R.S.43:21-19(h)(5), notwithstanding that the governmental entity or  
29 instrumentality has not elected to be a covered employer pursuant to  
30 paragraph (2) of this subsection (a).

31 (2) Any governmental entity or instrumentality which is an  
32 employer under R.S.43:21-19(h)(5) may, with respect to the  
33 provision of benefits during an employee's own disability pursuant  
34 to P.L.1948, c.110 (C.43:21-25 et al.), elect to become a "covered  
35 employer" under this subsection beginning with the date on which  
36 its coverage under R.S.43:21-19(h)(5) begins or as of January 1 of  
37 any year thereafter by filing written notice of such election with the  
38 division within at least 30 days of the effective date. Such election  
39 shall remain in effect for at least two full calendar years and may be  
40 terminated as of January 1 of any year thereafter by filing with the  
41 division a written notice of termination at least 30 days prior to the  
42 termination date.

43 (b) (1) "Covered individual" means, with respect to whether an  
44 individual is eligible for benefits during an individual's own  
45 disability pursuant to P.L.1948, c.110 (C.43:21-25 et al.), any  
46 person who is in employment, as defined in the "unemployment  
47 compensation law" (R.S.43:21-1 et seq.), for which the individual is  
48 entitled to remuneration from a covered employer, or who has been

1 out of such employment for less than two weeks, except that a  
2 "covered individual" who is employed by the State of New Jersey,  
3 including Rutgers, The State University or the New Jersey Institute  
4 of Technology, or by any governmental entity or instrumentality  
5 which elects to become a "covered employer" pursuant to this  
6 amendatory act, shall not be eligible to receive any benefits under  
7 the "Temporary Disability Benefits Law" until such individual has  
8 exhausted all sick leave accumulated as an employee in the  
9 classified service of the State or accumulated under terms and  
10 conditions similar to classified employees or accumulated under the  
11 terms and conditions pursuant to the laws of this State or as the  
12 result of a negotiated contract with any governmental entity or  
13 instrumentality which elects to become a "covered employer."

14 "Covered individual" shall not mean, with respect to whether an  
15 individual is eligible for benefits during an individual's own  
16 disability pursuant to P.L.1948, c.110 (C.43:21-25 et al.), any  
17 member of the Division of State Police in the Department of Law  
18 and Public Safety.

19 (2) "Covered individual" means, with respect to whether an  
20 individual is eligible for benefits during the individual's period of  
21 family temporary disability leave pursuant to P.L.1948, c.110  
22 (C.43:21-25 et al.), any individual who is in employment, as  
23 defined in the "unemployment compensation law" (R.S.43:21-1 et  
24 seq.), for which the individual is entitled to remuneration from a  
25 covered employer, or who has been out of that employment for less  
26 than two weeks.

27 (c) "Division" or "commission" means the Division of  
28 Temporary Disability Insurance of the Department of Labor and  
29 Workforce Development, and any transaction or exercise of  
30 authority by the director of the division shall be deemed to be  
31 performed by the division.

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

34 (e) "Disability" shall mean such disability as is compensable  
35 under section 5 of P.L.1948, c.110 (C.43:21-29).

36 (f) "Disability benefits" shall mean any cash payments which  
37 are payable to a covered individual for all or part of a period of  
38 disability pursuant to P.L.1948, c.110 (C.43:21-25 et al.).

39 (g) "Period of disability" with respect to any covered individual  
40 shall mean:

41 (1) The entire period of time during which the covered  
42 individual is continuously and totally unable to perform the duties  
43 of the covered individual's employment because of the covered  
44 individual's own disability, except that two periods of disability due  
45 to the same or related cause or condition and separated by a period  
46 of not more than 14 days shall be considered as one continuous  
47 period of disability; provided the individual has earned wages  
48 during such 14-day period with the employer who was the

1 individual's last employer immediately preceding the first period of  
2 disability; and

3 (2) On or after July 1, 2009, the entire period of family  
4 temporary disability leave taken from employment by the covered  
5 individual.

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

10 (i) (1) (Deleted by amendment, P.L.2001, c.17).

11 (2) (Deleted by amendment, P.L.2001, c.17).

12 (3) (Deleted by amendment, P.L.2013, c.221).

13 (4) "Base week" with respect to periods of disability  
14 commencing on or after January 1, 2001, means any calendar week  
15 of a covered individual's base year during which the covered  
16 individual earned in employment from a covered employer  
17 remuneration not less than an amount 20 times the minimum wage  
18 in effect pursuant to section 5 of P.L.1966, c.113 (C.34:11-56a4) on  
19 October 1 of the calendar year preceding the calendar year in which  
20 the benefit year commences, which amount shall be adjusted to the  
21 next higher multiple of \$1.00 if not already a multiple thereof,  
22 except that if in any calendar week an individual subject to this  
23 paragraph is in employment with more than one employer, the  
24 covered individual may in that calendar week establish a base week  
25 with respect to each of the employers from whom the covered  
26 individual earns remuneration equal to not less than the amount  
27 defined in this paragraph during that week.

28 (5) In the case of an individual who is laid off or furloughed by  
29 an employer curtailing operations because of a state of emergency  
30 declared after October 22, 2012, any week in which the individual  
31 is separated from employment due to that layoff or furlough, up to a  
32 maximum of 13 weeks, shall be regarded as a week which is a "base  
33 week" for the purpose of determining whether the individual  
34 becomes eligible for benefits pursuant to subsection (d) or (e) of  
35 section 17 of P.L.1948, c.110 (C.43:21-41), but shall not be  
36 regarded as a base week when calculating the "average weekly  
37 wage" pursuant to subsection (j) of this section.

38 (j) (1) "Average weekly wage" means the amount derived by  
39 dividing a covered individual's total wages earned from the  
40 individual's most recent covered employer during the base weeks in  
41 the eight calendar weeks immediately preceding the calendar week  
42 in which a period of disability commenced, by the number of such  
43 base weeks.

44 (2) If the computation in paragraph (1) of this subsection (j)  
45 yields a result which is less than the individual's average weekly  
46 earnings in employment with all covered employers during the base  
47 weeks in such eight calendar weeks, then the average weekly wage  
48 shall be computed on the basis of earnings from all covered

1 employers during the base weeks in the eight calendar weeks  
2 immediately preceding the week in which the period of disability  
3 commenced.

4 (3) For periods of disability commencing on or after July 1,  
5 2009, if the computations in paragraphs (1) and (2) of this  
6 subsection (j) both yield a result which is less than the individual's  
7 average weekly earnings in employment with all covered employers  
8 during the base weeks in the 26 calendar weeks immediately  
9 preceding the week in which the period of disability commenced,  
10 then the average weekly wage shall, upon a written request to the  
11 department by the individual on a form provided by the department,  
12 be computed by the department on the basis of earnings from all  
13 covered employers of the individual during the base weeks in those  
14 26 calendar weeks, and, in the case of a claim for benefits from a  
15 private plan, that computation of the average weekly wage shall be  
16 provided by the department to the individual and the individual's  
17 employer.

18 When determining the "average weekly wage" with respect to a  
19 period of family temporary disability leave for an individual who  
20 has a period of family temporary disability immediately after the  
21 individual has a period of disability for the individual's own  
22 disability, the period of disability is deemed to have commenced at  
23 the beginning of the period of disability for the individual's own  
24 disability, not the period of family temporary disability.

25 (k) "Child" means a biological, adopted, or foster child,  
26 stepchild or legal ward of a covered individual, child of a domestic  
27 partner of the covered individual, or child of a civil union partner of  
28 the covered individual, parent, **【**who is less than 19 years of age or  
29 is 19 years of age or older but incapable of self-care because of  
30 mental or physical impairment**】** including a child who becomes the  
31 child of a parent pursuant to a valid written agreement between the  
32 parent and a gestational carrier.

33 (l) "Domestic partner" means a domestic partner as defined in  
34 section 3 of P.L.2003, c.246 (C.26:8A-3).

35 (m) "Civil union" means a civil union as defined in section 2 of  
36 P.L.2006, c.103 (C.37:1-29).

37 (n) "Family member" means a sibling, grandparent, grandchild,  
38 child, spouse, domestic partner, civil union partner, parent-in-law,  
39 or parent of a covered individual, or any other individual related by  
40 blood to the employee, and any other individual whose close  
41 association with the employee is the equivalent of a family  
42 relationship.

43 (o) "Family temporary disability leave" means leave taken by a  
44 covered individual from work with an employer to:

45 (1) participate in the providing of care, as defined in the "Family  
46 Leave Act," P.L.1989, c.261 (C.34:11B-1 et seq.) and regulations  
47 adopted pursuant to that act, for a family member of the individual

1 made necessary by a serious health condition of the family member;

2 **[or]**

3 (2) be with a child during the first 12 months after the child's  
4 birth, if the individual, or the domestic partner or civil union partner  
5 of the individual, is a biological parent of the child, or is a parent of  
6 the child pursuant to a valid gestational carrier agreement, or the  
7 first 12 months after the placement of the child for adoption or as a  
8 foster child with the individual; or

9 (3) engage in activities for which unpaid leave may be taken  
10 pursuant to section 3 of the "New Jersey Security and Financial  
11 Empowerment Act," P.L.2013, c.82 (C.34:11C-3), on the  
12 individual's own behalf, if the individual is a victim of an incident  
13 of domestic violence a sexually violent offense, or to assist a family  
14 member of the individual who has been a victim of an incident of  
15 domestic violence a sexually violent offense, provided that any time  
16 taken by an individual who has been a victim of an incident of  
17 domestic violence a sexually violent offense for which the  
18 individual receives benefits for a disability caused by the violence  
19 or offense shall be regarded as a period of disability of the  
20 individual and not as a period of family temporary disability leave.

21 "Family temporary disability leave" does not include any period  
22 of time in which a covered individual is paid benefits pursuant to  
23 P.L.1948, c.110 (C.43:21-25 et al.) because the individual is unable  
24 to perform the duties of the individual's employment due to the  
25 individual's own disability.

26 (p) "Health care provider" means a health care provider as  
27 defined in the "Family Leave Act," P.L.1989, c.261 (C.34:11B-1 et  
28 seq.), and any regulations adopted pursuant to that act.

29 (q) "Parent of a covered individual" means a biological parent,  
30 foster parent, adoptive parent, or stepparent of the covered  
31 individual or a person who was a legal guardian of the covered  
32 individual when the covered individual was a child, or who became  
33 the parent of the child pursuant to a valid written agreement  
34 between the parent and a gestational carrier.

35 (r) "Placement for adoption" means the time when a covered  
36 individual adopts a child or becomes responsible for a child pending  
37 adoption by the covered individual.

38 (s) "Serious health condition" means an illness, injury,  
39 impairment or physical or mental condition which requires:  
40 inpatient care in a hospital, hospice, or residential medical care  
41 facility; or continuing medical treatment or continuing supervision  
42 by a health care provider.

43 (t) "12-month period" means, with respect to an individual who  
44 establishes a valid claim for disability benefits during a period of  
45 family temporary disability leave, the 365 consecutive days that  
46 begin with the first day that the individual first establishes the  
47 claim.



1 (u) "State of emergency" means a natural or man-made disaster  
2 or emergency for which a state of emergency has been declared by  
3 the President of the United States or the Governor, or for which a  
4 state of emergency has been declared by a municipal emergency  
5 management coordinator.

6 (cf: P.L.2013, c.221, s.3)

7  
8 6. Section 11 of P.L.1948, c.110 (C.43:21-35) is amended to  
9 read as follows:

10 11. (a) If the division is furnished satisfactory evidence that a  
11 majority of the employees covered by an approved private plan  
12 have made election in writing to discontinue such plan, the division  
13 shall withdraw its approval of such plan effective at the end of the  
14 calendar quarter next succeeding that in which such evidence is  
15 furnished. Upon receipt of a petition therefor signed by not less  
16 than 10% of the employees covered by an approved private plan,  
17 the division shall require the employer upon 30 days' written notice  
18 to conduct an election by ballot in writing to determine whether or  
19 not a majority of the employees covered by such private plan favor  
20 discontinuance thereof; provided, that such election shall not be  
21 required more often than once in any 12-month period.

22 (b) Unless sooner permitted, for cause, by the division, no  
23 approved private plan shall be terminated by an employer, in whole  
24 or in part, until at least 30 days after written notice of intention so  
25 to do has been given by the employer to the division and after  
26 notices are conspicuously posted so as reasonably to assure their  
27 being seen, or after individual notices are given to the employees  
28 concerned.

29 (c) The division may, after notice and hearing, withdraw its  
30 approval of any approved private plan if it finds that there is danger  
31 that the benefits accrued or to accrue will not be paid, that the  
32 security for such payment is insufficient, or for other good cause  
33 shown. No employer, and no union or association representing  
34 employees, shall so administer or apply the provisions of an  
35 approved private plan as to derive any profit therefrom. The  
36 division may withdraw its approval from any private plan which is  
37 administered or applied in violation of this provision.

38 (d) No termination of an approved private plan shall affect the  
39 payment of benefits, in accordance with the provisions of the plan,  
40 to employees whose period of disability commenced prior to the  
41 date of termination. Employees who have ceased to be covered by  
42 an approved private plan because of its termination shall, subject to  
43 the limitations and restrictions of this act, become eligible forthwith  
44 for benefits from the State Disability Benefits Fund for a period of  
45 disability commencing after such cessation, and contributions with  
46 respect to their wages shall immediately become payable as  
47 otherwise provided by law. Any withdrawal of approval of a  
48 private plan pursuant to this section shall be reviewable by writ of

1 certiorari or by such other procedure as may be provided by law.  
2 With respect to a period of family temporary disability leave  
3 immediately after the individual has a period of disability during the  
4 individual's own disability, the period of disability is deemed, for  
5 the purposes of determining whether the period of disability  
6 commenced prior to the date of the termination, to have commenced  
7 at the beginning of the period of disability during the individual's  
8 own disability, not the period of family temporary disability leave.

9 (e) Anything in this act to the contrary notwithstanding, a  
10 covered employer who, under an approved private plan, is  
11 providing benefits at least equal to those required by the State plan,  
12 may modify the benefits under the private plan so as to provide  
13 benefits not less than the benefits required by the State plan.  
14 Individuals covered under a private plan shall not be required to  
15 contribute to the plan at a rate exceeding  $\frac{3}{4}$  of 1% of the amount of  
16 "wages" established for any calendar year under the provisions of  
17 R.S.43:21-7(b) prior to January 1, 1975, and  $\frac{1}{2}$  of 1% for calendar  
18 years beginning on or after January 1, 1975 and before January 1,  
19 2009. For a calendar year beginning on or after January 1, 2009  
20 and before January 1, 2012: an employer providing a private plan  
21 only for benefits for employees during their own disabilities may  
22 require the employees to contribute to the plan at a rate not  
23 exceeding 0.5% of the amount of "wages" established for the  
24 calendar year under the provisions of R.S.43:21-7(b); an employer  
25 providing a private plan only for benefits for employees during  
26 periods of family temporary disability may require the individuals  
27 covered by the private plan to contribute an amount not exceeding  
28 the amount the individuals would pay pursuant to R.S.43:21-  
29 7(d)(1)(G)(ii); an employer providing a private plan both for  
30 benefits for employees during their own disabilities and for benefits  
31 during periods of family temporary disability may require the  
32 employees to contribute to the plan at a rate not exceeding 0.5% of  
33 the amount of "wages" established for the calendar year under the  
34 provisions of R.S.43:21-7(b) plus an additional amount not  
35 exceeding the amount the individuals would pay pursuant to  
36 R.S.43:21-7(d)(1)(G)(ii). For a calendar year beginning on or after  
37 January 1, 2012: an employer providing a private plan only for  
38 benefits for employees during their own disabilities may require the  
39 employees to contribute to the plan at a rate not exceeding the  
40 amount the individuals would pay pursuant to R.S.43:21-  
41 7(d)(1)(G)(i) and R.S.43:21-7(d)(1)(G)(iii); an employer providing  
42 a private plan only for benefits for employees during periods of  
43 family temporary disability may require the individuals covered by  
44 the private plan to contribute an amount not exceeding the amount  
45 the individuals would pay pursuant to R.S.43:21-7(d)(1)(G)(ii); an  
46 employer providing a private plan both for benefits for employees  
47 during their own disabilities and for benefits during periods of  
48 family temporary disability may require the employees to contribute

1 to the plan an amount not exceeding the amount the individuals  
2 would pay pursuant to R.S.43:21-7(d)(1)(G)(i), R.S.43:21-  
3 7(d)(1)(G)(iii), and R.S.43:21-7(d)(1)(G)(ii). Notification of the  
4 proposed modification shall be given by the employer to the  
5 division and to the individuals covered under the plan.

6 (cf: P.L.2011, c.88, s.2)

7

8 7. Section 14 of P.L.1948, c.110 (C.43:21-38) is amended to  
9 read as follows:

10 14. With respect to any period of disability for an individual's  
11 own disability commencing on or after January 1, 1953, disability  
12 benefits, not in excess of an individual's maximum benefits, shall be  
13 payable with respect to disability which commences while a person  
14 is a covered individual under the Temporary Disability Benefits  
15 Law, and shall be payable with respect to the eighth consecutive  
16 day of such disability and each day thereafter that such period of  
17 disability continues; and if benefits shall be payable for three  
18 consecutive weeks with respect to any period of disability  
19 commencing on or after January 1, 1968, then benefits shall also be  
20 payable with respect to the first seven days thereof. With respect to  
21 any period of family temporary disability leave commencing on or  
22 after July 1, 2009 and while an individual is a covered individual,  
23 family temporary disability benefits, not in excess of the  
24 individual's maximum benefits, shall be payable with respect to the  
25 first day of leave taken after the first one-week period following the  
26 commencement of the period of family temporary disability leave  
27 and each subsequent day of leave during that period of family  
28 temporary disability leave; and if benefits become payable on any  
29 day after the first three weeks in which leave is taken, then benefits  
30 shall also be payable with respect to any leave taken during the first  
31 one-week period in which leave is taken. The maximum total  
32 benefits payable to any eligible individual for any period of  
33 disability of the individual commencing on or after January 1, 1968,  
34 shall be either 26 times his weekly benefit amount or 1/3 of his total  
35 wages in his base year, whichever is the lesser; provided that such  
36 maximum amount shall be computed in the next lower multiple of  
37 \$1.00 if not already a multiple thereof. The maximum total benefits  
38 payable to any eligible individual for any period of family  
39 temporary disability leave commencing on or after July 1, 2009 and  
40 before July 1, 2019, shall be six times the individual's weekly  
41 benefit amount or 1/3 of his total wages in his base year, whichever  
42 is the lesser; provided that the maximum amount shall be computed  
43 in the next lower multiple of \$1.00, if not already a multiple  
44 thereof. The maximum total benefits payable to any eligible  
45 individual for any period of family temporary disability leave  
46 commencing on or after July 1, 2019, shall be twelve times the  
47 individual's weekly benefit amount; provided that the maximum

1 amount shall be computed in the next lower multiple of \$1.00, if not  
2 already a multiple thereof.

3 (cf: P.L.2008, c.17, s.5)

4

5 8. Section 15 of P.L.1948, c.110 (C.43:21-39) is amended to  
6 read as follows:

7 15. Limitation of benefits. Notwithstanding any other provision  
8 of the "Temporary Disability Benefits Law," P.L.1948, c.110  
9 (C.43:21-25 et al.), no benefits shall be payable under the State plan  
10 to any individual:

11 (a) for the first seven consecutive days of each period of  
12 disability; except that:

13 (1) if benefits shall be payable for three consecutive weeks with  
14 respect to any period of disability, then benefits shall also be  
15 payable with respect to the first seven days thereof;

16 (2) in the case of intermittent leave in a single period of family  
17 temporary disability leave taken to provide care for a family  
18 member of the individual with a serious health condition, benefits  
19 shall be payable with respect to the first day of leave taken after the  
20 first one-week period following the commencement of the period of  
21 family temporary disability leave and each subsequent day of leave  
22 during that period of family temporary disability leave; and if  
23 benefits become payable on any day after the first three weeks in  
24 which leave is taken, then benefits shall also be payable with  
25 respect to any leave taken during the first one-week period in which  
26 leave is taken; and

27 (3) in the case of an individual taking family temporary  
28 disability leave immediately after the individual has a period of  
29 disability for the individual's own disability, there shall be no  
30 waiting period between the period of the individual's own disability  
31 and the period of family temporary disability;

32 (b) (1) for more than 26 weeks with respect to any one period of  
33 disability of the individual;

34 (2) for more than six weeks with respect to any one period of  
35 family temporary disability leave commencing before July 1, 2019  
36 and more than 12 weeks if the period of leave commences on or  
37 after July 1, 2019, or for more than 42 days with respect to any one  
38 period of family temporary disability leave commencing before July  
39 1, 2019 and more than 84 days if the period of leave commences on  
40 or after July 1, 2019, in the case of leave taken on an intermittent  
41 basis to provide care for a family member of the individual with a  
42 serious health condition; and

43 (3) for more than six weeks of family temporary disability leave  
44 during any 12-month period commencing before July 1, 2019 and  
45 more than 12 weeks for any 12-month period commencing on or  
46 after July 1, 2019, or for more than 42 days of family temporary  
47 disability leave taken during any 12-month period commencing  
48 before July 1, 2019 and more than 84 days if the period of leave

1 commences on or after July 1, 2019, on an intermittent basis to  
2 provide care for a family member of the individual with a serious  
3 health condition, including family temporary disability leave taken  
4 pursuant to R.S.43:21-4(f)(2) while unemployed;

5 (c) for any period of disability which did not commence while  
6 the claimant was a covered individual;

7 (d) for any period of disability of a claimant during which the  
8 claimant is not under the care of a legally licensed physician,  
9 dentist, optometrist, podiatrist, practicing psychologist, advanced  
10 practice nurse, certified nurse midwife, or chiropractor, who, when  
11 requested by the division, shall certify within the scope of the  
12 practitioner's practice, the disability of the claimant, the probable  
13 duration thereof, and, where applicable, the medical facts within the  
14 practitioner's knowledge or for any period of family temporary  
15 disability leave for a serious health condition of a family member of  
16 the claimant, during which the family member is not receiving  
17 inpatient care in a hospital, hospice, or residential medical care  
18 facility or is not subject to continuing medical treatment or  
19 continuing supervision by a health care provider, who, when  
20 requested by the division, shall certify within the scope of the  
21 provider's practice, the serious health condition of the family  
22 member, the probable duration thereof, and, where applicable, the  
23 medical facts within the provider's knowledge;

24 (e) (Deleted by amendment, P.L.1980, c.90.)

25 (f) for any period of disability due to willfully and intentionally  
26 self-inflicted injury, or to injury sustained in the perpetration by the  
27 claimant of a crime of the first, second, third, or fourth degree, or  
28 for any period during which a covered individual would be  
29 disqualified for unemployment compensation benefits for gross  
30 misconduct under subsection (b) of R.S.43:21-5;

31 (g) for any period during which the claimant performs any work  
32 for remuneration or profit;

33 (h) in a weekly amount which together with any remuneration  
34 the claimant continues to receive from the employer would exceed  
35 regular weekly wages immediately prior to disability;

36 (i) for any period during which a covered individual would be  
37 disqualified for unemployment compensation benefits under  
38 subsection (d) of R.S.43:21-5, unless the disability commenced  
39 prior to such disqualification;

40 and there shall be no other cause of disqualification or ineligibility  
41 to receive disability benefits hereunder except as may be  
42 specifically provided in this act.

43 (cf: P.L.2009, c.114, s.1)

44

45 9. Section 10 of P.L.2008, c.17 (C.43:21-39.1) is amended to  
46 read as follows:

47 10. a. Family temporary disability leave shall be compensable  
48 subject to the limitations of P.L.2008, c.17 (C.43:21-39.1 et al.) for

1 any period of family temporary disability leave taken by a covered  
2 individual which commences after June 30, 2009.

3 b. An individual shall not simultaneously receive disability  
4 benefits for family temporary disability leave and any other  
5 disability benefits pursuant to P.L.1948, c.110 (C.43:21-25 et al.) or  
6 any unemployment compensation.

7 c. The employer of an individual may, notwithstanding any  
8 other provision of law, including the provisions of N.J.S.18A:30-1  
9 et seq., permit **【or require】** the individual, during a period of family  
10 temporary disability leave, to use any paid sick leave, vacation time  
11 or other leave at full pay made available by the employer before the  
12 individual **【is eligible for】** uses disability benefits for family  
13 temporary disability leave pursuant to P.L.2008, c.17 (C.43:21-39.1  
14 et al.)**【,** except that the employer may not require the individual to  
15 use more than two weeks worth of leave at full pay**】**. **【The**  
16 employer may also have the total number of days worth of disability  
17 benefits paid pursuant to P.L.2008, c.17 (C.43:21-39.1 et al.) to the  
18 individual during a period of family temporary disability leave  
19 reduced by the number of days of leave at full pay paid by the  
20 employer to the individual during that period.**】** If the employer  
21 **【requires】** permits the individual to use leave at full pay, the  
22 employee shall also be permitted to take that fully-paid leave during  
23 the waiting period required pursuant to subsection (a) of section 15  
24 of P.L.1948, c.110 (C.43:21-39). Nothing in P.L.2008, c.17  
25 (C.43:21-39.1 et al.) shall be construed as nullifying any provision  
26 of an existing collective bargaining agreement or employer policy,  
27 or preventing any new provision of a collective bargaining  
28 agreement or employer policy, which provides employees more  
29 generous leave or gives employees greater rights to select which  
30 kind of leave is used or select the order in which the different kinds  
31 of leave are used. Nothing in P.L.2008, c.17 (C.43:21-39.1 et al.)  
32 shall be construed as preventing an employer from providing more  
33 generous benefits than are provided under P.L.2008, c.17 (C.43:21-  
34 39.1 et al.) or providing benefits which supplement the benefits  
35 provided under P.L.2008, c.17 (C.43:21-39.1 et al.) for some or all  
36 of the employer's employees.

37 d. An individual who is entitled to leave under the provisions  
38 of the "Family Leave Act," P.L.1989, c.261 (C.34:11B-1 et seq.) or  
39 the federal "Family and Medical Leave Act of 1993," Pub.L.103-3  
40 (29 U.S.C. s.2601 et seq.), shall take any benefits provided for  
41 family temporary disability leave pursuant to P.L.2008, c.17  
42 (C.43:21-39.1 et al.) concurrently with leave taken pursuant to the  
43 "Family Leave Act," P.L.1989, c.261 (C.34:11B-1 et seq.) or the  
44 federal "Family and Medical Leave Act of 1993," Pub.L.103-3 (29  
45 U.S.C. s.2601 et seq.). Nothing in P.L.2008, c.17 (C.43:21-39.1 et  
46 al.) shall be construed to grant an employee any entitlement to be  
47 restored by the employer to employment held by the employee prior

1 to taking family temporary disability leave or any right to take  
2 action against an employer who refuses to restore the employee to  
3 employment after the leave. Nothing in P.L.2008, c.17 (C.43:21-  
4 39.1 et al.) shall be construed to increase, reduce or otherwise  
5 modify any entitlement of an employee to return to employment or  
6 right of the employee to take action under the provisions of the  
7 "Family Leave Act," P.L.1989, c.261 (C.34:11B-1 et seq.) or the  
8 federal "Family and Medical Leave Act of 1993," Pub.L.103-3 (29  
9 U.S.C. s.2601 et seq.). If an employee receives benefits for family  
10 temporary disability leave pursuant to P.L.2008, c.17 (C.43:21-39.1  
11 et al.) with respect to employment with an employer who is not an  
12 employer as defined in the "Family Leave Act," P.L.1989, c.261  
13 (C.34:11B-1 et seq.) and that employer fails or refuses to restore the  
14 employee to employment after the period of family temporary  
15 disability leave, that failure or refusal shall not be a wrongful  
16 discharge in violation of a clear mandate of public policy, and the  
17 employee shall not have a cause of action against that employer, in  
18 tort, or for breach of an implied provision of the employment  
19 agreement, or under common law, for that failure or refusal.

20 e. An employee taking family temporary disability leave or an  
21 employer from whom the employee is taking the leave shall have  
22 the same right to appeal a determination of a benefit for the family  
23 temporary disability leave made under P.L.2008, c.17 (C.43:21-39.1  
24 et al.) as an employee or employer has to appeal a determination of  
25 a benefit for the disability of the employee under the "Temporary  
26 Disability Benefits Law," P.L.1948, c.110 (C.43:21-25 et al.), and  
27 any regulations adopted pursuant to the "Temporary Disability  
28 Benefits Law," P.L.1948, c.110 (C.43:21-25 et al.).

29 f. In the event of a period of family temporary disability leave  
30 of any individual covered under the State plan, the employer shall,  
31 not later than the ninth day of the period of family temporary  
32 disability leave, including any waiting period or time in which the  
33 employer provides sick leave, vacation or other fully paid leave,  
34 issue to the individual and to the division printed notices on  
35 division forms containing the name, address and Social Security  
36 number of the individual, such wage information as the division  
37 may require to determine the individual's eligibility for benefits,  
38 including any sick pay, vacation or other fully paid time off  
39 provided by the employer during the period of family temporary  
40 disability leave, and the name, address, and division identity  
41 number of the employer. Not later than 30 days after the  
42 commencement of the period of family temporary disability leave  
43 for which the notice is furnished by the employer, the individual  
44 shall furnish to the division a notice and claim for family temporary  
45 disability leave benefits. Upon the submission of the notices by the  
46 employer and the individual, the division may issue benefit  
47 payments. In the case of family temporary disability leave taken to  
48 care for a family member with a serious health condition, the

1 benefits may be paid for periods not exceeding three weeks pending  
2 the receipt of the certification required pursuant to subsection b. of  
3 section 11 of P.L.2008, c.17 (C.43:21-39.2). Failure to furnish  
4 notice and certification in the manner above provided shall not  
5 invalidate or reduce any claim if it shall be shown to the satisfaction  
6 of the division not to have been reasonably possible to furnish the  
7 notice and certification and that the notice and certification was  
8 furnished as soon as reasonably possible.

9 g. Each covered employer shall conspicuously post  
10 notification, in a place or places accessible to all employees in each  
11 of the employer's workplaces, in a form issued by regulation  
12 promulgated by the commissioner, of each covered employee's  
13 rights regarding benefits payable pursuant to this section. The  
14 employer shall also provide each employee of the employer with a  
15 written copy of the notification: (1) not later than 30 days after the  
16 form of the notification is issued by regulation; (2) at the time of the  
17 employee's hiring, if the employee is hired after the issuance; (3)  
18 whenever the employee notifies the employer that the employee is  
19 taking time off for circumstances under which the employee is  
20 eligible for benefits pursuant to this section; and (4) at any time,  
21 upon the first request of the employee.

22 (cf: P.L.2008, c.17, s.10)

23  
24 10. Section 12 of P.L.2008, c.17 (C.43:21-39.3) is amended to  
25 read as follows:

26 12. a. (1) All of the disability benefits paid to a covered  
27 individual during a period of family temporary disability leave with  
28 respect to any one birth or adoption shall be for a single continuous  
29 period of time **【**, except that the employer of the covered individual  
30 may permit the covered individual to receive the disability benefits**】**  
31 or during non-consecutive weeks **【**in a manner mutually agreed to  
32 by the employer and the covered individual and**】** or days on an  
33 intermittent basis pursuant to paragraph (2) of this subsection,  
34 which shall be disclosed to the division by the employer.

35 (2) In the case of intermittent benefits for family temporary  
36 disability leave with respect to a birth or adoption, the covered  
37 individual shall provide the employer with prior notice of the leave  
38 not less than 15 days before the first day on which benefits are paid  
39 for the intermittent leave, unless an emergency or other unforeseen  
40 circumstance precludes prior notice; and the covered individual  
41 makes a reasonable effort to schedule the leave so as not to unduly  
42 disrupt the operations of the employer and, if possible, provide the  
43 employer, prior to the commencement of intermittent leave, with a  
44 regular schedule of the days or days of the week on which the  
45 intermittent leave will be taken.

46 b. **【The】** In the case of single continuous benefits for family  
47 temporary disability leave with respect to birth or adoption, the



1 covered individual shall provide the employer with prior notice of  
2 the **【period of family temporary disability】** leave **【with respect to**  
3 **birth or adoption】** not less than 30 days before the leave  
4 commences, unless it commences while the individual is receiving  
5 unemployment benefits, in which case the covered individual shall  
6 notify the division. The amount of benefits shall be reduced by two  
7 weeks worth of benefits if the individual does not provide notice to  
8 an employer as required by this subsection b., unless the time of the  
9 leave is unforeseeable or the time of the leave changes for  
10 unforeseeable reasons.

11 c. Family temporary disability leave taken because of the birth  
12 or placement for adoption of a child may be taken at any time  
13 within a year after the date of the birth or placement for adoption.  
14 (cf: P.L.2008, c.17, s.12)

15

16 11. Section 13 of P.L.2008, c.17 (C.43:21-39.4) is amended to  
17 read as follows:

18 13. a. The Commissioner of Labor and Workforce Development  
19 shall issue and make available to the public, not later than  
20 December 31, 2010, and each subsequent year, annual reports  
21 providing data on temporary disability benefits, including separate  
22 data for claims involving pregnancy and childbirth, and family  
23 temporary disability benefits, including separate data for each of the  
24 following categories of claims: care of newborn children; care of  
25 newly adopted children; care of sick children; care of sick spouses,  
26 and care of other sick family members. The reports shall include,  
27 for each category of claims, the number of workers receiving the  
28 benefits, the amount of benefits paid, the average duration of  
29 benefits, the average weekly benefit, and, in the case of family  
30 temporary disability benefits, any reported amount of sick leave,  
31 vacation or other fully paid time which resulted in reduced benefit  
32 duration. The report shall provide data by gender and by any other  
33 demographic factors determined to be relevant by the  
34 commissioner. The reports shall also provide, for all temporary  
35 disability benefits and for all family temporary disability benefits,  
36 the total costs of benefits and the total cost of administration, the  
37 portion of benefits for claims during unemployment, and the total  
38 revenues from: employer assessments, where applicable; employee  
39 assessments; and other sources. For each of the reports issued not  
40 later than December 31 of 2019 and each subsequent year, the  
41 report shall also provide: the number of claims for bonding, and  
42 care for family members, broken down by relationship;  
43 demographic information: income, age, gender, ethnicity,  
44 occupation, full or part-time employment status; what portion of the  
45 leave is taken on an intermittent basis; the percentage of bonding  
46 leave applicants who report providing their employer with 50 or  
47 more days of notice of leave-taking; for all claims, the percentage  
48 of employers who reported that the employee will have additional

1 paid time off with the source being the difference between their  
2 regular weekly wages and the maximum benefit provided under  
3 P.L.2008, c.17 (C.43:21-39.1 et al.); and the amount and rate of  
4 contributions, with the amount of the tax base, made by employers  
5 for each of the following: benefits for periods of pregnancy  
6 temporary disability, and benefits for periods of all other disability,  
7 and the amount and rate of contributions, with the amount of the tax  
8 base, made by workers for each of the following: benefits for  
9 periods of pregnancy temporary disability, benefits for periods of  
10 all other disability, and benefits for periods of temporary disability  
11 leave.

12 b. The commissioner may, in his discretion, conduct surveys  
13 and other research regarding, and include in the annual reports  
14 descriptions and evaluations of, the impact and potential future  
15 impact of the provisions of P.L.2008, c.17 (C.43:21-39.1 et al.) on  
16 the State disability benefits fund, and other effects of those  
17 provisions, including the costs and benefits resulting from the  
18 provisions of P.L.2008, c.17 (C.43:21-39.1 et al.) for:

19 (1) Employees and their families, including surveys and  
20 evaluations of: what portion of the total number of employees  
21 taking leave would not have taken leave, or would have taken less  
22 leave, without the availability of benefits; what portion of  
23 employees return to work after receiving benefits and what portion  
24 are not permitted to return to work; and what portion of employees  
25 who are eligible for benefits do not claim or receive them and why  
26 they do not;

27 (2) Employers, including benefits such as reduced training and  
28 other costs related to reduced turnover of personnel, and increased  
29 affordability of family temporary disability leave insurance through  
30 the State plan, with special attention given to small businesses; and

31 (3) The public, including savings caused by any reduction in the  
32 number of people receiving public assistance.

33 c. The total amount of any expenses which the commissioner  
34 determines are necessary to carry out his duties pursuant to this  
35 section shall be charged to the Family Temporary Disability Leave  
36 Account of the State disability benefits fund, except that the amount  
37 shall in no case exceed \$150,000 during any fiscal year.

38 (cf: P.L.2008, c.17, s.13).

39

40 12. Section 16 of P.L.1948, c.110 (C.43:21-40) is amended to  
41 read as follows:

42 16. **【**With respect to periods of disability commencing on or  
43 after July 1, 1961, an individual's weekly benefit amount shall be  
44 determined and computed by the division on the same basis as the  
45 weekly benefit rate is determined and computed pursuant to  
46 subsection (c) of R.S. 43:21-3, except that for **】** a. For periods of  
47 disability commencing on or after October 1, 1984, an individual's  
48 weekly benefit rate shall be two-thirds of his average weekly wage,

1 subject to a maximum of 53% of the Statewide average weekly  
2 remuneration paid to workers by employers, as determined under  
3 subsection (c) of R.S. 43:21-3[; provided, however, that such].  
4 except as provided in subsection b. of this section.

5 b. For periods of disability in cases of pregnancy or recovery  
6 from childbirth commencing on or after July 1, 2019, and for  
7 periods of family temporary disability leave commencing on or  
8 after July 1, 2019, an individual's weekly benefit rate shall be 90%  
9 of the individual's average weekly wage, subject to a maximum of  
10 100% of the Statewide average weekly remuneration paid to  
11 workers by employers.

12 c. Each individual's benefit rate shall be computed to the next  
13 lower multiple of \$1.00 if not already a multiple thereof. The  
14 amount of benefits for each day of disability for which benefits are  
15 payable shall be one-seventh of the corresponding weekly benefit  
16 amount; provided that the total benefits for a fractional part of a  
17 week shall be computed to the next lower multiple of \$1.00 if not  
18 already a multiple thereof.

19 (cf: P.L.1984, c.104, s.3)

20

21 13. (New section) a. The division shall implement disability  
22 insurance goals for the timely determination and payment of  
23 temporary disability benefits and family temporary disability  
24 benefits under the State plan, as follows:

25 (1) for temporary disability benefits, in each calendar year:

26 (a) not less than 40 percent of the original benefit  
27 determinations shall be completed within seven days after the  
28 commencement of the disability, or the receipt of the benefit claims  
29 by the division, whichever is later;

30 (b) not less than 75 percent of the original benefit  
31 determinations shall be completed within 14 days after the  
32 commencement of the disability, or the receipt of the benefit claims  
33 by the division, whichever is later;

34 (c) not less than 85 percent of the original benefit  
35 determinations shall be completed within 21 days after the  
36 commencement of the disability, or the receipt of the benefit claims  
37 by the division, whichever is later; and

38 (d) not less than 90 percent of the original benefit  
39 determinations shall be completed within 28 days after the  
40 commencement of the disability, or the receipt of the benefit claims  
41 by the division, whichever is later; and

42 (2) for family temporary disability benefits, in each calendar  
43 year:

44 (a) not less than 80 percent of the original benefit  
45 determinations shall be completed within seven days after the  
46 commencement of the period of family temporary disability leave,  
47 or the receipt of the benefit claims by the division, whichever is  
48 later;

1 (b) not less than 85 percent of the original benefit  
2 determinations shall be completed within 14 days after the  
3 commencement of the period of family temporary disability leave,  
4 or the receipt of the benefit claims by the division, whichever is  
5 later;

6 (c) not less than 90 percent of the original benefit  
7 determinations shall be completed within 21 days after the  
8 commencement of the period of family temporary disability leave,  
9 or the receipt of the benefit claims by the division, whichever is  
10 later; and

11 (d) not less than 95 percent of the original benefit  
12 determinations shall be completed within 28 days after the  
13 commencement of the period of family temporary disability leave,  
14 or the receipt of the benefit claims by the division, whichever is  
15 later.

16 b. The commissioner shall, not later than September 30 of 2019  
17 and each subsequent year, issue, provide to the Legislature, and  
18 make available to the public on the department's webpage, a report  
19 regarding division efforts in the preceding calendar year to attain  
20 the disability insurance goals set pursuant to this section for  
21 temporary disability benefits, and a report regarding those efforts  
22 for family temporary disability benefits. Each report shall include:

23 (1) the total number of claims and the number and percentage of  
24 original determinations completed within each number of days  
25 specified in the goals set pursuant to this section, and the number  
26 and percentage of original determinations completed within the  
27 following number of days after the receipt of the benefit claims or  
28 the commencement of disability or family temporary disability,  
29 whichever is later: 35 days, 42 days, 49 days and 56 days, and the  
30 number and percentage of original determinations completed more  
31 than 56 days after the receipt of the claims or the commencement of  
32 disability or family temporary disability and the average number of  
33 days to make the determinations for the claims that took more than  
34 56 days;

35 (2) the number and percentage of claims received with  
36 insufficient information, what portion of those claims were because  
37 of failure of claimants to provide sufficient information, what  
38 portion of those claims were because of failures of medical  
39 providers of claimants to provide sufficient information, and what  
40 portion of those claims were because of failures of employers to  
41 provide sufficient information;

42 (3) the number and percentage of claims for which  
43 determinations were delayed because of employer failure to make  
44 the notifications or disclosures to employees and the division within  
45 the amount of time required by subsection (a) of section 25 of  
46 P.L.1948, c.110 (C.43:21-49) or subsections f. or g. of section 10 of  
47 P.L.2008, c.17 (C.43:21-39.1), the number of complaints received  
48 related to employer noncompliance with those requirements, and

1 the number of employers which have been, because of the failures,  
2 required, pursuant to section 31 of P.L.1948, c.110 (C.43:21-55), to  
3 pay fines or penalties to the division or added amounts to claimants,  
4 the total amount of payments to the division, and the total amount  
5 of payments to claimants;

6 (4) the number of personnel in the division and the budgeted  
7 cost of salaries and benefits for those personnel; the number of  
8 personnel who are processing family temporary disability benefit  
9 claims, the number processing other temporary disability claims,  
10 and the budgeted cost of salaries and benefits for those personnel;  
11 what percentage of total division administrative costs is comprised  
12 of those categories of personnel costs; and a comparison of total  
13 division administrative costs to the maximum amount permitted to  
14 be expended for those division administrative costs pursuant to  
15 section 22 of P.L.1948, c.110 (C.43:21-46); and

16 (5) if any of the disability insurance goals set pursuant to this  
17 section were not attained during the year, the report shall provide an  
18 evaluation of the causes of the deficiencies and a plan to correct  
19 them and that plan shall include:

20 (a) any increase in personnel needed to process claims;

21 (b) any measures needed to enforce notification and reporting  
22 requirements;

23 (c) any measures needed to inform employers and employees of  
24 their responsibilities to facilitate the timely provision of benefits;  
25 and

26 (d) any improvements needed in data processing and other  
27 administrative services and equipment.

28 The plan shall specify any added costs entailed in implementing  
29 the plan, which shall be regarded as costs of administration of  
30 family temporary disability benefits, and shall specify the amount  
31 of any resulting increase in the estimate made pursuant to  
32 R.S.43:21-7(d)(1)(G)(i), (ii), and (iii) of the amount needed to  
33 provide 100 percent of the cost of administration of family  
34 temporary disability benefits.

35 The commissioner shall use that increased estimate in setting the  
36 rate of contributions pursuant to those subsections, except that the  
37 increase may not result in the total amount credited to those  
38 administrative costs exceeding the maximum amount permitted  
39 pursuant to subsection (a) of section 22 of P.L.1948, c.110  
40 (C.43:21-46).

41 c. (1) The division shall, during each calendar year beginning  
42 with 2019, allocate not less than \$1,200,000 to disseminate  
43 information about the rights and responsibilities of employers and  
44 employees regarding temporary disability benefits and family  
45 temporary disability benefits by means of programs of educational  
46 outreach in communities and workplaces. Of that allocation, not  
47 less than \$600,000 shall be used by the division to enter into  
48 contracts with community-based organizations to disseminate

1 information to workers regarding temporary disability benefits and  
2 family temporary disability benefits. That allocation shall be  
3 regarded as a cost of administration of temporary disability and  
4 family temporary disability benefits and be charged to the  
5 administration account of the State disability benefit fund. Of the  
6 costs charged to the administration account of the State disability  
7 benefit fund pursuant to this subsection, the percentage which is  
8 charged to the Family Temporary Disability Leave Account shall be  
9 equal to the percentage that family temporary disability benefits  
10 represents of all temporary disability benefits paid from the State  
11 disability benefits fund during the preceding calendar year. The  
12 allocation made pursuant to this subsection, including any  
13 adjustments in the allocation specified in the plan provided pursuant  
14 to paragraph (2) of this subsection, shall not result in the total  
15 amount credited to administrative costs exceeding the maximum  
16 amount permitted pursuant to subsection (a) of section 22 of  
17 P.L.1948, c.110 (C.43:21-46).

18 (2) The commissioner shall, not later than September 30 of 2019  
19 and September 30 of each subsequent year, issue, provide to the  
20 Legislature, and make available to the public on the department's  
21 webpage, a report regarding efforts made during the preceding  
22 calendar year by the division and by community-based  
23 organizations to disseminate information about the rights and  
24 responsibilities of employers and employees regarding temporary  
25 disability and family temporary disability benefits. Each report  
26 shall include, for that preceding calendar year:

27 (a) an accounting of all funds allocated pursuant to this  
28 subsection and all expenditures made from those funds by the  
29 division and each community-based organization entering into  
30 contracts with the division pursuant to this subsection, and  
31 estimates of the number of employers and the number of workers to  
32 which the information was disseminated;

33 (b) an estimate of the number of workers who were eligible for  
34 temporary disability and family temporary disability benefits and  
35 what percentage of those workers received those benefits, including  
36 an assessment of whatever progress was made to increase that  
37 percentage; and

38 (c) a plan to increase the percentage of workers who are aware  
39 of the benefits which specifies the amounts to be allocated to the  
40 division and community-based organizations for the purposes of  
41 this subsection during the subsequent calendar year, provided that  
42 the amounts specified shall not be less than or more than the  
43 minimum and maximum amounts indicated in paragraph (1) of this  
44 subsection.

45

46 14. Section 31 of P.L.1948, c.110 (C.43:21-55) is amended to  
47 read as follows:

1       31. Penalties. (a) Whoever makes a false statement or  
2 representation knowing it to be false or knowingly fails to disclose  
3 a material fact, and each such false statement or representation or  
4 failure to disclose a material fact shall constitute a separate offense,  
5 to obtain or increase any disability benefit under the State plan or  
6 an approved private plan, or for a disability during unemployment,  
7 including any benefit during a period of family temporary disability  
8 leave, either for himself or for any other person, shall be liable for a  
9 fine of \$250 to be paid to the division. Upon refusal to pay such  
10 fine, the same shall be recovered in a civil action by the division in  
11 the name of the State of New Jersey. If in any case liability for the  
12 payment of a fine as aforesaid shall be determined, any person who  
13 shall have received any benefits hereunder by reason of the making  
14 of such false statements or representations or failure to disclose a  
15 material fact, shall not be entitled to any benefits under this act for  
16 any disability occurring prior to the time he shall have discharged  
17 his liability hereunder to pay such fine.

18       (b) Any employer or any officer or agent of any employer or  
19 any other person who makes a false statement or representation  
20 knowing it to be false or knowingly fails to disclose a material fact,  
21 to prevent or reduce the benefits to any person entitled thereto, or to  
22 avoid becoming or remaining subject hereto or to avoid or reduce  
23 any contribution or other payment required from an employer under  
24 this act, or who willfully fails or refuses to make any such  
25 contributions or other payment or to furnish any reports required  
26 hereunder or to produce or permit the inspection or copying of  
27 records as required hereunder, or who fails to provide any  
28 notification or disclosure to the division or the employee required  
29 by subsection (a) of section 25 of P.L.1948, c.110 (C.43:21-49) or  
30 subsections f. or g. of section 10 of P.L.2008, c.17 (C.43:21-39.1) at  
31 the time and in the manner required by those sections, including  
32 disclosure of the information the division requires for the  
33 processing of a claim, shall be liable for a fine of \$250 to be paid to  
34 the division, and, if a failure of an employer to provide the  
35 notification or disclosure to the division or the employee results in a  
36 delay in the payment of benefits, the employer shall also be liable  
37 for an added amount, to be paid to the claimant, equal to the  
38 benefits due from the time that the employer was required to  
39 provide the notification or disclosure until the time that the benefit  
40 payments commenced. Upon refusal to pay such fine or added  
41 payments to a claimant, the same shall be recovered in a civil action  
42 by the division in the name of the State of New Jersey.

43       (c) Any person who shall willfully violate any provision hereof  
44 or any rule or regulation made hereunder, for which a fine is neither  
45 prescribed herein nor provided by any other applicable statute, shall  
46 be liable to a fine of \$500 to be paid to the division. Upon the  
47 refusal to pay such fine, the same shall be recovered in a civil

1 action by the division in the name of the State of New Jersey.

2 (d) Any person, employing unit, employer or entity violating  
3 any of the provisions of the above subsections with intent to  
4 defraud the division shall in addition to the penalties hereinbefore  
5 described, be liable for each offense upon conviction before the  
6 Superior Court or any municipal court for a fine not to exceed  
7 \$1,000 or by imprisonment for a term not to exceed ninety days, or  
8 both, at the discretion of the court. The fine upon conviction shall  
9 be payable to the State disability benefits fund of the division. Any  
10 penalties imposed by this subsection shall be in addition to those  
11 otherwise prescribed in this chapter (R.S.43:21-1 et seq.).

12 (e) Any sum collected as a fine or penalty pursuant to this  
13 section shall be deposited in the administration account of the State  
14 disability benefits fund and applied toward enforcement and other  
15 administrative costs of the division.

16 (cf: P.L.2008, c.17, s.8)

17

18 15. (New section) a. An employer shall not discharge, harass,  
19 threaten, or otherwise discriminate or retaliate against an employee  
20 with respect to the compensation, terms, conditions, or privileges of  
21 employment on the basis that the employee requested or took any  
22 temporary disability benefits pursuant to P.L.1948, c.110 (C.43:21-  
23 25 et al.), or family temporary disability leave benefits pursuant to  
24 P.L.2008, c.17 (C.43:21-39.1 et al.), provided that, pursuant to  
25 section 2 of P.L.1948, c.110 (C.43:21-26), nothing in this section or  
26 any other section of P.L.1948, c.110 (C.43:21-25 et al.) or  
27 P.L.2008, c.17 (C.43:21-39.1 et al.) shall be construed as  
28 increasing, reducing or otherwise modifying any entitlement  
29 provided to a worker by the provisions of the "Family Leave Act,"  
30 P.L.1989, c.261 (C.34:11B-1 et seq.) to be restored to employment  
31 by the employer after a period of family temporary disability leave.

32 b. Upon a violation of subsection a. of this section, an  
33 employee or former employee may institute a civil action in the  
34 Superior Court for relief. All remedies available in common law  
35 tort actions shall be available to a prevailing plaintiff. The court  
36 may also order any or all of the following relief:

37 (1) an assessment of a civil fine of not less than \$1,000 and not  
38 more than \$2,000 for the first violation of any of the provisions of  
39 this section and not more than \$5,000 for each subsequent violation;

40 (2) an injunction to restrain the continued violation of any of the  
41 provisions of this section;

42 (3) reinstatement of the employee to the same position or to a  
43 position equivalent to that which the employee held prior to  
44 unlawful discharge or retaliatory action;

45 (4) reinstatement of full fringe benefits and seniority rights;

46 (5) compensation for any lost wages, benefits and other  
47 remuneration; and

48 (6) payment of reasonable costs and attorney's fees.



1       16. This act shall take effect on the first day of the third month  
2 next following enactment.

3

4

#### STATEMENT

5

6       This bill revises the laws concerning family leave, pregnancy  
7 temporary disability leave, family temporary disability leave, and  
8 domestic or sexual violence safety leave.

9       The bill expands the maximum total benefits payable to any  
10 eligible individual for periods of family temporary disability leave  
11 (often referred to as family leave insurance, or “FLI”) and periods  
12 of disability covered under Temporary Disability Insurance (“TDI”)  
13 related to pregnancy and recovery from childbirth. The bill also  
14 increases the maximum length of time for which FLI benefits will  
15 be paid from six to 12 weeks during any 12-month period. In cases  
16 of intermittent leave, the maximum FLI leave is increased from 42  
17 days to 84 days. The bill increases the amount of weekly benefits  
18 for FLI leave and TDI pregnancy leave from two-thirds of a  
19 claimant’s average weekly wage to 90 percent of that wage, subject  
20 to a maximum amount, which the bill increases from 53 percent of  
21 the State average weekly wage (“SAWW”) for all workers to 100  
22 percent of the SAWW. The bill provides that the costs of all of  
23 those increases in benefits will be borne exclusively through  
24 increases in worker contributions, without any increases in  
25 employer contribution rates.

26       The bill expands the family members for whom individuals  
27 covered under the FLI law may receive paid benefits during periods  
28 of leave from employment to care for to include siblings,  
29 grandparents, grandchildren, parents-in-law, and others related by  
30 blood or relationship equivalent to a family relationship, and  
31 expands the “Family Leave Act” (“FLA”) and the “NJ SAFE Act”  
32 to include the same groups. The bill provides that FLI benefits may  
33 be taken by a covered individual while taking time off from work,  
34 pursuant to the NJ SAFE Act, to assist a family member who is a  
35 victim of domestic or sexual violence.

36       The bill amends the FLA and the FLI law to provide an  
37 employee who becomes a parent of a child pursuant to a gestational  
38 carrier agreement with the same rights to unpaid and paid family  
39 leave as those laws currently provide to an employee who is a  
40 parent of a newborn child.

41       The bill provides that FLI benefits with respect to a birth or  
42 adoption may be taken on an intermittent basis, if the individual  
43 provides the employer with prior notice not less than 15 days before  
44 the first day on which benefits are paid, unless unforeseen  
45 circumstances preclude prior notice. The individual must make a  
46 reasonable effort to schedule the leave to not disrupt employer  
47 operations and, if possible, to provide a regular schedule of the  
48 days, days of the week, or weeks of the intermittent leave.

1       The bill provides that an employer may not retaliate against an  
2 employee with respect to the compensation, terms, conditions, or  
3 privileges of employment on the basis that the employee took or  
4 requested any TDI or FLI benefits, except that not reinstating an  
5 employee after a period of FLI benefits is not to be regarded as  
6 retaliation in the case of an employer who is exempt from the FLA  
7 because the employer has less than 30 employees. The bill provides  
8 various remedies in cases of such retaliation, and applies existing  
9 penalties of the TDI law to employers who fail to provide the  
10 notifications and disclosures at the time and in the manner required  
11 by the TDI and FLI laws. If the failure causes a delay in benefit  
12 payments, the employer is required to pay the claimant an added  
13 amount equal to the benefits due from the time that the notification  
14 or disclosure was required until the benefit payments commence.

15       The bill also requires the division to implement goals for the  
16 timely determination and payment of TDI and FLI benefits. For  
17 TDI benefit claims, the goals specified by the bill set minimum  
18 percentages of initial claims to be completed within specified time  
19 spans as follows: 40 percent within seven days, 75 percent within  
20 14 days, 85 percent within 21 days, and 90 percent within 28 days.  
21 For FLI benefit claims, the goals specified by the bill set the  
22 minimum percentages at 80 percent within seven days, 85 percent  
23 within 14 days, 90 percent within 21 days, and 95 percent within 28  
24 days.

25       The bill requires the issuing of annual reports regarding efforts to  
26 attain those goals. Each report is required to include data  
27 regarding: claims completed within the stated goal periods; claims  
28 received with insufficient information causing delays in benefit  
29 payment and any related fines, penalties or payments to claimants;  
30 personnel processing TDI and FLI claims and related administrative  
31 costs; along with an evaluation of the causes of any failures to meet  
32 the goals, and a plan to correct them, including any needed increase  
33 in personnel, any enforcement or educational measures, or  
34 improvements in data processing and other administrative services  
35 and equipment. The plans should specify any increase needed to  
36 implement the plan in the estimate made pursuant to the TDI and  
37 FLI laws of the amounts needed to provide the cost of  
38 administration of TDI and FLI benefits. The commissioner is  
39 required to use that increased estimate in setting the rate of TDI and  
40 FLI worker taxes. The bill allocates \$1.2 million to education and  
41 outreach efforts for the programs, of which not less than \$600,000  
42 would be allocated to contracts with community-based  
43 organizations.

44       The bill directs the department to disseminate information about  
45 the rights and responsibilities of employers and employees  
46 regarding family temporary disability benefits, and allows it to  
47 contract with community-based organizations to assist.

# SENATE LABOR COMMITTEE

## STATEMENT TO

### SENATE, No. 2528

# STATE OF NEW JERSEY

DATED: MAY 10, 2018

The Senate Labor Committee reports favorably Senate Bill No. 2528.

This bill revises the laws concerning family leave, pregnancy temporary disability leave, family temporary disability leave, and domestic or sexual violence safety leave.

The bill expands the maximum total benefits payable to any eligible individual for periods of family temporary disability leave (also referred to as family leave insurance, or “FLI”) and periods of disability covered under Temporary Disability Insurance (“TDI”) related to pregnancy and recovery from childbirth. The bill also increases the maximum length of time for which FLI benefits will be paid from six to 12 weeks during any 12-month period. In cases of intermittent leave, the maximum FLI leave is increased from 42 days to 84 days. The bill increases the amount of weekly benefits for FLI leave and TDI pregnancy leave from two-thirds of a claimant’s average weekly wage to 90 percent of that wage, subject to a maximum amount, which the bill increases from 53 percent of the State average weekly wage (“SAWW”) for all workers to 100 percent of the SAWW. The bill provides that the costs of all of those increases in benefits will be borne exclusively through increases in worker contributions, without any increases in employer contribution rates.

The bill expands the family members for whom individuals covered under the FLI law may receive paid benefits during periods of leave from employment to care for to include siblings, grandparents, grandchildren, parents-in-law, and others related by blood or relationship equivalent to a family relationship, and expands expands the “Family Leave Act” (“FLA”) and the “NJ SAFE Act” to include the same groups. The bill provides that FLI benefits may be taken by a covered individual while taking time off from work, pursuant to the NJ SAFE Act, to assist a family member who is a victim of domestic or sexual violence.

The bill amends the FLA and the FLI law to provide an employee who becomes a parent of a child pursuant to a gestational carrier agreement with the same rights to unpaid and paid family leave as those laws currently provide to an employee who is a parent of a newborn or newly adopted child.

The bill provides that FLI benefits with respect to a birth or adoption may be taken on an intermittent basis, if the individual provides the employer with prior notice not less than 15 days before the first day on which benefits are paid, unless unforeseen circumstances preclude prior notice. The individual must make a reasonable effort to schedule the leave to not disrupt employer operations and, if possible, to provide a regular schedule of the days, days of the week, or weeks of the intermittent leave.

The bill provides that an employer may not retaliate against an employee with respect to the compensation, terms, conditions, or privileges of employment on the basis that the employee took or requested any TDI or FLI benefits, except that not reinstating an employee after a period of FLI benefits is not be regarded as retaliation in the case of an employer who is exempt from the FLA because the employer has less than 30 employees. The bill provides various remedies in cases of such retaliation, and applies existing penalties of the TDI law to employers who fail to provide the notifications and disclosures at the time and in the manner required by the TDI and FLI laws. If the failure causes a delay in benefit payments, the employer is required to pay the claimant an added amount equal to the benefits due from the time that the notification or disclosure was required until the benefit payments commence.

The bill also requires the division to implement goals for the timely determination and payment of TDI and FLI benefits. For TDI benefit claims, the goals specified by the bill set minimum percentages of initial claims to be completed within specified time spans as follows: 40 percent within seven days, 75 percent within 14 days, 85 percent within 21 days, and 90 percent within 28 days. For FLI benefit claims, the goals specified by the bill set the minimum percentages at 80 percent within seven days, 85 percent within 14 days, 90 percent within 21 days, and 95 percent within 28 days.

The bill requires the issuing of annual reports regarding efforts to attain those goals. Each report is required to include data regarding: claims completed within the stated goal periods; claims received with insufficient information causing delays in benefit payment and any related fines, penalties or payments to claimants; personnel processing TDI and FLI claims and related administrative costs; along with an evaluation of the causes of any failures to meet the goals, and a plan to correct them, including any needed increase in personnel, any enforcement or educational measures, or improvements in data processing and other administrative services and equipment. The plans should specify any increase needed to implement the plan in the estimate made pursuant to the TDI and FLI laws of the amounts needed to provide the cost of administration of TDI and FLI benefits. The commissioner is required to use that increased estimate in setting the rate of TDI and FLI worker taxes. The bill allocates \$1.2 million to education and outreach efforts for the programs, of which not less

than \$600,000 would be allocated to contracts with community-based organizations.

The bill directs the department to disseminate information about the rights and responsibilities of employers and employees regarding family temporary disability benefits, and allows it to contract with community-based organizations to assist.

# SENATE BUDGET AND APPROPRIATIONS COMMITTEE

## STATEMENT TO

### **SENATE, No. 2528**

with committee amendments

# **STATE OF NEW JERSEY**

DATED: OCTOBER 22, 2018

The Senate Budget and Appropriations Committee reports favorably Senate Bill, No. 2528, with committee amendments.

As amended, this bill revises the laws concerning family leave, pregnancy temporary disability leave, family temporary disability leave, and domestic or sexual violence safety leave.

The bill expands the maximum total benefits payable to any eligible individual for periods of family temporary disability leave (often referred to as family leave insurance, or “FLI”) and periods of disability covered under Temporary Disability Insurance (“TDI”) related to pregnancy and recovery from childbirth. The bill also increases the maximum length of time for which FLI benefits will be paid from six to 12 weeks during any 12-month period. In cases of intermittent leave, the maximum FLI leave is increased from 42 days to 52 days. The bill increases the amount of weekly benefits for FLI leave and other TDI claims from two-thirds of a claimant’s average weekly wage to 85 percent of that wage, subject to a maximum amount, which the bill increases from 53 percent of the State average weekly wage (“SAWW”) for all workers to 70 percent of the SAWW. The bill provides that the costs of all of these increases in benefits will be borne exclusively through increases in worker contributions, without any increases in employer contribution rates.

The bill eliminates the one-week waiting period before the payment of FLI benefits. The bill permits a worker with more than one employer to receive FLI benefits for leave taken from one employer while continuing other employment if the worker does not increase the amount of the other employment during the leave.

The bill expands the family members for whom individuals covered under the FLI law may receive paid benefits to care for to include siblings, grandparents, grandchildren, parents-in-law, and others related by blood or in a relationship equivalent to a family relationship, and expands the “Family Leave Act” (“FLA”) and the “NJ SAFE Act” to include the same groups. The bill provides that FLI benefits may be taken by a covered individual while taking time off from work, pursuant to the NJ SAFE Act, to assist a family member who is a victim of domestic or sexual violence.

The bill provides FLI benefits to a worker providing care for an individual whose close association is the equivalent of a family relationship, but requires the worker to give evidence of that association

The bill extends FLA protections to domestic partners and to individuals who take FLI benefits on an intermittent basis, including in cases of placement in foster care and care of newborn and newly adopted children.

The bill amends the FLA and the FLI law to provide an employee who becomes a parent of a child pursuant to a gestational carrier agreement with the same rights to unpaid and paid family leave as those laws currently provided to a parent of a newborn child.

The bill provides that FLI benefits, with FLA protections, in cases of birth, placement in foster care, or adoption may be taken on an intermittent basis, if the individual provides the employer with prior notice at least 15 days before the first day on which benefits are paid, unless unforeseen circumstances preclude prior notice. The individual must make a reasonable effort to schedule the leave to not disrupt employer operations and, if possible, to provide a regular schedule of the intermittent leave.

The bill limits to two weeks the amount of accrued sick leave that certain public employees may be required to use before receiving TDI benefits, with the further limitation that they may not be required to use their last week of accrued sick leave before receiving TDI benefits.

The bill provides that an employer may not retaliate against an employee with respect to the compensation, terms, conditions, or privileges of employment on the basis that the employee took or requested any TDI or FLI benefits, including retaliation by not reinstating the employee after leave, except that not reinstating an employee after a period of FLI benefits is not to be regarded as retaliation in the case of an employer who is exempt from the FLA because the employer has less than 30 employees. The bill provides various remedies in cases of such retaliation, and applies existing penalties of the TDI law to employers who fail to provide the notifications and disclosures at the time and in the manner required by the TDI and FLI laws.

The bill also requires the division to implement goals for the timely determination and payment of TDI and FLI benefits. For TDI benefit claims, the goals specified by the bill set minimum percentages of initial claims to be completed within specified time spans as follows: 40 percent within seven days, 75 percent within 14 days, 85 percent within 21 days, and 90 percent within 28 days. For FLI benefit claims, the goals specified by the bill set the minimum percentages at 80 percent within seven days, 85 percent within 14 days, 90 percent within 21 days, and 95 percent within 28 days.

The bill requires the issuing of annual reports regarding efforts to attain these goals. Each report is required to include data regarding:

claims completed within the stated goal periods; claims received with insufficient information causing delays in benefit payment and any related fines or penalties; personnel processing TDI and FLI claims; and related administrative costs. Each report must also include an evaluation of the causes of any failures to meet the goals, and a plan to correct them, including any needed increase in personnel, any enforcement or educational measures, or improvements in data processing and other administrative services and equipment. The plans should specify any increase needed to implement the plan and the commissioner is required to use that estimate in setting the rate of TDI and FLI worker taxes. The bill allocates \$1.2 million to education and outreach efforts for the programs, of which not less than \$600,000 is allocated to contracts with community-based organizations, to assist in disseminating information about the rights and responsibilities of employers and employees regarding FLI benefits.

The bill requires the division to permit applications for approval of TDI or FLI private plans to be submitted electronically, including by means of electronic signatures.

The bill enables the department to process claims more rapidly by calculating eligibility for, and the amount of, benefits by using wage data for base years similar to those used for unemployment benefits, instead of data from the last 52 weeks before the disability. The bill amends current law to delay, from January 1, 2019 to October 4, 2019, the date on which TDI and FLI claims may be filed before benefits commence in cases in which the beginning of the benefit period is predictable, such as childbirth or scheduled surgery.

The bill specifies that the limit on the administration expenses for the TDI and FLI programs of 0.1% is applied to the current TDI tax base, not on the bill's new FLI tax base, and permits the division to use expedited methods in obtaining outside contractors to assist in implementing the provisions of the bill.

#### COMMITTEE AMENDMENTS:

The amendments adopted by the committee:

1. Extend FLA protections to individuals to take FLI benefits on an intermittent basis, including in cases of placement in foster care and care of newborn and newly adopted children;
2. Extend FLA protections to domestic partners;
3. Specify that, when benefits are provided to a worker providing care for an individual whose close association is equivalent to a family relationship, the worker must give evidence of that association;
4. Reduce the maximum number of days of intermittent FLI leave from 84 days in the bill as introduced to 52 days;
5. Eliminate the one-week waiting period before the payment of FLI benefits;
6. Permit a worker with more than one employer to receive FLI benefits for leave taken from one employer while continuing other



employment so long as the worker does not increase the amount of any other employment during the time of leave;

7. Reduce weekly TDI and FLI benefit rates from 90% to 85% of a workers' average wage and reduce the maximum weekly benefit from 100% to 70% of the State average weekly wage;

8. Make the increased weekly benefits available in all TDI claims, not just pregnancy and childbirth-related claims;

9. Limit to two weeks the amount of accrued sick leave certain public employees may be required to use before receiving TDI benefits, with the further limitation that they may not be required to use their last week of accrued sick leave before receiving TDI benefits;

10. Require the division to permit applications for approval of TDI or FLI private plans to be submitted by means of electronic communication, including the use of an electronic signatures;

11. Permit the department to process claims more rapidly by calculating eligibility for, and the amount of, benefits by using wage data for base years similar to those used for unemployment benefits, instead of data from the last 52 weeks before the disability;

12. Amend the current law to delay, from January 1, 2019 to October 4, 2019, the date on which TDI and FLI claims may be filed before benefits commence in cases in which the beginning of the benefit period is predictable, such as childbirth or scheduled surgery;

13. Specify that the limit on the administration expenses for the TDI and FLI programs of 0.1% is applied to the current TDI tax base, not on the bill's new FLI tax base; and

14. Permit the department to used expedited methods in obtaining outside contractors to assist in implementing the provisions of the bill.

#### FISCAL IMPACT:

The Office of Legislative Services (OLS) estimates that the bill will result in a significant annual increase in State Disability Benefits Fund (SDBF) revenue collections and expenditures.

The OLS estimates that SDBF expenditures will rise due to an increase in the payment of FLI and TDI benefits in case of pregnancy and recovery from childbirth, as well as a potential increase in benefit users.

The OLS notes that the Department of Labor and Workforce Development may incur indeterminate costs associated with certain reporting and other administrative requirements under the bill.

The OLS further notes that the bill may result in an indeterminate annual increase in State revenue due to the collection of penalties from employers who fail to provide the department with certain information regarding an employee's claim.

# SENATE BUDGET AND APPROPRIATIONS COMMITTEE

## STATEMENT TO

[Second Reprint]

## SENATE, No. 2528

with committee amendments

# STATE OF NEW JERSEY

DATED: JANUARY 28, 2019

The Senate Budget and Appropriations Committee reports favorably and with committee amendments, Senate Bill No. 2528 (2R).

This bill, as amended, revises the laws concerning family leave, pregnancy temporary disability leave, family temporary disability leave, and domestic or sexual violence safety leave.

The bill expands the maximum total benefits payable to any eligible individual for periods of family temporary disability leave (often referred to as family leave insurance, or “FLI”) and periods of disability covered under Temporary Disability Insurance (“TDI”) related to pregnancy and recovery from childbirth. The bill also increases the maximum length of time for which FLI benefits will be paid from six to 12 weeks during any 12-month period. In cases of intermittent leave, the maximum FLI leave is increased from 42 days to 56 days. The bill increases the amount of weekly benefits for FLI leave and other TDI claims from two-thirds of a claimant’s average weekly wage to 85 percent of that wage, subject to a maximum amount, which the bill increases from 53 percent of the State average weekly wage (“SAWW”) for all workers to 70 percent of the SAWW. The bill provides that the costs of all of these increases in benefits will be borne exclusively through increases in worker contributions, without any increases in employer contribution rates.

The bill eliminates the one-week waiting period before the payment of FLI benefits. The bill permits a worker with more than one employer to receive FLI benefits for leave taken from one employer while continuing other employment if the worker does not increase the amount of the other employment during the leave.

The bill expands the family members for whom individuals covered under the FLI law may receive paid benefits to care for to include siblings, grandparents, grandchildren, parents-in-law, and others related by blood or in a relationship equivalent to a family relationship, and expands the “Family Leave Act” (“FLA”) and the “NJ SAFE Act” to include the same groups. The bill provides that FLI benefits may be taken by a covered individual while taking time off

from work, pursuant to the NJ SAFE Act, to assist a family member who is a victim of domestic or sexual violence.

The bill provides FLI benefits to a worker providing care for an individual whose close association is the equivalent of a family relationship, but requires the worker to give evidence of that association

The bill extends FLA protections to domestic partners and to individuals who take FLI benefits on an intermittent basis, including in cases of placement in foster care and care of newborn and newly adopted children.

The bill amends the FLA and the FLI law to provide an employee who becomes a parent of a child pursuant to a gestational carrier agreement with the same rights to unpaid and paid family leave as those laws currently provided to a parent of a newborn child.

The bill provides that FLI benefits, with FLA protections, in cases of birth, placement in foster care, or adoption may be taken on an intermittent basis, if the individual provides the employer with prior notice at least 15 days before the first day on which benefits are paid, unless unforeseen circumstances preclude prior notice. The individual must make a reasonable effort to schedule the leave to not disrupt employer operations and, if possible, to provide a regular schedule of the intermittent leave.

The bill limits to two weeks the amount of accrued sick leave that certain public employees may be required to use before receiving TDI benefits, with the further limitation that they may not be required to use their last week of accrued sick leave before receiving TDI benefits.

The bill provides that an employer may not retaliate against an employee with respect to the compensation, terms, conditions, or privileges of employment on the basis that the employee took or requested any TDI or FLI benefits, including retaliation by not reinstating the employee after leave, except that not reinstating an employee after a period of FLI benefits is not to be regarded as retaliation in the case of an employer who is exempt from the FLA because the employer has less than 30 employees. The bill provides various remedies in cases of such retaliation, and applies existing penalties of the TDI law to employers who fail to provide the notifications and disclosures at the time and in the manner required by the TDI and FLI laws.

The bill also requires the division to implement goals for the timely determination and payment of TDI and FLI benefits. For TDI benefit claims, the goals specified by the bill set minimum percentages of initial claims to be completed within specified time spans as follows: 40 percent within seven days, 75 percent within 14 days, 85 percent within 21 days, and 90 percent within 28 days. For FLI benefit claims, the goals specified by the bill set the minimum percentages at 80 percent within seven days, 85 percent within 14 days, 90 percent within 21 days, and 95 percent within 28 days.

The bill requires the issuing of annual reports regarding efforts to attain these goals. Each report is required to include data regarding: claims completed within the stated goal periods; claims received with insufficient information causing delays in benefit payment and any related fines or penalties; personnel processing TDI and FLI claims; and related administrative costs. Each report must also include an evaluation of the causes of any failures to meet the goals, and a plan to correct them, including any needed increase in personnel, any enforcement or educational measures, or improvements in data processing and other administrative services and equipment. The plans should specify any increase needed to implement the plan and the commissioner is required to use that estimate in setting the rate of TDI and FLI worker taxes. The bill allocates \$1.2 million to education and outreach efforts for the programs, of which not less than \$600,000 is allocated to contracts with community-based organizations, to assist in disseminating information about the rights and responsibilities of employers and employees regarding FLI benefits.

The bill requires the division to permit applications for approval of TDI or FLI private plans to be submitted electronically, including by means of electronic signatures.

The bill enables the department to process claims more rapidly by calculating eligibility for, and the amount of, benefits by using wage data for base years similar to those used for unemployment benefits, instead of data from the last 52 weeks before the disability. The bill amends current law to delay, from January 1, 2019 to October 4, 2019, the date on which TDI and FLI claims may be filed before benefits commence in cases in which the beginning of the benefit period is predictable, such as childbirth or scheduled surgery.

The bill specifies that the limit on the administration expenses for the TDI and FLI programs of 0.1% is applied to the current TDI tax base, not on the bill's new FLI tax base, and permits the division to use expedited methods in obtaining outside contractors to assist in implementing the provisions of the bill.

#### COMMITTEE AMENDMENTS:

The amendments:

1. Make the bill effective immediately upon enactment, and change certain dates in the text of the bill to reflect this revised effective date.
2. Change the date on which employers become subject to certain provisions of the law from December 31, 2018 to June 30, 2019.
3. Clarifies that employees foreseeing need for FLI due to placement of a child into foster care must provide prior notice to their employers
4. Increase the maximum number of days of intermittent FLI leave from 52 days to 56 days.

5. Clarify that any repayments of overpayments of TDI may be waived, but such repayments must be waived if the individual is deceased or permanently disabled.

FISCAL IMPACT:

The Office of Legislative Services (OLS) estimates that the bill, once its changes in benefits and taxes are fully phased in starting in calendar year (CY) 2022, will result in an annual increase in State Disability Benefits Fund (SDBF) revenue collections and expenditures ranging from \$278.2 million to \$364.5 million, including \$277.0 million to \$363.3 million for expanded family leave insurance (FLI) and temporary disability insurance (TDI) benefits and \$1.2 million for increased administrative costs. The OLS notes that, starting in the second year following implementation, the bill may increase the Department of Labor and Workforce Development's (DOLWD) administrative costs further due to fulfilling the requirements regarding the timely determination and payment of benefits and the production of certain annual reports.

The FLI and TDI benefit expansion will take effect on July 1, 2020. As a result, the OLS projects that CY 2020 expenditure and revenue increases will equal 50 percent of the estimated full-year impacts.

The estimated CY 2020 and CY 2021 revenue increases include the build-up of SDBF reserves for the additional FLI and TDI benefit payments, as required by existing statutes.

The OLS notes that employees will pay for the entire cost of the bill through increases in employee FLI and TDI wage tax assessments.

STATEMENT TO  
[First Reprint]  
**SENATE, No. 2528**

with Senate Floor Amendments  
(Proposed by Senator SWEENEY)

ADOPTED: OCTOBER 29, 2018

These amendments, in cases of employees who are not subject to a collective bargaining agreement, remove the current provision of the "Temporary Disability Benefits Law," P.L.1948, c.110 (C.43:21-25 et seq.) that provides that, if employees are required to contribute toward the cost of disability benefits, the employer is not permitted to establish a private plan which replaces the State plan unless a majority of the affected employees agree in a written election to that replacement. The current requirement of agreement by a majority of employees would continue to apply in cases where the employees are subject to a collective bargaining agreement, unless the collective bargaining agreement expressly waives the employees' right to a majority election as a condition for the private plan. The amendments also set requirements for notification to employees by employers of the benefits provided by a private plan.

The amendments change the years in which \$1.2 million is allocated for the dissemination of program information from calendar years to fiscal years, so that the allocation will commence on July 1, 2019, instead of January 1, 2019.

In addition, the amendments make clarifications regarding when changes required by the bill in the data are to be included in the department's annual reports on the FLI and TDI programs, and regarding the intent of the bill that the report include data on the State plan and private plans based on data which private plans are currently required by regulation to provide to the division.

Finally, the amendments increase the maximum amount of wages which are subject to employee TDI and FLI contributions from 52 to 107 times the State average weekly wage, which would make the TDI and FLI tax bases approximately equal to the federal Social Security tax base.

# LEGISLATIVE FISCAL ESTIMATE

[Second Reprint]

## SENATE, No. 2528

### STATE OF NEW JERSEY 218th LEGISLATURE

DATED: JANUARY 29, 2019

#### SUMMARY

- Synopsis:** Revises law concerning family leave, temporary disability and family temporary disability leave, and domestic or sexual violence safety leave.
- Type of Impact:** Annual expenditure and revenue increases to the State Disability Benefits Fund.
- Agencies Affected:** Department of Labor and Workforce Development.

#### Office of Legislative Services Estimate

<b>Fiscal Impact</b>	<b><u>CY 2020</u></b>	<b><u>CY 2021</u></b>	<b><u>CY 2022</u></b>
<b>State Expenditure Increase</b>	\$139,700,000 to \$182,800,000	\$278,200,000 to \$364,500,000	\$278,200,000 to \$364,500,000
<b>State Revenue Increase</b>	\$171,200,000 to \$225,100,000	\$309,700,000 to \$406,800,000	\$278,200,000 to \$364,500,000

- The Office of Legislative Services (OLS) estimates that the bill, once its changes in benefits and taxes are fully phased in starting in calendar year (CY) 2022, will result in an annual increase in State Disability Benefits Fund (SDBF) revenue collections and expenditures ranging from \$278.2 million to \$364.5 million, including \$277.0 million to \$363.3 million for expanded family leave insurance (FLI) and temporary disability insurance (TDI) benefits and \$1.2 million for increased administrative costs. The OLS notes that, starting in the second year following implementation, the bill may increase the Department of Labor and Workforce Development's (DOLWD) administrative costs further due to fulfilling the requirements regarding the timely determination and payment of benefits and the production of certain annual reports.
- The FLI and TDI benefit expansion will take effect on July 1, 2020. As a result, the OLS projects that CY 2020 expenditure and revenue increases will equal 50 percent of the estimated full-year impacts.

- The estimated CY 2020 and CY 2021 revenue increases include the build-up of SDBF reserves for the additional FLI and TDI benefit payments, as required by existing statutes.
- The OLS notes that employees will pay for the entire cost of the bill through increases in employee FLI and TDI wage tax assessments.

## **BILL DESCRIPTION**

The bill expands TDI and FLI benefits, establishes new administrative requirements for the TDI and FLI programs, and increases TDI and FLI payroll taxes.

For leave periods beginning on or after July 1, 2020, the amount of weekly FLI and TDI benefits is to increase from two-thirds of a claimant's average weekly wage to 85 percent of that wage, subject to a maximum amount. The maximum, in turn, is to rise from 53 percent to 70 percent of the Statewide average weekly wage (SAWW) for all workers.

The maximum FLI benefit period increases from six to 12 weeks during any one-year period and the maximum intermittent FLI leave from 42 to 52 days. Moreover, the bill expands the family members for whose care individuals may receive FLI benefits during periods of leave from employment to siblings, grandparents, grandchildren, parents-in-law, and others related by blood or relationship equivalent to a family relationship. FLI benefits are also extended to individuals who take time off from work to assist a family member who is a victim of domestic or sexual violence.

The bill facilitates access to FLI and TDI benefits by: a) eliminating the one-week waiting period before the payment of FLI benefits; b) lowering from 50 to 30 employees the threshold at and above which employers must grant unpaid family leave to employees for up to 12 weeks in a 24-month period without terminating employment because of the leave; c) no longer allowing employers to require that employees use all their paid leave, up to two weeks, before the payment of FLI benefits; and d) limiting to two weeks the amount of sick leave State and certain local government employees must use before receiving TDI benefits, whereas current law requires them to exhaust their entire sick leave first.

The bill establishes new penalties for violations of the TDI and FLI laws. Specifically, employers who fail to provide certain notifications and disclosures as required will be fined up to \$1,000 and in certain cases imprisoned for up to 90 days. In addition, the bill prohibits employer retaliation against an employee for taking or requesting TDI or FLI benefits, except that employers with fewer than 30 employees are not required to reinstate an employee after a period of FLI leave. The civil fine for the first act of prohibited retaliation ranges from \$1,000 to \$2,000 with each subsequent violation resulting in a fine not to exceed \$5,000.

Furthermore, the DOLWD must implement goals for the timely determination of TDI and FLI benefit eligibility and amounts, and issue an annual report regarding efforts to attain those goals. The report must contain specific recommendations regarding any increased funding needed to achieve the goals and modernize the administration of the TDI and FLI programs. The department is to include the recommended funding increases in setting the annual rate of TDI and FLI taxes.

In addition, the bill allocates \$1.2 million annually to education and outreach efforts for the TDI and FLI programs, requires the DOLWD to publish an annual report on these efforts, and expands other existing TDI and FLI reporting requirements.

The bill increases the amount of payroll taxes that is to be raised to pay for the benefit expansion and additional program administration expenditures, and expands the wage base on which the taxes are imposed from 28 times to 107 times the SAWW. The benefit



increases and higher administrative costs are to be charged exclusively to workers. The DOLWD sets the annual TDI and FLI assessment rates according to existing statutory formulae that consider estimated annual benefit payments, estimated administrative costs, and any unexpended account balances.

## **FISCAL ANALYSIS**

### ***EXECUTIVE BRANCH***

None received.

### ***OFFICE OF LEGISLATIVE SERVICES***

The OLS estimates that the bill, once its changes in benefits and taxes are fully phased in starting in CY 2022, will result in an annual increase in SDBF revenue collections and expenditures ranging from \$278.2 million to \$364.5 million, including \$277.0 million to \$363.3 million for increased benefits and at least \$1.2 million for increased administrative costs. Starting in the second year following implementation, this bill may lead to an additional increase in the DOLWD's administrative costs due to the fulfillment of the bill's requirements regarding the timely determination and payment of benefits and the production of certain annual reports.

### **BENEFIT COSTS**

The OLS estimates that the bill will increase annual FLI and TDI benefit payments by a range of \$277.0 million to \$363.3 million starting in CY 2021. Because the benefit expansion will not take effect until July 1, 2020, CY 2020 benefit payments are projected to equal 50 percent of the estimated full-year impact, or \$138.5 million to \$181.6 million.

The OLS model considers changes in the following variables. First, the bill raises weekly benefits for both FLI and TDI claims from 66.7 percent to 85.0 percent of a worker's average weekly wage up to a maximum amount, which the bill increases from 53 percent of the SAWW (\$651 per week in CY 2019) to 70 percent of the SAWW (\$860 per week in CY 2019).

Second, the bill increases the maximum duration for FLI benefits from six weeks to 12 weeks. While the benefit expansion makes it probable that the average FLI leave period will rise, not every claimant will take advantage of the 12-week maximum period. For instance, 12 percent of FLI benefits are currently paid to workers taking time to care for family members, and those claims have an average duration of four weeks out of the six available weeks, suggesting that these workers may not take 12 weeks of FLI leave if the bill is enacted.

Finally, the OLS estimates that lowering from 50 to 30 employees the threshold at and above which employers must grant protected unpaid family leave to employees will increase usage of FLI benefits by eight percent.

This estimate does not factor in the extent to which the higher weekly benefit rates and the education and outreach efforts mandated by the bill may cause individuals to file for FLI and TDI benefits who under current law would not do so. The OLS notes, however, that any increase in the number of claimants is likely to be diminished by the fact that many high-income workers historically have been provided the highest rates of fully-paid leave by their employers.

## ADMINISTRATIVE COSTS

The bill will increase annual FLI and TDI administrative expenditures by at least \$1.2 million. The bill requires the expenditure of \$1.2 million annually for FLI and TDI education and outreach efforts. The bill may also increase DOLWD administrative costs starting in the second year of implementation to fulfill the requirements regarding the timely determination and payment of TDI and FLI benefits, and the production of certain annual reports. If the DOLWD attempted to meet the goals by restoring program staffing to the level of 2008, when the speed of determinations was closest to the goals, the number of program personnel would have to grow from 125 to 170, an increase of 36 percent. The OLS, however, does not include such an increase of personnel in its estimate because of possible alternative approaches the department may implement to meet the claims processing goals, such as the increased use of automation in claims processing and the use of data currently available from the unemployment insurance program's automated wage data systems, instead of making time-consuming requests of employers for wage information after claims are made.

## REVENUE COLLECTIONS

Employee Wage Tax Revenue: The OLS estimates that the bill will increase annual FLI and TDI wage tax collections by a range of \$278.2 million to \$364.5 million starting in CY 2022. Additional wage tax collections in CY 2020 are projected to range from \$171.2 million to \$225.1 million, reflecting the mechanics of existing statutory TDI and FLI revenue determination calculations and the July 1, 2020 effective date for the benefit expansion. Additional wage tax collections in CY 2021 are projected to range from \$309.7 million to \$406.8 million, reflecting the mechanics of existing statutory revenue determination calculations.

The FLI program is funded entirely through an assessment on workers' wages, the rate of which is set by the DOLWD annually to cover anticipated program expenditures and a reserve requirement. The assessment equals the rate which is projected to generate contributions equal to 125 percent of estimated annual FLI benefits plus 100 percent of estimated administrative costs, reduced by any unexpended prior-year account balances. The same method is used to set the TDI tax rate, except that the assessment amount for TDI benefits is 120 percent of estimated benefits.

CY 2017 employer and employee contributions to the TDI program totaled \$436.0 million (\$259.0 million by employers and \$177.0 million by employees), and the DOLWD estimated combined CY 2018 contributions at \$417.9 million (\$267.8 million by employers and \$150.1 million by employees). Employers do not contribute to the FLI program. CY 2017 employee FLI contributions totaled \$108.6 million with the DOLWD projecting CY 2018 collections at \$106.0 million. The bill charges all of the increases in benefits and administrative costs to employee TDI and FLI wage taxes.

Penalty Collections: The OLS estimates that the bill may result in an indeterminate annual increase in SDBF revenues from penalties collected for violations established in the bill. This bill applies existing TDI law penalties to employers who fail to provide notifications and disclosures as required under the TDI and FLI laws, and imposes additional penalties for certain employers who retaliate against employees for taking or requesting TDI or FLI benefits. The OLS cannot determine the number of violations that employers may commit under the bill and, therefore, the amount of penalty revenue that may be generated.

*Section: Commerce, Labor and Industry*

*Analysts: Juan C. Rodriguez  
Associate Fiscal Analyst*

*Gregory L. Williams  
Lead Research Analyst*

*Approved: Frank W. Haines III  
Legislative Budget and Finance Officer*

This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).

# LEGISLATIVE FISCAL ESTIMATE

[Third Reprint]

## SENATE, No. 2528

### STATE OF NEW JERSEY 218th LEGISLATURE

DATED: FEBRUARY 15, 2019

#### SUMMARY

- Synopsis:** Revises law concerning family leave, temporary disability and family temporary disability leave, and domestic or sexual violence safety leave.
- Type of Impact:** Annual expenditure and revenue increases to the State Disability Benefits Fund.
- Agencies Affected:** Department of Labor and Workforce Development.

#### Office of Legislative Services Estimate

Fiscal Impact	<u>CY 2019</u>	<u>CY 2020</u>	<u>CY 2021</u>	<u>CY 2022</u>
<b>State Expenditure</b>	\$3,800,000 to	\$143,500,000 to	\$278,200,000 to	\$278,200,000 to
<b>Increase</b>	\$4,700,000	\$187,300,000	\$364,500,000	\$364,500,000
<b>State Revenue</b>		\$180,700,000 to	\$303,900,000 to	\$278,200,000 to
<b>Increase</b>	\$0	\$236,500,000	\$399,200,000	\$364,500,000

- The Office of Legislative Services (OLS) estimates that the bill, once its changes in benefits and taxes are fully phased in starting in calendar year (CY) 2022, will result in an annual increase in State Disability Benefits Fund (SDBF) revenue collections and expenditures ranging from \$278.2 million to \$364.5 million, including \$277.0 million to \$363.3 million for expanded family leave insurance (FLI) and temporary disability insurance (TDI) benefits and at least \$1.2 million for increased administrative costs. The OLS notes that, starting in the second year following implementation, the bill may increase the Department of Labor and Workforce Development's (DOLWD) administrative costs further due to fulfilling the requirements regarding the timely determination and payment of benefits and the production of certain annual reports.
- The FLI and TDI benefit expansion will take effect on July 1, 2020. As a result, the OLS projects that the CY 2020 expenditure increase will approximate 50 percent of the estimated full-year impact. The estimated CY 2019 increase in FLI benefit payments of \$3.8 million to \$4.7 million, in turn, is attributable to additional FLI claims resulting from the lowering from 50 to 30 employees of the threshold at and above which employers

must grant unpaid family leave to employees without terminating employment because of the leave. This provision takes effect as of June 30, 2019.

- The estimated CY 2020 and CY 2021 revenue increases include the build-up of SDBF reserves for the additional FLI and TDI benefit payments, as required by existing statutes.
- The OLS notes that employees will pay for the entire cost of the bill through increases in employee FLI and TDI wage tax assessments.

## **BILL DESCRIPTION**

The bill expands TDI and FLI benefits, establishes new administrative requirements for the TDI and FLI programs, and increases TDI and FLI payroll taxes.

For leave periods beginning on or after July 1, 2020, the amount of weekly FLI and TDI benefits is to increase from two-thirds of a claimant's average weekly wage to 85 percent of that wage, subject to a maximum amount. The maximum, in turn, is to rise from 53 percent to 70 percent of the Statewide average weekly wage (SAWW) for all workers.

The maximum FLI benefit period increases from six to 12 weeks during any one-year period and the maximum intermittent FLI leave from 42 to 56 days. Moreover, the bill expands the family members for whose care individuals may receive FLI benefits during periods of leave from employment to siblings, grandparents, grandchildren, parents-in-law, and others related by blood or relationship equivalent to a family relationship. FLI benefits are also extended to individuals who take time off from work to assist a family member who is a victim of domestic or sexual violence.

The bill facilitates access to FLI and TDI benefits by: a) eliminating the one-week waiting period before the payment of FLI benefits; b) effective as of June 30, 2019, lowering from 50 to 30 employees the threshold at and above which employers must grant unpaid family leave to employees for up to 12 weeks in a 24-month period without terminating employment because of the leave; c) no longer allowing employers to require that employees use all their paid leave, up to two weeks, before the payment of FLI benefits; and d) limiting to two weeks the amount of sick leave State and certain local government employees must use before receiving TDI benefits, whereas current law requires them to exhaust their entire sick leave first.

The bill establishes new penalties for violations of the TDI and FLI laws. Specifically, employers who fail to provide certain notifications and disclosures as required will be fined up to \$1,000 and in certain cases imprisoned for up to 90 days. In addition, the bill prohibits employer retaliation against an employee for taking or requesting TDI or FLI benefits, except that employers with fewer than 30 employees are not required to reinstate an employee after a period of FLI leave. The civil fine for the first act of prohibited retaliation ranges from \$1,000 to \$2,000 with each subsequent violation resulting in a fine not to exceed \$5,000.

Furthermore, the DOLWD must implement goals for the timely determination of TDI and FLI benefit eligibility and amounts, and issue an annual report regarding efforts to attain those goals. The report must contain specific recommendations regarding any increased funding needed to achieve the goals and modernize the administration of the TDI and FLI programs. The department is to include the recommended funding increases in setting the annual rate of TDI and FLI taxes.

In addition, the bill allocates \$1.2 million annually to education and outreach efforts for the TDI and FLI programs, requires the DOLWD to publish an annual report on these efforts, and expands other existing TDI and FLI reporting requirements.

The bill increases the amount of payroll taxes that is to be raised to pay for the benefit expansion and additional program administration expenditures, and expands the wage base on which the taxes are imposed from 28 times to 107 times the SAWW. The benefit increases and higher administrative costs are to be charged exclusively to workers. The DOLWD sets the annual TDI and FLI assessment rates according to existing statutory formulae that consider estimated annual benefit payments, estimated administrative costs, and any unexpended account balances.

## **FISCAL ANALYSIS**

### ***EXECUTIVE BRANCH***

None received.

### ***OFFICE OF LEGISLATIVE SERVICES***

The OLS estimates that the bill, once its changes in benefits and taxes are fully phased in starting in CY 2022, will result in an annual increase in SDBF revenue collections and expenditures ranging from \$278.2 million to \$364.5 million, including \$277.0 million to \$363.3 million for increased benefits and at least \$1.2 million for increased administrative costs. Starting in the second year following implementation, this bill may lead to an additional increase in the DOLWD's administrative costs due to the fulfillment of the bill's requirements regarding the timely determination and payment of benefits and the production of certain annual reports.

### **BENEFIT COSTS**

The OLS estimates that the bill will increase annual FLI and TDI benefit payments by a range of \$277.0 million to \$363.3 million starting in CY 2021. Because the benefit expansion will not take effect until July 1, 2020, CY 2020 benefit payments are projected to approximate 50 percent of the estimated full-year impact, or \$143.5 million to \$187.3 million.

The estimated CY 2019 increase in FLI benefit payments of \$3.8 million to \$4.7 million, in turn, is attributable to additional FLI claims resulting from the lowering from 50 to 30 employees of the threshold at and above which employers must grant unpaid family leave to employees without terminating employment because of the leave. This provision takes effect as of June 30, 2019.

The OLS model considers changes in the following variables. First, the bill raises weekly benefits for both FLI and TDI claims from 66.7 percent to 85.0 percent of a worker's average weekly wage up to a maximum amount, which the bill increases from 53 percent of the SAWW (\$651 per week in CY 2019) to 70 percent of the SAWW (\$860 per week in CY 2019).

Second, the bill increases the maximum duration for FLI benefits from six weeks to 12 weeks. While the benefit expansion makes it probable that the average FLI leave period will rise, not every claimant will take advantage of the 12-week maximum period. For instance, 12 percent of FLI benefits are currently paid to workers taking time to care for family members, and those claims have an average duration of four weeks out of the six available weeks, suggesting that these workers may not take 12 weeks of FLI leave if the bill is enacted.

Finally, the OLS estimates that lowering from 50 to 30 employees the threshold at and above which employers must grant protected unpaid family leave to employees will increase usage of FLI benefits by eight percent.

This estimate does not factor in the extent to which the higher weekly benefit rates and the education and outreach efforts mandated by the bill may cause individuals to file for FLI and TDI benefits who under current law would not do so. The OLS notes, however, that any increase in the number of claimants is likely to be diminished by the fact that many high-income workers historically have been provided the highest rates of fully-paid leave by their employers.

## **ADMINISTRATIVE COSTS**

The bill will increase annual FLI and TDI administrative expenditures by at least \$1.2 million. The bill requires the expenditure of \$1.2 million annually for FLI and TDI education and outreach efforts. The bill may also increase DOLWD administrative costs starting in the second year of implementation to fulfill the requirements regarding the timely determination and payment of TDI and FLI benefits, and the production of certain annual reports. If the DOLWD attempted to meet the goals by restoring program staffing to the level of 2008, when the speed of determinations was closest to the goals, the number of program personnel would have to grow from 125 to 170, an increase of 36 percent. The OLS, however, does not include such an increase of personnel in its estimate because of possible alternative approaches the department may implement to meet the claims processing goals, such as the increased use of automation in claims processing and the use of data currently available from the unemployment insurance program's automated wage data systems, instead of making time-consuming requests of employers for wage information after claims are made.

## **REVENUE COLLECTIONS**

Employee Wage Tax Revenue: The OLS estimates that the bill will increase annual FLI and TDI wage tax collections by a range of \$278.2 million to \$364.5 million starting in CY 2022.

Additional wage tax collections in CY 2020 are projected to range from \$180.7 million to \$236.5 million, reflecting existing statutory TDI and FLI revenue determination calculations and the July 1, 2020 effective date for the benefit expansion. Additional wage tax collections in CY 2021 are projected to range from \$303.9 million to \$399.2 million, reflecting existing statutory revenue determination calculations. There will be no revenue increase in CY 2019 because the FLI and TDI wage tax rates are already set for the year.

The FLI program is funded entirely through an assessment on workers' wages, the rate of which is set by the DOLWD annually to cover anticipated program expenditures and a reserve requirement. The assessment equals the rate which is projected to generate contributions equal to 125 percent of estimated annual FLI benefits plus 100 percent of estimated administrative costs, reduced by any unexpended prior-year account balances. The same method is used to set the TDI tax rate, except that the assessment amount for TDI benefits is 120 percent of estimated benefits.

CY 2017 employer and employee contributions to the TDI program totaled \$436.0 million (\$259.0 million by employers and \$177.0 million by employees), and the DOLWD estimated combined CY 2018 contributions at \$417.9 million (\$267.8 million by employers and \$150.1 million by employees). Employers do not contribute to the FLI program. CY 2017 employee FLI contributions totaled \$108.6 million with the DOLWD projecting CY 2018 collections at \$106.0 million. The bill charges all of the increases in benefits and administrative costs to employee TDI and FLI wage taxes.

Penalty Collections: The OLS estimates that the bill may result in an indeterminate annual increase in SDBF revenues from penalties collected for violations established in the bill. This bill applies existing TDI law penalties to employers who fail to provide notifications and disclosures as required under the TDI and FLI laws, and imposes additional penalties for certain employers who retaliate against employees for taking or requesting TDI or FLI benefits. The OLS cannot determine the number of violations that employers may commit under the bill and, therefore, the amount of penalty revenue that may be generated.

*Section: Commerce, Labor and Industry*

*Analysts: Juan C. Rodriguez  
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*Gregory L. Williams  
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*Approved: Frank W. Haines III  
Legislative Budget and Finance Officer*

This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).





# Newark, N.J.

## Governor Murphy Signs Sweeping Legislation Expanding Paid Family Leave

02/19/2019

**PISCATAWAY** – Acting on his commitment to support and uplift New Jersey’s middle class, Governor Phil Murphy today signed into law a sweeping expansion to the state’s paid family leave program. New Jersey enacted a paid family leave program in 2008 and today’s law significantly expands that program to provide additional job protections for those who miss work due to caring for a newborn child or a sick loved one.

“No one should ever be forced to choose between caring for a family member and earning a paycheck,” **said Governor Murphy**. “By providing the most expansive paid family leave time and benefits in the nation, we are ensuring that New Jerseyans no longer have to face such a decision and that working families are treated with the respect and dignity they deserve. This comprehensive paid family leave program, coupled with the newly passed earned sick leave and minimum wage increase, are fundamental elements in building a stronger and fairer New Jersey for all working families.”

A3975 changes New Jersey’s paid family leave program in a number of ways, including the following:

- **Doubling the number of weeks for Family Leave Insurance (FLI):** Employees can take up to 12 consecutive weeks of paid family leave during any 12-month period, beginning in July 2020. Currently, employees are only able to take up to 6 weeks of FLI in a 12-month period.
- **Increasing the weekly benefit:** Individuals can now receive 85 percent of their weekly wage, with the maximum possible benefit going up to 70 percent of the statewide average weekly wage. Using data from this year, the maximum possible benefit would go up from \$650 a week to \$860 a week under this law.
- **Increasing intermittent leave from 42 days to 56 days:** Workers will be able to take up to 56 days of intermittent leave within a 12-month period, beginning in July 2020.
- **Anti-retaliation provisions:** Employers with over 30 employees will be barred from retaliating or discriminating against an employee because they took family leave.
- **Expanding individuals eligible to take paid family leave:** The newly signed legislation expands paid family leave to include caring for siblings, in-laws, grandparents, grandchildren, other blood relatives, and any other individuals who can be shown to have the equivalent of a family relationship.
- **Including domestic and sexual violence:** The bill explicitly allows family temporary disability leave to be taken for medical attention, counseling, or legal assistance or proceedings arising out of domestic violence or

sexual violence. An individual can take family leave under this provision if they themselves were the victim of domestic or sexual violence, or if they need to care for a family member who was such a victim.

“Expanding family leave means people can take needed time off to care for each other without the worry of losing their paycheck, or even worse, their job,” **said Lt. Governor Sheila Y. Oliver**, who also serves as Commissioner of the Department of Community Affairs. “Taking care of family members is a fact of life that we will all have to face at some point and by signing this bill today, we are making it possible for working people to take care of each other without risking their livelihood.”

“We applaud the persistence of Governor Murphy, the Legislature and advocates who came together to expand Family Leave Insurance,” **said Labor Commissioner Robert Asaro-Angelo**. “Now, New Jersey workers can better afford to take time to bond with a newborn child or care for a family member in need. Our staff are ready to help workers access these benefits to make their families and communities healthier and stronger.”

Primary sponsors of the bill include Senate President Steve Sweeney; Senators Patrick J. Diegnan and M. Teresa Ruiz; and Assemblymembers Annette Quijano, Thomas P. Giblin, Joann Downey, and Paul D. Moriarty.

“This will put New Jersey in the forefront of the nation with a paid leave program that serves the needs of families and is good for businesses. Paid leave can ease financial burdens and provide peace of mind for working families at critical times in their lives. Caring for a newborn child or a loved one with a serious illness can be a real challenge for those who can’t afford to lose their paychecks for an extended amount of time.” **Senate President Sweeney, who authored the law creating the leave program in 2009.**

“Too many people must choose between their family responsibilities and their paychecks,” **said Assembly Speaker Craig Coughlin**. “The expansion of paid family leave will provide families and individuals across our state with a better quality of life and the time and resources necessary to care for others. As we move to make New Jersey more affordable and resources more accessible, paid family leave will play an instrumental role in improving the lives of workers and building a future for themselves and for their kids.”

“Many workers can’t afford to take family leave because of its low wage replacement rates, or choose not to out of fear of being retaliated against if they do. In some cases, they are unaware that this is even an option,” **said Assemblywoman Quijano**. “The law will now help working families who need to take time off work to bond and care for a new child, or to care for a family member who is sick or is recovering from a violent ordeal to do so without jeopardizing their financial security.”

“Taking care of a newborn or serving as a caretaker for a loved one is very stressful, and one thing that New Jersey workers should not have to worry about during such a time is whether they will have the income necessary to support themselves and their families,” **said First Lady Tammy Murphy**. “By ensuring that working family members under difficult circumstances will not have to choose between their jobs and their commitments as mothers, fathers, or other supportive family members, expanding paid family leave and temporary disability insurance will have a direct impact on New Jersey’s maternal and infant mortality crisis.”

“Paid family leave is an economic and moral imperative that New Jersey’s working families need to survive and thrive. The changes adopted today make our program more open and accessible to many previously left behind. With these changes, New Jersey has become a national leader on paid family leave, and a model for the nation,” **said Dena Mottola Jaborska**, Associate Director at New Jersey Citizen Action and co-covener of the New Jersey Time to Care Coalition.

Governor Murphy signed the bill at JFK Library in Piscataway.

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# Governor Phil Murphy

# Statewide

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