

SENATE: [Yes \(6-15-06 M&VA A348\)](#)
No

FLOOR AMENDMENT STATEMENT: No

LEGISLATIVE FISCAL ESTIMATE: Yes [2-13-07 \(A3282\)](#)
[7-9-07](#)

VETO MESSAGE: No

GOVERNOR'S PRESS RELEASE ON SIGNING: No

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P.L. 2007, CHAPTER 162, *approved September 10, 2007*
Senate Committee Substitute (*First Reprint*) for
Senate, Nos. 746 and 2104

1 AN ACT providing unemployment benefits for certain spouses of
2 armed forces members and amending R.S.43:21-5.

3
4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6
7 1. R.S.43:21-5 is amended to read as follows:

8 43:21-5. An individual shall be disqualified for benefits:

9 (a) For the week in which the individual has left work voluntarily
10 without good cause attributable to such work, and for each week
11 thereafter until the individual becomes reemployed and works four
12 weeks in employment, which may include employment for the federal
13 government, and has earned in employment at least six times the
14 individual's weekly benefit rate, as determined in each case. This
15 subsection shall apply to any individual seeking unemployment
16 benefits on the basis of employment in the production and harvesting
17 of agricultural crops, including any individual who was employed in
18 the production and harvesting of agricultural crops on a contract basis
19 and who has refused an offer of continuing work with that employer
20 following the completion of the minimum period of work required to
21 fulfill the contract.

22 (b) For the week in which the individual has been suspended or
23 discharged for misconduct connected with the work, and for the five
24 weeks which immediately follow that week [(in addition to the
25 waiting period)], as determined in each case. In the event the
26 discharge should be rescinded by the employer voluntarily or as a
27 result of mediation or arbitration, this subsection (b) shall not apply,
28 provided, however, an individual who is restored to employment with
29 back pay shall return any benefits received under this chapter for any
30 week of unemployment for which the individual is subsequently
31 compensated by the employer.

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

40 The director shall insure that any appeal of a determination
41 holding the individual disqualified for gross misconduct in

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

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹ Senate floor amendments adopted February 22, 2007.

1 connection with the work shall be expeditiously processed by the
2 appeal tribunal.

3 (c) If it is found that the individual has failed, without good
4 cause, either to apply for available, suitable work when so directed by
5 the employment office or the director or to accept suitable work when
6 it is offered, or to return to the individual's customary self-
7 employment (if any) when so directed by the director. The
8 disqualification shall continue for the week in which the failure
9 occurred and for the three weeks which immediately follow that week
10 **[(in addition to the waiting period)]**, as determined:

11 (1) In determining whether or not any work is suitable for an
12 individual, consideration shall be given to the degree of risk involved
13 to health, safety, and morals, the individual's physical fitness and
14 prior training, experience and prior earnings, the individual's length
15 of unemployment and prospects for securing local work in the
16 individual's customary occupation, and the distance of the available
17 work from the individual's residence. In the case of work in the
18 production and harvesting of agricultural crops, the work shall be
19 deemed to be suitable without regard to the distance of the available
20 work from the individual's residence if all costs of transportation are
21 provided to the individual and the terms and conditions of hire are as
22 favorable or more favorable to the individual as the terms and
23 conditions of the individual's base year employment.

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

35 (d) If it is found that this unemployment is due to a stoppage of
36 work which exists because of a labor dispute at the factory,
37 establishment or other premises at which the individual is or was last
38 employed.

39 (1) No disqualification under this subsection (d) shall apply if it is
40 shown that:

41 (a) The individual is not participating in or financing or directly
42 interested in the labor dispute which caused the stoppage of work;
43 and

44 (b) The individual does not belong to a grade or class of workers
45 of which, immediately before the commencement of the stoppage,
46 there were members employed at the premises at which the stoppage
47 occurs, any of whom are participating in or financing or directly

1 interested in the dispute; provided that if in any case in which (a) or
2 (b) above applies, separate branches of work which are commonly
3 conducted as separate businesses in separate premises are conducted
4 in separate departments of the same premises, each department shall,
5 for the purpose of this subsection, be deemed to be a separate factory,
6 establishment, or other premises.

7 (2) For any claim for a period of unemployment commencing on
8 or after December 1, 2004, no disqualification under this subsection
9 (d) shall apply if it is shown that the individual has been prevented
10 from working by the employer, even though[:

11 (a) The] the individual's recognized or certified majority
12 representative has directed the employees in the individual's
13 collective bargaining unit to work under the preexisting terms and
14 conditions of employment[;], and

15 [(b) The] the employees had not engaged in a strike immediately
16 before being prevented from working.

17 (e) For any week with respect to which the individual is receiving
18 or has received remuneration in lieu of notice.

19 (f) For any week with respect to which or a part of which the
20 individual has received or is seeking unemployment benefits under an
21 unemployment compensation law of any other state or of the United
22 States; provided that if the appropriate agency of the other state or of
23 the United States finally determines that the individual is not entitled
24 to unemployment benefits, this disqualification shall not apply.

25 (g) (1) For a period of one year from the date of the discovery by
26 the division of the illegal receipt or attempted receipt of benefits
27 contrary to the provisions of this chapter, as the result of any false or
28 fraudulent representation; provided that any disqualification may be
29 appealed in the same manner as any other disqualification imposed
30 hereunder; and provided further that a conviction in the courts of this
31 State arising out of the illegal receipt or attempted receipt of these
32 benefits in any proceeding instituted against the individual under the
33 provisions of this chapter or any other law of this State shall be
34 conclusive upon the appeals tribunal and the board of review.

35 (2) A disqualification under this subsection shall not preclude the
36 prosecution of any civil, criminal or administrative action or
37 proceeding to enforce other provisions of this chapter for the
38 assessment and collection of penalties or the refund of any amounts
39 collected as benefits under the provisions of R.S.43:21-16, or to
40 enforce any other law, where an individual obtains or attempts to
41 obtain by theft or robbery or false statements or representations any
42 money from any fund created or established under this chapter or any
43 negotiable or nonnegotiable instrument for the payment of money
44 from these funds, or to recover money erroneously or illegally
45 obtained by an individual from any fund created or established under
46 this chapter.

1 (h) (1) Notwithstanding any other provisions of this chapter
2 (R.S.43:21-1 et seq.), no otherwise eligible individual shall be denied
3 benefits for any week because the individual is in training approved
4 under section 236(a)(1) of the ~~Trade Act of 1974,~~ ^{Trade Act of}
5 ^{1974,} Pub.L.93-618~~],~~ ^{19 U.S.C. s.2296} , ^{1(19 U.S.C. s.2296}
6 ^{(a)(1)} nor shall the individual be denied benefits by reason of
7 leaving work to enter this training, provided the work left is not
8 suitable employment, or because of the application to any week in
9 training of provisions in this chapter (R.S.43:21-1 et seq.), or any
10 applicable federal unemployment compensation law, relating to
11 availability for work, active search for work, or refusal to accept
12 work.

13 (2) For purposes of this subsection (h), the term "suitable"
14 employment means, with respect to an individual, work of a
15 substantially equal or higher skill level than the individual's past
16 adversely affected employment ^{1[] ,} as defined for purposes of the
17 ~~Trade Act of 1974,~~ ^{Trade Act of 1974,} Pub.L.93-618~~],~~ ¹⁹
18 ^{U.S.C. s.2102 et seq.)}, ^{1(19 U.S.C. s.2101)} and wages for this work
19 at not less than 80% of the individual's average weekly wage, as
20 determined for the purposes of the ~~Trade Act of 1974]~~ ^{Trade Act}
21 ^{of 1974.}

22 (i) For benefit years commencing after June 30, 1984, for any
23 week in which the individual is a student in full attendance at, or on
24 vacation from, an educational institution, as defined in subsection (y)
25 of R.S.43:21-19; except that this subsection shall not apply to any
26 individual attending a training program approved by the division to
27 enhance the individual's employment opportunities, as defined under
28 subsection (c) of R.S.43:21-4; nor shall this subsection apply to any
29 individual who, during the individual's base year, earned sufficient
30 wages, as defined under subsection (e) of R.S.43:21-4, while
31 attending an educational institution during periods other than
32 established and customary vacation periods or holiday recesses at the
33 educational institution, to establish a claim for benefits. For purposes
34 of this subsection, an individual shall be treated as a full-time student
35 for any period:

36 (1) During which the individual is enrolled as a full-time student
37 at an educational institution, or

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

41 (j) Notwithstanding any other provisions of this chapter
42 (R.S.43:21-1 et seq.), no otherwise eligible individual shall be denied
43 benefits because the individual left work or was discharged due to
44 circumstances resulting from the individual being a victim of
45 domestic violence as defined in section 3 of P.L.1991, c.261
46 (C.2C:25-19). No employer's account shall be charged for the
47 payment of benefits to an individual who left work due to

1 circumstances resulting from the individual being a victim of
2 domestic violence.

3 For the purposes of this subsection (j), the individual shall be
4 treated as being a victim of domestic violence if the individual
5 provides one or more of the following:

6 (1) A restraining order or other documentation of equitable relief
7 issued by a court of competent jurisdiction;

8 (2) A police record documenting the domestic violence;

9 (3) Documentation that the perpetrator of the domestic violence
10 has been convicted of one or more of the offenses enumerated in
11 section 3 of P.L.1991, c.261 (C.2C:25-19);

12 (4) Medical documentation of the domestic violence;

13 (5) Certification from a certified Domestic Violence Specialist or
14 the director of a designated domestic violence agency that the
15 individual is a victim of domestic violence; or

16 (6) Other documentation or certification of the domestic violence
17 provided by a social worker, member of the clergy, shelter worker or
18 other professional who has assisted the individual in dealing with the
19 domestic violence.

20 For the purposes of this subsection (j):

21 "Certified Domestic Violence Specialist" means a person who has
22 fulfilled the requirements of certification as a Domestic Violence
23 Specialist established by the New Jersey Association of Domestic
24 Violence Professionals; and "designated domestic violence agency"
25 means a county-wide organization with a primary purpose to provide
26 services to victims of domestic violence, and which provides services
27 that conform to the core domestic violence services profile as defined
28 by the Division of Youth and Family Services in the Department of
29 Human Services and is under contract with the division for the
30 express purpose of providing such services.

31 (k) Notwithstanding any other provisions of this chapter (R.S.
32 43:21-1 et seq.), no otherwise eligible individual shall be denied
33 benefits for any week in which the individual left work voluntarily
34 and without good cause attributable to the work, if the individual left
35 work to accompany his or her spouse who is an active member of the
36 United States Armed Forces, as defined in N.J.S.38A:1-1(g), to a new
37 place of residence outside the State, due to the armed forces
38 member's transfer to a new assignment in a different geographical
39 location outside the State, and the individual moves to the new place
40 of residence not more than nine months after the spouse is
41 transferred, and upon arrival at the new place of residence the
42 individual was in all respects available for suitable work. No
43 employer's account shall be charged for the payment of benefits to an
44 individual who left work under the circumstances contained in this
45 subsection (k), except that this shall not be construed as relieving the
46 State of New Jersey and any other governmental entity or
47 instrumentality or nonprofit organization electing or required to make

1 payments in lieu of contributions from its responsibility to make all
2 benefit payments otherwise required by law and from being charged
3 for those benefits as otherwise required by law.
4 (cf: P.L.2005, c.103, s.1)

5

6 2. This act shall take effect on the 90th day following the date of
7 enactment.

8

9

10

11

12 Provides unemployment benefits for spouses of armed services
13 members under certain circumstances.

SENATE, No. 746

STATE OF NEW JERSEY
212th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2006 SESSION

Sponsored by:
Senator SHIRLEY K. TURNER
District 15 (Mercer)

SYNOPSIS

Provides unemployment benefits for certain spouses of armed services members.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel



1 AN ACT to provide unemployment benefits for certain spouses of
2 armed forces members and amending R.S.43:21-5.

3

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

6

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

8 43:21-5. An individual shall be disqualified for benefits:

9 (a) For the week in which the individual has left work
10 voluntarily without good cause attributable to such work, and for
11 each week thereafter until the individual becomes reemployed and
12 works four weeks in employment, which may include employment
13 for the federal government, and has earned in employment at least
14 six times the individual's weekly benefit rate, as determined in each
15 case. This subsection shall apply to any individual seeking
16 unemployment benefits on the basis of employment in the
17 production and harvesting of agricultural crops, including any
18 individual who was employed in the production and harvesting of
19 agricultural crops on a contract basis and who has refused an offer
20 of continuing work with that employer following the completion of
21 the minimum period of work required to fulfill the contract.

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

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

40 The director shall insure that any appeal of a determination
41 holding the individual disqualified for gross misconduct in
42 connection with the work shall be expeditiously processed by the
43 appeal tribunal.

44 (c) If it is found that the individual has failed, without good
45 cause, either to apply for available, suitable work when so directed

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 by the employment office or the director or to accept suitable work
2 when it is offered, or to return to the individual's customary self-
3 employment (if any) when so directed by the director. The
4 disqualification shall continue for the week in which the failure
5 occurred and for the three weeks which immediately follow that
6 week (in addition to the waiting period), as determined:

7 (1) In determining whether or not any work is suitable for an
8 individual, consideration shall be given to the degree of risk
9 involved to health, safety, and morals, the individual's physical
10 fitness and prior training, experience and prior earnings, the
11 individual's length of unemployment and prospects for securing
12 local work in the individual's customary occupation, and the
13 distance of the available work from the individual's residence. In
14 the case of work in the production and harvesting of agricultural
15 crops, the work shall be deemed to be suitable without regard to the
16 distance of the available work from the individual's residence if all
17 costs of transportation are provided to the individual and the terms
18 and conditions of hire are as favorable or more favorable to the
19 individual as the terms and conditions of the individual's base year
20 employment.

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

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

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

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

1 be a separate factory, establishment, or other premises.

2 (e) For any week with respect to which the individual is
3 receiving or has received remuneration in lieu of notice.

4 (f) For any week with respect to which or a part of which the
5 individual has received or is seeking unemployment benefits under
6 an unemployment compensation law of any other state or of the
7 United States; provided that if the appropriate agency of the other
8 state or of the United States finally determines that the individual is
9 not entitled to unemployment benefits, this disqualification shall not
10 apply.

11 (g) (1) For a period of one year from the date of the discovery
12 by the division of the illegal receipt or attempted receipt of benefits
13 contrary to the provisions of this chapter, as the result of any false
14 or fraudulent representation; provided that any disqualification may
15 be appealed in the same manner as any other disqualification
16 imposed hereunder; and provided further that a conviction in the
17 courts of this State arising out of the illegal receipt or attempted
18 receipt of these benefits in any proceeding instituted against the
19 individual under the provisions of this chapter or any other law of
20 this State shall be conclusive upon the appeals tribunal and the
21 board of review.

22 (2) A disqualification under this subsection shall not preclude
23 the prosecution of any civil, criminal or administrative action or
24 proceeding to enforce other provisions of this chapter for the
25 assessment and collection of penalties or the refund of any amounts
26 collected as benefits under the provisions of R.S.43:21-16, or to
27 enforce any other law, where an individual obtains or attempts to
28 obtain by theft or robbery or false statements or representations any
29 money from any fund created or established under this chapter or
30 any negotiable or nonnegotiable instrument for the payment of
31 money from these funds, or to recover money erroneously or
32 illegally obtained by an individual from any fund created or
33 established under this chapter.

34 (h) (1) Notwithstanding any other provisions of this chapter
35 (R.S.43:21-1 et seq.), no otherwise eligible individual shall be
36 denied benefits for any week because the individual is in training
37 approved under section 236(a)(1) of the Trade Act of 1974,
38 Pub.L.93-618, 19 U.S.C.s.2296, nor shall the individual be denied
39 benefits by reason of leaving work to enter this training, provided
40 the work left is not suitable employment, or because of the
41 application to any week in training of provisions in this chapter
42 (R.S.43:21-1 et seq.), or any applicable federal unemployment
43 compensation law, relating to availability for work, active search
44 for work, or refusal to accept work.

45 (2) For purposes of this subsection (h), the term "suitable"
46 employment means, with respect to an individual, work of a
47 substantially equal or higher skill level than the individual's past
48 adversely affected employment (as defined for purposes of the

1 Trade Act of 1974, Pub.L.93-618, 19 U.S.C.s.[2102] 2101 et seq.),
2 and wages for this work at not less than 80% of the individual's
3 average weekly wage, as determined for the purposes of the Trade
4 Act of 1974.

5 (i) For benefit years commencing after June 30, 1984, for any
6 week in which the individual is a student in full attendance at, or on
7 vacation from, an educational institution, as defined in subsection
8 (y) of R.S.43:21-19; except that this subsection shall not apply to
9 any individual attending a training program approved by the
10 division to enhance the individual's employment opportunities, as
11 defined under subsection (c) of R.S.43:21-4; nor shall this
12 subsection apply to any individual who, during the individual's base
13 year, earned sufficient wages, as defined under subsection (e) of
14 R.S.43:21-4, while attending an educational institution during
15 periods other than established and customary vacation periods or
16 holiday recesses at the educational institution, to establish a claim
17 for benefits. For purposes of this subsection, an individual shall be
18 treated as a full-time student for any period:

19 (1) During which the individual is enrolled as a full-time student
20 at an educational institution, or

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

24 (j) Notwithstanding any other provisions of this chapter
25 (R.S.43:21-1 et seq.), no otherwise eligible individual shall be
26 denied benefits because the individual left work or was discharged
27 due to circumstances resulting from the individual being a victim of
28 domestic violence as defined in section 3 of P.L.1991, c.261
29 (C.2C:25-19). No employer's account shall be charged for the
30 payment of benefits to an individual who left work due to
31 circumstances resulting from the individual being a victim of
32 domestic violence.

33 For the purposes of this subsection (j), the individual shall be
34 treated as being a victim of domestic violence if the individual
35 provides one or more of the following:

36 (1) A restraining order or other documentation of equitable relief
37 issued by a court of competent jurisdiction;

38 (2) A police record documenting the domestic violence;

39 (3) Documentation that the perpetrator of the domestic violence
40 has been convicted of one or more of the offenses enumerated in
41 section 3 of P.L.1991, c.261 (C.2C:25-19);

42 (4) Medical documentation of the domestic violence;

43 (5) Certification from a certified Domestic Violence Specialist
44 or the director of a designated domestic violence agency that the
45 individual is a victim of domestic violence; or

46 (6) Other documentation or certification of the domestic
47 violence provided by a social worker, member of the clergy, shelter

1 worker or other professional who has assisted the individual in
2 dealing with the domestic violence.

3 For the purposes of this subsection (j):

4 "Certified Domestic Violence Specialist" means a person who
5 has fulfilled the requirements of certification as a Domestic
6 Violence Specialist established by the New Jersey Association of
7 Domestic Violence Professionals; and "designated domestic
8 violence agency" means a county-wide organization with a primary
9 purpose to provide services to victims of domestic violence, and
10 which provides services that conform to the core domestic violence
11 services profile as defined by the Division of Youth and Family
12 Services in the Department of Human Services and is under contract
13 with the division for the express purpose of providing such services.

14 (k) Notwithstanding any other provisions of this chapter (R.S.
15 43:21-1 et seq.), no otherwise eligible individual shall be denied
16 benefits for any week in which the individual left work voluntarily
17 and without good cause attributable to the work, if the individual
18 left work to accompany his or her spouse who is an active member
19 of the United States Armed Forces, as defined in N.J.S.38A:1-1(g),
20 to a new place of residence outside the State, due to the armed
21 forces member's transfer to a new assignment in a different
22 geographical location outside the State, and upon arrival at the new
23 place of residence was in all respects available for suitable work.
24 No employer's account shall be charged for the payment of benefits
25 to an individual who left work under the circumstances contained in
26 this subsection (k).

27 (cf: P.L.1999, c.391, s.1)

28

29 2. This act shall take effect on the 90th day following the date of
30 enactment.

31

32

33

STATEMENT

34

35 When a member of the armed forces is ordered to move to a new
36 assignment outside the State, the member's family usually is forced
37 to relocate and the member's spouse must quit his or her job. Under
38 current law, the spouse would not qualify for unemployment
39 insurance benefits because the separation from work was voluntary
40 and without good cause attributable to the work.

41 The bill creates an exception for spouses of members of the
42 armed forces who relocate outside of the State. If the spouse is
43 otherwise eligible in all respects to obtain unemployment benefits,
44 he or she may receive benefits. Under the bill, employers whose
45 workers receive these benefits will not be charged for these
46 benefits.

SENATE, No. 2104

STATE OF NEW JERSEY 212th LEGISLATURE

INTRODUCED JUNE 26, 2006

Sponsored by:

Senator PETER A. INVERSO
District 14 (Mercer and Middlesex)
Senator JOHN A. GIRGENTI
District 35 (Bergen and Passaic)

Co-Sponsored by:

Senators Bucco and Coniglio

SYNOPSIS

Provides UI benefits for certain spouses of relocated armed forces members.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 11/28/2006)

1 AN ACT concerning unemployment benefits for certain spouses of
2 armed forces members and amending R.S.43:21-5.

3

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

6

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

8 43:21-5. An individual shall be disqualified for benefits:

9 (a) For the week in which the individual has left work voluntarily
10 without good cause attributable to such work, and for each week
11 thereafter until the individual becomes reemployed and works four
12 weeks in employment, which may include employment for the
13 federal government, and has earned in employment at least six
14 times the individual's weekly benefit rate, as determined in each
15 case. This subsection shall apply to any individual seeking
16 unemployment benefits on the basis of employment in the
17 production and harvesting of agricultural crops, including any
18 individual who was employed in the production and harvesting of
19 agricultural crops on a contract basis and who has refused an offer
20 of continuing work with that employer following the completion of
21 the minimum period of work required to fulfill the contract.

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

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

40 The director shall insure that any appeal of a determination
41 holding the individual disqualified for gross misconduct in
42 connection with the work shall be expeditiously processed by the
43 appeal tribunal.

44 (c) If it is found that the individual has failed, without good
45 cause, either to apply for available, suitable work when so directed

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 by the employment office or the director or to accept suitable work
2 when it is offered, or to return to the individual's customary self-
3 employment (if any) when so directed by the director. The
4 disqualification shall continue for the week in which the failure
5 occurred and for the three weeks which immediately follow that
6 week (in addition to the waiting period), as determined:

7 (1) In determining whether or not any work is suitable for an
8 individual, consideration shall be given to the degree of risk
9 involved to health, safety, and morals, the individual's physical
10 fitness and prior training, experience and prior earnings, the
11 individual's length of unemployment and prospects for securing
12 local work in the individual's customary occupation, and the
13 distance of the available work from the individual's residence. In
14 the case of work in the production and harvesting of agricultural
15 crops, the work shall be deemed to be suitable without regard to the
16 distance of the available work from the individual's residence if all
17 costs of transportation are provided to the individual and the terms
18 and conditions of hire are as favorable or more favorable to the
19 individual as the terms and conditions of the individual's base year
20 employment.

21 (2) Notwithstanding any other provisions of this chapter, no
22 work shall be deemed suitable and benefits shall not be denied
23 under this chapter to any otherwise eligible individual for refusing
24 to accept new work under any of the following conditions:

25 (a) if the position offered is vacant due directly to a strike,
26 lockout, or other labor dispute;

27 (b) if the remuneration, hours, or other conditions of the work
28 offered are substantially less favorable to the individual than those
29 prevailing for similar work in the locality; (c) if as a condition of
30 being employed the individual would be required to join a company
31 union or to resign from or refrain from joining any bona fide labor
32 organization.

33 (d) If it is found that this unemployment is due to a stoppage of
34 work which exists because of a labor dispute at the factory,
35 establishment or other premises at which the individual is or was
36 last employed.

37 (1) No disqualification under this subsection (d) shall apply if it
38 is shown that:

39 (a) The individual is not participating in or financing or directly
40 interested in the labor dispute which caused the stoppage of work;
41 and

42 (b) The individual does not belong to a grade or class of workers
43 of which, immediately before the commencement of the stoppage,
44 there were members employed at the premises at which the
45 stoppage occurs, any of whom are participating in or financing or
46 directly interested in the dispute; provided that if in any case in
47 which (a) or (b) above applies, separate branches of work which are
48 commonly conducted as separate businesses in separate premises

1 are conducted in separate departments of the same premises, each
2 department shall, for the purpose of this subsection, be deemed to
3 be a separate factory, establishment, or other premises.

4 (2) For any claim for a period of unemployment commencing on
5 or after December 1, 2004, no disqualification under this subsection
6 (d) shall apply if it is shown that the individual has been prevented
7 from working by the employer, even though:

8 (a) The individual's recognized or certified majority
9 representative has directed the employees in the individual's
10 collective bargaining unit to work under the preexisting terms and
11 conditions of employment; and

12 (b) The employees had not engaged in a strike immediately
13 before being prevented from working.

14 (e) For any week with respect to which the individual is
15 receiving or has received remuneration in lieu of notice.

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

23 (g) (1) For a period of one year from the date of the discovery
24 by the division of the illegal receipt or attempted receipt of benefits
25 contrary to the provisions of this chapter, as the result of any false
26 or fraudulent representation; provided that any disqualification may
27 be appealed in the same manner as any other disqualification
28 imposed hereunder; and provided further that a conviction in the
29 courts of this State arising out of the illegal receipt or attempted
30 receipt of these benefits in any proceeding instituted against the
31 individual under the provisions of this chapter or any other law of
32 this State shall be conclusive upon the appeals tribunal and the
33 board of review.

34 (2) A disqualification under this subsection shall not preclude
35 the prosecution of any civil, criminal or administrative action or
36 proceeding to enforce other provisions of this chapter for the
37 assessment and collection of penalties or the refund of any amounts
38 collected as benefits under the provisions of R.S.43:21-16, or to
39 enforce any other law, where an individual obtains or attempts to
40 obtain by theft or robbery or false statements or representations any
41 money from any fund created or established under this chapter or
42 any negotiable or nonnegotiable instrument for the payment of
43 money from these funds, or to recover money erroneously or
44 illegally obtained by an individual from any fund created or
45 established under this chapter.

46 (h) (1) Notwithstanding any other provisions of this chapter
47 (R.S.43:21-1 et seq.), no otherwise eligible individual shall be
48 denied benefits for any week because the individual is in training

1 approved under section 236(a)(1) of the Trade Act of 1974,
2 Pub.L.93-618, 19 U.S.C.s.2296, nor shall the individual be denied
3 benefits by reason of leaving work to enter this training, provided
4 the work left is not suitable employment, or because of the
5 application to any week in training of provisions in this chapter
6 (R.S.43:21-1 et seq.), or any applicable federal unemployment
7 compensation law, relating to availability for work, active search
8 for work, or refusal to accept work.

9 (2) For purposes of this subsection (h), the term "suitable"
10 employment means, with respect to an individual, work of a
11 substantially equal or higher skill level than the individual's past
12 adversely affected employment (as defined for purposes of the
13 Trade Act of 1974, Pub.L.93-618, 19 U.S.C.s.2102 et seq.), and
14 wages for this work at not less than 80% of the individual's average
15 weekly wage, as determined for the purposes of the Trade Act of
16 1974.

17 (i) For benefit years commencing after June 30, 1984, for any
18 week in which the individual is a student in full attendance at, or on
19 vacation from, an educational institution, as defined in subsection
20 (y) of R.S.43:21-19; except that this subsection shall not apply to
21 any individual attending a training program approved by the
22 division to enhance the individual's employment opportunities, as
23 defined under subsection (c) of R.S.43:21-4; nor shall this
24 subsection apply to any individual who, during the individual's base
25 year, earned sufficient wages, as defined under subsection (e) of
26 R.S.43:21-4, while attending an educational institution during
27 periods other than established and customary vacation periods or
28 holiday recesses at the educational institution, to establish a claim
29 for benefits. For purposes of this subsection, an individual shall be
30 treated as a full-time student for any period:

31 (1) During which the individual is enrolled as a full-time student
32 at an educational institution, or

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

36 (j) Notwithstanding any other provisions of this chapter
37 (R.S.43:21-1 et seq.), no otherwise eligible individual shall be
38 denied benefits because the individual left work or was discharged
39 due to circumstances resulting from the individual being a victim of
40 domestic violence as defined in section 3 of P.L.1991, c.261
41 (C.2C:25-19). No employer's account shall be charged for the
42 payment of benefits to an individual who left work due to
43 circumstances resulting from the individual being a victim of
44 domestic violence.

45 For the purposes of this subsection (j), the individual shall be
46 treated as being a victim of domestic violence if the individual
47 provides one or more of the following:

- 1 (1) A restraining order or other documentation of equitable
2 relief issued by a court of competent jurisdiction;
3 (2) A police record documenting the domestic violence;
4 (3) Documentation that the perpetrator of the domestic violence
5 has been convicted of one or more of the offenses enumerated in
6 section 3 of P.L.1991, c.261 (C.2C:25-19);
7 (4) Medical documentation of the domestic violence;
8 (5) Certification from a certified Domestic Violence Specialist
9 or the director of a designated domestic violence agency that the
10 individual is a victim of domestic violence; or
11 (6) Other documentation or certification of the domestic violence
12 provided by a social worker, member of the clergy, shelter worker
13 or other professional who has assisted the individual in dealing with
14 the domestic violence.

15 For the purposes of this subsection (j):

16 "Certified Domestic Violence Specialist" means a person who
17 has fulfilled the requirements of certification as a Domestic
18 Violence Specialist established by the New Jersey Association of
19 Domestic Violence Professionals; and "designated domestic
20 violence agency" means a county-wide organization with a primary
21 purpose to provide services to victims of domestic violence, and
22 which provides services that conform to the core domestic violence
23 services profile as defined by the Division of Youth and Family
24 Services in the Department of Human Services and is under contract
25 with the division for the express purpose of providing such services.

26 (k) Notwithstanding any other provisions of this chapter
27 (R.S.43:21-1 et seq.), no otherwise eligible individual shall be
28 denied benefits for any week in which the individual left work
29 voluntarily and without good cause attributable to the work, if the
30 individual left work to accompany his or her spouse who is an
31 active member of the armed forces, as defined in subsection (g) of
32 N.J.S.38A:1-1, to a new place of residence outside the State, due to
33 the armed forces member's transfer to a new assignment in a
34 different geographical location outside the State, and upon arrival at
35 the new place of residence was in all respects available for suitable
36 work. No employer's account shall be charged for the payment of
37 benefits to an individual who left work under the circumstances
38 contained in this subsection (k), except that this shall not be
39 construed as relieving the State of New Jersey and any other
40 governmental entity or instrumentality or nonprofit organization
41 electing or required to make payments in lieu of contributions from
42 its responsibility to make all benefit payments otherwise required
43 by law and from being charged for those benefits as otherwise
44 required by law.

45 (cf: P.L.2005, c.103, s.1)

46

47 2. This act shall take effect on the 90th day following the date of
48 enactment.

1 STATEMENT

2

3 When a member of the armed forces is ordered to move to a new
4 assignment outside the State, the member's family usually is forced
5 to relocate and the member's spouse must quit his or her job. Under
6 current law, the spouse would not qualify for unemployment
7 insurance benefits because the law regards the separation from work
8 as voluntary and without good cause attributable to the work.

9 This bill creates an exception for spouses of members of the
10 armed forces who relocate outside of the State. If the spouse is
11 otherwise eligible in all respects to obtain unemployment benefits,
12 he or she may receive benefits. Under the bill, employers whose
13 workers receive these benefits will not be charged for these
14 benefits, except for governmental or non-profit "reimbursable"
15 employers who make no contributions into the unemployment
16 compensation fund.

ASSEMBLY APPROPRIATIONS COMMITTEE

STATEMENT TO

[First Reprint]

SENATE COMMITTEE SUBSTITUTE FOR **SENATE, Nos. 746 and 2104**

STATE OF NEW JERSEY

DATED: JUNE 14, 2007

The Assembly Appropriations Committee reports favorably Senate Bill No. 746/2104 (SCS/1R).

The bill creates an exception under the current unemployment benefits program to allow the spouse of an active member of the armed forces to receive unemployment benefits if that spouse is forced to quit his or her job due to relocation of the military member outside of the State, provided the spouse is eligible for benefits in all other respects and the spouse relocates to the new place of residence within nine months after the armed forces member is transferred. Under the bill, employers whose workers receive benefits will not be charged for these benefits, except for governmental or non-profit "reimbursable" employers who make no contributions into the unemployment compensation fund.

When a member of the armed forces is ordered to move to a new assignment outside the State, the member's family usually is forced to relocate and the member's spouse must quit his or her job. Under current law, the spouse would not qualify for unemployment insurance benefits because the law regards the separation from work as voluntary and without good cause attributable to the work.

As reported by the committee, this bill is identical to the Assembly Committee Substitute for Assembly Bill Nos. 3472, 3282, 1452 and 348 (1R) substituted and reported by the committee.

FISCAL IMPACT:

The Office of Legislative Services (OLS) estimates the unemployment compensation fund balance will decrease approximately \$486,000 as a result of the benefits authorized by the bill. The decrease to the fund balance may be more than the estimated \$486,000 depending upon future military action, redeployment of reserves, eligibility for spouses' unemployment benefits as provided in the bill and average benefit amounts.

The OLS has calculated the benefit cost of paying military trailing spouses based on information from the United States Department of Defense and Defense Manpower Data Center. Using this information, it is estimated that that approximately 80 military spouses may apply and qualify for benefits in New Jersey. Based on this information, the average weekly benefit amount of \$341 times the average duration of unemployment of 17.8 weeks times 80 claimants per year yields the estimated annual decrease in the unemployment compensation fund balance.

SENATE LABOR COMMITTEE

STATEMENT TO

SENATE, No. 746

with committee amendments

STATE OF NEW JERSEY

DATED: JANUARY 26, 2006

When a member of the armed forces is ordered to move to a new assignment outside the State, the member's family usually is forced to relocate and the member's spouse must quit his or her job. Under current law, the spouse does not qualify for unemployment insurance benefits because the separation from work is considered voluntary and without good cause attributable to the work.

This bill creates an exception for spouses of members of the armed forces who relocate outside of the State. If the spouse is otherwise eligible in all respects to obtain unemployment benefits, he or she may receive benefits. Under the bill, employers whose workers receive these benefits will not be charged for these benefits.

The committee made a technical amendment to remove a reference in the law to a waiting period, which is no longer in effect.

This bill was pre-filed for introduction in the 2006-2007 session pending technical review. As reported, the bill includes the changes required by technical review, which has been performed.

SENATE LABOR COMMITTEE

STATEMENT TO

SENATE, No. 2104

STATE OF NEW JERSEY

DATED: NOVEMBER 13, 2006

The Senate Labor Committee reports favorably Senate Bill No. 2104.

When a member of the armed forces is ordered to move to a new assignment outside the State, the member's family usually is forced to relocate and the member's spouse must quit his or her job. Under current law, the spouse would not qualify for unemployment insurance benefits because the law regards the separation from work as voluntary and without good cause attributable to the work.

This bill creates an exception for spouses of members of the armed forces who relocate outside of the State. If the spouse is otherwise eligible in all respects to obtain unemployment benefits, he or she may receive benefits. Under the bill, employers whose workers receive these benefits will not be charged for these benefits, except for governmental or non-profit "reimbursable" employers who make no contributions into the unemployment compensation fund.

SENATE BUDGET AND APPROPRIATIONS COMMITTEE

STATEMENT TO

SENATE COMMITTEE SUBSTITUTE FOR **SENATE, Nos. 746 and 2104**

STATE OF NEW JERSEY

DATED: JANUARY 29, 2007

The Senate Budget and Appropriations Committee reports favorably Senate Committee Substitute for Senate Bill Nos. 746 and 2104.

The committee substitute creates an exception under the current unemployment benefits program to allow the spouse of an active member of the armed forces to receive unemployment benefits if that spouse is forced to quit his or her job due to relocation of the military member outside of the State, provided the spouse is eligible for benefits in all other respects. Under the substitute, employers whose workers receive benefits will not be charged for these benefits, except for governmental or non-profit "reimbursable" employers who make no contributions into the unemployment compensation fund.

When a member of the armed forces is ordered to move to a new assignment outside the State, the member's family usually is forced to relocate and the member's spouse must quit his or her job. Under current law, the spouse would not qualify for unemployment insurance benefits because the law regards the separation from work as voluntary and without good cause attributable to the work.

This committee substitute is identical to Assembly Bill No. 3472.

FISCAL IMPACT:

The OLS estimates the unemployment compensation fund balance will decrease approximately \$486,000 as a result of the substitute. The decrease to the fund balance may be more than the estimated \$486,000 depending upon future military action, redeployment of reserves, eligibility for spouses' unemployment benefits as provided in the bill and average benefit amounts.

The OLS has calculated the benefit cost of paying military trailing spouses based on information from the United States Department of Defense and Defense Manpower Data Center. Utilizing this information, it is estimated that that approximately 80 military spouses may apply and qualify for benefits in New Jersey. Based on this information, the average weekly benefit amount of \$341 times the average duration of unemployment of 17.8 weeks, times 80 claimants per year yields the estimated annual decrease in the unemployment compensation fund balance.

STATEMENT TO
SENATE COMMITTEE SUBSTITUTE FOR
SENATE, Nos. 746 and 2104

with Senate Floor Amendments
(Proposed By Senator TURNER)

ADOPTED: FEBRUARY 22, 2007

This bill allows an eligible individual to receive unemployment benefits if they left work voluntarily and without good cause attributable to the work, to accompany his or her spouse who is an active member of the United States Armed Forces to a new place of residence outside the State, due to the armed forces member's transfer to a new assignment in a different geographical location outside the State. The Senate amendments provide that a move to the new place of residence occur not more than nine months after the spouse is transferred in order to be eligible for the benefits.

Additionally, the amendments provide corrections to several federal law citations for the "Trade Act of 1974," Pub. L.93-618 (19 U.S.C. s.2101 et seq.), as referenced through out the bill

LEGISLATIVE FISCAL ESTIMATE

[First Reprint]

SENATE, No. 746

STATE OF NEW JERSEY 212th LEGISLATURE

DATED: FEBRUARY 13, 2007

SUMMARY

- Synopsis:** Provides unemployment benefits for certain spouses of armed services members.
- Type of Impact:** Decreases Unemployment Insurance (UI) fund balance by approximately \$485,584
- Agencies Affected:** Department of Labor and Workforce Development

Office of Legislative Services Estimate

Fiscal Impact	<u>Year 1</u>	<u>Year 2</u>	<u>Year 3</u>
UI Fund	Reduce balance by \$485,584	Reduce balance by \$485,584	Reduce balance by \$485,584

- The Office of Legislative Services (OLS) estimates the UI fund balance will decrease *approximately* \$485,584 upon enactment of the bill. The decrease to the UI fund balance may be more than the estimated \$485,584 depending upon future military action, redeployment of reserves, eligibility for spouses' unemployment benefits as provided in the bill and average benefit amounts.
- The OLS has calculated the benefit cost of paying military trailing spouses based on information from the United States Department of Defense and Defense Manpower Data Center. Utilizing this information, it can be determined that approximately 80 military spouses may be eligible to apply and qualify for benefits in New Jersey. Based on this information, the average weekly benefit amount of \$341 times the average duration of unemployment of 17.8 weeks, times 80 claimants per year equals a \$485,584 annual decrease in the UI fund balance.

BILL DESCRIPTION

Senate Bill No. 746 (1R) of 2006 creates an exception for spouses of members the armed forces who relocate outside of the State. If the spouse is otherwise eligible in all respects to obtain unemployment benefits, he or she may receive benefits. Under the bill, employers whose workers receive these benefits will not be charged for these benefits.

FISCAL ANALYSIS***EXECUTIVE BRANCH***

None received.

OFFICE OF LEGISLATIVE SERVICES

The OLS estimates the UI fund balance will decrease *approximately* \$485,584 upon enactment of the bill. The decrease to the UI fund balance may be more than the estimated \$485,584 depending upon future military action, redeployment of reserves, eligibility for spouses' unemployment benefits as provided in the bill and average benefit amounts. The OLS has calculated the benefit cost of paying military trailing spouses based on information from the United States Department of Defense and Defense Manpower Data Center. The total number of active duty military members in New Jersey as of October 2006 is 20,700. Approximately 54.6 percent of the active duty force in the nation are married and approximately 52 percent of military spouses are in the labor force. The State of Washington's experience for similar legislation indicates that 1.36 percent of working relocating military spouses qualify and apply for UI benefits. Utilizing this information, it can be determined that approximately 80 military spouses may apply and qualify for benefits in New Jersey. Based on this information, the average weekly benefit amount of \$341 times the average duration of unemployment of 17.8 weeks, times 80 claimants per year equals a \$485,584 annual decrease in the UI fund balance.

Section: Commerce, Labor and Industry

Analyst: Sonya S. Davis
Senior Fiscal Analyst

Approved: David J. Rosen
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.

LEGISLATIVE FISCAL ESTIMATE
SENATE, No. 2104
STATE OF NEW JERSEY
212th LEGISLATURE

DATED: FEBRUARY 13, 2007

SUMMARY

Synopsis: Provides UI benefits for certain spouses of relocated armed forces members.

Type of Impact: Decreases Unemployment Insurance (UI) fund balance by approximately \$485,584

Agencies Affected: Department of Labor and Workforce Development

Office of Legislative Services Estimate

Fiscal Impact	<u>Year 1</u>	<u>Year 2</u>	<u>Year 3</u>
UI Fund	Reduce balance by \$485,584	Reduce balance by \$485,584	Reduce balance by \$485,584

- The Office of Legislative Services (OLS) estimates the UI fund balance will decrease *approximately* \$485,584 upon enactment of the bill. The decrease to the UI fund balance may be more than the estimated \$485,584 depending upon future military action, redeployment of reserves, eligibility for spouses' unemployment benefits as provided in the bill and average benefit amounts.
- The OLS has calculated the benefit cost of paying military trailing spouses based on information from the United States Department of Defense and Defense Manpower Data Center. Utilizing this information, it can be determined that approximately 80 military spouses may be eligible to apply and qualify for benefits in New Jersey. Based on this information, the average weekly benefit amount of \$341 times the average duration of unemployment of 17.8 weeks, times 80 claimants per year equals a \$485,584 annual decrease in the UI fund balance.

BILL DESCRIPTION

Senate Bill No. 2104 of 2006 creates an exception for spouses of members of the armed forces who relocate outside of the State. If the spouse is otherwise eligible in all respects to obtain unemployment benefits, he or she may receive benefits. Under the bill, employers whose workers receive these benefits will not be charged for these benefits, except for governmental or non-profit "reimbursable" employers who make no contributions into the unemployment compensation fund.

FISCAL ANALYSIS***EXECUTIVE BRANCH***

None received.

OFFICE OF LEGISLATIVE SERVICES

The OLS estimates the UI fund balance will decrease *approximately* \$485,584 upon enactment of the bill. The decrease to the UI fund balance may be more than the estimated \$485,584 depending upon future military action, redeployment of reserves, eligibility for spouses' unemployment benefits as provided in the bill and average benefit amounts. The OLS has calculated the benefit cost of paying military trailing spouses based on information from the United States Department of Defense and Defense Manpower Data Center. The total number of active duty military members in New Jersey as of October 2006 is 20,700. Approximately 54.6 percent of the active duty force in the nation are married and approximately 52 percent of military spouses are in the labor force. The State of Washington's experience for similar legislation indicates that 1.36 percent of working relocating military spouses qualify and apply for UI benefits. Utilizing this information, it can be determined that approximately 80 military spouses may apply and qualify for benefits in New Jersey. Based on this information, the average weekly benefit amount of \$341 times the average duration of unemployment of 17.8 weeks, times 80 claimants per year equals a \$485,584 annual decrease in the UI fund balance.

Section: Commerce, Labor and Industry

Analyst: Sonya S. Davis
Senior Fiscal Analyst

Approved: David J. Rosen
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.

LEGISLATIVE FISCAL ESTIMATE
SENATE COMMITTEE SUBSTITUTE FOR
SENATE, Nos. 746 and 2104
STATE OF NEW JERSEY
212th LEGISLATURE

DATED: MARCH 6, 2007

SUMMARY

Synopsis: Provides unemployment benefits for spouses of armed services members under certain circumstances.

Type of Impact: Decreases Unemployment Insurance (UI) fund balance by approximately \$139,605

Agencies Affected: Department of Labor and Workforce Development

Office of Legislative Services Estimate

Fiscal Impact	<u>Year 1</u>	<u>Year 2</u>	<u>Year 3</u>
UI Fund	Reduce balance by \$139,605	Reduce balance by \$139,605	Reduce balance by \$139,605

- The Office of Legislative Services (OLS) estimates the UI fund balance will decrease *approximately* \$139,605 upon enactment of the substitute. The decrease to the UI fund balance may be more than the estimated \$139,605 depending upon future military action, redeployment of reserves, eligibility for spouses' unemployment benefits as provided in the bill and average benefit amounts.
- The OLS has calculated the benefit cost of paying military trailing spouses based on information from the United States Department of Defense.. Utilizing this information, it can be determined that approximately 23 military spouses may be eligible to apply and qualify for benefits in New Jersey. Based on this information, the average weekly benefit amount of \$341 times the average duration of unemployment of 17.8 weeks, times 23 claimants per year equals a \$139,605 annual decrease in the UI fund balance.

BILL DESCRIPTION

Senate Committee Substitute for Senate Bill Nos. 746 and 2104 of 2007 creates an exception for spouses of members of the armed forces who relocate outside of the State. If the spouse is otherwise eligible in all respects to obtain unemployment benefits, he or she may receive benefits. Under the substitute, employers whose workers receive these benefits will not be

charged for these benefits, except for governmental or non-profit “reimbursable” employers who make no contributions into the unemployment compensation fund.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The OLS estimates the UI fund balance will decrease *approximately* \$139,605 upon enactment of the substitute. The decrease to the UI fund balance may be more than the estimated \$139,605 depending upon future military action, redeployment of reserves, eligibility for spouses’ unemployment benefits as provided in the bill and average benefit amounts. The OLS has calculated the benefit cost of paying military trailing spouses based on information from the United States Department of Defense. Currently, the total number of active duty military members in New Jersey is 6,501. Approximately 3,654 of these active duty military members are married and approximately 1,702 military spouses in New Jersey are in the labor force. The State of Washington’s experience for similar legislation indicates that 1.36 percent of working relocating military spouses qualify and apply for UI benefits. Utilizing this information, it can be determined that approximately 23 military spouses may apply and qualify for benefits in New Jersey. Based on this information, the average weekly benefit amount of \$341 times the average duration of unemployment of 17.8 weeks, times 23 claimants per year equals a \$139,605 annual decrease in the UI fund balance.

Section: Commerce, Labor and Industry

Analyst: Sonya S. Davis
Senior Fiscal Analyst

Approved: David J. Rosen
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.

LEGISLATIVE FISCAL ESTIMATE
 [First Reprint]
 SENATE COMMITTEE SUBSTITUTE FOR
SENATE, Nos. 746 and 2104
STATE OF NEW JERSEY
212th LEGISLATURE

DATED: JULY 9, 2007

SUMMARY

Synopsis: Provides unemployment benefits for spouses of armed services members under certain circumstances.

Type of Impact: Decreases Unemployment Insurance (UI) fund balance.

Agencies Affected: Department of Labor and Workforce Development

Office of Legislative Services Estimate

Fiscal Impact	<u>Year 1</u>	<u>Year 2</u>	<u>Year 3</u>
UI Fund	Reduce balance by \$139,605	Reduce balance by \$139,605	Reduce balance by \$139,605

- The Office of Legislative Services (OLS) estimates the UI fund balance will decrease approximately \$139,605 upon enactment of the substitute. The decrease to the UI fund balance may be more than the estimated \$139,605 depending upon future military action, redeployment of reserves, eligibility for spouses' unemployment benefits as provided in the bill and average benefit amounts.
- The OLS has calculated the benefit cost of paying military trailing spouses based on information from the United States Department of Defense. Utilizing this information, it can be determined that approximately 23 military spouses may be eligible to apply and qualify for benefits in New Jersey. Based on this information, the average weekly benefit amount of \$341 times the average duration of unemployment of 17.8 weeks, times 23 claimants per year equals a \$139,605 annual decrease in the UI fund balance.

BILL DESCRIPTION

Senate Committee Substitute for Senate Bill Nos. 746 and 2104 (1R) of 2007 creates an exception for spouses of members of the armed forces who relocate outside of the State. If the spouse is otherwise eligible in all respects to obtain unemployment benefits, he or she may receive benefits. Under the substitute, employers whose workers receive these benefits will not

be charged for these benefits, except for governmental or non-profit “reimbursable” employers who make no contributions into the unemployment compensation fund.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The OLS estimates the UI fund balance will decrease approximately \$139,605 upon enactment of the substitute. The decrease to the UI fund balance may be more than the estimated \$139,605 depending upon future military action, redeployment of reserves, eligibility for spouses’ unemployment benefits as provided in the bill and average benefit amounts. The OLS has calculated the benefit cost of paying military trailing spouses based on information from the United States Department of Defense. Currently, the total number of active duty military members in New Jersey is 6,501. Approximately 3,654 of these active duty military members are married and approximately 1,702 military spouses in New Jersey are in the labor force. The State of Washington’s experience for similar legislation indicates that 1.36 percent of working relocating military spouses qualify and apply for UI benefits. Utilizing this information, it can be determined that approximately 23 military spouses may apply and qualify for benefits in New Jersey. Based on this information, the average weekly benefit amount of \$341 times the average duration of unemployment of 17.8 weeks, times 23 claimants per year equals a \$139,605 annual decrease in the UI fund balance.

Section: Commerce, Labor and Industry

*Analyst: Gregory L. Williams
Lead Research Analyst*

*Approved: David J. Rosen
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.

ASSEMBLY, No. 3472

STATE OF NEW JERSEY 212th LEGISLATURE

INTRODUCED OCTOBER 19, 2006

Sponsored by:

Assemblyman JACK CONNERS

District 7 (Burlington and Camden)

Assemblyman UPENDRA J. CHIVUKULA

District 17 (Middlesex and Somerset)

Assemblyman LOUIS M. MANZO

District 31 (Hudson)

SYNOPSIS

Provides unemployment benefits for certain spouses of armed services members.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 10/24/2006)

1 AN ACT providing unemployment benefits for certain spouses of
2 armed forces members and amending R.S.43:21-5.

3

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

6

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

8 43:21-5. An individual shall be disqualified for benefits:

9 (a) For the week in which the individual has left work
10 voluntarily without good cause attributable to such work, and for
11 each week thereafter until the individual becomes reemployed and
12 works four weeks in employment, which may include employment
13 for the federal government, and has earned in employment at least
14 six times the individual's weekly benefit rate, as determined in each
15 case. This subsection shall apply to any individual seeking
16 unemployment benefits on the basis of employment in the
17 production and harvesting of agricultural crops, including any
18 individual who was employed in the production and harvesting of
19 agricultural crops on a contract basis and who has refused an offer
20 of continuing work with that employer following the completion of
21 the minimum period of work required to fulfill the contract.

22 (b) For the week in which the individual has been suspended or
23 discharged for misconduct connected with the work, and for the five
24 weeks which immediately follow that week [(in addition to the
25 waiting period)], as determined in each case. In the event the
26 discharge should be rescinded by the employer voluntarily or as a
27 result of mediation or arbitration, this subsection (b) shall not apply,
28 provided, however, an individual who is restored to employment
29 with back pay shall return any benefits received under this chapter
30 for any week of unemployment for which the individual is
31 subsequently compensated by the employer.

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

40 The director shall insure that any appeal of a determination
41 holding the individual disqualified for gross misconduct in
42 connection with the work shall be expeditiously processed by the
43 appeal tribunal.

44 (c) If it is found that the individual has failed, without good
45 cause, either to apply for available, suitable work when so directed

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 by the employment office or the director or to accept suitable work
2 when it is offered, or to return to the individual's customary self-
3 employment (if any) when so directed by the director. The
4 disqualification shall continue for the week in which the failure
5 occurred and for the three weeks which immediately follow that
6 week [(in addition to the waiting period)], as determined:

7 (1) In determining whether or not any work is suitable for an
8 individual, consideration shall be given to the degree of risk
9 involved to health, safety, and morals, the individual's physical
10 fitness and prior training, experience and prior earnings, the
11 individual's length of unemployment and prospects for securing
12 local work in the individual's customary occupation, and the
13 distance of the available work from the individual's residence. In
14 the case of work in the production and harvesting of agricultural
15 crops, the work shall be deemed to be suitable without regard to the
16 distance of the available work from the individual's residence if all
17 costs of transportation are provided to the individual and the terms
18 and conditions of hire are as favorable or more favorable to the
19 individual as the terms and conditions of the individual's base year
20 employment.

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

32 (d) If it is found that this unemployment is due to a stoppage of
33 work which exists because of a labor dispute at the factory,
34 establishment or other premises at which the individual is or was
35 last employed.

36 (1) No disqualification under this subsection (d) shall apply if it
37 is shown that:

38 (a) The individual is not participating in or financing or directly
39 interested in the labor dispute which caused the stoppage of work;
40 and

41 (b) The individual does not belong to a grade or class of workers
42 of which, immediately before the commencement of the stoppage,
43 there were members employed at the premises at which the
44 stoppage occurs, any of whom are participating in or financing or
45 directly interested in the dispute; provided that if in any case in
46 which (a) or (b) above applies, separate branches of work which are
47 commonly conducted as separate businesses in separate premises

1 are conducted in separate departments of the same premises, each
2 department shall, for the purpose of this subsection, be deemed to
3 be a separate factory, establishment, or other premises.

4 (2) For any claim for a period of unemployment commencing on
5 or after December 1, 2004, no disqualification under this subsection
6 (d) shall apply if it is shown that the individual has been prevented
7 from working by the employer, even though[:

8 (a) The] the individual's recognized or certified majority
9 representative has directed the employees in the individual's
10 collective bargaining unit to work under the preexisting terms and
11 conditions of employment[;], and

12 [(b) The] the employees had not engaged in a strike immediately
13 before being prevented from working.

14 (e) For any week with respect to which the individual is
15 receiving or has received remuneration in lieu of notice.

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

23 (g) (1) For a period of one year from the date of the discovery
24 by the division of the illegal receipt or attempted receipt of benefits
25 contrary to the provisions of this chapter, as the result of any false
26 or fraudulent representation; provided that any disqualification may
27 be appealed in the same manner as any other disqualification
28 imposed hereunder; and provided further that a conviction in the
29 courts of this State arising out of the illegal receipt or attempted
30 receipt of these benefits in any proceeding instituted against the
31 individual under the provisions of this chapter or any other law of
32 this State shall be conclusive upon the appeals tribunal and the
33 board of review.

34 (2) A disqualification under this subsection shall not preclude
35 the prosecution of any civil, criminal or administrative action or
36 proceeding to enforce other provisions of this chapter for the
37 assessment and collection of penalties or the refund of any amounts
38 collected as benefits under the provisions of R.S.43:21-16, or to
39 enforce any other law, where an individual obtains or attempts to
40 obtain by theft or robbery or false statements or representations any
41 money from any fund created or established under this chapter or
42 any negotiable or nonnegotiable instrument for the payment of
43 money from these funds, or to recover money erroneously or
44 illegally obtained by an individual from any fund created or
45 established under this chapter.

46 (h) (1) Notwithstanding any other provisions of this chapter
47 (R.S.43:21-1 et seq.), no otherwise eligible individual shall be
48 denied benefits for any week because the individual is in training

1 approved under section 236(a)(1) of the Trade Act of 1974,
2 Pub.L.93-618, 19 U.S.C. s.2296, nor shall the individual be denied
3 benefits by reason of leaving work to enter this training, provided
4 the work left is not suitable employment, or because of the
5 application to any week in training of provisions in this chapter
6 (R.S.43:21-1 et seq.), or any applicable federal unemployment
7 compensation law, relating to availability for work, active search
8 for work, or refusal to accept work.

9 (2) For purposes of this subsection (h), the term "suitable"
10 employment means, with respect to an individual, work of a
11 substantially equal or higher skill level than the individual's past
12 adversely affected employment (as defined for purposes of the
13 Trade Act of 1974, Pub.L.93-618, 19 U.S.C. s.[2102] 2101 et seq.),
14 and wages for this work at not less than 80% of the individual's
15 average weekly wage, as determined for the purposes of the Trade
16 Act of 1974.

17 (i) For benefit years commencing after June 30, 1984, for any
18 week in which the individual is a student in full attendance at, or on
19 vacation from, an educational institution, as defined in subsection
20 (y) of R.S.43:21-19; except that this subsection shall not apply to
21 any individual attending a training program approved by the
22 division to enhance the individual's employment opportunities, as
23 defined under subsection (c) of R.S.43:21-4; nor shall this
24 subsection apply to any individual who, during the individual's base
25 year, earned sufficient wages, as defined under subsection (e) of
26 R.S.43:21-4, while attending an educational institution during
27 periods other than established and customary vacation periods or
28 holiday recesses at the educational institution, to establish a claim
29 for benefits. For purposes of this subsection, an individual shall be
30 treated as a full-time student for any period:

31 (1) During which the individual is enrolled as a full-time student
32 at an educational institution, or

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

36 (j) Notwithstanding any other provisions of this chapter
37 (R.S.43:21-1 et seq.), no otherwise eligible individual shall be
38 denied benefits because the individual left work or was discharged
39 due to circumstances resulting from the individual being a victim of
40 domestic violence as defined in section 3 of P.L.1991, c.261
41 (C.2C:25-19). No employer's account shall be charged for the
42 payment of benefits to an individual who left work due to
43 circumstances resulting from the individual being a victim of
44 domestic violence.

45 For the purposes of this subsection (j), the individual shall be
46 treated as being a victim of domestic violence if the individual
47 provides one or more of the following:

- 1 (1) A restraining order or other documentation of equitable
2 relief issued by a court of competent jurisdiction;
- 3 (2) A police record documenting the domestic violence;
- 4 (3) Documentation that the perpetrator of the domestic violence
5 has been convicted of one or more of the offenses enumerated in
6 section 3 of P.L.1991, c.261 (C.2C:25-19);
- 7 (4) Medical documentation of the domestic violence;
- 8 (5) Certification from a certified Domestic Violence Specialist
9 or the director of a designated domestic violence agency that the
10 individual is a victim of domestic violence; or
- 11 (6) Other documentation or certification of the domestic
12 violence provided by a social worker, member of the clergy, shelter
13 worker or other professional who has assisted the individual in
14 dealing with the domestic violence.

15 For the purposes of this subsection (j):

16 "Certified Domestic Violence Specialist" means a person who
17 has fulfilled the requirements of certification as a Domestic
18 Violence Specialist established by the New Jersey Association of
19 Domestic Violence Professionals; and "designated domestic
20 violence agency" means a county-wide organization with a primary
21 purpose to provide services to victims of domestic violence, and
22 which provides services that conform to the core domestic violence
23 services profile as defined by the Division of Youth and Family
24 Services in the Department of Human Services and is under contract
25 with the division for the express purpose of providing such services.

26 (k) Notwithstanding any other provisions of this chapter (R.S.
27 43:21-1 et seq.), no otherwise eligible individual shall be denied
28 benefits for any week in which the individual left work voluntarily
29 and without good cause attributable to the work, if the individual
30 left work to accompany his or her spouse who is an active member
31 of the United States Armed Forces, as defined in N.J.S.38A:1-1(g),
32 to a new place of residence outside the State, due to the armed
33 forces member's transfer to a new assignment in a different
34 geographical location outside the State, and upon arrival at the new
35 place of residence was in all respects available for suitable work.
36 No employer's account shall be charged for the payment of benefits
37 to an individual who left work under the circumstances contained in
38 this subsection (k), except that this shall not be construed as
39 relieving the State of New Jersey and any other governmental entity
40 or instrumentality or nonprofit organization electing or required to
41 make payments in lieu of contributions from its responsibility to
42 make all benefit payments otherwise required by law and from
43 being charged for those benefits as otherwise required by law.

44 (cf. P.L.2005, c.103, s.1)

45

46 2. This act shall take effect on the 90th day following the date of
47 enactment.

1 STATEMENT

2

3 When a member of the armed forces is ordered to move to a new
4 assignment outside the State, the member's family usually is forced
5 to relocate and the member's spouse must quit his or her job. Under
6 current law, the spouse would not qualify for unemployment
7 insurance benefits because the separation from work was voluntary
8 and without good cause attributable to the work.

9 This bill creates an exception for spouses of members of the
10 armed forces who relocate outside of the State. If the spouse is
11 otherwise eligible in all respects to obtain unemployment benefits,
12 he or she may receive benefits. Under the bill, employers whose
13 former workers receive these benefits will not be charged for these
14 benefits.

15 Moreover, the bill provides that only contributory employers are
16 relieved of charges for benefits paid to spouses. Reimbursable
17 employers, who never pay into the unemployment insurance fund,
18 are required to repay the Department of Labor and Workforce
19 Development for any benefits paid on a dollar for dollar basis.

ASSEMBLY, No. 3472

STATE OF NEW JERSEY 212th LEGISLATURE

INTRODUCED OCTOBER 19, 2006

Sponsored by:

Assemblyman JACK CONNERS

District 7 (Burlington and Camden)

Assemblyman UPENDRA J. CHIVUKULA

District 17 (Middlesex and Somerset)

Assemblyman LOUIS M. MANZO

District 31 (Hudson)

SYNOPSIS

Provides unemployment benefits for certain spouses of armed services members.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 10/24/2006)

1 AN ACT providing unemployment benefits for certain spouses of
2 armed forces members and amending R.S.43:21-5.

3

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

6

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

8 43:21-5. An individual shall be disqualified for benefits:

9 (a) For the week in which the individual has left work
10 voluntarily without good cause attributable to such work, and for
11 each week thereafter until the individual becomes reemployed and
12 works four weeks in employment, which may include employment
13 for the federal government, and has earned in employment at least
14 six times the individual's weekly benefit rate, as determined in each
15 case. This subsection shall apply to any individual seeking
16 unemployment benefits on the basis of employment in the
17 production and harvesting of agricultural crops, including any
18 individual who was employed in the production and harvesting of
19 agricultural crops on a contract basis and who has refused an offer
20 of continuing work with that employer following the completion of
21 the minimum period of work required to fulfill the contract.

22 (b) For the week in which the individual has been suspended or
23 discharged for misconduct connected with the work, and for the five
24 weeks which immediately follow that week [(in addition to the
25 waiting period)], as determined in each case. In the event the
26 discharge should be rescinded by the employer voluntarily or as a
27 result of mediation or arbitration, this subsection (b) shall not apply,
28 provided, however, an individual who is restored to employment
29 with back pay shall return any benefits received under this chapter
30 for any week of unemployment for which the individual is
31 subsequently compensated by the employer.

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

40 The director shall insure that any appeal of a determination
41 holding the individual disqualified for gross misconduct in
42 connection with the work shall be expeditiously processed by the
43 appeal tribunal.

44 (c) If it is found that the individual has failed, without good
45 cause, either to apply for available, suitable work when so directed

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 by the employment office or the director or to accept suitable work
2 when it is offered, or to return to the individual's customary self-
3 employment (if any) when so directed by the director. The
4 disqualification shall continue for the week in which the failure
5 occurred and for the three weeks which immediately follow that
6 week [(in addition to the waiting period)], as determined:

7 (1) In determining whether or not any work is suitable for an
8 individual, consideration shall be given to the degree of risk
9 involved to health, safety, and morals, the individual's physical
10 fitness and prior training, experience and prior earnings, the
11 individual's length of unemployment and prospects for securing
12 local work in the individual's customary occupation, and the
13 distance of the available work from the individual's residence. In
14 the case of work in the production and harvesting of agricultural
15 crops, the work shall be deemed to be suitable without regard to the
16 distance of the available work from the individual's residence if all
17 costs of transportation are provided to the individual and the terms
18 and conditions of hire are as favorable or more favorable to the
19 individual as the terms and conditions of the individual's base year
20 employment.

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

32 (d) If it is found that this unemployment is due to a stoppage of
33 work which exists because of a labor dispute at the factory,
34 establishment or other premises at which the individual is or was
35 last employed.

36 (1) No disqualification under this subsection (d) shall apply if it
37 is shown that:

38 (a) The individual is not participating in or financing or directly
39 interested in the labor dispute which caused the stoppage of work;
40 and

41 (b) The individual does not belong to a grade or class of workers
42 of which, immediately before the commencement of the stoppage,
43 there were members employed at the premises at which the
44 stoppage occurs, any of whom are participating in or financing or
45 directly interested in the dispute; provided that if in any case in
46 which (a) or (b) above applies, separate branches of work which are
47 commonly conducted as separate businesses in separate premises

1 are conducted in separate departments of the same premises, each
2 department shall, for the purpose of this subsection, be deemed to
3 be a separate factory, establishment, or other premises.

4 (2) For any claim for a period of unemployment commencing on
5 or after December 1, 2004, no disqualification under this subsection
6 (d) shall apply if it is shown that the individual has been prevented
7 from working by the employer, even though[:

8 (a) The] the individual's recognized or certified majority
9 representative has directed the employees in the individual's
10 collective bargaining unit to work under the preexisting terms and
11 conditions of employment[;], and

12 [(b) The] the employees had not engaged in a strike immediately
13 before being prevented from working.

14 (e) For any week with respect to which the individual is
15 receiving or has received remuneration in lieu of notice.

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

23 (g) (1) For a period of one year from the date of the discovery
24 by the division of the illegal receipt or attempted receipt of benefits
25 contrary to the provisions of this chapter, as the result of any false
26 or fraudulent representation; provided that any disqualification may
27 be appealed in the same manner as any other disqualification
28 imposed hereunder; and provided further that a conviction in the
29 courts of this State arising out of the illegal receipt or attempted
30 receipt of these benefits in any proceeding instituted against the
31 individual under the provisions of this chapter or any other law of
32 this State shall be conclusive upon the appeals tribunal and the
33 board of review.

34 (2) A disqualification under this subsection shall not preclude
35 the prosecution of any civil, criminal or administrative action or
36 proceeding to enforce other provisions of this chapter for the
37 assessment and collection of penalties or the refund of any amounts
38 collected as benefits under the provisions of R.S.43:21-16, or to
39 enforce any other law, where an individual obtains or attempts to
40 obtain by theft or robbery or false statements or representations any
41 money from any fund created or established under this chapter or
42 any negotiable or nonnegotiable instrument for the payment of
43 money from these funds, or to recover money erroneously or
44 illegally obtained by an individual from any fund created or
45 established under this chapter.

46 (h) (1) Notwithstanding any other provisions of this chapter
47 (R.S.43:21-1 et seq.), no otherwise eligible individual shall be
48 denied benefits for any week because the individual is in training

1 approved under section 236(a)(1) of the Trade Act of 1974,
2 Pub.L.93-618, 19 U.S.C. s.2296, nor shall the individual be denied
3 benefits by reason of leaving work to enter this training, provided
4 the work left is not suitable employment, or because of the
5 application to any week in training of provisions in this chapter
6 (R.S.43:21-1 et seq.), or any applicable federal unemployment
7 compensation law, relating to availability for work, active search
8 for work, or refusal to accept work.

9 (2) For purposes of this subsection (h), the term "suitable"
10 employment means, with respect to an individual, work of a
11 substantially equal or higher skill level than the individual's past
12 adversely affected employment (as defined for purposes of the
13 Trade Act of 1974, Pub.L.93-618, 19 U.S.C. s.[2102] 2101 et seq.),
14 and wages for this work at not less than 80% of the individual's
15 average weekly wage, as determined for the purposes of the Trade
16 Act of 1974.

17 (i) For benefit years commencing after June 30, 1984, for any
18 week in which the individual is a student in full attendance at, or on
19 vacation from, an educational institution, as defined in subsection
20 (y) of R.S.43:21-19; except that this subsection shall not apply to
21 any individual attending a training program approved by the
22 division to enhance the individual's employment opportunities, as
23 defined under subsection (c) of R.S.43:21-4; nor shall this
24 subsection apply to any individual who, during the individual's base
25 year, earned sufficient wages, as defined under subsection (e) of
26 R.S.43:21-4, while attending an educational institution during
27 periods other than established and customary vacation periods or
28 holiday recesses at the educational institution, to establish a claim
29 for benefits. For purposes of this subsection, an individual shall be
30 treated as a full-time student for any period:

31 (1) During which the individual is enrolled as a full-time student
32 at an educational institution, or

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

36 (j) Notwithstanding any other provisions of this chapter
37 (R.S.43:21-1 et seq.), no otherwise eligible individual shall be
38 denied benefits because the individual left work or was discharged
39 due to circumstances resulting from the individual being a victim of
40 domestic violence as defined in section 3 of P.L.1991, c.261
41 (C.2C:25-19). No employer's account shall be charged for the
42 payment of benefits to an individual who left work due to
43 circumstances resulting from the individual being a victim of
44 domestic violence.

45 For the purposes of this subsection (j), the individual shall be
46 treated as being a victim of domestic violence if the individual
47 provides one or more of the following:

- 1 (1) A restraining order or other documentation of equitable
2 relief issued by a court of competent jurisdiction;
- 3 (2) A police record documenting the domestic violence;
- 4 (3) Documentation that the perpetrator of the domestic violence
5 has been convicted of one or more of the offenses enumerated in
6 section 3 of P.L.1991, c.261 (C.2C:25-19);
- 7 (4) Medical documentation of the domestic violence;
- 8 (5) Certification from a certified Domestic Violence Specialist
9 or the director of a designated domestic violence agency that the
10 individual is a victim of domestic violence; or
- 11 (6) Other documentation or certification of the domestic
12 violence provided by a social worker, member of the clergy, shelter
13 worker or other professional who has assisted the individual in
14 dealing with the domestic violence.

15 For the purposes of this subsection (j):

16 "Certified Domestic Violence Specialist" means a person who
17 has fulfilled the requirements of certification as a Domestic
18 Violence Specialist established by the New Jersey Association of
19 Domestic Violence Professionals; and "designated domestic
20 violence agency" means a county-wide organization with a primary
21 purpose to provide services to victims of domestic violence, and
22 which provides services that conform to the core domestic violence
23 services profile as defined by the Division of Youth and Family
24 Services in the Department of Human Services and is under contract
25 with the division for the express purpose of providing such services.

26 (k) Notwithstanding any other provisions of this chapter (R.S.
27 43:21-1 et seq.), no otherwise eligible individual shall be denied
28 benefits for any week in which the individual left work voluntarily
29 and without good cause attributable to the work, if the individual
30 left work to accompany his or her spouse who is an active member
31 of the United States Armed Forces, as defined in N.J.S.38A:1-1(g),
32 to a new place of residence outside the State, due to the armed
33 forces member's transfer to a new assignment in a different
34 geographical location outside the State, and upon arrival at the new
35 place of residence was in all respects available for suitable work.
36 No employer's account shall be charged for the payment of benefits
37 to an individual who left work under the circumstances contained in
38 this subsection (k), except that this shall not be construed as
39 relieving the State of New Jersey and any other governmental entity
40 or instrumentality or nonprofit organization electing or required to
41 make payments in lieu of contributions from its responsibility to
42 make all benefit payments otherwise required by law and from
43 being charged for those benefits as otherwise required by law.

44 (cf. P.L.2005, c.103, s.1)

45

46 2. This act shall take effect on the 90th day following the date of
47 enactment.

1 STATEMENT

2

3 When a member of the armed forces is ordered to move to a new
4 assignment outside the State, the member's family usually is forced
5 to relocate and the member's spouse must quit his or her job. Under
6 current law, the spouse would not qualify for unemployment
7 insurance benefits because the separation from work was voluntary
8 and without good cause attributable to the work.

9 This bill creates an exception for spouses of members of the
10 armed forces who relocate outside of the State. If the spouse is
11 otherwise eligible in all respects to obtain unemployment benefits,
12 he or she may receive benefits. Under the bill, employers whose
13 former workers receive these benefits will not be charged for these
14 benefits.

15 Moreover, the bill provides that only contributory employers are
16 relieved of charges for benefits paid to spouses. Reimbursable
17 employers, who never pay into the unemployment insurance fund,
18 are required to repay the Department of Labor and Workforce
19 Development for any benefits paid on a dollar for dollar basis.

ASSEMBLY, No. 1452

STATE OF NEW JERSEY 212th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2006 SESSION

Sponsored by:

Assemblyman JACK CONNERS

District 7 (Burlington and Camden)

Assemblyman JEFF VAN DREW

District 1 (Cape May, Atlantic and Cumberland)

Assemblyman NEIL M. COHEN

District 20 (Union)

Assemblyman PATRICK J. DIEGNAN, JR.

District 18 (Middlesex)

SYNOPSIS

The "Armed Services Unemployment Benefits Act."

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel



A1452 CONNERS, VAN DREW

2

1 AN ACT concerning unemployment benefits for certain spouses of
2 armed forces members, amending R.S.43:21-5 and
3 supplementing chapter 21 of Title 43 of the Revised Statutes.
4

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

7
8 1. (New section) This amendatory and supplementary act,
9 P.L. , c. (now pending before the Legislature as this bill) shall
10 be known and may be cited as the "Armed Services Unemployment
11 Benefits Act."
12

13 2. (New section) The Legislature finds and declares that:

14 a. Members of the armed forces and their families make many
15 sacrifices in the service of our nation and are subject to significant
16 burdens;

17 b. Among the sacrifices made by such families is the loss of
18 employment of the spouse of a member of the armed forces when
19 the member is ordered to move to a new assignment outside the
20 State;

21 c. Under current law, a spouse of a reassigned member of the
22 armed forces does not qualify for unemployment insurance benefits
23 because the separation from work was voluntary and without good
24 cause attributable to the work;

25 d. It is therefore an appropriate public purpose to assist the
26 families of members of the armed forces by permitting spouses of
27 members of the armed forces who are relocated outside of the State
28 due to reassignment to obtain unemployment benefit so long as
29 those spouses are available for work in the place to which they are
30 relocated.
31

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

33 43:21-5. An individual shall be disqualified for benefits:

34 (a) For the week in which the individual has left work
35 voluntarily without good cause attributable to such work, and for
36 each week thereafter until the individual becomes reemployed and
37 works four weeks in employment, which may include employment
38 for the federal government, and has earned in employment at least
39 six times the individual's weekly benefit rate, as determined in each
40 case. This subsection shall apply to any individual seeking
41 unemployment benefits on the basis of employment in the
42 production and harvesting of agricultural crops, including any
43 individual who was employed in the production and harvesting of
44 agricultural crops on a contract basis and who has refused an offer
45 of continuing work with that employer following the completion of

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 the minimum period of work required to fulfill the contract.

2 (b) For the week in which the individual has been suspended or
3 discharged for misconduct connected with the work, and for the five
4 weeks which immediately follow that week (in addition to the
5 waiting period), as determined in each case. In the event the
6 discharge should be rescinded by the employer voluntarily or as a
7 result of mediation or arbitration, this subsection (b) shall not apply,
8 provided, however, an individual who is restored to employment
9 with back pay shall return any benefits received under this chapter
10 for any week of unemployment for which the individual is
11 subsequently compensated by the employer.

12 If the discharge was for gross misconduct connected with the
13 work because of the commission of an act punishable as a crime of
14 the first, second, third or fourth degree under the "New Jersey Code
15 of Criminal Justice," N.J.S.2C:1-1 et seq., the individual shall be
16 disqualified in accordance with the disqualification prescribed in
17 subsection (a) of this section and no benefit rights shall accrue to
18 any individual based upon wages from that employer for services
19 rendered prior to the day upon which the individual was discharged.

20 The director shall insure that any appeal of a determination
21 holding the individual disqualified for gross misconduct in
22 connection with the work shall be expeditiously processed by the
23 appeal tribunal.

24 (c) If it is found that the individual has failed, without good
25 cause, either to apply for available, suitable work when so directed
26 by the employment office or the director or to accept suitable work
27 when it is offered, or to return to the individual's customary self-
28 employment (if any) when so directed by the director. The
29 disqualification shall continue for the week in which the failure
30 occurred and for the three weeks which immediately follow that
31 week (in addition to the waiting period), as determined:

32 (1) In determining whether or not any work is suitable for an
33 individual, consideration shall be given to the degree of risk
34 involved to health, safety, and morals, the individual's physical
35 fitness and prior training, experience and prior earnings, the
36 individual's length of unemployment and prospects for securing
37 local work in the individual's customary occupation, and the
38 distance of the available work from the individual's residence. In
39 the case of work in the production and harvesting of agricultural
40 crops, the work shall be deemed to be suitable without regard to the
41 distance of the available work from the individual's residence if all
42 costs of transportation are provided to the individual and the terms
43 and conditions of hire are as favorable or more favorable to the
44 individual as the terms and conditions of the individual's base year
45 employment.

46 (2) Notwithstanding any other provisions of this chapter, no
47 work shall be deemed suitable and benefits shall not be denied
48 under this chapter to any otherwise eligible individual for refusing

1 to accept new work under any of the following conditions: (a) if the
2 position offered is vacant due directly to a strike, lockout, or other
3 labor dispute; (b) if the remuneration, hours, or other conditions of
4 the work offered are substantially less favorable to the individual
5 than those prevailing for similar work in the locality; (c) if as a
6 condition of being employed the individual would be required to
7 join a company union or to resign from or refrain from joining any
8 bona fide labor organization.

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

14 (1) The individual is not participating in or financing or directly
15 interested in the labor dispute which caused the stoppage of work;
16 and

17 (2) The individual does not belong to a grade or class of workers
18 of which, immediately before the commencement of the stoppage,
19 there were members employed at the premises at which the
20 stoppage occurs, any of whom are participating in or financing or
21 directly interested in the dispute; provided that if in any case in
22 which (1) or (2) above applies, separate branches of work which are
23 commonly conducted as separate businesses in separate premises
24 are conducted in separate departments of the same premises, each
25 department shall, for the purpose of this subsection, be deemed to
26 be a separate factory, establishment, or other premises.

27 (e) For any week with respect to which the individual is
28 receiving or has received remuneration in lieu of notice.

29 (f) For any week with respect to which or a part of which the
30 individual has received or is seeking unemployment benefits under
31 an unemployment compensation law of any other state or of the
32 United States; provided that if the appropriate agency of the other
33 state or of the United States finally determines that the individual is
34 not entitled to unemployment benefits, this disqualification shall not
35 apply.

36 (g) (1) For a period of one year from the date of the discovery
37 by the division of the illegal receipt or attempted receipt of benefits
38 contrary to the provisions of this chapter, as the result of any false
39 or fraudulent representation; provided that any disqualification may
40 be appealed in the same manner as any other disqualification
41 imposed hereunder; and provided further that a conviction in the
42 courts of this State arising out of the illegal receipt or attempted
43 receipt of these benefits in any proceeding instituted against the
44 individual under the provisions of this chapter or any other law of
45 this State shall be conclusive upon the appeals tribunal and the
46 board of review.

47 (2) A disqualification under this subsection shall not preclude
48 the prosecution of any civil, criminal or administrative action or

1 proceeding to enforce other provisions of this chapter for the
2 assessment and collection of penalties or the refund of any amounts
3 collected as benefits under the provisions of R.S.43:21-16, or to
4 enforce any other law, where an individual obtains or attempts to
5 obtain by theft or robbery or false statements or representations any
6 money from any fund created or established under this chapter or
7 any negotiable or nonnegotiable instrument for the payment of
8 money from these funds, or to recover money erroneously or
9 illegally obtained by an individual from any fund created or
10 established under this chapter.

11 (h) (1) Notwithstanding any other provisions of this chapter
12 (R.S.43:21-1 et seq.), no otherwise eligible individual shall be
13 denied benefits for any week because the individual is in training
14 approved under section 236(a)(1) of the Trade Act of 1974,
15 Pub.L.93-618, 19 U.S.C.s.2296, nor shall the individual be denied
16 benefits by reason of leaving work to enter this training, provided
17 the work left is not suitable employment, or because of the
18 application to any week in training of provisions in this chapter
19 (R.S.43:21-1 et seq.), or any applicable federal unemployment
20 compensation law, relating to availability for work, active search
21 for work, or refusal to accept work.

22 (2) For purposes of this subsection (h), the term "suitable"
23 employment means, with respect to an individual, work of a
24 substantially equal or higher skill level than the individual's past
25 adversely affected employment (as defined for purposes of the
26 Trade Act of 1974, Pub.L.93-618, 19 U.S.C.s.[2102] 2101 et seq.),
27 and wages for this work at not less than 80% of the individual's
28 average weekly wage, as determined for the purposes of the Trade
29 Act of 1974.

30 (i) For benefit years commencing after June 30, 1984, for any
31 week in which the individual is a student in full attendance at, or on
32 vacation from, an educational institution, as defined in subsection
33 (y) of R.S.43:21-19; except that this subsection shall not apply to
34 any individual attending a training program approved by the
35 division to enhance the individual's employment opportunities, as
36 defined under subsection (c) of R.S.43:21-4; nor shall this
37 subsection apply to any individual who, during the individual's base
38 year, earned sufficient wages, as defined under subsection (e) of
39 R.S.43:21-4, while attending an educational institution during
40 periods other than established and customary vacation periods or
41 holiday recesses at the educational institution, to establish a claim
42 for benefits. For purposes of this subsection, an individual shall be
43 treated as a full-time student for any period:

44 (1) During which the individual is enrolled as a full-time student
45 at an educational institution, or

46 (2) Which is between academic years or terms, if the individual
47 was enrolled as a full-time student at an educational institution for

1 the immediately preceding academic year or term.

2 (j) Notwithstanding any other provisions of this chapter
3 (R.S.43:21-1 et seq.), no otherwise eligible individual shall be
4 denied benefits because the individual left work or was discharged
5 due to circumstances resulting from the individual being a victim of
6 domestic violence as defined in section 3 of P.L.1991, c.261
7 (C.2C:25-19). No employer's account shall be charged for the
8 payment of benefits to an individual who left work due to
9 circumstances resulting from the individual being a victim of
10 domestic violence.

11 For the purposes of this subsection (j), the individual shall be
12 treated as being a victim of domestic violence if the individual
13 provides one or more of the following:

14 (1) A restraining order or other documentation of equitable
15 relief issued by a court of competent jurisdiction;

16 (2) A police record documenting the domestic violence;

17 (3) Documentation that the perpetrator of the domestic violence
18 has been convicted of one or more of the offenses enumerated in
19 section 3 of P.L.1991, c.261 (C.2C:25-19);

20 (4) Medical documentation of the domestic violence;

21 (5) Certification from a certified Domestic Violence Specialist
22 or the director of a designated domestic violence agency that the
23 individual is a victim of domestic violence; or

24 (6) Other documentation or certification of the domestic
25 violence provided by a social worker, member of the clergy, shelter
26 worker or other professional who has assisted the individual in
27 dealing with the domestic violence.

28 For the purposes of this subsection (j):

29 "Certified Domestic Violence Specialist" means a person who
30 has fulfilled the requirements of certification as a Domestic
31 Violence Specialist established by the New Jersey Association of
32 Domestic Violence Professionals; and "designated domestic
33 violence agency" means a county-wide organization with a primary
34 purpose to provide services to victims of domestic violence, and
35 which provides services that conform to the core domestic violence
36 services profile as defined by the Division of Youth and Family
37 Services in the Department of Human Services and is under contract
38 with the division for the express purpose of providing such services.

39 (k) Notwithstanding any other provisions of R.S.43:21-1 et seq.,
40 no otherwise eligible individual shall be denied benefits for any
41 week in which the individual left work voluntarily and without
42 good cause attributable to the work, if:

43 (1) the individual left work to accompany his or her spouse who
44 is an active member of the United States armed forces, as defined in
45 N.J.S.38A:1-1(g), to a new place of residence outside the State, due
46 to the spouse's transfer to a new armed forces assignment in a
47 different geographical location outside the State; and

48 (2) The individual is in all respects available for suitable work

1 upon arrival at the new place of residence.

2 No employer's account shall be charged for the payment of
3 benefits to an individual who left work under the circumstances
4 specified in this subsection (k).

5 (cf: P.L.1999, c.391, s.1)

6

7 4. This act shall take effect on the 60th day following the date of
8 enactment.

9

10

11

STATEMENT

12

13 When a member of the armed forces is ordered to move to a new
14 assignment outside the State, the member's family is often forced to
15 relocate, thereby compelling the member's spouse to quit his or her
16 job. Under those circumstances, the State's current unemployment
17 insurance law disqualifies the spouse from receiving unemployment
18 insurance benefits because it treats the separation from work as
19 being a "voluntary quit" and without good cause attributable to the
20 work.

21 This bill creates an exception from the "voluntary quit"
22 disqualification from unemployment benefits in the case of a spouse
23 of a member of the armed forces who relocates outside of the State.
24 If the spouse is otherwise eligible to obtain unemployment benefits,
25 he or she may receive benefits.

26 The bill also provides that no employer whose employees receive
27 benefits under the bill will be charged for them.

ASSEMBLY, No. 348

STATE OF NEW JERSEY

212th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2006 SESSION

Sponsored by:

Assemblyman LARRY CHATZIDAKIS

District 8 (Burlington)

Assemblyman JOSEPH R. MALONE, III

District 30 (Burlington, Mercer, Monmouth and Ocean)

Co-Sponsored by:

Assemblymen Bodine, Blee and Manzo

SYNOPSIS

Provides unemployment benefits for certain spouses of armed services members.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel



(Sponsorship Updated As Of: 6/16/2006)

1 AN ACT to provide unemployment benefits for certain spouses of
2 armed forces members and amending R.S.43:21-5.

3

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

6

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

8 43:21-5. An individual shall be disqualified for benefits:

9 (a) For the week in which the individual has left work
10 voluntarily without good cause attributable to such work, and for
11 each week thereafter until the individual becomes reemployed and
12 works four weeks in employment, which may include employment
13 for the federal government, and has earned in employment at least
14 six times the individual's weekly benefit rate, as determined in each
15 case. This subsection shall apply to any individual seeking
16 unemployment benefits on the basis of employment in the
17 production and harvesting of agricultural crops, including any
18 individual who was employed in the production and harvesting of
19 agricultural crops on a contract basis and who has refused an offer
20 of continuing work with that employer following the completion of
21 the minimum period of work required to fulfill the contract.

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

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

40 The director shall insure that any appeal of a determination
41 holding the individual disqualified for gross misconduct in
42 connection with the work shall be expeditiously processed by the
43 appeal tribunal.

44 (c) If it is found that the individual has failed, without good
45 cause, either to apply for available, suitable work when so directed

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 by the employment office or the director or to accept suitable work
2 when it is offered, or to return to the individual's customary self-
3 employment (if any) when so directed by the director. The
4 disqualification shall continue for the week in which the failure
5 occurred and for the three weeks which immediately follow that
6 week (in addition to the waiting period), as determined:

7 (1) In determining whether or not any work is suitable for an
8 individual, consideration shall be given to the degree of risk
9 involved to health, safety, and morals, the individual's physical
10 fitness and prior training, experience and prior earnings, the
11 individual's length of unemployment and prospects for securing
12 local work in the individual's customary occupation, and the
13 distance of the available work from the individual's residence. In
14 the case of work in the production and harvesting of agricultural
15 crops, the work shall be deemed to be suitable without regard to the
16 distance of the available work from the individual's residence if all
17 costs of transportation are provided to the individual and the terms
18 and conditions of hire are as favorable or more favorable to the
19 individual as the terms and conditions of the individual's base year
20 employment.

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

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

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

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

1 be a separate factory, establishment, or other premises.

2 (e) For any week with respect to which the individual is
3 receiving or has received remuneration in lieu of notice.

4 (f) For any week with respect to which or a part of which the
5 individual has received or is seeking unemployment benefits under
6 an unemployment compensation law of any other state or of the
7 United States; provided that if the appropriate agency of the other
8 state or of the United States finally determines that the individual is
9 not entitled to unemployment benefits, this disqualification shall not
10 apply.

11 (g) (1) For a period of one year from the date of the discovery
12 by the division of the illegal receipt or attempted receipt of benefits
13 contrary to the provisions of this chapter, as the result of any false
14 or fraudulent representation; provided that any disqualification may
15 be appealed in the same manner as any other disqualification
16 imposed hereunder; and provided further that a conviction in the
17 courts of this State arising out of the illegal receipt or attempted
18 receipt of these benefits in any proceeding instituted against the
19 individual under the provisions of this chapter or any other law of
20 this State shall be conclusive upon the appeals tribunal and the
21 board of review.

22 (2) A disqualification under this subsection shall not preclude
23 the prosecution of any civil, criminal or administrative action or
24 proceeding to enforce other provisions of this chapter for the
25 assessment and collection of penalties or the refund of any amounts
26 collected as benefits under the provisions of R.S.43:21-16, or to
27 enforce any other law, where an individual obtains or attempts to
28 obtain by theft or robbery or false statements or representations any
29 money from any fund created or established under this chapter or
30 any negotiable or nonnegotiable instrument for the payment of
31 money from these funds, or to recover money erroneously or
32 illegally obtained by an individual from any fund created or
33 established under this chapter.

34 (h) (1) Notwithstanding any other provisions of this chapter
35 (R.S.43:21-1 et seq.), no otherwise eligible individual shall be
36 denied benefits for any week because the individual is in training
37 approved under section 236(a)(1) of the Trade Act of 1974,
38 Pub.L.93-618, 19 U.S.C.s.2296, nor shall the individual be denied
39 benefits by reason of leaving work to enter this training, provided
40 the work left is not suitable employment, or because of the
41 application to any week in training of provisions in this chapter
42 (R.S.43:21-1 et seq.), or any applicable federal unemployment
43 compensation law, relating to availability for work, active search
44 for work, or refusal to accept work.

45 (2) For purposes of this subsection (h), the term "suitable"
46 employment means, with respect to an individual, work of a
47 substantially equal or higher skill level than the individual's past
48 adversely affected employment (as defined for purposes of the

1 Trade Act of 1974, Pub.L.93-618, 19 U.S.C.s.【2102】 2101 et seq.),
2 and wages for this work at not less than 80% of the individual's
3 average weekly wage, as determined for the purposes of the Trade
4 Act of 1974.

5 (i) For benefit years commencing after June 30, 1984, for any
6 week in which the individual is a student in full attendance at, or on
7 vacation from, an educational institution, as defined in subsection
8 (y) of R.S.43:21-19; except that this subsection shall not apply to
9 any individual attending a training program approved by the
10 division to enhance the individual's employment opportunities, as
11 defined under subsection (c) of R.S.43:21-4; nor shall this
12 subsection apply to any individual who, during the individual's base
13 year, earned sufficient wages, as defined under subsection (e) of
14 R.S.43:21-4, while attending an educational institution during
15 periods other than established and customary vacation periods or
16 holiday recesses at the educational institution, to establish a claim
17 for benefits. For purposes of this subsection, an individual shall be
18 treated as a full-time student for any period:

19 (1) During which the individual is enrolled as a full-time student
20 at an educational institution, or

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

24 (j) Notwithstanding any other provisions of this chapter
25 (R.S.43:21-1 et seq.), no otherwise eligible individual shall be
26 denied benefits because the individual left work or was discharged
27 due to circumstances resulting from the individual being a victim of
28 domestic violence as defined in section 3 of P.L.1991, c.261
29 (C.2C:25-19). No employer's account shall be charged for the
30 payment of benefits to an individual who left work due to
31 circumstances resulting from the individual being a victim of
32 domestic violence.

33 For the purposes of this subsection (j), the individual shall be
34 treated as being a victim of domestic violence if the individual
35 provides one or more of the following:

36 (1) A restraining order or other documentation of equitable relief
37 issued by a court of competent jurisdiction;

38 (2) A police record documenting the domestic violence;

39 (3) Documentation that the perpetrator of the domestic violence
40 has been convicted of one or more of the offenses enumerated in
41 section 3 of P.L.1991, c.261 (C.2C:25-19);

42 (4) Medical documentation of the domestic violence;

43 (5) Certification from a certified Domestic Violence Specialist
44 or the director of a designated domestic violence agency that the
45 individual is a victim of domestic violence; or

46 (6) Other documentation or certification of the domestic violence
47 provided by a social worker, member of the clergy, shelter worker
48 or other professional who has assisted the individual in dealing with

1 the domestic violence.

2 For the purposes of this subsection (j):

3 "Certified Domestic Violence Specialist" means a person who
4 has fulfilled the requirements of certification as a Domestic
5 Violence Specialist established by the New Jersey Association of
6 Domestic Violence Professionals; and "designated domestic
7 violence agency" means a county-wide organization with a primary
8 purpose to provide services to victims of domestic violence, and
9 which provides services that conform to the core domestic violence
10 services profile as defined by the Division of Youth and Family
11 Services in the Department of Human Services and is under contract
12 with the division for the express purpose of providing such services.

13 (k) Notwithstanding any other provisions of this chapter
14 (R.S.43:21-1 et seq.), no otherwise eligible individual shall be
15 denied benefits for any week in which the individual left work
16 voluntarily and without good cause attributable to the work, if the
17 individual left work to accompany his or her spouse who is an
18 active member of the United States Armed Forces, as defined in
19 N.J.S.38A:1-1(g), to a new place of residence outside the State, due
20 to the armed forces member's transfer to a new assignment in a
21 different geographical location outside the State, and upon arrival at
22 the new place of residence was in all respects available for suitable
23 work. No employer's account shall be charged for the payment of
24 benefits to an individual who left work under the circumstances
25 contained in this subsection (k).

26 (cf: P.L.1999, c.391, s.1)

27

28 2. This act shall take effect on the 90th day following the date of
29 enactment.

30

31

32

STATEMENT

33

34 When a member of the armed forces is ordered to move to a new
35 assignment outside the State, the member's family usually is forced
36 to relocate and the member's spouse must quit his or her job. Under
37 current law, the spouse would not qualify for unemployment
38 insurance benefits because the separation from work was voluntary
39 and without good cause attributable to the work.

40 The bill creates an exception for spouses of members of the
41 armed forces who relocate outside of the State. If the spouse is
42 otherwise eligible in all respects to obtain unemployment benefits,
43 he or she may receive benefits. Under the bill, employers whose
44 workers receive these benefits will not be charged for these benefits

ASSEMBLY APPROPRIATIONS COMMITTEE

STATEMENT TO

ASSEMBLY COMMITTEE SUBSTITUTE FOR ASSEMBLY, Nos. 3472, 3282, 1452 and 348

STATE OF NEW JERSEY

DATED: JUNE 14, 2007

The Assembly Appropriations Committee reports favorably an Assembly Committee Substitute for Assembly Bill Nos. 3472, 3282, 1452 and 348(1R).

This substitute creates an exception under the current unemployment benefits program to allow the spouse of an active member of the armed forces to receive unemployment benefits if that spouse is forced to quit his or her job due to relocation of the military member outside of the State, provided the spouse is eligible for benefits in all other respects and the spouse relocates to the new place of residence within nine months after the armed forces member is transferred. Under the substitute, employers whose workers receive benefits will not be charged for these benefits, except for governmental or non-profit "reimbursable" employers who make no contributions into the unemployment compensation fund.

When a member of the armed forces is ordered to move to a new assignment outside the State, the member's family usually is forced to relocate and the member's spouse must quit his or her job. Under current law, the spouse would not qualify for unemployment insurance benefits because the law regards the separation from work as voluntary and without good cause attributable to the work.

As substituted and reported by the committee, this substitute is identical to Senate Bill Nos. 746/2104 SCS (1R) also reported by the committee.

FISCAL IMPACT:

The Office of Legislative Services (OLS) estimates the unemployment compensation fund balance will decrease approximately \$486,000 as a result of the benefits authorized by the substitute. The decrease to the fund balance may be more than the estimated \$486,000 depending upon future military action, redeployment of reserves, eligibility for spouses' unemployment benefits as provided in the substitute and average benefit amounts.

The OLS has calculated the benefit cost of paying military trailing spouses based on information from the United States Department of Defense and Defense Manpower Data Center. Using this information,

it is estimated that approximately 80 military spouses may apply and qualify for benefits in New Jersey. Based on this information, the average weekly benefit amount of \$341 times the average duration of unemployment of 17.8 weeks times 80 claimants per year yields the estimated annual decrease in the unemployment compensation fund balance.

ASSEMBLY APPROPRIATIONS COMMITTEE

STATEMENT TO

ASSEMBLY COMMITTEE SUBSTITUTE FOR ASSEMBLY, Nos. 3472, 3282, 1452 and 348

STATE OF NEW JERSEY

DATED: JUNE 14, 2007

The Assembly Appropriations Committee reports favorably an Assembly Committee Substitute for Assembly Bill Nos. 3472, 3282, 1452 and 348(1R).

This substitute creates an exception under the current unemployment benefits program to allow the spouse of an active member of the armed forces to receive unemployment benefits if that spouse is forced to quit his or her job due to relocation of the military member outside of the State, provided the spouse is eligible for benefits in all other respects and the spouse relocates to the new place of residence within nine months after the armed forces member is transferred. Under the substitute, employers whose workers receive benefits will not be charged for these benefits, except for governmental or non-profit "reimbursable" employers who make no contributions into the unemployment compensation fund.

When a member of the armed forces is ordered to move to a new assignment outside the State, the member's family usually is forced to relocate and the member's spouse must quit his or her job. Under current law, the spouse would not qualify for unemployment insurance benefits because the law regards the separation from work as voluntary and without good cause attributable to the work.

As substituted and reported by the committee, this substitute is identical to Senate Bill Nos. 746/2104 SCS (1R) also reported by the committee.

FISCAL IMPACT:

The Office of Legislative Services (OLS) estimates the unemployment compensation fund balance will decrease approximately \$486,000 as a result of the benefits authorized by the substitute. The decrease to the fund balance may be more than the estimated \$486,000 depending upon future military action, redeployment of reserves, eligibility for spouses' unemployment benefits as provided in the substitute and average benefit amounts.

The OLS has calculated the benefit cost of paying military trailing spouses based on information from the United States Department of Defense and Defense Manpower Data Center. Using this information,

it is estimated that approximately 80 military spouses may apply and qualify for benefits in New Jersey. Based on this information, the average weekly benefit amount of \$341 times the average duration of unemployment of 17.8 weeks times 80 claimants per year yields the estimated annual decrease in the unemployment compensation fund balance.

ASSEMBLY MILITARY AND VETERANS' AFFAIRS
COMMITTEE

STATEMENT TO

ASSEMBLY, No. 348

with committee amendments

STATE OF NEW JERSEY

DATED: JUNE 15, 2006

The Assembly Military and Veterans' Affairs Committee reports favorably and with committee amendments Assembly, No. 348.

When a member of the armed forces is ordered to move to a new assignment outside the State, the member's family usually is forced to relocate and the member's spouse must quit his or her job. Under current law, the spouse would not qualify for unemployment insurance benefits because the separation from work was voluntary and without good cause attributable to the work.

The bill creates an exception for spouses of members of the armed forces who relocate outside of the State. If the spouse is otherwise eligible in all respects to obtain unemployment benefits, he or she may receive benefits. Under the bill, employers whose workers receive these benefits will not be charged for these benefits.

This bill was pre-filed for introduction in the 2006-2007 session pending technical review. As reported, the bill includes the changes required by technical review, which has been performed.

COMMITTEE AMENDMENTS

The committee amended the bill so that only contributory employers are relieved of charges for benefits paid to spouses. Reimbursable employers, who never pay into the unemployment insurance fund, are required to repay the Department of Labor for any benefits paid on a dollar for dollar basis.

LEGISLATIVE FISCAL ESTIMATE
ASSEMBLY, No. 3282
STATE OF NEW JERSEY
212th LEGISLATURE

DATED: FEBRUARY 13, 2007

SUMMARY

Synopsis: Provides UI benefits for certain spouses of relocated armed forces members.

Type of Impact: Decreases Unemployment Insurance (UI) fund balance by approximately \$485,584

Agencies Affected: Department of Labor and Workforce Development

Office of Legislative Services Estimate

Fiscal Impact	<u>Year 1</u>	<u>Year 2</u>	<u>Year 3</u>
UI Fund	Reduce balance by \$485,584	Reduce balance by \$485,584	Reduce balance by \$485,584

- The Office of Legislative Services (OLS) estimates the UI fund balance will decrease *approximately* \$485,584 upon enactment of the bill. The decrease to the UI fund balance may be more than the estimated \$485,584 depending upon future military action, redeployment of reserves, eligibility for spouses' unemployment benefits as provided in the bill and average benefit amounts.
- The OLS has calculated the benefit cost of paying military trailing spouses based on information from the United States Department of Defense and Defense Manpower Data Center. Utilizing this information, it can be determined that approximately 80 military spouses may be eligible to apply and qualify for benefits in New Jersey. Based on this information, the average weekly benefit amount of \$341 times the average duration of unemployment of 17.8 weeks, times 80 claimants per year equals a \$485,584 annual decrease in the UI fund balance.

BILL DESCRIPTION

Assembly Bill No. 3282 of 2006 creates an exception for spouses of members of the armed forces who relocate outside of the State. If the spouse is otherwise eligible in all respects to obtain unemployment benefits, he or she may receive benefits. Under the bill, employers whose workers receive these benefits will not be charged for these benefits, except for governmental or

non-profit “reimbursable” employers who make no contributions into the unemployment compensation fund.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The OLS estimates the UI fund balance will decrease *approximately* \$485,584 upon enactment of the bill. The decrease to the UI fund balance may be more than the estimated \$485,584 depending upon future military action, redeployment of reserves, eligibility for spouses’ unemployment benefits as provided in the bill and average benefit amounts. The OLS has calculated the benefit cost of paying military trailing spouses based on information from the United States Department of Defense and Defense Manpower Data Center. The total number of active duty military members in New Jersey as of October 2006 is 20,700. Approximately 54.6 percent of the active duty force in the nation are married and approximately 52 percent of military spouses are in the labor force. The State of Washington’s experience for similar legislation indicates that 1.36 percent of working relocating military spouses qualify and apply for UI benefits. Utilizing this information, it can be determined that approximately 80 military spouses may apply and qualify for benefits in New Jersey. Based on this information, the average weekly benefit amount of \$341 times the average duration of unemployment of 17.8 weeks, times 80 claimants per year equals a \$485,584 annual decrease in the UI fund balance.

Section: Commerce, Labor and Industry

Analyst: Sonya S. Davis
Senior Fiscal Analyst

Approved: David J. Rosen
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.

LEGISLATIVE FISCAL ESTIMATE
ASSEMBLY COMMITTEE SUBSTITUTE FOR
ASSEMBLY, Nos. 3472, 3282, 1452 and 348
STATE OF NEW JERSEY
212th LEGISLATURE

DATED: JULY 9, 2007

SUMMARY

Synopsis: Provides unemployment benefits for spouses of armed services members under certain circumstances.

Type of Impact: Decreases Unemployment Insurance (UI) fund balance.

Agencies Affected: Department of Labor and Workforce Development

Office of Legislative Services Estimate

Fiscal Impact	<u>Year 1</u>	<u>Year 2</u>	<u>Year 3</u>
UI Fund	Reduce balance by \$139,605	Reduce balance by \$139,605	Reduce balance by \$139,605

- The Office of Legislative Services (OLS) estimates the UI fund balance will decrease approximately \$139,605 upon enactment of the substitute. The decrease to the UI fund balance may be more than the estimated \$139,605 depending upon future military action, redeployment of reserves, eligibility for spouses' unemployment benefits as provided in the bill and average benefit amounts.
- The OLS has calculated the benefit cost of paying military trailing spouses based on information from the United States Department of Defense. Utilizing this information, it can be determined that approximately 23 military spouses may be eligible to apply and qualify for benefits in New Jersey. Based on this information, the average weekly benefit amount of \$341 times the average duration of unemployment of 17.8 weeks, times 23 claimants per year equals a \$139,605 annual decrease in the UI fund balance.

BILL DESCRIPTION

Assembly Committee Substitute for Assembly Bill Nos. 3472, 3282, 1452 and 348 creates an exception for spouses of members of the armed forces who relocate outside of the State. If the spouse is otherwise eligible in all respects to obtain unemployment benefits, he or she may receive benefits. Under the substitute, employers whose workers receive these benefits will not

be charged for these benefits, except for governmental or non-profit “reimbursable” employers who make no contributions into the unemployment compensation fund.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The OLS estimates the UI fund balance will decrease approximately \$139,605 upon enactment of the substitute. The decrease to the UI fund balance may be more than the estimated \$139,605 depending upon future military action, redeployment of reserves, eligibility for spouses’ unemployment benefits as provided in the bill and average benefit amounts. The OLS has calculated the benefit cost of paying military trailing spouses based on information from the United States Department of Defense. Currently, the total number of active duty military members in New Jersey is 6,501. Approximately 3,654 of these active duty military members are married and approximately 1,702 military spouses in New Jersey are in the labor force. The State of Washington’s experience for similar legislation indicates that 1.36 percent of working relocating military spouses qualify and apply for UI benefits. Utilizing this information, it can be determined that approximately 23 military spouses may apply and qualify for benefits in New Jersey. Based on this information, the average weekly benefit amount of \$341 times the average duration of unemployment of 17.8 weeks, times 23 claimants per year equals a \$139,605 annual decrease in the UI fund balance.

Section: Commerce, Labor and Industry
Analyst: Gregory L. Williams
Lead Research Analyst
Approved: David J. Rosen
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.