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LAW

P.L. 2008, CHAPTER 19, *approved June 13, 2008*
Senate, No. 442 (*First Reprint*)

1 AN ACT concerning the participation of certain students in high
2 school graduation ceremonies and supplementing chapter 7C of
3 Title 18A of the New Jersey Statutes.

4

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

7

8 1. This act shall be known as and may be cited as “Alicia’s
9 Law.”

10

11 2. a. The board of education of a school district and the board
12 of trustees of a charter school shall permit a student who has been
13 classified as eligible for special education programs and services
14 pursuant to chapter 46 of Title 18A of the New Jersey Statutes and
15 whose individualized education program prescribes continued
16 special education programs beyond the fourth year of high school to
17 participate in commencement ceremonies with his graduating class
18 and to receive a certificate of attendance, provided that the student
19 has attended four years of high school.

20 b. Nothing in this section shall be construed to preclude a
21 classified student from receiving a high school diploma when the
22 student satisfactorily completes his individualized education
23 program and has met appropriate graduation requirements.

24

25 3. This act shall take effect immediately ¹**[and shall first apply**
26 **to the 2006-2007 school year]**¹.

27

28

29

30

31 Permits student whose high school special education program
32 requires instruction beyond four years to participate with his class
33 in graduation ceremony and to receive certificate of attendance.

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:

¹Senate SED committee amendments adopted February 14, 2008.

SENATE, No. 442

STATE OF NEW JERSEY 213th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2008 SESSION

Sponsored by:

Senator JOSEPH PENNACCHIO

District 26 (Morris and Passaic)

Senator STEPHEN M. SWEENEY

District 3 (Salem, Cumberland and Gloucester)

Co-Sponsored by:

Senator Bateman

SYNOPSIS

Permits student whose high school special education program requires instruction beyond four years to participate with his class in graduation ceremony and to receive certificate of attendance.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel



(Sponsorship Updated As Of: 2/15/2008)

1 AN ACT concerning the participation of certain students in high
2 school graduation ceremonies and supplementing chapter 7C of
3 Title 18A of the New Jersey Statutes.

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

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8 1. This act shall be known as and may be cited as “Alicia’s
9 Law.”

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11 2. a. The board of education of a school district and the board
12 of trustees of a charter school shall permit a student who has been
13 classified as eligible for special education programs and services
14 pursuant to chapter 46 of Title 18A of the New Jersey Statutes and
15 whose individualized education program prescribes continued
16 special education programs beyond the fourth year of high school to
17 participate in commencement ceremonies with his graduating class
18 and to receive a certificate of attendance, provided that the student
19 has attended four years of high school.

20 b. Nothing in this section shall be construed to preclude a
21 classified student from receiving a high school diploma when the
22 student satisfactorily completes his individualized education
23 program and has met appropriate graduation requirements.

24
25 3. This act shall take effect immediately and shall first apply to
26 the 2006-2007 school year.

27

28

29

STATEMENT

30

31 This bill directs a school district’s board of education and a
32 charter school’s board of trustees to permit a special education
33 student whose individualized education program prescribes
34 continued special education programs beyond the fourth year of
35 high school to participate in commencement ceremonies with his
36 graduating class and to receive a certificate of attendance, provided
37 that the student has attended four years of high school. The bill
38 stipulates that its provisions do not preclude a classified student
39 from receiving a high school diploma when the student
40 satisfactorily completes his individualized education program and
41 has met appropriate graduation requirements.

42 This bill, if enacted, will be known as “Alicia’s Law.” Alicia
43 Vitiello is a high school senior enrolled in the East Hanover School
44 District who wishes to walk with her peers at their upcoming high
45 school graduation ceremony, even though she has additional
46 coursework to complete in her individualized education program
47 before she will officially graduate. It is the sponsor’s belief that it

1 is both fitting and appropriate that Ms. Vitiello, and other young
2 people in similar situations, be able to join the friends and
3 classmates with whom so many important childhood milestones
4 have been shared in celebrating this poignant rite of passage.

SENATE EDUCATION COMMITTEE

STATEMENT TO

SENATE, No. 442

with committee amendments

STATE OF NEW JERSEY

DATED: FEBRUARY 14, 2008

The Senate Education Committee favorably reports Senate Bill No. 442 with committee amendments.

This bill directs a school district's board of education and a charter school's board of trustees to permit a special education student whose individualized education program prescribes continued special education programs beyond the fourth year of high school to participate in commencement ceremonies with his graduating class and to receive a certificate of attendance, provided that the student has attended four years of high school. The bill stipulates that its provisions do not preclude a classified student from receiving a high school diploma when the student satisfactorily completes his individualized education program and has met appropriate graduation requirements.

This bill, if enacted, will be known as "Alicia's Law." In 2007, Alicia Vitiello was a high school senior enrolled in the East Hanover School District who was initially told that she would be unable to walk with her peers at their upcoming graduation ceremony because she had additional coursework to complete in her individualized education program before she would officially graduate. While Ms. Vitiello was ultimately allowed to participate in her class's graduation ceremony, this bill will ensure that young people in situations similar to Ms. Vitiello's will be able to join the friends and classmates with whom so many important childhood milestones have been shared in celebrating this poignant rite of passage.

The committee amended the bill to provide that it will be effective immediately. The bill in its original form upon enactment provided that it would first apply in the next school year.

This bill was pre-filed for introduction in the 2008-2009 session pending technical review. As reported, the bill includes the changes required by technical review, which has been performed.

ASSEMBLY EDUCATION COMMITTEE

STATEMENT TO

[First Reprint]

SENATE, No. 442

STATE OF NEW JERSEY

DATED: MAY 12, 2008

The Assembly Education Committee favorably reports Senate Bill No. 442 (1R).

This bill directs a school district's board of education and a charter school's board of trustees to permit a special education student whose individualized education program prescribes continued special education programs beyond the fourth year of high school to participate in commencement ceremonies with his graduating class and to receive a certificate of attendance, provided that the student has attended four years of high school. The bill stipulates that its provisions do not preclude a classified student from receiving a high school diploma when the student satisfactorily completes his individualized education program and has met appropriate graduation requirements.

This bill, if enacted, will be known as "Alicia's Law." In 2007, Alicia Vitiello was a high school senior enrolled in the East Hanover School District who was initially told that she would be unable to walk with her peers at their upcoming graduation ceremony because she had additional coursework to complete in her individualized education program before she would officially graduate. While Ms. Vitiello was ultimately allowed to participate in her class's graduation ceremony, this bill will ensure that young people in situations similar to Ms. Vitiello's will be able to join the friends and classmates with whom so many important childhood milestones have been shared in celebrating this poignant rite of passage.

As reported by committee, this bill is identical to Assembly No. 2578.

ASSEMBLY, No. 2578

STATE OF NEW JERSEY 213th LEGISLATURE

INTRODUCED MAY 5, 2008

Sponsored by:

Assemblyman JAY WEBBER
District 26 (Morris and Passaic)
Assemblyman ALEX DECROCE
District 26 (Morris and Passaic)
Assemblywoman JOAN M. VOSS
District 38 (Bergen)

Co-Sponsored by:

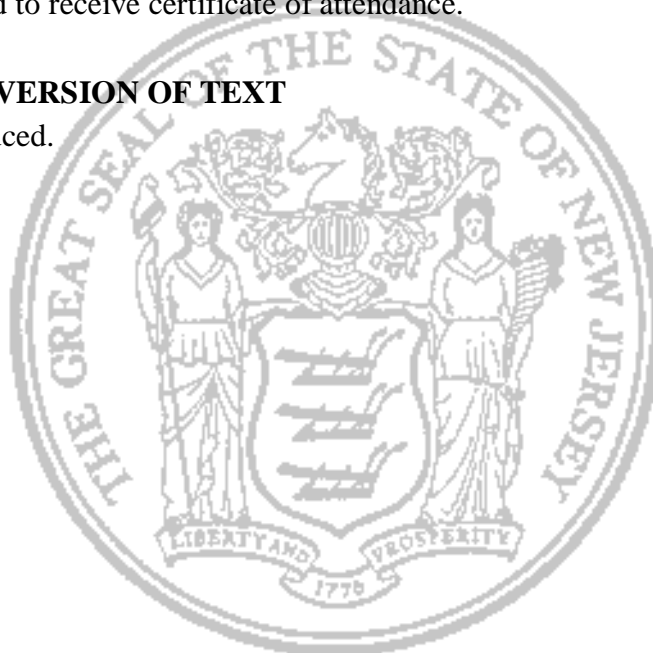
Assemblymen Merkt, O'Scanlon and Moriarty

SYNOPSIS

Permits student whose high school special education program requires instruction beyond four years to participate with his class in graduation ceremony and to receive certificate of attendance.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 5/20/2008)

1 AN ACT concerning the participation of certain students in high
2 school graduation ceremonies and supplementing chapter 7C of
3 Title 18A of the New Jersey Statutes.

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

7
8 1. This act shall be known as and may be cited as “Alicia’s
9 Law.”

10
11 2. a. The board of education of a school district and the board
12 of trustees of a charter school shall permit a student who has been
13 classified as eligible for special education programs and services
14 pursuant to chapter 46 of Title 18A of the New Jersey Statutes and
15 whose individualized education program prescribes continued
16 special education programs beyond the fourth year of high school to
17 participate in commencement ceremonies with his graduating class
18 and to receive a certificate of attendance, provided that the student
19 has attended four years of high school.

20 b. Nothing in this section shall be construed to preclude a
21 classified student from receiving a high school diploma when the
22 student satisfactorily completes his individualized education
23 program and has met appropriate graduation requirements.

24
25 3. This act shall take effect immediately.

26
27
28 STATEMENT

29
30 This bill directs a school district’s board of education and a
31 charter school’s board of trustees to permit a special education
32 student whose individualized education program prescribes
33 continued special education programs beyond the fourth year of
34 high school to participate in commencement ceremonies with his
35 graduating class and to receive a certificate of attendance, provided
36 that the student has attended four years of high school. The bill
37 stipulates that its provisions do not preclude a classified student
38 from receiving a high school diploma when the student
39 satisfactorily completes his individualized education program and
40 has met appropriate graduation requirements.

41 This bill, if enacted, will be known as “Alicia’s Law.” In 2007,
42 Alicia Vitiello was a high school senior enrolled in the East
43 Hanover School District who was initially told that she would be
44 unable to walk with her peers at their upcoming graduation
45 ceremony because she had additional coursework to complete in her
46 individualized education program before she would officially
47 graduate. While Ms. Vitiello was ultimately allowed to participate
48 in her class’s graduation ceremony, this bill will ensure that young

1 people in situations similar to Ms. Vitiello's will be able to join the
2 friends and classmates with whom so many important childhood
3 milestones have been shared in celebrating this poignant rite of
4 passage.

ASSEMBLY EDUCATION COMMITTEE

STATEMENT TO

ASSEMBLY, No. 2578

STATE OF NEW JERSEY

DATED: MAY 12, 2008

The Assembly Education Committee favorably reports Assembly Bill No. 2578.

This bill directs a school district's board of education and a charter school's board of trustees to permit a special education student whose individualized education program prescribes continued special education programs beyond the fourth year of high school to participate in commencement ceremonies with his graduating class and to receive a certificate of attendance, provided that the student has attended four years of high school. The bill stipulates that its provisions do not preclude a classified student from receiving a high school diploma when the student satisfactorily completes his individualized education program and has met appropriate graduation requirements.

This bill, if enacted, will be known as "Alicia's Law." In 2007, Alicia Vitiello was a high school senior enrolled in the East Hanover School District who was initially told that she would be unable to walk with her peers at their upcoming graduation ceremony because she had additional coursework to complete in her individualized education program before she would officially graduate. While Ms. Vitiello was ultimately allowed to participate in her class's graduation ceremony, this bill will ensure that young people in situations similar to Ms. Vitiello's will be able to join the friends and classmates with whom so many important childhood milestones have been shared in celebrating this poignant rite of passage.

As reported by committee, this bill is identical to Senate No. 442 (1R).

P.L. 2008, CHAPTER 17, *approved May 2, 2008*
Assembly Committee Substitute (*First Reprint*) for
Assembly, No. 873

1 AN ACT providing benefits for family temporary disability leave,
2 amending R.S.43:21-4 and R.S.43:21-7, amending and
3 supplementing P.L.1948, c.110, and supplementing Title 54A of
4 the New Jersey Statutes.

5

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

8

9 1. Section 2 of P.L.1948, c.110 (C.43:21-26) is amended to
10 read as follows:

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

14 The public policy of this State, already established, is to protect
15 employees against the suffering and hardship generally caused by
16 involuntary unemployment. But the **[unemployment compensation**
17 **law]** "unemployment compensation law" provides benefit payments
18 to replace wage loss caused by involuntary unemployment only so
19 long as an individual is "able to work, and is available for work,"
20 and fails to provide any protection against wage loss suffered
21 because of inability to perform the duties of a job interrupted by
22 nonoccupational illness, injury, or other disability of the individual
23 or of members of the individual's family. Nor is there any other
24 comprehensive and systematic provision for the protection of
25 working people against loss of earnings due to a nonoccupational
26 sickness [or], accident, or other disability.

27 The prevalence and incidence of nonoccupational sickness
28 **[and], accident, and other disability** among employed people is
29 greatest among the lower income groups, who either cannot or will
30 not voluntarily provide out of their own resources against the
31 hazard of an earnings loss caused by nonoccupational sickness **[or],**
32 accident, or other disability. Disabling sickness or accident occurs
33 throughout the working population at one time or another, and
34 approximately fifteen per centum (15%) of the number of people at
35 work may be expected to suffer disabling illness of more than one
36 week each year.

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

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹ Assembly AAP committee amendments adopted March 10, 2008.

1 It ~~has been~~ was found, prior to the enactment of the
2 "Temporary Disability Benefits Law," P.L.1948, c.110 (C.43:21-25
3 et seq.), that ~~then~~ existing voluntary plans for the payment of cash
4 sickness benefits ~~cover~~ covered less than one-half of the number
5 of working people of this State who ~~are now~~ were covered by the
6 ~~unemployment compensation law,~~ "unemployment compensation
7 law," and that even ~~this~~ that degree of voluntary protection
8 ~~affords~~ afforded uneven, unequal and sometimes uncertain
9 protection among the various voluntary benefit programs.

10 While the enactment of that law has provided stable protection
11 for New Jersey's disabled workers, very few workers are protected
12 from income losses caused by the need to take time off from work
13 to care for family members who are incapable of self-care,
14 including newborn and newly-adopted children. The growing
15 portion of middle-income families in which all adult family
16 members work, largely due to economic necessity, points to the
17 desperate need for replacement income when a working family
18 member must take time to care for family members who are unable
19 to take care of themselves. Moreover, the United States is the only
20 industrialized nation in the world which does not have a mandatory
21 workplace-based program for such income support. It is therefore
22 desirable and necessary to fill the gap in existing provisions for
23 protection against the loss of earnings caused by involuntary
24 unemployment, by extending such protection to meet the hazard of
25 earnings loss due to inability to work caused by nonoccupational
26 sickness [or accident], accidents, or other disabilities of workers
27 and members of their families. Developing systems that help
28 families adapt to the competing interests of work and home not only
29 benefits workers, but also benefits employers by reducing employee
30 turnover and increasing worker productivity.

31 The foregoing facts and considerations require that there be a
32 uniform minimum program providing in a systematic manner for
33 the payment of reasonable benefits to replace partially such
34 earnings loss and to meet the continuing need for benefits where an
35 individual becomes disabled during unemployment or needs to care
36 for family members incapable of self-care. In order to maintain
37 consumer purchasing power, relieve the serious menace to health,
38 morals and welfare of the people caused by insecurity and the loss
39 of earnings, to reduce the necessity for public relief of needy
40 persons, to increase workplace productivity and alleviate the
41 enormous and growing stress on working families of balancing the
42 demands of work and family needs, and in the interest of the health,
43 welfare and security of the people of this State, such a system,
44 enacted under the police power, is hereby established, requiring the
45 payment of reasonable cash benefits to eligible individuals
46 ~~suffering~~ who are subject to accident or illness which is not

1 compensable under the **workmen's** worker's compensation law or
2 who need to care for family members incapable of self-care.

3 'While the Legislature recognizes the pressing need for benefits
4 for workers taking leave to care for family members incapable of
5 self-care, it also finds that the need of workers for leave during their
6 own disability continues to be especially acute, as a disabled worker
7 has less discretion about taking time off from work than a worker
8 caring for a family member. Notwithstanding any interpretation of
9 law which may be construed as providing a worker with rights to
10 take action against an employer who fails or refuses to restore the
11 worker to employment after the worker's own disability, the
12 Legislature does not intend that the policy established by
13 P.L. , c. (C.) (pending before the Legislature as this bill) of
14 providing benefits for workers during periods of family temporary
15 disability leave to care for family members incapable of self-care be
16 construed as granting any worker an entitlement to be restored by
17 the employer to employment held by the worker prior to taking
18 family temporary disability leave or any right to take action, in tort,
19 or for breach of an implied provision of the employment agreement,
20 or under common law, against an employer who fails or refuses to
21 restore the worker to employment after the family temporary
22 disability leave, and the Legislature does not intend that the policy
23 of providing benefits during family temporary disability leave be
24 construed as increasing, reducing or otherwise modifying any
25 entitlement of a worker to return to employment or right of the
26 worker to take action under the provisions of the "Family Leave
27 Act," P.L.1989, c.261 (C.34:11B-1 et seq.), or the federal "Family
28 and Medical Leave Act of 1993," Pub.L.103-3 (29 U.S.C. s.2601 et
29 seq.).¹

30 Since the enactment of the "Temporary Disability Benefits Law,"
31 P.L.1948, c.110 (C.43:21-25 et seq.), the State government-operated
32 State temporary disability benefits plan, or "State plan," has proven
33 to be highly efficient and cost effective in providing temporary
34 disability benefits to New Jersey workers. The State plan
35 guarantees the availability of coverage for all employers, regardless
36 of experience, with low overhead costs and a rapid processing of
37 claims and appeals by knowledgeable, impartial public employees.
38 Consequently, the percentage of all employers using the State plan
39 increased from 64% in 1952 to 98% in 2006, while the percentage
40 of employees covered by the State plan increased from 28% to 83%.
41 A publicly-operated, nonprofit State plan is therefore indispensable
42 to achieving the goals of the "Temporary Disability Benefits Law,"
43 P.L.1948, c.110 (C.43:21-25 et seq.).
44 (cf: P.L.1948, c.110, s.2)

45
46 2. Section 3 of P.L.1948, c.110 (C.43:21-27) is amended to
47 read as follows:

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

3 (a) (1) "Covered employer" means, with respect to whether an
4 employer is required to provide benefits during an employee's own
5 disability pursuant to P.L.1948, c.110 (C.43:21-25 et seq.), any
6 individual or type of organization, including any partnership,
7 association, trust, estate, joint-stock company, insurance company
8 or corporation, whether domestic or foreign, or the receiver, trustee
9 in bankruptcy, trustee or successor thereof, or the legal
10 representative of a deceased person, who is an employer subject to
11 the [chapter to which this act is a supplement, designated as the]
12 "unemployment compensation law" (R.S.43:21-1 et seq.), except
13 the State, its political subdivisions, and any instrumentality of the
14 State unless such governmental entity elects to become a covered
15 employer [under the "Temporary Disability Benefits Law"]
16 pursuant to paragraph (2) of this subsection (a); provided, however,
17 that commencing with the effective date of this act, the State of
18 New Jersey, including Rutgers, The State University, the University
19 of Medicine and Dentistry of New Jersey and the New Jersey
20 Institute of Technology, shall be deemed a covered employer, as
21 defined herein.

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

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

1 year thereafter by filing with the division a written notice of
2 termination at least 30 days prior to the termination date.

3 (b) (1) "Covered individual" means, with respect to whether an
4 individual is eligible for benefits during an individual's own
5 disability pursuant to P.L.1948, c.110 (C.43:21-25 et seq.), any
6 person who is in employment, as defined in the [chapter to which
7 this act is a supplement], "unemployment compensation law"
8 (R.S.43:21-1 et seq.) for which the individual is entitled to
9 remuneration from a covered employer, or who has been out of such
10 employment for less than two weeks[. However,], except that a
11 "covered individual" who is employed by the State of New Jersey,
12 including Rutgers, The State University, the University of Medicine
13 and Dentistry of New Jersey and the New Jersey Institute of
14 Technology, or by any governmental entity or instrumentality
15 which elects to become a "covered employer" pursuant to this
16 amendatory act, shall not be eligible to receive any benefits under
17 the "Temporary Disability Benefits Law" until such individual has
18 exhausted all sick leave accumulated as an employee in the
19 classified service of the State or accumulated under terms and
20 conditions similar to classified employees or accumulated under the
21 terms and conditions pursuant to the laws of this State or as the
22 result of a negotiated contract with any governmental entity or
23 instrumentality which elects to become a "covered employer."

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

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

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

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

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

46 (f) "Disability benefits" shall mean any cash payments which
47 are payable to a covered individual for all or part of a period of
48 disability pursuant to this act.

1 (g) "Period of disability" with respect to any covered individual
2 shall mean **[the]**:

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

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

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

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

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

22 (3) "Base week" with respect to periods of disability
23 commencing on or after October 1, 1985 and before January 1,
24 2001, means any calendar week during which **[an]** a covered
25 individual earned in employment from a covered employer
26 remuneration equal to not less than 20% of the Statewide average
27 weekly **[remuneration]** wage determined under subsection (c) of
28 R.S.43:21-3, which shall be adjusted to the next higher multiple of
29 \$1.00 if not already a multiple thereof.

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

45 (j) (1) "Average weekly wage" means the amount derived
46 by dividing a covered individual's total wages earned from the
47 individual's most recent covered employer during the base weeks in
48 the eight calendar weeks immediately preceding the calendar week

1 in which a period of disability commenced, by the number of such
2 base weeks.

3 (2) If ~~["this"]~~ the computation in paragraph (1) of this subsection
4 (j) yields a result which is less than the individual's average weekly
5 earnings in employment~~["], as defined in the chapter to which this act~~
6 is a supplement, with all covered employers during the base weeks
7 in such eight calendar weeks, then the average weekly wage shall be
8 computed on the basis of earnings from all covered employers
9 during the ~~["eight"]~~ base weeks in the eight calendar weeks
10 immediately preceding the week in which the period of disability
11 commenced.

12 (3) For periods of disability commencing on or after July 1,
13 2009, if the computations in paragraphs (1) and (2) of this
14 subsection (j) both yield a result which is less than the individual's
15 average weekly earnings in employment with all covered employers
16 during the base weeks in the 26 calendar weeks immediately
17 preceding the week in which the period of disability commenced,
18 then the average weekly wage shall, upon a written request to the
19 department by the individual on a form provided by the department,
20 be computed by the department on the basis of earnings from all
21 covered employers of the individual during the base weeks in those
22 26 calendar weeks, and, in the case of a claim for benefits from a
23 private plan, that computation of the average weekly wage shall be
24 provided by the department to the individual and the individual's
25 employer.

26 When determining the "average weekly wage" with respect to a
27 period of family temporary disability leave for an individual who
28 has a period of family temporary disability immediately after the
29 individual has a period of disability for the individual's own
30 disability, the period of disability is deemed to have commenced at
31 the beginning of the period of disability for the individual's own
32 disability, not the period of family temporary disability.

33 (k) "Child" means a biological, adopted, or foster child,
34 stepchild or legal ward of a covered individual, child of a domestic
35 partner of the covered individual, or child of a civil union partner of
36 the covered individual, who is less than 19 years of age or is 19
37 years of age or older but incapable of self-care because of mental or
38 physical impairment.

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

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

43 (n) "Family member" means a child, spouse, domestic partner,
44 civil union partner or parent of a covered individual.

45 (o) "Family temporary disability leave" means leave taken by a
46 covered individual from work with an employer to (1) participate in
47 the providing of care¹, as defined in the "Family Leave Act,"
48 P.L.1989, c.261 (C.34:11B-1 et seq.) and regulations adopted

1 pursuant to that act,¹ for a family member of the individual made
2 necessary by a serious health condition of the family member¹ [,
3 including providing psychological comfort and arranging third party
4 care for the family member¹]; or (2) be with a child during the first
5 12 months after the child's birth, if the individual, or the domestic
6 partner or civil union partner of the individual, is a biological parent
7 of the child, or the first 12 months after the placement of the child
8 for adoption with the individual. "Family temporary disability
9 leave" does not include any period of time in which a covered
10 individual is paid benefits pursuant to P.L.1948, c.110 (C.43:21-25
11 et seq.) because the individual is unable to perform the duties of the
12 individual's employment due to the individual's own disability.

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

16 (q) "Parent of a covered individual" means a biological parent,
17 foster parent, adoptive parent, or stepparent of the covered
18 individual or a person who was a legal guardian of the covered
19 individual when the covered individual was a child.

20 (r) "Placement for adoption" means the time when a covered
21 individual adopts a child or becomes responsible for a child pending
22 adoption by the covered individual.

23 (s) "Serious health condition" means an illness, injury,
24 impairment or physical or mental condition which requires:
25 inpatient care in a hospital, hospice, or residential medical care
26 facility; or continuing medical treatment or continuing supervision
27 by a health care provider.

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

33 (cf: P.L.2001, c.17, s.3)

34

35 3. Section 5 of P.L.1948, c.110 (C.43:21-29) is amended to
36 read as follows:

37 5. Compensable disability. **【Disability】** (a) In the case of the
38 disability of a covered individual, disability shall be compensable
39 subject to the limitations of this act[, where a] if the disability is
40 the result of the covered individual **【suffers any】** suffering an
41 accident or sickness not arising out of and in the course of the
42 individual's employment or if so arising not compensable under the
43 workers' compensation law **【(Title 34 of the Revised Statutes)】**
44 R.S.34:15-1 et seq., and resulting in the individual's total inability
45 to perform the duties of employment.

46 (b) In the case of an individual taking family temporary
47 disability leave, the leave shall be compensable subject to the

1 limitations of P.L. , c. (C.)(pending before the
2 Legislature as this bill).
3 (cf: P.L.1980, c.90, s.13)

4
5 4. Section 11 of P.L.1948, c.110 (C.43:21-35) is amended to
6 read as follows:

7 11. (a) If the division is furnished satisfactory evidence that a
8 majority of the employees covered by an approved private plan
9 have made election in writing to discontinue such plan, the division
10 shall withdraw its approval of such plan effective at the end of the
11 calendar quarter next succeeding that in which such evidence is
12 furnished. Upon receipt of a petition therefor signed by not less
13 than 10% of the employees covered by an approved private plan,
14 the division shall require the employer upon 30 days' written notice
15 to conduct an election by ballot in writing to determine whether or
16 not a majority of the employees covered by such private plan favor
17 discontinuance thereof; provided, that such election shall not be
18 required more often than once in any 12-month period.

19 (b) Unless sooner permitted, for cause, by the division, no
20 approved private plan shall be terminated by an employer, in whole
21 or in part, until at least 30 days after written notice of intention so
22 to do has been given by the employer to the division and after
23 notices are conspicuously posted so as reasonably to assure their
24 being seen, or after individual notices are given to the employees
25 concerned.

26 (c) The division may, after notice and hearing, withdraw its
27 approval of any approved private plan if it finds that there is danger
28 that the benefits accrued or to accrue will not be paid, that the
29 security for such payment is insufficient, or for other good cause
30 shown. No employer, and no union or association representing
31 employees, shall so administer or apply the provisions of an
32 approved private plan as to derive any profit therefrom. The
33 division may withdraw its approval from any private plan which is
34 administered or applied in violation of this provision.

35 (d) No termination of an approved private plan shall affect the
36 payment of benefits, in accordance with the provisions of the plan,
37 to **[disabled]** employees whose period of disability commenced
38 prior to the date of termination. Employees who have ceased to be
39 covered by an approved private plan because of its termination
40 shall, subject to the limitations and restrictions of this act, become
41 eligible forthwith for benefits from the State Disability Benefits
42 Fund for a period of disability commencing after such cessation,
43 and contributions with respect to their wages shall immediately
44 become payable as otherwise provided by law. Any withdrawal of
45 approval of a private plan pursuant to this section shall be
46 reviewable by writ of certiorari or by such other procedure as may
47 be provided by law. With respect to a period of family temporary
48 disability leave immediately after the individual has a period of

1 disability during the individual's own disability, the period of
2 disability is deemed, for the purposes of determining whether the
3 period of disability commenced prior to the date of the termination,
4 to have commenced at the beginning of the period of disability
5 during the individual's own disability, not the period of family
6 temporary disability leave.

7 (e) Anything in this act to the contrary notwithstanding, a
8 covered employer who, under an approved private plan, is
9 providing benefits at least equal to those required by the State plan,
10 may modify the benefits under the private plan so as to provide
11 benefits not less than the benefits required by the State plan[;
12 provided, that individuals]. Individuals covered under [such] a
13 private plan shall not be required to contribute to [such] the plan at
14 a rate exceeding 3/4 of 1% of the amount of "wages" established for
15 any calendar year under the provisions of R.S.43:21-7(b) prior to
16 January 1, 1975, and 1/2 of 1% for calendar years beginning on or
17 after January 1, 1975. For a calendar year beginning on or after
18 January 1, 2009: an employer providing a private plan only for
19 benefits for employees during their own disabilities may require the
20 employees to contribute to the plan at a rate not exceeding 0.5% of
21 the amount of "wages" established for the calendar year under the
22 provisions of R.S.43:21-7(b); an employer providing a private plan
23 only for benefits for employees during periods of family temporary
24 disability may require the individuals covered by the private plan to
25 contribute an amount not exceeding the amount the individuals
26 would pay pursuant to R.S.43:21-7(d)(1)(G)(ii); an employer
27 providing a private plan both for benefits for employees during their
28 own disabilities and for benefits during periods of family temporary
29 disability may require the employees to contribute to the plan at a
30 rate not exceeding 0.5% of the amount of "wages" established for
31 the calendar year under the provisions of R.S.43:21-7(b) plus an
32 additional amount not exceeding the amount the individuals would
33 pay pursuant to R.S.43:21-7(d)(1)(G)(ii). Notification of [such]
34 the proposed modification shall be given by the employer to the
35 division and to the individuals covered under [such] the plan[, on
36 or before May 1, 1975].

37 (cf: P.L.1974, c.86, s.8)

38

39 5. Section 14 of P.L.1948, c.110 (C.43:21-38) is amended to
40 read as follows:

41 14. Duration of benefits.

42 With respect to [periods] any period of disability for an
43 individual's own disability commencing on or after January 1,
44 1953, disability benefits, not in excess of an individual's maximum
45 benefits, shall be payable with respect to disability which
46 commences while a person is a covered individual under the
47 Temporary Disability Benefits Law, and shall be payable with
48 respect to the eighth consecutive day of such disability and each

1 day thereafter that such period of disability continues; and if
2 benefits shall be payable for three consecutive weeks with respect
3 to any period of disability commencing on or after January 1, 1968,
4 then benefits shall also be payable with respect to the first seven
5 days thereof. With respect to any period of family temporary
6 disability leave commencing on or after July 1, 2009 and while an
7 individual is a covered individual, family temporary disability
8 benefits, not in excess of the individual's maximum benefits, shall
9 be payable with respect to the first day of leave taken after the first
10 one-week period following the commencement of the period of
11 family temporary disability leave and each subsequent day of leave
12 during that period of family temporary disability leave; and if
13 benefits become payable on any day after the first three weeks in
14 which leave is taken, then benefits shall also be payable with
15 respect to any leave taken during the first one-week period in which
16 leave is taken. The maximum total benefits payable to any eligible
17 individual for any period of disability of the individual commencing
18 on or after January 1, 1968, shall be either 26 times his weekly
19 benefit amount or 1/3 of his total wages in his base year, whichever
20 is the lesser; provided that such maximum amount shall be
21 computed in the next lower multiple of \$1.00 if not already a
22 multiple thereof. The maximum total benefits payable to any
23 eligible individual for any period of family temporary disability
24 leave commencing on or after July 1, 2009, shall be six times the
25 individual's weekly benefit amount or 1/3 of his total wages in his
26 base year, whichever is the lesser; provided that the maximum
27 amount shall be computed in the next lower multiple of \$1.00, if not
28 already a multiple thereof.

29 (cf: P.L.1984, c.104, s.2)

30

31 6. Section 15 of P.L.1948, c.110 (C.43:21-39) is amended to
32 read as follows:

33 15. Limitation of benefits. Notwithstanding any other provision
34 of the "Temporary Disability Benefits Law," P.L.1948, c.110
35 (C.43:21-25 et seq.), no benefits shall be payable under the State
36 plan to any **[person]** individual:

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

39 (1) if benefits shall be payable for three consecutive weeks with
40 respect to any period of disability **[commencing on or after January**
41 **1, 1968]**, then benefits shall also be payable with respect to the first
42 seven days thereof;

43 (2) in the case of intermittent leave in a single period of family
44 temporary disability leave taken to provide care for a family
45 member of the individual with a serious health condition, benefits
46 shall be payable with respect to the first day of leave taken after the
47 first one-week period following the commencement of the period of
48 family temporary disability leave and each subsequent day of leave

1 during that period of family temporary disability leave; and if
2 benefits become payable on any day after the first three weeks in
3 which leave is taken, then benefits shall also be payable with
4 respect to any leave taken during the first one-week period in which
5 leave is taken, and

6 (3) in the case of an individual taking family temporary
7 disability leave immediately after the individual has a period of
8 disability for the individual's own disability, there shall be no
9 waiting period between the period of the individual's own disability
10 and the period of family temporary disability.

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

13 (2) for more than six weeks with respect to any one period of
14 family temporary disability leave, or more than 42 days with respect
15 to any one period of family temporary disability leave taken on an
16 intermittent basis to provide care for a family member of the
17 individual with a serious health condition; and

18 (3) for more than six weeks of family temporary disability leave
19 during any 12-month period, or more than 42 days of family
20 temporary disability leave taken during any 12-month period, on an
21 intermittent basis to provide care for a family member of the
22 individual with a serious health condition, including family
23 temporary disability leave taken pursuant to R.S.43:21-4(f)(2) while
24 unemployed.

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

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

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

45 (f) for any period of disability due to willfully and intentionally
46 self-inflicted injury, or to injury sustained in the perpetration by the
47 claimant of a crime of the first, second, third, or fourth degree, or
48 for any period during which a covered individual would be

1 disqualified for unemployment compensation benefits for gross
2 misconduct under subsection (b) of R.S.43:21-5;
3 (g) for any period during which the claimant performs any work
4 for remuneration or profit;
5 (h) in a weekly amount which together with any remuneration
6 the claimant continues to receive from the employer would exceed
7 regular weekly wages immediately prior to disability;
8 (i) for any period during which a covered individual would be
9 disqualified for unemployment compensation benefits under
10 subsection (d) of R.S.43:21-5, unless the disability commenced
11 prior to such disqualification; and there shall be no other cause of
12 disqualification or ineligibility to receive disability benefits
13 hereunder except as may be specifically provided in this act.
14 (cf: P.L.2007, c.322, s.1)

15
16 7. Section 17 of P.L.1948, c.110 (C.43:21-41) is amended to
17 read as follows:

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

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

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

21 (d) (1) **【With respect to periods of disability commencing on or**
22 **after October 1, 1984 and before January 1, 2001, no individual**
23 **shall be entitled to benefits under this act unless the individual has**
24 **established at least 20 base weeks within the 52 calendar weeks**
25 **preceding the week in which the individual's period of disability**
26 **commenced, or, in the alternative, the individual has earned twelve**
27 **times the Statewide average weekly remuneration paid to workers,**
28 **as determined under subsection (c) of R.S. 43:21-3, raised to the**
29 **next higher multiple of \$100.00, if not already a multiple thereof, or**
30 **more within the 52 calendar weeks preceding the week in which the**
31 **period of disability commenced, nor shall the individual be entitled**
32 **to benefits unless he shall duly file notice and proof of claim, and**
33 **submit to such reasonable examinations as are required by this act**
34 **and the rules and regulations of the division.】** (Deleted by
35 amendment, P.L. , c.)(pending before the Legislature as this
36 bill)

37 (2) With respect to periods of disability commencing on or after
38 January 1, 2001, no individual shall be entitled to benefits under
39 this act unless the individual has, within the 52 calendar weeks
40 preceding the week in which the individual's period of disability
41 commenced, established at least 20 base weeks or earned not less
42 than 1,000 times the minimum wage in effect pursuant to section 5
43 of P.L.1996, c.113 (C.34:11-56a4) on October 1 of the calendar
44 year preceding the calendar year in which the disability commences,
45 which amount shall be adjusted to the next higher multiple of
46 \$100.00, if not already a multiple thereof.

47 (e) With respect to a period of family temporary disability leave
48 for an individual who has a period of family temporary disability

1 immediately after the individual has a period of disability for the
2 individual's own disability, the period of disability is deemed, for
3 the purposes of specifying the time of the 52-week period in which
4 base weeks or earnings are required to be established for benefit
5 eligibility pursuant to this subsection (e), to have commenced at the
6 beginning of the period of disability for the individual's own
7 disability, not the period of family temporary disability.

8 (cf: P.L.2001, c.17, s.4)

9

10 8. Section 31 of P.L.1948, c.110 (C.43:21-55) is amended to
11 read as follows:

12 31. Penalties. (a) Whoever makes a false statement or
13 representation knowing it to be false or knowingly fails to disclose
14 a material fact, and each such false statement or representation or
15 failure to disclose a material fact shall constitute a separate offense,
16 to obtain or increase any disability benefit under the State plan or
17 an approved private plan, or for a disability during unemployment,
18 including any benefit during a period of family temporary disability
19 leave, either for himself or for any other person, shall be liable for a
20 fine of '~~twenty dollars (\$20.00)~~ \$250' to be paid to the division.
21 Upon refusal to pay such fine, the same shall be recovered in a civil
22 action by the division in the name of the State of New Jersey. If in
23 any case liability for the payment of a fine as aforesaid shall be
24 determined, any person who shall have received any benefits
25 hereunder by reason of the making of such false statements or
26 representations or failure to disclose a material fact, shall not be
27 entitled to any benefits under this act for any disability occurring
28 prior to the time he shall have discharged his liability hereunder to
29 pay such fine.

30 (b) Any employer or any officer or agent of any employer or
31 any other person who makes a false statement or representation
32 knowing it to be false or knowingly fails to disclose a material fact,
33 to prevent or reduce the benefits to any person entitled thereto, or to
34 avoid becoming or remaining subject hereto or to avoid or reduce
35 any contribution or other payment required from an employer under
36 this act, or who willfully fails or refuses to make any such
37 contributions or other payment or to furnish any reports required
38 hereunder or to produce or permit the inspection or copying of
39 records as required hereunder, shall be liable for a fine of twenty
40 dollars '~~(\$20.00)~~ \$250' to be paid to the division. Upon refusal to
41 pay such fine, the same shall be recovered in a civil action by the
42 division in the name of the State of New Jersey.

43 (c) Any person who shall willfully violate any provision hereof
44 or any rule or regulation made hereunder, for which a fine is neither
45 prescribed herein nor provided by any other applicable statute, shall
46 be liable to a fine of '~~fifty dollars (\$50.00)~~ \$500' to be paid to
47 the division. Upon the refusal to pay such fine, the same shall be

1 recovered in a civil action by the division in the name of the State
2 of New Jersey.

3 (d) Any person, employing unit, employer or entity violating
4 any of the provisions of the above subsections with intent to
5 defraud the division shall in addition to the penalties hereinbefore
6 described, be liable for each offense upon conviction before the
7 Superior Court or any municipal court for a fine not to exceed
8 ~~'[two hundred fifty dollars (\$250.00)]~~ \$1,000¹ or by imprisonment
9 for a term not to exceed ninety days, or both, at the discretion of the
10 court. The fine upon conviction shall be payable to the State
11 disability benefits fund of the division. Any penalties imposed by
12 this subsection shall be in addition to those otherwise prescribed in
13 this chapter (R.S.43:21-1 et seq.).
14 (cf: P.L.1997, c.318, s.1)

15

16 9. Section 2 of P.L.1997, c.318 (C.43:21-55.1) is amended to
17 read as follows:

18 2. (a) If it is determined by the division that an individual for
19 any reason has received, under the State plan, an approved private
20 plan or for a disability during unemployment, any sum of disability
21 benefits, including benefits during a period of family temporary
22 disability leave, to which the individual was not entitled, the
23 individual shall, except as provided in subsection (b) of this section,
24 be liable to repay the sum in full. Except as provided in subsection
25 (b) of this section, the sum that the individual is liable to repay shall
26 be deducted from future benefits payable to the individual under
27 this act (C.43:21-25 et seq.) or subsection (f) of R.S.43:21-4, or
28 shall be repaid by the individual to the division, the employer or the
29 insurer, and that sum shall be collectible in the manner provided for
30 by law, including, but not limited to, the filing of a certificate of
31 debt with the Clerk of the Superior Court of New Jersey; except that
32 no individual who does not knowingly misrepresent or withhold any
33 material fact to obtain benefits shall be liable for any repayments or
34 deductions against future benefits unless notified before four years
35 have elapsed from the time the benefits in question were paid. The
36 division shall promptly notify the individual by mail of the
37 determination and the reasons for the determination. Unless the
38 individual files an appeal of the determination within 20 calendar
39 days following the receipt of the notice, or, within 24 days after the
40 notice was mailed to the individual's last known address, the
41 determination shall be final.

42 (b) If the individual received the overpayment of benefits
43 because of error made by the division, the employer or the
44 physician, and if the individual did not knowingly misrepresent or
45 withhold any material fact to obtain the benefits, the following
46 limits shall apply:

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

4 (2) All repayments of the overpayments by the individual or the
5 estate of the individual shall be waived if the individual is deceased
6 or permanently disabled.

7 Any demand for repayment from an individual pursuant to this
8 subsection shall include an explanation of the provisions of this
9 subsection.

10 (cf: P.L.1997, c.318, s.2)

11

12 10. (New section) a. Family temporary disability leave shall be
13 compensable subject to the limitations of P.L. , c. (C.)
14 (pending before the Legislature as this bill) for any period of family
15 temporary disability leave taken by a covered individual which
16 commences after June 30, 2009.

17 b. An individual shall not simultaneously receive disability
18 benefits for family temporary disability leave and any other
19 disability benefits pursuant to P.L.1948, c.110 (C.43:21-25 et seq.)
20 or any unemployment compensation.

21 c. The employer of an individual may, notwithstanding any
22 other provision of law, including the provisions of N.J.S.18A:30-1
23 et seq., permit or require the individual, during a period of family
24 temporary disability leave, to use any paid sick leave, vacation time
25 or other leave at full pay made available by the employer before the
26 individual is eligible for disability benefits for family temporary
27 disability leave pursuant to P.L. , c. (C.) (pending before
28 the Legislature as this bill), except that the employer may not
29 require the individual to use more than two weeks worth of leave at
30 full pay. The employer may also have the total number of days
31 worth of disability benefits paid pursuant to P.L. , c. (C.)
32 (pending before the Legislature as this bill) to the individual during
33 a period of family temporary disability leave reduced by the number
34 of days of leave at full pay paid by the employer to the individual
35 during that period. If the employer requires the individual to use
36 leave at full pay, the employee shall be permitted to take that fully-
37 paid leave during the waiting period required pursuant to subsection
38 (a) of section 15 of P.L.1948, c.110 (C.43:21-39). Nothing in
39 P.L. , c. (C.) (pending before the Legislature as this bill)
40 shall be construed as nullifying any provision of an existing
41 collective bargaining agreement or employer policy, or preventing
42 any new provision of a collective bargaining agreement or employer
43 policy, which provides employees more generous leave or gives
44 employees greater rights to select which kind of leave is used or
45 select the order in which the different kinds of leave are used.
46 Nothing in P.L. , c. (C.) (pending before the Legislature as
47 this bill) shall be construed as preventing an employer from
48 providing more generous benefits than are provided under

1 P.L. , c. (C.) (pending before the Legislature as this bill) or
2 providing benefits which supplement the benefits provided under
3 P.L. , c. (C.) (pending before the Legislature as this bill) for
4 some or all of the employer's employees.

5 d. An individual who is entitled to leave under the provisions
6 of the "Family Leave Act," P.L.1989, c.261 (C.34:11B-1 et seq.) or
7 the federal "Family and Medical Leave Act of 1993," Pub.L.103-3
8 (29 U.S.C. s.2601 et seq.), shall take any benefits provided for
9 family temporary disability leave pursuant to P.L. , c. (C.)
10 (pending before the Legislature as this bill) concurrently with leave
11 taken pursuant to the "Family Leave Act," P.L.1989, c.261
12 (C.34:11B-1 et seq.) or the federal "Family and Medical Leave Act
13 of 1993," Pub.L.103-3 (29 U.S.C. s.2601 et seq.). Nothing in
14 P.L. , c. (C.) (pending before the Legislature as this bill)
15 shall be construed to grant an employee any entitlement to be
16 restored by the employer to employment held by the employee prior
17 to taking family temporary disability leave or any right to take
18 action against an employer who refuses to restore the employee to
19 employment after the leave. Nothing in P.L. , c. (C.)
20 (pending before the Legislature as this bill) shall be construed to
21 increase, reduce or otherwise modify any entitlement of an
22 employee to return to employment or right of the employee to take
23 action under the provisions of the "Family Leave Act," P.L.1989,
24 c.261 (C.34:11B-1 et seq.) the federal "Family and Medical Leave
25 Act of 1993," Pub.L.103-3 (29 U.S.C. s.2601 et seq.). 'If an
26 employee receives benefits for family temporary disability leave
27 pursuant to P.L. , c. (C.) (pending before the Legislature as
28 this bill) with respect to employment with an employer who is not
29 an employer as defined in the "Family Leave Act," P.L.1989, c.261
30 (C.34:11B-1 et seq.) and that employer fails or refuses to restore the
31 employee to employment after the period of family temporary
32 disability leave, that failure or refusal shall not be a wrongful
33 discharge in violation of a clear mandate of public policy, and the
34 employee shall not have a cause of action against that employer, in
35 tort, or for breach of an implied provision of the employment
36 agreement, or under common law, for that failure or refusal.¹

37 e. An employee taking family temporary disability leave or an
38 employer from whom the employee is taking the leave shall have
39 the same right to appeal a determination of a benefit for the family
40 temporary disability leave made under P.L. , c. (C.)
41 (pending before the Legislature as this bill) as an employee or
42 employer has to appeal a determination of a benefit for the
43 disability of the employee under the "Temporary Disability Benefits
44 Law," P.L.1948, c.110 (C.43:21-25 et seq.), and any regulations
45 adopted pursuant to the "Temporary Disability Benefits Law,"
46 P.L.1948, c.110 (C.43:21-25 et seq.).

47 f. In the event of a period of family temporary disability leave
48 of any individual covered under the State plan, the employer shall,

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

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

41
42 11. (New section) a. In the case of a family member who has a
43 serious health condition, the benefits for family temporary disability
44 leave may be taken intermittently when medically necessary, if: the
45 total time within which the leave is taken does not exceed 12
46 months; the covered individual provides the employer with a copy
47 of the certification required pursuant to subsection b. of this section;
48 the covered individual provides the employer with prior notice of

1 the leave not less than 15 days before the first day on which
2 benefits are paid for the intermittent leave, unless an emergency or
3 other unforeseen circumstance precludes prior notice; and the
4 covered individual makes a reasonable effort to schedule the leave
5 so as not to unduly disrupt the operations of the employer and, if
6 possible, provide the employer, prior to the commencement of
7 intermittent leave, with a regular schedule of the days or days of the
8 week on which the intermittent leave will be taken. In the case of
9 family temporary disability leave benefits to care for a family
10 member with a serious health condition which are taken on a
11 continuous, non-intermittent basis, the covered individual shall:
12 provide the employer with prior notice of the leave in a reasonable
13 and practicable manner, unless an emergency or other unforeseen
14 circumstance precludes prior notice; provide a copy of the
15 certification required pursuant to subsection b. of this section; make
16 a reasonable effort to schedule the leave so as not to unduly disrupt
17 the operations of the employer.

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

22 (1) The date, if known, on which the serious health condition
23 commenced;

24 (2) The probable duration of the condition;

25 (3) The medical facts within the knowledge of the provider of
26 the certification regarding the condition;

27 (4) A statement that the serious health condition warrants the
28 participation of the covered individual in providing health care,
29 ¹[including providing psychological comfort and arranging third
30 party care for the family member] as provided in the "Family Leave
31 Act," P.L.1989, c.261 (C.34:11B-1 et seq.) and regulations adopted
32 pursuant to that act¹;

33 (5) An estimate of the amount of time that the covered
34 individual is needed for participation in the care of the family
35 member;

36 (6) If the leave is intermittent, a statement of the medical
37 necessity for the intermittent leave and the expected duration of the
38 intermittent leave; and

39 (7) If the leave is intermittent and for planned medical
40 treatment, the dates of the treatment.

41 c. A covered individual claiming benefits to provide care for a
42 family member with a serious health condition under the State plan
43 or during unemployment shall, if requested by the division, have the
44 family member submit to an examination by a health care provider
45 designated by the division. The examinations shall not be more
46 frequent than once a week, shall be made without cost to the
47 claimant and shall be held at a reasonable time and place. Refusal
48 of the family member to submit to an examination requested

1 pursuant to this subsection shall disqualify the claimant from all
2 benefits for the period in question, except from benefits already
3 paid.

4
5 12. (New section) a. All of the disability benefits paid to a
6 covered individual during a period of family temporary disability
7 leave with respect to any one birth or adoption shall be for a single
8 continuous period of time, except that the employer of the covered
9 individual may permit the covered individual to receive the
10 disability benefits during non-consecutive weeks in a manner
11 mutually agreed to by the employer and the covered individual and
12 disclosed to the division by the employer.

13 b. The covered individual shall provide the employer with
14 notice of the period of family temporary disability leave with
15 respect to birth or adoption not less than 30 days before the leave
16 commences, unless it commences while the individual is receiving
17 unemployment benefits, in which case the covered individual shall
18 notify the division. The amount of benefits shall be reduced by two
19 weeks worth of benefits if the individual does not provide notice to
20 an employer as required by this subsection b., unless the time of the
21 leave is unforeseeable or the time of the leave changes for
22 unforeseeable reasons.

23 c. Family temporary disability leave taken because of the birth
24 or placement for adoption of a child may be taken at any time
25 within a year after the date of the birth or placement for adoption.

26
27 13. (New section) a. The Commissioner of Labor and
28 Workforce Development shall issue and make available to the
29 public, not later than December 31, 2010, and each subsequent year,
30 annual reports providing data on temporary disability benefits,
31 including separate data for claims involving pregnancy and
32 childbirth, and family temporary disability benefits, including
33 separate data for each of the following categories of claims: care of
34 newborn children; care of newly adopted children; care of sick
35 children; care of sick spouses, and care of other sick family
36 members. The reports shall include, for each category of claims,
37 the number of workers receiving the benefits, the amount of
38 benefits paid, the average duration of benefits, the average weekly
39 benefit, and, in the case of family temporary disability benefits, any
40 reported amount of sick leave, vacation or other fully paid time
41 which resulted in reduced benefit duration. The report shall provide
42 data by gender and by any other demographic factors determined to
43 be relevant by the commissioner. The reports shall also provide, for
44 all temporary disability benefits and for all family temporary
45 disability benefits, the total costs of benefits and the total cost of
46 administration, the portion of benefits for claims during
47 unemployment, and the total revenues from: employer assessments,
48 where applicable; employee assessments; and other sources.

1 b. The commissioner may, in his discretion, conduct surveys
2 and other research regarding, and include in the annual reports
3 descriptions and evaluations of, the impact and potential future
4 impact of the provisions of P.L. , c. (C.) (pending before the
5 Legislature as this bill) on the State disability benefits fund, and
6 other effects of those provisions, including the costs and benefits
7 resulting from the provisions of P.L. , c. (C.) (pending before
8 the Legislature as this bill) for:

9 (1) Employees and their families, including surveys and
10 evaluations of: what portion of the total number of employees
11 taking leave would not have taken leave, or would have taken less
12 leave, without the availability of benefits; what portion of
13 employees return to work after receiving benefits and what portion
14 are not permitted to return to work; and what portion of employees
15 who are eligible for benefits do not claim or receive them and why
16 they do not;

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

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

23 c. The total amount of any expenses which the commissioner
24 determines are necessary to carry out its duties pursuant to this
25 section shall be charged to the Family Temporary Disability Leave
26 Account of the State disability benefits fund, except that the amount
27 shall in no case exceed \$150,000 during any fiscal year.

28

29 14. R.S.43:21-4 is amended to read as follows:

30 43:21-4. Benefit eligibility conditions. An unemployed
31 individual shall be eligible to receive benefits with respect to any
32 week only if:

33 (a) The individual has filed a claim at an unemployment
34 insurance claims office and thereafter continues to report at an
35 employment service office or unemployment insurance claims
36 office, as directed by the division in accordance with such
37 regulations as the division may prescribe, except that the division
38 may, by regulation, waive or alter either or both of the requirements
39 of this subsection as to individuals attached to regular jobs, and as
40 to such other types of cases or situations with respect to which the
41 division finds that compliance with such requirements would be
42 oppressive, or would be inconsistent with the purpose of this act;
43 provided that no such regulation shall conflict with subsection (a) of
44 R.S.43:21-3.

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

47 (c) (1) The individual is able to work, and is available for work,
48 and has demonstrated to be actively seeking work, except as

1 hereinafter provided in this subsection or in subsection (f) of this
2 section.

3 (2) The director may modify the requirement of actively seeking
4 work if such modification of this requirement is warranted by
5 economic conditions.

6 (3) No individual, who is otherwise eligible, shall be deemed
7 ineligible, or unavailable for work, because the individual is on
8 vacation, without pay, during said week, if said vacation is not the
9 result of the individual's own action as distinguished from any
10 collective action of a collective bargaining agent or other action
11 beyond the individual's control.

12 (4) (A) Subject to such limitations and conditions as the division
13 may prescribe, an individual, who is otherwise eligible, shall not be
14 deemed unavailable for work or ineligible because the individual is
15 attending a training program approved for the individual by the
16 division to enhance the individual's employment opportunities or
17 because the individual failed or refused to accept work while
18 attending such program.

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

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

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

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

31 (iv) The training does not include on the job training or other
32 training under which the individual is paid by an employer for work
33 performed by the individual during the time that the individual
34 receives benefits; and

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

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

40 (i) The training includes remedial basic skills education
41 necessary for the individual to successfully complete the vocational
42 component of the training;

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

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

47 (iv) The lack of a prior guarantee of employment upon
48 completion of the training.

1 (D) For the purpose of this paragraph (4), "labor demand
2 occupation" means an occupation for which there is or is likely to
3 be an excess of demand over supply for adequately trained workers,
4 including, but not limited to, an occupation designated as a labor
5 demand occupation by the **【New Jersey】** Center for Occupational
6 Employment Information **【Coordinating Committee】** pursuant to
7 the provisions of subsection **【h.】** d. of section **【1 of P.L.1987, c.457**
8 **(C.34:1A-76) or section 12 of P.L.1992, c.43 (C.34:1A-78)】** 27 of
9 P.L.2005, c.354 (C.34:1A-86).

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

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

19 For purposes of this paragraph, "immediate family member"
20 includes any of the following individuals: father, mother, mother-
21 in-law, father-in-law, grandmother, grandfather, grandchild, spouse,
22 child, child placed by the Division of Youth and Family Services in
23 the Department of Children and Families, sister or brother of the
24 unemployed individual and any relatives of the unemployed
25 individual residing in the unemployed individual's household.

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

33 (8) Any individual who is determined to be likely to exhaust
34 regular benefits and need reemployment services based on
35 information obtained by the worker profiling system shall not be
36 eligible to receive benefits if the individual fails to participate in
37 available reemployment services to which the individual is referred
38 by the division or in similar services, unless the division determines
39 that:

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

41 (B) There is justifiable cause for the failure to participate, which
42 shall include participation in employment and training, self-
43 employment assistance activities or other activities authorized by
44 the division to assist reemployment or enhance the marketable skills
45 and earning power of the individual and which shall include any
46 other circumstance indicated pursuant to this section in which an
47 individual is not required to be available for and actively seeking
48 work to receive benefits.

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

5 (d) With respect to any benefit year commencing before January
6 1, 2002, the individual has been totally or partially unemployed for
7 a waiting period of one week in the benefit year which includes that
8 week. When benefits become payable with respect to the third
9 consecutive week next following the waiting period, the individual
10 shall be eligible to receive benefits as appropriate with respect to
11 the waiting period. No week shall be counted as a week of
12 unemployment for the purposes of this subsection:

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

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

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

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

24 The waiting period provided by this subsection shall not apply to
25 benefit years commencing on or after January 1, 2002. An
26 individual whose total benefit amount was reduced by the
27 application of the waiting period to a claim which occurred on or
28 after January 1, 2002 and before the effective date of P.L.2002,
29 c.13, shall be permitted to file a claim for the additional benefits
30 attributable to the waiting period in the form and manner prescribed
31 by the division, but not later than the 180th day following the
32 effective date of P.L.2002, c.13 unless the division determines that
33 there is good cause for a later filing.

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

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

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

41 (B) If the individual has not met the requirements of
42 subparagraph (A) of this paragraph (2), earned remuneration not
43 less than an amount 12 times the Statewide average weekly
44 remuneration paid to workers, as determined under R.S.43:21-3(c),
45 which amount shall be adjusted to the next higher multiple of \$100
46 if not already a multiple thereof; or

47 If the individual has not met the requirements of subparagraph
48 (A) or (B) of this paragraph (2), earned remuneration not less than

1 an amount 1,000 times the minimum wage in effect pursuant to
2 section 5 of P.L.1966, c.113 (C.34:11-56a4) on October 1 of the
3 calendar year preceding the calendar year in which the benefit year
4 commences, which amount shall be adjusted to the next higher
5 multiple of \$100 if not already a multiple thereof.】 (Deleted by
6 amendment, P.L. _____, c. _____) (pending before the legislature as
7 this bill).

8 【(3)With respect to benefit years commencing before January 7,
9 2001, notwithstanding the provisions of paragraph (2) of this
10 subsection, an unemployed individual claiming benefits on the basis
11 of service performed in the production and harvesting of
12 agricultural crops shall, subject to the limitations of subsection (i)
13 of R.S.43:21-19, be eligible to receive benefits if during his base
14 year, as defined in subsection of R.S.43:21-19, the individual:

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

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

21 (C) Has performed at least 770 hours of service in the
22 production and harvesting of agricultural crops.】 (Deleted by
23 amendment, P.L. _____, c. _____) (pending before the Legislature as this
24 bill).

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

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

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

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

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

47 (B) Has earned remuneration not less than an amount 1,000
48 times the minimum wage in effect pursuant to section 5 of

1 P.L.1966, c.113 (C.34:11-56a4) on October 1 of the calendar year
2 preceding the calendar year in which the benefit year commences,
3 which amount shall be adjusted to the next higher multiple of \$100
4 if not already a multiple thereof; or

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

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

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

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

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

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

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

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

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

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

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

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

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

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

46 (3) Benefit payments under this subsection (f) shall be charged
47 to and paid from the State disability benefits fund established by the
48 "Temporary Disability Benefits Law," P.L.1948, c.110 (C.43:21-25

1 et seq.), and shall not be charged to any employer account in
2 computing any employer's experience rate for contributions payable
3 under this chapter.

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

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

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

38 (3) With respect to those services described in paragraphs (1)
39 and (2) above, benefits shall not be paid on the basis of such
40 services to any individual for any week which commences during
41 an established and customary vacation period or holiday recess if
42 such individual performs such services in the period immediately
43 before such vacation period or holiday recess, and there is a
44 reasonable assurance that such individual will perform such
45 services in the period immediately following such period or holiday
46 recess;

47 (4) With respect to any services described in paragraphs (1) and
48 (2) above, benefits shall not be paid as specified in paragraphs (1),

1 (2), and (3) above to any individual who performed those services
2 in an educational institution while in the employ of an educational
3 service agency, and for this purpose the term "educational service
4 agency" means a governmental agency or governmental entity
5 which is established and operated exclusively for the purpose of
6 providing those services to one or more educational institutions.

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

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

34 (2) Any data or information required of individuals applying for
35 benefits to determine whether benefits are not payable to them
36 because of their alien status shall be uniformly required from all
37 applicants for benefits.

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

42 (j) Notwithstanding any other provision of this chapter, the
43 director may, to the extent that it may be deemed efficient and
44 economical, provide for consolidated administration by one or more
45 representatives or deputies of claims made pursuant to subsection
46 (f) of this section with those made pursuant to Article III (State

1 plan) of the "Temporary Disability Benefits Law," P.L.1948, c.110
2 (C.43:21-25 et seq.).
3 (cf: P.L.2006, c.47, s.187)
4

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

6 43:21-7. Contributions. Employers other than governmental
7 entities, whose benefit financing provisions are set forth in section 4
8 of P.L.1971, c.346 (C.43:21-7.3), and those nonprofit organizations
9 liable for payment in lieu of contributions on the basis set forth in
10 section 3 of P.L.1971, c.346 (C.43:21-7.2), shall pay to the
11 controller for the unemployment compensation fund, contributions
12 as set forth in subsections (a), (b) and (c) hereof, and the provisions
13 of subsections (d) and (e) shall be applicable to all employers,
14 consistent with the provisions of the "unemployment compensation
15 law" and the "Temporary Disability Benefits Law," P.L.1948, c.110
16 (C.43:21-25 et seq.).

17 (a) Payment.

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

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

30 (b) Rate of contributions. Each employer shall pay the
31 following contributions:

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

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

1 immediately prior to the acquisition was employed in the trade or
2 business of such predecessors, then, for the purpose of determining
3 whether the successor employer has paid wages with respect to
4 employment equal to the first \$4,800.00 paid during calendar year
5 1975, any wages paid to such individual by such predecessor during
6 such calendar year and prior to such acquisition shall be considered
7 as having been paid by such successor employer.

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

26 (c) Future rates based on benefit experience.

27 (1) A separate account for each employer shall be maintained
28 and this shall be credited with all the contributions which he has
29 paid on his own behalf on or before January 31 of any calendar year
30 with respect to employment occurring in the preceding calendar
31 year; provided, however, that if January 31 of any calendar year
32 falls on a Saturday or Sunday, an employer's account shall be
33 credited as of January 31 of such calendar year with all the
34 contributions which he has paid on or before the next succeeding
35 day which is not a Saturday or Sunday. But nothing in this chapter
36 (R.S.43:21-1 et seq.) shall be construed to grant any employer or
37 individuals in his service prior claims or rights to the amounts paid
38 by him into the fund either on his own behalf or on behalf of such
39 individuals. Benefits paid with respect to benefit years
40 commencing on and after January 1, 1953, to any individual on or
41 before December 31 of any calendar year with respect to
42 unemployment in such calendar year and in preceding calendar
43 years shall be charged against the account or accounts of the
44 employer or employers in whose employment such individual
45 established base weeks constituting the basis of such benefits,
46 except that, with respect to benefit years commencing after January
47 4, 1998, an employer's account shall not be charged for benefits
48 paid to a claimant if the claimant's employment by that employer

1 was ended in any way which, pursuant to subsection (a), (b), (c),
2 (f), (g) or (h) of R.S.43:21-5, would have disqualified the claimant
3 for benefits if the claimant had applied for benefits at the time when
4 that employment ended. Benefits paid under a given benefit
5 determination shall be charged against the account of the employer
6 to whom such determination relates. When each benefit payment is
7 made, either a copy of the benefit check or other form of
8 notification shall be promptly sent to the employer against whose
9 account the benefits are to be charged. Such copy or notification
10 shall identify the employer against whose account the amount of
11 such payment is being charged, shall show at least the name and
12 social security account number of the claimant and shall specify the
13 period of unemployment to which said check applies. If the total
14 amount of benefits paid to a claimant and charged to the account of
15 the appropriate employer exceeds 50% of the total base year, base
16 week wages paid to the claimant by that employer, then such
17 employer shall have canceled from his account such excess benefit
18 charges as specified above.

19 Each employer shall be furnished an annual summary statement
20 of benefits charged to his account.

21 (2) Regulations may be prescribed for the establishment,
22 maintenance, and dissolution of joint accounts by two or more
23 employers, and shall, in accordance with such regulations and upon
24 application by two or more employers to establish such an account,
25 or to merge their several individual accounts in a joint account,
26 maintain such joint account as if it constituted a single employer's
27 account.

28 (3) No employer's rate shall be lower than 5.4% unless
29 assignment of such lower rate is consistent with the conditions
30 applicable to additional credit allowance for such year under section
31 3303(a)(1) of the Internal Revenue Code of 1986 (26 U.S.C.
32 s.3303(a)(1)), any other provision of this section to the contrary
33 notwithstanding.

34 (4) Employer Reserve Ratio. (A) Each employer's rate shall be
35 $2 \frac{8}{10}\%$, except as otherwise provided in the following provisions.
36 No employer's rate for the 12 months commencing July 1 of any
37 calendar year shall be other than $2 \frac{8}{10}\%$, unless as of the
38 preceding January 31 such employer shall have paid contributions
39 with respect to wages paid in each of the three calendar years
40 immediately preceding such year, in which case such employer's
41 rate for the 12 months commencing July 1 of any calendar year
42 shall be determined on the basis of his record up to the beginning of
43 such calendar year. If, at the beginning of such calendar year, the
44 total of all his contributions, paid on his own behalf, for all past
45 years exceeds the total benefits charged to his account for all such
46 years, his contribution rate shall be:

- 1 (1) 2 5/10%, if such excess equals or exceeds 4%, but less than
2 5%, of his average annual payroll (as defined in paragraph (2),
3 subsection (a) of R.S.43:21-19);
 - 4 (2) 2 2/10%, if such excess equals or exceeds 5%, but is less
5 than 6%, of his average annual payroll;
 - 6 (3) 1 9/10%, if such excess equals or exceeds 6%, but is less
7 than 7%, of his average annual payroll;
 - 8 (4) 1 6/10%, if such excess equals or exceeds 7%, but is less
9 than 8%, of his average annual payroll;
 - 10 (5) 1 3/10%, if such excess equals or exceeds 8%, but is less
11 than 9%, of his average annual payroll;
 - 12 (6) 1%, if such excess equals or exceeds 9%, but is less than
13 10%, of his average annual payroll;
 - 14 (7) 7/10 of 1%, if such excess equals or exceeds 10%, but is less
15 than 11%, of his average annual payroll;
 - 16 (8) 4/10 of 1%, if such excess equals or exceeds 11% of his
17 average annual payroll.
- 18 (B) If the total of an employer's contributions, paid on his own
19 behalf, for all past periods for the purposes of this paragraph (4), is
20 less than the total benefits charged against his account during the
21 same period, his rate shall be:
- 22 (1) 4%, if such excess is less than 10% of his average annual
23 payroll;
 - 24 (2) 4 3/10%, if such excess equals or exceeds 10%, but is less
25 than 20%, of his average annual payroll;
 - 26 (3) 4 6/10%, if such excess equals or exceeds 20% of his
27 average annual payroll.
- 28 (C) Specially assigned rates.
- 29 (i) If no contributions were paid on wages for employment in
30 any calendar year used in determining the average annual payroll of
31 an employer eligible for an assigned rate under this paragraph (4),
32 the employer's rate shall be specially assigned as follows:
33 if the reserve balance in its account is positive, its assigned rate
34 shall be the highest rate in effect for positive balance accounts for
35 that period, or 5.4%, whichever is higher, and
36 if the reserve balance in its account is negative, its assigned rate
37 shall be the highest rate in effect for deficit accounts for that period.
 - 38 (ii) If, following the purchase of a corporation with little or no
39 activity, known as a corporate shell, the resulting employing unit
40 operates a new or different business activity, the employing unit
41 shall be assigned a new employer rate.
 - 42 (iii) Entities operating under common ownership, management or
43 control, when the operation of the entities is not identifiable,
44 distinguishable and severable, shall be considered a single employer
45 for the purposes of this chapter (R.S. 43:21-1 et seq.).
- 46 (D) The contribution rates prescribed by subparagraphs (A) and
47 (B) of this paragraph (4) shall be increased or decreased in

1 accordance with the provisions of paragraph (5) of this subsection
2 (c) for experience rating periods through June 30, 1986.

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

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

41 (B) If on March 31 of any calendar year the balance in the
42 unemployment trust fund equals or exceeds 10% but is less than 12
43 1/2% of the total taxable wages reported to the controller as of that
44 date in respect to employment during the preceding calendar year,
45 the contribution rate, effective July 1 following, of each employer
46 eligible for a contribution rate calculation based upon benefit
47 experience, shall be reduced by 3/10 of 1% under the contribution
48 rate otherwise established under the provisions of paragraphs (3)

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

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

23 (D) Prior to July 1 of each calendar year the controller shall
24 determine the Unemployment Trust Reserve Ratio, which shall be
25 calculated by dividing the balance of the unemployment trust fund
26 as of the prior March 31 by total taxable wages reported to the
27 controller by all employers as of March 31 with respect to their
28 employment during the last calendar year.

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

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

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

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

33 (v) **【**With respect to the experience rating year beginning on
34 July 1, 2003, the new employer rate or the unemployment
35 experience rate of an employer under this section shall be the rate
36 which appears in the column headed by the Unemployment Trust
37 Fund Reserve Ratio as of the applicable calculation date and on the
38 line with the Employer Reserve Ratio, as defined in paragraph 4 of
39 this subsection (R.S.43:21-7 (c)(4)), as set forth in the following
40 table:

EXPERIENCE RATING TAX TABLE					
Fund Reserve Ratio ¹					
	2.50%	2.00%	1.50%	1.00%	0.99%
Employer Reserve Ratio ²	and Over A	to B	to C	to D	and Under E
Positive Reserve Ratio:					
17% and over	0.3	0.4	0.5	0.6	1.2
16.00% to 16.99%	0.4	0.5	0.6	0.6	1.2
15.00% to 15.99%	0.4	0.6	0.7	0.7	1.2
14.00% to 14.99%	0.5	0.6	0.7	0.8	1.2
13.00% to 13.99%	0.6	0.7	0.8	0.9	1.2
12.00% to 12.99%	0.6	0.8	0.9	1.0	1.2
11.00% to 11.99%	0.7	0.8	1.0	1.1	1.2
10.00% to 10.99%	0.9	1.1	1.3	1.5	1.6
9.00% to 9.99%	1.0	1.3	1.6	1.7	1.9
8.00% to 8.99%	1.3	1.6	1.9	2.1	2.3
7.00% to 7.99%	1.4	1.8	2.2	2.4	2.6
6.00% to 6.99%	1.7	2.1	2.5	2.8	3.0
5.00% to 5.99%	1.9	2.4	2.8	3.1	3.4
4.00% to 4.99%	2.0	2.6	3.1	3.4	3.7
3.00% to 3.99%	2.1	2.7	3.2	3.6	3.9
2.00% to 2.99%	2.2	2.8	3.3	3.7	4.0
1.00% to 1.99%	2.3	2.9	3.4	3.8	4.1
0.00% to 0.99%	2.4	3.0	3.6	4.0	4.3
Deficit Reserve Ratio:					
-0.00% to -2.99%	3.4	4.3	5.1	5.6	6.1
-3.00% to -5.99%	3.4	4.3	5.1	5.7	6.2
-6.00% to -8.99%	3.5	4.4	5.2	5.8	6.3
-9.00% to -11.99%	3.5	4.5	5.3	5.9	6.4
-12.00% to -14.99%	3.6	4.6	5.4	6.0	6.5
-15.00% to -19.99%	3.6	4.6	5.5	6.1	6.6
-20.00% to -24.99%	3.7	4.7	5.6	6.2	6.7
-25.00% to -29.99%	3.7	4.8	5.6	6.3	6.8
-30.00% to -34.99%	3.8	4.8	5.7	6.3	6.9
-35.00% and under	5.4	5.4	5.8	6.4	7.0
New Employer Rate	2.8	2.8	2.8	3.1	3.4

¹Fund balance as of March 31 as a percentage of taxable wages in the prior calendar year.

²Employer Reserve Ratio (Contributions minus benefits as a percentage of employer's taxable wages).] (Deleted by amendment, P.L. _____, c. _____)(pending before the Legislature as this bill)

(vi) With respect to experience rating years beginning on or after July 1, 2004, the new employer rate or the unemployment experience rate of an employer under this section shall be the rate which appears in the column headed by the Unemployment Trust Fund Reserve Ratio as of the applicable calculation date and on the

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

4

5 **EXPERIENCE RATING TAX TABLE**

6 **Fund Reserve Ratio¹**

7

8	1.40%	1.00%	0.75%	0.50%	0.49%
9 Employer	and	to	to	to	and
10 Reserve	Over	1.39%	0.99%	0.74%	Under
11 Ratio ²	A	B	C	D	E
12 Positive Reserve Ratio:					
13 17% and over	0.3	0.4	0.5	0.6	1.2
14 16.00% to 16.99%	0.4	0.5	0.6	0.6	1.2
15 15.00% to 15.99%	0.4	0.6	0.7	0.7	1.2
16 14.00% to 14.99%	0.5	0.6	0.7	0.8	1.2
17 13.00% to 13.99%	0.6	0.7	0.8	0.9	1.2
18 12.00% to 12.99%	0.6	0.8	0.9	1.0	1.2
19 11.00% to 11.99%	0.7	0.8	1.0	1.1	1.2
20 10.00% to 10.99%	0.9	1.1	1.3	1.5	1.6
21 9.00% to 9.99%	1.0	1.3	1.6	1.7	1.9
22 8.00% to 8.99%	1.3	1.6	1.9	2.1	2.3
23 7.00% to 7.99%	1.4	1.8	2.2	2.4	2.6
24 6.00% to 6.99%	1.7	2.1	2.5	2.8	3.0
25 5.00% to 5.99%	1.9	2.4	2.8	3.1	3.4
26 4.00% to 4.99%	2.0	2.6	3.1	3.4	3.7
27 3.00% to 3.99%	2.1	2.7	3.2	3.6	3.9
28 2.00% to 2.99%	2.2	2.8	3.3	3.7	4.0
29 1.00% to 1.99%	2.3	2.9	3.4	3.8	4.1
30 0.00% to 0.99%	2.4	3.0	3.6	4.0	4.3
31 Deficit Reserve Ratio:					
32 -0.00% to -2.99%	3.4	4.3	5.1	5.6	6.1
33 -3.00% to -5.99%	3.4	4.3	5.1	5.7	6.2
34 -6.00% to -8.99%	3.5	4.4	5.2	5.8	6.3
35 -9.00% to -11.99%	3.5	4.5	5.3	5.9	6.4
36 -12.00% to -14.99%	3.6	4.6	5.4	6.0	6.5
37 -15.00% to -19.99%	3.6	4.6	5.5	6.1	6.6
38 -20.00% to -24.99%	3.7	4.7	5.6	6.2	6.7
39 -25.00% to -29.99%	3.7	4.8	5.6	6.3	6.8
40 -30.00% to -34.99%	3.8	4.8	5.7	6.3	6.9
41 -35.00% and under	5.4	5.4	5.8	6.4	7.0
42 New Employer Rate	2.8	2.8	2.8	3.1	3.4

43 ¹Fund balance as of March 31 as a percentage of taxable wages
 44 in the prior calendar year.

45 ²Employer Reserve Ratio (Contributions minus benefits as a
 46 percentage of employer's taxable wages).

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

1 (ii) ~~【With respect to experience rating years beginning on or~~
2 ~~after July 1, 1997, if the fund reserve ratio, based on the fund~~
3 ~~balance as of the prior March 31, is less than 1.00%, the~~
4 ~~contribution rate for each employer liable to pay contributions, as~~
5 ~~computed under subparagraph (E) of this paragraph (5), shall be~~
6 ~~increased by a factor of 10% computed to the nearest multiple of~~
7 ~~1/10% if not already a multiple thereof.】 (Deleted by amendment,~~
8 ~~P.L. _____, c. _____)(pending before the Legislature as this bill)~~

9 (iii) With respect to experience rating years beginning on or after
10 July 1, 2004, if the fund reserve ratio, based on the fund balance as
11 of the prior March 31, is less than 0.50%, the contribution rate for
12 each employer liable to pay contributions, as computed under
13 subparagraph (E) of this paragraph (5), shall be increased by a
14 factor of 10% computed to the nearest multiple of 1/10% if not
15 already a multiple thereof.

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

27 (H) ~~【On or after January 1, 1993 until December 31, 1993,~~
28 ~~notwithstanding any other provisions of this paragraph (5), the~~
29 ~~contribution rate for each employer liable to pay contributions, as~~
30 ~~computed under subparagraph (E) of this paragraph (5), shall be~~
31 ~~decreased by a factor of 52.0% computed to the nearest multiple of~~
32 ~~1/10%, except that, if an employer has a deficit reserve ratio of~~
33 ~~negative 35.0% or under, the employer's rate of contribution shall~~
34 ~~not be reduced pursuant to this subparagraph (H) to less than 5.4%.~~
35 ~~The amount of the reduction in the employer contributions~~
36 ~~stipulated by this subparagraph (H) shall be in addition to the~~
37 ~~amount of the reduction in the employer contributions stipulated by~~
38 ~~subparagraph (G) of this paragraph (5), except that the rate of~~
39 ~~contribution of an employer who has a deficit reserve ratio of~~
40 ~~negative 35.0% or under shall not be reduced pursuant to this~~
41 ~~subparagraph (H) to less than 5.4% and the rate of contribution of~~
42 ~~any other employer shall not be reduced to less than 0.0%. On or~~
43 ~~after January 1, 1994 until December 31, 1995, except as provided~~
44 ~~pursuant to subparagraph (I) of this paragraph (5), notwithstanding~~
45 ~~any other provisions of this paragraph (5), the contribution rate for~~
46 ~~each employer liable to pay contributions, as computed under~~
47 ~~subparagraph (E) of this paragraph (5), shall be decreased by a~~
48 ~~factor of 36.0% computed to the nearest multiple of 1/10%, except~~

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

12 On or after April 1, 1996 until December 31, 1996, the
13 contribution rate for each employer liable to pay contributions, as
14 computed under subparagraph (E) of this paragraph (5), shall be
15 decreased by a factor of 25.0% computed to the nearest multiple of
16 1/10%, except that, if an employer has a deficit reserve ratio of
17 negative 35.0% or under, the employer's rate of contribution shall
18 not be reduced pursuant to this subparagraph (H) to less than 5.4%.
19 The amount of the reduction in the employer contributions
20 stipulated by this subparagraph (H) shall be in addition to the
21 amount of the reduction in the employer contributions stipulated by
22 subparagraph (G) of this paragraph (5), except that the rate of
23 contribution of an employer who has a deficit reserve ratio of
24 negative 35.0% or under shall not be reduced pursuant to this
25 subparagraph (H) to less than 5.4% and the rate of contribution of
26 any other employer shall not be reduced to less than 0.0%.

27 On or after January 1, 1997 until December 31, 1997, the
28 contribution rate for each employer liable to pay contributions, as
29 computed under subparagraph (E) of this paragraph (5), shall be
30 decreased by a factor of 10.0% computed to the nearest multiple of
31 1/10%, except that, if an employer has a deficit reserve ratio of
32 negative 35.0% or under, the employer's rate of contribution shall
33 not be reduced pursuant to this subparagraph (H) to less than 5.4%.
34 The amount of the reduction in the employer contributions
35 stipulated by this subparagraph (H) shall be in addition to the
36 amount of the reduction in the employer contributions stipulated by
37 subparagraph (G) of this paragraph (5), except that the rate of
38 contribution of an employer who has a deficit reserve ratio of
39 negative 35.0% or under shall not be reduced pursuant to this
40 subparagraph (H) to less than 5.4% and the rate of contribution of
41 any other employer shall not be reduced to less than 0.0%.]

42 On and after January 1, 1998 until December 31, 2000 and on or
43 after January 1, 2002 until June 30, 2006, the contribution rate for
44 each employer liable to pay contributions, as computed under
45 subparagraph (E) of this paragraph (5), shall be decreased by a
46 factor, as set out below, computed to the nearest multiple of 1/10%,
47 except that, if an employer has a deficit reserve ratio of negative

1 35.0% or under, the employer's rate of contribution shall not be
2 reduced pursuant to this subparagraph (H) to less than 5.4%:

- 3 From January 1, 1998 until December 31, 1998, a factor of 12%;
- 4 From January 1, 1999 until December 31, 1999, a factor of 10%;
- 5 From January 1, 2000 until December 31, 2000, a factor of 7%;
- 6 From January 1, 2002 until March 31, 2002, a factor of 36%;
- 7 From April 1, 2002 until June 30, 2002, a factor of 85%;
- 8 From July 1, 2002 until June 30, 2003, a factor of 15%;
- 9 From July 1, 2003 until June 30, 2004, a factor of 15%;
- 10 From July 1, 2004 until June 30, 2005, a factor of 7%;
- 11 From July 1, 2005 until December 31, 2005, a factor of 16%; and
- 12 From January 1, 2006 until June 30, 2006, a factor of 34%.

13 The amount of the reduction in the employer contributions
14 stipulated by this subparagraph (H) shall be in addition to the
15 amount of the reduction in the employer contributions stipulated by
16 subparagraph (G) of this paragraph (5), except that the rate of
17 contribution of an employer who has a deficit reserve ratio of
18 negative 35.0% or under shall not be reduced pursuant to this
19 subparagraph (H) to less than 5.4% and the rate of contribution of
20 any other employer shall not be reduced to less than 0.0%.

21 (I) [If the fund reserve ratio decreases to a level of less than
22 4.00% on March 31 of calendar year 1994 or calendar year 1995,
23 the provisions of subparagraph (H) of this paragraph (5) shall cease
24 to be in effect as of July 1 of that calendar year.

25 If, upon calculating the unemployment compensation fund
26 reserve ratio pursuant to R.S.43:21-7(c)(5)(D) prior to March 31,
27 1997, March 31, 1998 or March 31, 1999, the controller finds that
28 the fund reserve ratio has decreased to a level of less than 3.00%,
29 the Commissioner of Labor and Workforce Development shall
30 notify the State Treasurer of this fact and of the dollar amount
31 necessary to bring the fund reserve ratio up to a level of 3.00%.
32 The State Treasurer shall, prior to March 31, 1997, March 31, 1998
33 or March 31, 1999, as applicable, transfer from the General Fund to
34 the unemployment compensation fund, revenues in the amount
35 specified by the commissioner and which, upon deposit in the
36 unemployment compensation fund, shall result, upon recalculation,
37 in a fund reserve ratio used to determine employer contributions
38 beginning July 1, 1997, July 1, 1998, July 1, 1999, as applicable, of
39 at least 3.00%. If, upon calculating the unemployment
40 compensation fund reserve ratio pursuant to R.S.43:21-7(c)(5)(D)
41 prior to March 31, 2000, the controller finds that the fund reserve
42 ratio has decreased to a level of less than 3.00%, the Commissioner
43 of Labor and Workforce Development shall notify the State
44 Treasurer of this fact and of the dollar amount necessary to bring
45 the fund reserve ratio up to a level of 3.00%. The State Treasurer
46 shall, prior to March 31, 2000, transfer from the General Fund to
47 the unemployment compensation fund, revenues in the amount
48 specified by the commissioner and which, upon deposit in the

1 unemployment compensation fund, shall result, upon recalculation,
2 in a fund reserve ratio used to determine employer contributions
3 beginning July 1, 2000 of at least 3.00%.] (Deleted by amendment,
4 P.L. , c.)(pending before the Legislature as this bill)

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

22 (6) Additional contributions.

23 Notwithstanding any other provision of law, any employer who
24 has been assigned a contribution rate pursuant to subsection (c) of
25 this section for the year commencing July 1, 1948, and for any year
26 commencing July 1 thereafter, may voluntarily make payment of
27 additional contributions, and upon such payment shall receive a
28 recomputation of the experience rate applicable to such employer,
29 including in the calculation the additional contribution so made,
30 except that, following a transfer as described under R.S.43:21-
31 7(c)(7)(D), neither the predecessor nor successor in interest shall be
32 eligible to make a voluntary payment of additional contributions
33 during the year the transfer occurs and the next full calendar year.
34 Any such additional contribution shall be made during the 30-day
35 period following the date of the mailing to the employer of the
36 notice of his contribution rate as prescribed in this section, unless,
37 for good cause, the time for payment has been extended by the
38 controller for not to exceed an additional 60 days; provided that in
39 no event may such payments which are made later than 120 days
40 after the beginning of the year for which such rates are effective be
41 considered in determining the experience rate for the year in which
42 the payment is made. Any employer receiving any extended period
43 of time within which to make such additional payment and failing
44 to make such payment timely shall be, in addition to the required
45 amount of additional payment, liable for a penalty of 5% thereof or
46 \$5.00, whichever is greater, not to exceed \$50.00. Any adjustment
47 under this subsection shall be made only in the form of credits
48 against accrued or future contributions.

1 (7) Transfers.

2 (A) Upon the transfer of the organization, trade or business, or
3 substantially all the assets of an employer to a successor in interest,
4 whether by merger, consolidation, sale, transfer, descent or
5 otherwise, the controller shall transfer the employment experience
6 of the predecessor employer to the successor in interest, including
7 credit for past years, contributions paid, annual payrolls, benefit
8 charges, et cetera, applicable to such predecessor employer,
9 pursuant to regulation, if it is determined that the employment
10 experience of the predecessor employer with respect to the
11 organization, trade, assets or business which has been transferred
12 may be considered indicative of the future employment experience
13 of the successor in interest. The successor in interest may, within
14 four months of the date of such transfer of the organization, trade,
15 assets or business, or thereafter upon good cause shown, request a
16 reconsideration of the transfer of employment experience of the
17 predecessor employer. The request for reconsideration shall
18 demonstrate, to the satisfaction of the controller, that the
19 employment experience of the predecessor is not indicative of the
20 future employment experience of the successor.

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

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

1 (D) If an employer who transfers in whole or in part his or its
2 organization, trade, assets or business to a successor in interest,
3 whether by merger, consolidation, sale, transfer, descent or
4 otherwise and both the employer and successor in interest are at the
5 time of the transfer under common ownership, management or
6 control, then the employment experience attributable to the
7 transferred business shall also be transferred to and combined with
8 the employment experience of the successor in interest. The
9 transfer of the employment experience is mandatory and not subject
10 to appeal or protest.

11 (E) The transfer of part of an employer's employment experience
12 to a successor in interest shall become effective as of the first day of
13 the calendar quarter following the acquisition by the successor in
14 interest. As of the effective date, the successor in interest shall
15 have its employer rate recalculated by merging its existing
16 employment experience, if any, with the employment experience
17 acquired. If the successor in interest is not an employer as of the
18 date of acquisition, it shall be assigned the new employer rate until
19 the effective date of the transfer of employment experience.

20 (F) Upon the transfer in whole or in part of the organization,
21 trade, assets or business to a successor in interest, the employment
22 experience shall not be transferred if the successor in interest is not
23 an employer at the time of the acquisition and the controller finds
24 that the successor in interest acquired the business solely or
25 primarily for the purpose of obtaining a lower rate of contributions.

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

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

42 (B) Effective January 1, 1978 there shall be no contributions by
43 workers in the employ of any governmental or nongovernmental
44 employer electing or required to make payments in lieu of
45 contributions unless the employer is covered by the State plan under
46 the "Temporary Disability Benefits Law" (C.43:21-25 et seq.), and
47 in that case contributions shall be at the rate of 1/2 of 1%, except
48 that commencing July 1, 1986, workers in the employ of any

1 nongovernmental employer electing or required to make payments
2 in lieu of contributions shall be required to make contributions to
3 the fund at the same rate prescribed for workers of other
4 nongovernmental employers.

5 (C) (i) Notwithstanding the above provisions of this paragraph
6 (1), during the period starting July 1, 1986 and ending December
7 31, 1992, each worker shall contribute to the fund 1.125% of wages
8 paid with respect to his employment with a governmental employer
9 electing or required to pay contributions or nongovernmental
10 employer, including a nonprofit organization which is an employer
11 as defined under R.S.43:21-19(h)(6), regardless of whether that
12 nonprofit organization elects or is required to finance its benefit
13 costs with contributions to the fund or by payments in lieu of
14 contributions, after that employer has satisfied the conditions set
15 forth in subsection R.S.43:21-19(h) with respect to becoming an
16 employer. Contributions, however, shall be at the rate of 0.625%
17 while the worker is covered by an approved private plan under the
18 "Temporary Disability Benefits Law" while the worker is exempt
19 under section 7 of that law, P.L.1948, c.110 (C.43:21-31) or any
20 other provision of that law; provided that such contributions shall
21 be at the rate of 0.625% of wages paid with respect to employment
22 with the State of New Jersey or any other governmental entity or
23 instrumentality electing or required to make payments in lieu of
24 contributions and which is covered by the State plan under the
25 "Temporary Disability Benefits Law," except that, while the worker
26 is exempt from the provisions of the "Temporary Disability Benefits
27 Law" under section 7 of that law, P.L.1948, c.110 (C.43:21-31) or
28 any other provision of that law, or is covered for disability benefits
29 by an approved private plan of the employer, the contributions to
30 the fund shall be 0.125%.

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

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

1 provided that the contributions shall be at the rate of 0.50% of
2 wages paid with respect to employment with the State of New
3 Jersey or any other governmental entity or instrumentality electing
4 or required to make payments in lieu of contributions and which is
5 covered by the State plan under the "Temporary Disability Benefits
6 Law," except that, while the worker is exempt from the provisions
7 of the "Temporary Disability Benefits Law" under section 7 of that
8 law, P.L.1948, c.110 (C.43:21-31) or any other provision of that
9 law, or is covered for disability benefits by an approved private plan
10 of the employer, no contributions shall be made to the fund.

11 Each worker shall, starting on January 1, 1996 and ending March
12 31, 1996, contribute to the unemployment compensation fund
13 0.60% of wages paid with respect to the worker's employment with
14 a governmental employer electing or required to pay contributions
15 or nongovernmental employer, including a nonprofit organization
16 which is an employer as defined under paragraph (6) of subsection
17 (h) of R.S.43:21-19, regardless of whether that nonprofit
18 organization elects or is required to finance its benefit costs with
19 contributions to the fund or by payments in lieu of contributions,
20 after that employer has satisfied the conditions set forth in
21 subsection (h) of R.S.43:21-19 with respect to becoming an
22 employer, provided that the contributions shall be at the rate of
23 0.10% of wages paid with respect to employment with the State of
24 New Jersey or any other governmental entity or instrumentality
25 electing or required to make payments in lieu of contributions.

26 Each worker shall, starting on January 1, 1998 and ending
27 December 31, 1998, contribute to the unemployment compensation
28 fund 0.10% of wages paid with respect to the worker's employment
29 with a governmental employer electing or required to pay
30 contributions or nongovernmental employer, including a nonprofit
31 organization which is an employer as defined under paragraph (6)
32 of subsection (h) of R.S.43:21-19, regardless of whether that
33 nonprofit organization elects or is required to finance its benefit
34 costs with contributions to the fund or by payments in lieu of
35 contributions, after that employer has satisfied the conditions set
36 forth in subsection (h) of R.S.43:21-19 with respect to becoming an
37 employer, provided that the contributions shall be at the rate of
38 0.10% of wages paid with respect to employment with the State of
39 New Jersey or any other governmental entity or instrumentality
40 electing or required to make payments in lieu of contributions.

41 Each worker shall, starting on January 1, 1999 until December
42 31, 1999, contribute to the unemployment compensation fund
43 0.15% of wages paid with respect to the worker's employment with
44 a governmental employer electing or required to pay contributions
45 or nongovernmental employer, including a nonprofit organization
46 which is an employer as defined under paragraph (6) of subsection
47 (h) of R.S.43:21-19, regardless of whether that nonprofit
48 organization elects or is required to finance its benefit costs with

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

8 Each worker shall, starting on January 1, 2000 until December
9 31, 2001, contribute to the unemployment compensation fund
10 0.20% of wages paid with respect to the worker's employment with
11 a governmental employer electing or required to pay contributions
12 or nongovernmental employer, including a nonprofit organization
13 which is an employer as defined under paragraph (6) of subsection
14 (h) of R.S.43:21-19, regardless of whether that nonprofit
15 organization elects or is required to finance its benefit costs with
16 contributions to the fund or by payments in lieu of contributions,
17 after that employer has satisfied the conditions set forth in
18 subsection (h) of R.S.43:21-19 with respect to becoming an
19 employer, provided that the contributions shall be at the rate of
20 0.10% of wages paid with respect to employment with the State of
21 New Jersey or any other governmental entity or instrumentality
22 electing or required to make payments in lieu of contributions.

23 Each worker shall, starting on January 1, 2002 until June 30,
24 2004, contribute to the unemployment compensation fund 0.1825%
25 of wages paid with respect to the worker's employment with a
26 governmental employer electing or required to pay contributions or
27 a nongovernmental employer, including a nonprofit organization
28 which is an employer as defined under paragraph (6) of subsection
29 (h) of R.S.43:21-19, regardless of whether that nonprofit
30 organization elects or is required to finance its benefit costs with
31 contributions to the fund or by payments in lieu of contributions,
32 after that employer has satisfied the conditions set forth in
33 subsection (h) of R.S.43:21-19 with respect to becoming an
34 employer, provided that the contributions shall be at the rate of
35 0.0825% of wages paid with respect to employment with the State
36 of New Jersey or any other governmental entity or instrumentality
37 electing or required to make payments in lieu of contributions.

38 Each worker shall, starting on and after July 1, 2004, contribute
39 to the unemployment compensation fund 0.3825% of wages paid
40 with respect to the worker's employment with a governmental
41 employer electing or required to pay contributions or
42 nongovernmental employer, including a nonprofit organization
43 which is an employer as defined under paragraph (6) of subsection
44 (h) of R.S.43:21-19, regardless of whether that nonprofit
45 organization elects or is required to finance its benefit costs with
46 contributions to the fund or by payments in lieu of contributions,
47 after that employer has satisfied the conditions set forth in
48 subsection (h) of R.S.43:21-19 with respect to becoming an

1 employer, provided that the contributions shall be at the rate of
2 0.0825% of wages paid with respect to employment with the State
3 of New Jersey or any other governmental entity or instrumentality
4 electing or required to make payments in lieu of contributions.

5 (E) Each employer shall, notwithstanding any provision of law
6 in this State to the contrary, withhold in trust the amount of his
7 workers' contributions from their wages at the time such wages are
8 paid, shall show such deduction on his payroll records, shall furnish
9 such evidence thereof to his workers as the division or controller
10 may prescribe, and shall transmit all such contributions, in addition
11 to his own contributions, to the office of the controller in such
12 manner and at such times as may be prescribed. If any employer
13 fails to deduct the contributions of any of his workers at the time
14 their wages are paid, or fails to make a deduction therefor at the
15 time wages are paid for the next succeeding payroll period, he alone
16 shall thereafter be liable for such contributions, and for the purpose
17 of R.S.43:21-14, such contributions shall be treated as employer's
18 contributions required from him.

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

22 (G) (i) Each worker shall, starting on July 1, 1994, contribute to
23 the State disability benefits fund an amount equal to 0.50% of
24 wages paid with respect to the worker's employment with a
25 government employer electing or required to pay contributions to
26 the State disability benefits fund or nongovernmental employer,
27 including a nonprofit organization which is an employer as defined
28 under paragraph (6) of subsection (h) of R.S.43:21-19, unless the
29 employer is covered by an approved private disability plan or is
30 exempt from the provisions of the "Temporary Disability Benefits
31 Law," P.L.1948, c.110 (C.43:21-25 et seq.) under section 7 of that
32 law (C.43:21-31) or any other provision of that law.

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

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

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

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

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

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

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

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

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

33 (3) If an employee receives wages from more than one employer
34 during any calendar year, and either the sum of his contributions
35 deposited in and credited to the State disability benefits fund plus
36 the amount of his contributions, if any, required towards the costs
37 of benefits under one or more approved private plans under the
38 provisions of section 9 of the "Temporary Disability Benefits Law"
39 (C.43:21-33) and deducted from his wages, or the sum of such latter
40 contributions, if the employee is covered during such calendar year
41 only by two or more private plans, exceeds an amount equal to 1/2
42 of 1% of the "wages" determined in accordance with the provisions
43 of R.S.43:21-7(b)(3) during the calendar years beginning on or after
44 January 1, 1976, the employee shall be entitled to a refund of the
45 excess if he makes a claim to the controller within two years after
46 the end of the calendar year in which the wages are received with
47 respect to which the refund is claimed and establishes his right to
48 such refund. Such refund shall be made by the controller from the

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

40 (i) $\frac{35}{100}$ of 1% if such excess over \$500.00 is less than $\frac{1}{4}$ of
41 1% of his average annual payroll;

42 (ii) $\frac{45}{100}$ of 1% if such excess over \$500.00 equals or exceeds
43 $\frac{1}{4}$ of 1% but is less than $\frac{1}{2}$ of 1% of his average annual payroll;

44 (iii) $\frac{55}{100}$ of 1% if such excess over \$500.00 equals or exceeds
45 $\frac{1}{2}$ of 1% but is less than $\frac{3}{4}$ of 1% of his average annual payroll;

46 (iv) $\frac{65}{100}$ of 1% if such excess over \$500.00 equals or exceeds
47 $\frac{3}{4}$ of 1% but is less than 1% of his average annual payroll;

1 (v) 75/100 of 1% if such excess over \$500.00 equals or exceeds
2 1% of his average annual payroll.

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

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

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

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

35 (ii) If the percentage determined in accordance with paragraph
36 (E)(1) of this subsection equals or exceeds 3/4 of 1% and is less
37 than 1 1/4 of 1%, the final employer rates shall be the preliminary
38 employer rates.

39 (iii) If the percentage determined in accordance with paragraph
40 (E)(1) of this subsection is less than 3/4 of 1%, but in excess of 1/4
41 of 1%, the final employer rates shall be the preliminary employer
42 rates determined as provided in (D) hereof increased by the
43 difference between 3/4 of 1% and such percentage taken to the
44 nearest 5/100 of 1%; provided, however, that no such final rate
45 shall be more than 1/4 of 1% in the case of an employer whose
46 preliminary rate is determined as provided in (D)(2) hereof, more
47 than 1/2 of 1% in the case of an employer whose preliminary rate is
48 determined as provided in (D)(1) and (D)(3) hereof, nor more than

1 3/4 of 1% in the case of an employer whose preliminary rate is
2 determined as provided in (D)(4) hereof.

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

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

20 (i) No disability benefits have been paid with respect to periods
21 of family temporary disability leave; '[and]'

22 (ii) No worker paid any contributions to the State disability
23 benefits fund pursuant to paragraph (1)(G)(ii) of subsection (d) of
24 this section¹; and

25 (3) No amounts were transferred from the State disability
26 benefits funds to the "Family Temporary Disability Leave Account"
27 pursuant to paragraph (1)(G)(ii) of subsection (d) of this section¹.

28 (cf: P.L.2005, c.249, s.1)

29

30 16. (New Section) Gross income shall not include benefits for
31 family temporary disability leave paid pursuant to P.L.1948, c.110
32 (C.43:21-25 et seq.) and P.L. ,c. (C.) (pending before the
33 Legislature as this bill).

34

35 17. This act shall take effect immediately.

36

37

38

39

40 Extends TDI to provide family leave benefits for workers caring
41 for sick family members, newborn and newly adopted children.

ASSEMBLY, No. 873

STATE OF NEW JERSEY

213th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2008 SESSION

Sponsored by:

Assemblyman NELSON T. ALBANO
District 1 (Cape May, Atlantic and Cumberland)
Assemblywoman SHEILA Y. OLIVER
District 34 (Essex and Passaic)
Assemblywoman LINDA R. GREENSTEIN
District 14 (Mercer and Middlesex)
Assemblyman WAYNE P. DEANGELO
District 14 (Mercer and Middlesex)

Co-Sponsored by:

Assemblymen Vas, Giblin, Burzichelli, Assemblywoman Stender,
Assemblymen Johnson, Scalera, Egan, Diegnan, Assemblywomen Vainieri
Huttle and Jasey

SYNOPSIS

Extends TDI to provide family leave benefits for workers caring for sick family members, newborn and newly adopted children.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel



(Sponsorship Updated As Of: 2/29/2008)

1 AN ACT providing benefits for family temporary disability leave,
2 amending R.S.43:21-4 and R.S.43:21-7 and amending and
3 supplementing P.L.1948, c.110.
4

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

8 1. Section 2 of P.L.1948, c.110 (C.43:21-26) is amended to
9 read as follows:

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

13 The public policy of this State, already established, is to protect
14 employees against the suffering and hardship generally caused by
15 involuntary unemployment. But the **[unemployment compensation**
16 **law]** "unemployment compensation law" provides benefit payments
17 to replace wage loss caused by involuntary unemployment only so
18 long as an individual is "able to work, and is available for work,"
19 and fails to provide any protection against wage loss suffered
20 because of inability to perform the duties of a job interrupted by
21 nonoccupational illness, injury, or other disability of the individual
22 or of members of the individual's family. Nor is there any other
23 comprehensive and systematic provision for the protection of
24 working people against loss of earnings due to a nonoccupational
25 sickness **[or]**, accident, or other disability.

26 The prevalence and incidence of nonoccupational sickness
27 **[and]**, accident, and other disability among employed people is
28 greatest among the lower income groups, who either cannot or will
29 not voluntarily provide out of their own resources against the
30 hazard of an earnings loss caused by nonoccupational sickness **[or]**,
31 accident, or other disability. Disabling sickness or accident occurs
32 throughout the working population at one time or another, and
33 approximately fifteen per centum (15%) of the number of people at
34 work may be expected to suffer disabling illness of more than one
35 week each year.

36 It **[has been]** was found, prior to the enactment of the
37 "Temporary Disability Benefits Law," P.L.1948, c.110 (C.43:21-25
38 et seq.), that then existing voluntary plans for the payment of cash
39 sickness benefits **[cover]** covered less than one-half of the number
40 of working people of this State who **[are now]** were covered by the
41 **[unemployment compensation law,]** "unemployment compensation
42 law," and that even **[this]** that degree of voluntary protection
43 **[affords]** afforded uneven, unequal and sometimes uncertain

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 protection among the various voluntary benefit programs.

2 While the enactment of that law has provided stable protection
3 for New Jersey's disabled workers, very few workers are protected
4 from income losses caused by the need to take time off from work
5 to care for family members who are incapable of self-care,
6 including newborn and newly-adopted children. The growing
7 portion of middle-income families in which all adult family
8 members work, largely due to economic necessity, points to the
9 desperate need for replacement income when a working family
10 member must take time to care for family members who are unable
11 to take care of themselves. Moreover, the United States is the only
12 industrialized nation in the world which does not have a mandatory
13 workplace-based program for such income support. It is therefore
14 desirable and necessary to fill the gap in existing provisions for
15 protection against the loss of earnings caused by involuntary
16 unemployment, by extending such protection to meet the hazard of
17 earnings loss due to inability to work caused by nonoccupational
18 sickness **[or accident]**, accidents, or other disabilities of workers
19 and members of their families. Developing systems that help
20 families adapt to the competing interests of work and home not only
21 benefits workers, but also benefits employers by reducing employee
22 turnover and increasing worker productivity.

23 The foregoing facts and considerations require that there be a
24 uniform minimum program providing in a systematic manner for
25 the payment of reasonable benefits to replace partially such
26 earnings loss and to meet the continuing need for benefits where an
27 individual becomes disabled during unemployment or needs to care
28 for family members incapable of self-care. In order to maintain
29 consumer purchasing power, relieve the serious menace to health,
30 morals and welfare of the people caused by insecurity and the loss
31 of earnings, to reduce the necessity for public relief of needy
32 persons, to increase workplace productivity and alleviate the
33 enormous and growing stress on working families of balancing the
34 demands of work and family needs, and in the interest of the health,
35 welfare and security of the people of this State, such a system,
36 enacted under the police power, is hereby established, requiring the
37 payment of reasonable cash benefits to eligible individuals
38 **[suffering]** who are subject to accident or illness which is not
39 compensable under the **[workmen's]** worker's compensation law or
40 who need to care for family members incapable of self-care.

41 Since the enactment of the "Temporary Disability Benefits Law,"
42 P.L.1948, c.110 (C.43:21-25 et seq.), the State government-operated
43 State temporary disability benefits plan, or "State plan," has proven
44 to be highly efficient and cost effective in providing temporary
45 disability benefits to New Jersey workers. The State plan
46 guarantees the availability of coverage for all employers, regardless
47 of experience, with low overhead costs and a rapid processing of

1 claims and appeals by knowledgeable, impartial public employees.
2 Consequently, the percentage of all employers using the State plan
3 increased from 64% in 1952 to 98% in 2005, while the percentage
4 of employees covered by the State plan increased from 28% to 79%.
5 A publicly-operated, nonprofit State plan is therefore indispensable
6 to achieving the goals of the "Temporary Disability Benefits Law,"
7 P.L.1948, c.110 (C.43:21-25 et seq.).
8 (cf: P.L.1948, c.110, s.2)
9

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

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

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

33 "Covered employer" means, after June 30, 2008 with respect to
34 whether an employer is required to provide benefits during an
35 employee's period of family temporary disability leave pursuant to
36 P.L.1948, c.110 (C.43:21-25 et seq.), any individual or type of
37 organization, including any partnership, association, trust, estate,
38 joint-stock company, insurance company or corporation, whether
39 domestic or foreign, or the receiver, trustee in bankruptcy, trustee or
40 successor thereof, or the legal representative of a deceased person,
41 who is an employer subject to the "unemployment compensation
42 law" (R.S.43:21-1 et seq.), including any governmental entity or
43 instrumentality which is an employer under R.S.43:21-19(h)(5).

44 (2) Any governmental entity or instrumentality which is an
45 employer under R.S.43:21-19(h)(5) may, with respect to the
46 provision of benefits during an employee's own disability pursuant
47 to P.L.1948, c.110 (C.43:21-25 et seq.), elect to become a "covered

1 employer" under this subsection beginning with the date on which
2 its coverage under ~~【subsection 19(h)(5)】~~R.S.43:21-19(h)(5) begins
3 or as of January 1 of any year thereafter by filing written notice of
4 such election with the division within at least 30 days of the
5 effective date. Such election shall remain in effect for at least two
6 full calendar years and may be terminated as of January 1 of any
7 year thereafter by filing with the division a written notice of
8 termination at least 30 days prior to the termination date.

9 (b) (1) "Covered individual" means, with respect to whether an
10 individual is eligible for benefits during an individual's own
11 disability pursuant to P.L.1948, c.110 (C.43:21-25 et seq.), any
12 person who is in employment, as defined in the 【chapter to which
13 this act is a supplement】, "unemployment compensations law"
14 (R.S.43:21-1 et seq.) for which the individual is entitled to
15 remuneration from a covered employer, or who has been out of such
16 employment for less than two weeks【. However,】. except that a
17 "covered individual" who is employed by the State of New Jersey,
18 including Rutgers, The State University, the University of Medicine
19 and Dentistry of New Jersey and the New Jersey Institute of
20 Technology, or by any governmental entity or instrumentality
21 which elects to become a "covered employer" pursuant to this
22 amendatory act, shall not be eligible to receive any benefits under
23 the "Temporary Disability Benefits Law" until such individual has
24 exhausted all sick leave accumulated as an employee in the
25 classified service of the State or accumulated under terms and
26 conditions similar to classified employees or accumulated under the
27 terms and conditions pursuant to the laws of this State or as the
28 result of a negotiated contract with any governmental entity or
29 instrumentality which elects to become a "covered employer."

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

35 (2) "Covered individual" means, with respect to whether an
36 employer is required to provide benefits during an employee's
37 period of family temporary disability leave pursuant to P.L.1948,
38 c.110 (C.43:21-25 et seq.), any individual who is in employment, as
39 defined in the "unemployment compensation law" (R.S.43:21-1 et
40 seq.), for which the individual is entitled to remuneration from a
41 covered employer, or who has been out of that employment for less
42 than two weeks.

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

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

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

5 (f) "Disability benefits" shall mean any cash payments which
6 are payable to a covered individual for all or part of a period of
7 disability pursuant to this act.

8 (g) "Period of disability" with respect to any covered individual
9 shall mean **[the]**:

10 (1) The entire period of time during which the covered
11 individual is continuously and totally unable to perform the duties
12 of **[his]** the covered individual's employment because of the
13 covered individual's own disability, except that two periods of
14 disability due to the same or related cause or condition and
15 separated by a period of not more than 14 days shall be considered
16 as one continuous period of disability; provided the individual has
17 earned wages during such 14-day period with the employer who
18 was the individual's last employer immediately preceding the first
19 period of disability; and

20 (2) On or after July 1, 2008, the entire period of family
21 temporary disability leave taken from employment by the covered
22 individual.

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

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

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

29 (3) "Base week" with respect to periods of disability
30 commencing on or after October 1, 1985 and before January 1,
31 2001, means any calendar week during which **[an]** a covered
32 individual earned in employment from a covered employer
33 remuneration equal to not less than 20% of the Statewide average
34 weekly remuneration as determined under subsection (c) of
35 R.S.43:21-3, which shall be adjusted to the next higher multiple of
36 \$1.00 if not already a multiple thereof.

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

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

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

18 (k) "Child" means a biological, adopted, or foster child,
19 stepchild or legal ward of a covered individual, or child of a
20 domestic partner of the covered individual, who is less than 19
21 years of age or is 19 years of age or older but incapable of self-care
22 because of mental or physical impairment.

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

25 (m) "Family member" means a child, spouse, domestic partner or
26 parent of a covered individual.

27 (n) "Family temporary disability leave" means leave taken by a
28 covered individual from work with an employer to (1) participate in
29 the providing of care for a family member of the individual made
30 necessary by a serious health condition of the family member,
31 including providing psychological comfort and arranging third party
32 care for the family member; or (2) be with a child during the first 12
33 months after the child's birth, if the individual or the domestic
34 partner of the individual is a biological parent of the child, or the
35 first 12 months after the placement of the child for adoption with
36 the individual. "Family temporary disability leave" does not
37 include any period of time in which a covered individual is paid
38 benefits pursuant to P.L.1948, c.110 (C.43:21-25 et seq.) because
39 the individual is unable to perform the duties of the individual's
40 employment due to the individual's own disability.

41 (o) "Parent of a covered individual" means a biological parent,
42 foster parent, adoptive parent, or stepparent of the covered
43 individual or a person who was a legal guardian of the covered
44 individual when the covered individual was a child.

45 (p) "Placement for adoption" means the time when a covered
46 individual adopts a child or becomes responsible for a child pending
47 adoption by the covered individual.

1 (q) "Serious health condition" means an illness, injury,
2 impairment or physical or mental condition which requires:
3 inpatient care in a hospital, hospice, or residential medical care
4 facility; or continuing medical treatment or continuing supervision
5 by a legally licensed physician, dentist, optometrist, podiatrist,
6 practicing psychologist, advanced practice nurse, or chiropractor.
7 (cf: P.L.2001, c.17, s.3)

8
9 3. Section 5 of P.L.1948, c.110 (C.43:21-29) is amended to
10 read as follows:

11 5. Compensable disability. **【Disability】** (a) In the case of the
12 disability of a covered individual, disability shall be compensable
13 subject to the limitations of this act**【, where a】** if the disability is
14 the result of the covered individual **【suffers any】** suffering an
15 accident or sickness not arising out of and in the course of the
16 individual's employment or if so arising not compensable under the
17 workers' compensation law **【(Title 34 of the Revised Statutes)】**
18 R.S.34:15-1 et seq., and resulting in the individual's total inability
19 to perform the duties of employment.

20 (b) In the case of an individual taking family temporary
21 disability leave, the leave shall be compensable subject to the
22 limitations of P.L. c. (C.)(pending before the
23 Legislature as this bill).
24 (cf: P.L.1980, c.90, s.13)

25
26 4. Section 11 of P.L.1948, c.110 (C.43:21-35) is amended to
27 read as follows:

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

40 (b) Unless sooner permitted, for cause, by the division, no
41 approved private plan shall be terminated by an employer, in whole
42 or in part, until at least 30 days after written notice of intention so
43 to do has been given by the employer to the division and after
44 notices are conspicuously posted so as reasonably to assure their
45 being seen, or after individual notices are given to the employees
46 concerned.

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

10 (d) No termination of an approved private plan shall affect the
11 payment of benefits, in accordance with the provisions of the plan,
12 to **[disabled]** employees whose period of disability commenced
13 prior to the date of termination. Employees who have ceased to be
14 covered by an approved private plan because of its termination
15 shall, subject to the limitations and restrictions of this act, become
16 eligible forthwith for benefits from the State Disability Benefits
17 Fund for a period of disability commencing after such cessation,
18 and contributions with respect to their wages shall immediately
19 become payable as otherwise provided by law. Any withdrawal of
20 approval of a private plan pursuant to this section shall be
21 reviewable by writ of certiorari or by such other procedure as may
22 be provided by law.

23 (e) Anything in this act to the contrary notwithstanding, a
24 covered employer who, under an approved private plan, is
25 providing benefits at least equal to those required by the State plan,
26 may modify the benefits under the private plan so as to provide
27 benefits not less than the benefits required by the State plan**;**
28 **provided, that individuals].** Individuals covered under **[such] a**
29 private plan shall not be required to contribute to **[such] the** plan at
30 a rate exceeding 3/4 of 1% of the amount of "wages" established for
31 any calendar year under the provisions of R.S.43:21-7(b) prior to
32 January 1, 1975, and 1/2 of 1% for calendar years beginning on or
33 after January 1, 1975, except that, for calendar years beginning after
34 December 31, 2007, if the employer is a covered employer with
35 respect to being required to provide benefits during periods of
36 family temporary disability, the employer may require the
37 individuals covered by the private plan to contribute an additional
38 amount not exceeding the amount the individuals would pay
39 pursuant to paragraph (1)(G)(ii) of subsection (d) of R.S.43:21-7.
40 Notification of **[such] the** proposed modification shall be given by
41 the employer to the division and to the individuals covered under
42 **[such] the** plan**],** on or before May 1, 1975].

43 (cf: P.L.1974, c.86, s.8)

44
45 5. Section 14 of P.L.1948, c.110 (C.43:21-38) is amended to
46 read as follows:

1 14. Duration of benefits. With respect to periods of disability
2 commencing on or after January 1, 1953, disability benefits, not in
3 excess of an individual's maximum benefits, shall be payable with
4 respect to disability which commences while a person is a covered
5 individual under the Temporary Disability Benefits Law, and shall
6 be payable with respect to the eighth consecutive day of such
7 disability and each day thereafter that such period of disability
8 continues; and if benefits shall be payable for three consecutive
9 weeks with respect to any period of disability commencing on or
10 after January 1, 1968, then benefits shall also be payable with
11 respect to the first seven days thereof. The maximum total benefits
12 payable to any eligible individual for any period of disability of the
13 individual commencing on or after January 1, 1968, shall be either
14 26 times his weekly benefit amount or 1/3 of his total wages in his
15 base year, whichever is the lesser; provided that such maximum
16 amount shall be computed in the next lower multiple of \$1.00 if not
17 already a multiple thereof. The maximum total benefits payable to
18 any eligible individual for any period of family temporary disability
19 leave commencing on or after July 1, 2008, shall be 12 times the
20 individual's weekly benefit amount; provided that the maximum
21 amount shall be computed in the next lower multiple of \$1.00, if not
22 already a multiple thereof.

23 (cf: P.L.1984, c.104, s.2)

24

25 6. Section 15 of P.L.1948, c.110 (C.43:21-39) is amended to
26 read as follows:

27 15. Limitation of benefits. Notwithstanding any other provision
28 of the "Temporary Disability Benefits Law," P.L.1948, c.110
29 (C.43:21-25 et seq.), no benefits shall be payable under the State
30 plan to any **[person]** individual:

31 (a) for the first seven consecutive days of each period of
32 disability; except that if benefits shall be payable for three
33 consecutive weeks with respect to any period of disability
34 **[commencing on or after January 1, 1968]**, then benefits shall also
35 be payable with respect to the first seven days thereof, and, in the
36 case of intermittent leave in a single period of family temporary
37 disability leave taken to provide care for a family member of the
38 individual with a serious health condition, the seven-day waiting
39 period shall apply only one time during the entire period of leave,
40 provided that no benefits shall in any case be paid for family
41 temporary disability leave which is shorter in duration than one
42 workweek;

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

45 (2) for more than 12 weeks with respect to any one period of
46 family temporary disability leave; or

1 (3) for more than 12 weeks of family temporary disability leave
2 during any 12-month period, including family temporary disability
3 leave taken pursuant to paragraph (2) of subsection (f) of
4 R.S.43:21-4 while unemployed.

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

7 (d) for any period of disability during which the claimant, or, in
8 a case of family temporary disability leave for a serious health
9 condition of a family member of the claimant, the family member,
10 is not under the care of a legally licensed physician, dentist,
11 optometrist, podiatrist, practicing psychologist, advanced practice
12 nurse, or chiropractor, who, when requested by the division, shall
13 certify within the scope of the practitioner's practice, the disability
14 of the claimant or the serious health condition of the family
15 member, the probable duration thereof, and, where applicable, the
16 medical facts within the practitioner's knowledge;

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

18 (f) for any period of disability due to willfully and intentionally
19 self-inflicted injury, or to injury sustained in the perpetration by the
20 claimant of a crime of the first, second, or third degree;

21 (g) for any period during which the claimant performs any work
22 for remuneration or profit;

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

26 (i) for any period during which a covered individual would be
27 disqualified for unemployment compensation benefits under
28 subsection (d) of R.S.43:21-5, unless the disability commenced
29 prior to such disqualification; and there shall be no other cause of
30 disqualification or ineligibility to receive disability benefits
31 hereunder except as may be specifically provided in this act.

32 (cf: P.L.2004, c.168, s.2)

33

34 7. (New section) a. Family temporary disability leave shall be
35 compensable subject to the limitations of P.L. , c. (C.)
36 (pending before the Legislature as this bill) for any period of family
37 temporary disability leave taken by a covered individual which
38 commences after June 30, 2008.

39 b. The employer of an individual may permit or require the
40 individual, during a period of family temporary disability leave, to
41 use any paid sick leave, vacation time or other leave at full pay
42 made available by the employer before the individual is eligible for
43 disability benefits for family temporary disability leave pursuant to
44 this act, except that the employer may not require the individual to
45 use more than two weeks worth of leave at full pay. The employer
46 may also have the total number of days worth of disability benefits
47 paid pursuant to P.L. , c. (C.) (pending before the

1 Legislature as this bill) to the individual during a period of family
2 temporary disability leave reduced by the number of days of leave
3 at full pay paid by the employer to the individual during that period.
4 If the employer requires the individual to use one week or more of
5 leave at full pay, the employee shall be permitted to take that fully-
6 paid leave during the waiting period required pursuant to subsection
7 (a) of section 15 of P.L.1948, c.110 (C.43:21-39). Nothing in
8 P.L. , c. (C.) (pending before the Legislature as this bill)
9 shall be construed as nullifying any provision of an existing
10 collective bargaining agreement or employer policy, or preventing
11 any new provision of a collective bargaining agreement or employer
12 policy, which provides employees more generous leave or gives
13 employees greater rights to select which kind of leave is used or
14 select the order in which the different kinds of leave are used.

15 c. An individual shall not simultaneously receive disability
16 benefits for family temporary disability leave and any other
17 disability benefits pursuant to P.L.1948, c.110 (C.43:21-25 et seq.)
18 or any unemployment compensation.

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

32

33 8. (New section) a. In the case of a family member who has a
34 serious health condition, the benefits for family temporary disability
35 leave may be taken intermittently when medically necessary, if: the
36 total time within which the leave is taken does not exceed 12
37 months; the covered individual provides the employer with prior
38 notice of the leave in a reasonable and practicable manner and with
39 a copy of the certification required pursuant to subsection b. of this
40 section; and the covered individual makes a reasonable effort to
41 schedule the leave so as not to unduly disrupt the operations of the
42 employer.

43 b. Any period of family temporary disability leave for the
44 serious health condition of a family member of the covered
45 individual shall be supported by certification provided by a legally
46 licensed physician, dentist, optometrist, podiatrist, practicing

1 psychologist, advanced practice nurse, or chiropractor. The
2 certification shall be sufficient if it states:

3 (1) The date, if known, on which the serious health condition
4 commenced;

5 (2) The probable duration of the condition;

6 (3) The medical facts within the knowledge of the provider of
7 the certification regarding the condition;

8 (4) A statement that the serious health condition warrants the
9 participation of the covered individual in providing health care,
10 including providing psychological comfort and arranging third party
11 care for the family member;

12 (5) An estimate of the amount of time that the covered
13 individual is needed for participation in the care of the family
14 member;

15 (6) If the leave is intermittent, a statement of the medical
16 necessity for the intermittent leave and the expected duration of the
17 intermittent leave; and

18 (7) If the leave is intermittent and for planned medical
19 treatment, the dates of the treatment.

20 c. A covered individual claiming benefits to provide care for a
21 family member with a serious health condition under the State plan
22 or during unemployment shall, if requested by the division, have the
23 family member submit to an examination by a legally licensed
24 physician, dentist, optometrist, podiatrist, chiropractor, practicing
25 psychologist or public health nurse designated by the division. The
26 examinations shall not be more frequent than once a week, shall be
27 made without cost to the claimant and shall be held at a reasonable
28 time and place. Refusal to have the family member submit to an
29 examination requested pursuant to this subsection shall disqualify
30 the claimant from all benefits for the period in question, except
31 from benefits already paid.

32

33 9. (New section) a. All of the disability benefits paid to an
34 individual during a period of family temporary disability leave with
35 respect to any one birth or adoption shall be for a single continuous
36 period of time, except that the employer of the individual may
37 permit the individual to receive the disability benefits during non-
38 consecutive weeks in a manner mutually agreed to by the employer
39 and the individual and disclosed to the division by the employer.

40 b. The individual shall provide the employer with notice of the
41 period of family temporary disability leave with respect to birth or
42 adoption not less than 30 days before the leave commences, unless
43 it commences while the individual is receiving unemployment
44 benefits, in which case the individual shall notify the division. The
45 amount of benefits shall be reduced by two weeks worth of benefits
46 if the individual does not provide notice to an employer as required

1 by this subsection b., unless the time of the leave is unforeseeable
2 or the time of the leave changes for unforeseeable reasons.

3 c. Family temporary disability leave taken because of the birth
4 or placement for adoption of a child may be taken at any time
5 within a year after the date of the birth or placement for adoption.

6

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

8 43:21-4. Benefit eligibility conditions. An unemployed
9 individual shall be eligible to receive benefits with respect to any
10 week only if:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

28 (D) For the purpose of this paragraph (4), "labor demand
29 occupation" means an occupation for which there is or is likely to
30 be an excess of demand over supply for adequately trained workers,
31 including, but not limited to, an occupation designated as a labor
32 demand occupation by the **【New Jersey】** Center for Occupational
33 Employment Information **【Coordinating Committee】** pursuant to
34 the provisions of subsection **【h.】** d. of section **【1 of P.L.1987, c.457**
35 **(C.34:1A-76) or section 12 of P.L.1992, c.43 (C.34:1A-78)】** 27 of
36 P.L.2005, c.354 (C.34:1A-86).

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

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

46 For purposes of this paragraph, "immediate family member"
47 includes any of the following individuals: father, mother, mother-

1 in-law, father-in-law, grandmother, grandfather, grandchild, spouse,
2 child, child placed by the Division of Youth and Family Services in
3 the Department of Children and Families, sister or brother of the
4 unemployed individual and any relatives of the unemployed
5 individual residing in the unemployed individual's household.

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

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

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

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

33 (d) With respect to any benefit year commencing before January
34 1, 2002, the individual has been totally or partially unemployed for
35 a waiting period of one week in the benefit year which includes that
36 week. When benefits become payable with respect to the third
37 consecutive week next following the waiting period, the individual
38 shall be eligible to receive benefits as appropriate with respect to
39 the waiting period. No week shall be counted as a week of
40 unemployment for the purposes of this subsection:

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

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

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

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

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

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

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

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

22 (B) If the individual has not met the requirements of
23 subparagraph (A) of this paragraph (2), earned remuneration not
24 less than an amount 12 times the Statewide average weekly
25 remuneration paid to workers, as determined under **[R.S.43:21-**
26 **3(c)] subsection (c) of R.S.43:21-3**, which amount shall be adjusted
27 to the next higher multiple of \$100 if not already a multiple thereof;
28 or

29 If the individual has not met the requirements of subparagraph
30 (A) or (B) of this paragraph (2), earned remuneration not less than
31 an amount 1,000 times the minimum wage in effect pursuant to
32 section 5 of P.L.1966, c.113 (C.34:11-56a4) on October 1 of the
33 calendar year preceding the calendar year in which the benefit year
34 commences, which amount shall be adjusted to the next higher
35 multiple of \$100 if not already a multiple thereof.

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

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

45 (B) Has earned 12 times the Statewide average weekly
46 remuneration paid to workers, as determined under R.S.43:21-3(c),

1 raised to the next higher multiple of \$100.00 if not already a
2 multiple thereof, or more; or

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

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

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

11 (B) If the individual has not met the requirements of
12 subparagraph (A) of this paragraph (4), earned remuneration not
13 less than an amount 1,000 times the minimum wage in effect
14 pursuant to section 5 of P.L.1966, c.113 (C.34:11-56a4) on October
15 1 of the calendar year preceding the calendar year in which the
16 benefit year commences, which amount shall be adjusted to the next
17 higher multiple of \$100 if not already a multiple thereof.

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

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

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

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

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

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

1 of claim to the division, in accordance with its rules and
2 regulations, and payment is not precluded by the provisions of
3 **【R.S.43:21-3(d)】** subsection (d) of R.S.43:21-3; provided, however,
4 that benefits paid under this subsection (f) shall be computed on the
5 basis of only those base year wages earned by the claimant as a
6 "covered individual," as defined in **【R.S.43:21-27(b)】** subsection
7 (b) of R.S.43:21-27; provided further that no benefits shall be
8 payable under this subsection to any individual:

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

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

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

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

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

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

31 (2) The individual is taking family temporary disability leave to
32 provide care for a family member with a serious health condition or
33 to be with a child during the first 12 months after the child's birth or
34 placement of the child for adoption with the individual, and the
35 individual would be eligible to receive benefits under R.S.43:21-1
36 et seq. (without regard to the maximum amount of benefits payable
37 during any benefit year) except for the individual's unavailability
38 for work while taking the family temporary disability leave, and the
39 individual has furnished notice and proof of claim to the division, in
40 accordance with its rules and regulations, and payment is not
41 precluded by the provisions of subsection (d) of R.S.43:21-3
42 provided, however, that benefits paid under this subsection (f) shall
43 be computed on the basis of only those base year wages earned by
44 the claimant as a "covered individual," as defined in subsection (b)
45 of R.S.43:21-27; provided further that no benefits shall be payable
46 under this subsection to any individual:

1 (A) For any week with respect to which or a part of which the
2 individual has received or is seeking benefits under any
3 unemployment compensation or disability benefits law of any other
4 state or of the United States; provided that if the appropriate agency
5 of such other state or the United States finally determines that the
6 individual is not entitled to such benefits, this disqualification shall
7 not apply;

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

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

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

22 (g) Benefits based on service in employment defined in
23 subparagraphs (B) and (C) of R.S.43:21-19 (i)(1) shall be payable
24 in the same amount and on the terms and subject to the same
25 conditions as benefits payable on the basis of other service subject
26 to the "unemployment compensation law"; except that,
27 notwithstanding any other provisions of the "unemployment
28 compensation law":

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

41 (2) With respect to weeks of unemployment beginning after
42 September 3, 1982, on the basis of service performed in any other
43 capacity for an educational institution, benefits shall not be paid on
44 the basis of such services to any individual for any week which
45 commences during a period between two successive academic years
46 or terms if such individual performs such services in the first of
47 such academic years or terms and there is a reasonable assurance

1 that such individual will perform such services in the second of
2 such academic years or terms, except that if benefits are denied to
3 any individual under this paragraph (2) and the individual was not
4 offered an opportunity to perform these services for the educational
5 institution for the second of any academic years or terms, the
6 individual shall be entitled to a retroactive payment of benefits for
7 each week for which the individual filed a timely claim for benefits
8 and for which benefits were denied solely by reason of this clause;

9 (3) With respect to those services described in paragraphs (1)
10 and (2) above, benefits shall not be paid on the basis of such
11 services to any individual for any week which commences during
12 an established and customary vacation period or holiday recess if
13 such individual performs such services in the period immediately
14 before such vacation period or holiday recess, and there is a
15 reasonable assurance that such individual will perform such
16 services in the period immediately following such period or holiday
17 recess;

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

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

35 (i) (1) Benefits shall not be paid on the basis of services
36 performed by an alien unless such alien is an individual who was
37 lawfully admitted for permanent residence at the time the services
38 were performed and was lawfully present for the purpose of
39 performing the services or otherwise was permanently residing in
40 the United States under color of law at the time the services were
41 performed (including an alien who is lawfully present in the United
42 States as a result of the application of the provisions of section
43 212(d)(5) (8 U.S.C.s.1182 (d)(5)) of the Immigration and
44 Nationality Act (8 U.S.C.s.1101 et seq.)); provided that any
45 modifications of the provisions of section 3304(a)(14) of the
46 Federal Unemployment Tax Act (26 U.S.C.s.3304 (a)(14)), as
47 provided by Pub.L.94-566, which specify other conditions or other

1 effective dates than stated herein for the denial of benefits based on
2 services performed by aliens and which modifications are required
3 to be implemented under State law as a condition for full tax credit
4 against the tax imposed by the Federal Unemployment Tax Act,
5 shall be deemed applicable under the provisions of this section.

6 (2) Any data or information required of individuals applying for
7 benefits to determine whether benefits are not payable to them
8 because of their alien status shall be uniformly required from all
9 applicants for benefits.

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

14 (j) Notwithstanding any other provision of this chapter, the
15 director may, to the extent that it may be deemed efficient and
16 economical, provide for consolidated administration by one or more
17 representatives or deputies of claims made pursuant to subsection
18 (f) of this section with those made pursuant to Article III (State
19 plan) of the "Temporary Disability Benefits Law," P.L.1948, c.110
20 (C.43:21-25 et seq.).
21 (cf: P.L.2006, c.47, s.187)

22

23 11. R.S.43:21-7 is amended to read as follows:

24 43:21-7. Contributions. Employers other than governmental
25 entities, whose benefit financing provisions are set forth in section 4
26 of P.L.1971, c.346 (C.43:21-7.3), and those nonprofit organizations
27 liable for payment in lieu of contributions on the basis set forth in
28 section 3 of P.L.1971, c.346 (C.43:21-7.2), shall pay to the
29 controller for the unemployment compensation fund, contributions
30 as set forth in subsections (a), (b) and (c) hereof, and the provisions
31 of subsections (d) and (e) shall be applicable to all employers,
32 consistent with the provisions of the "unemployment compensation
33 law" and the "Temporary Disability Benefits Law," P.L.1948, c.110
34 (C.43:21-25 et seq.).

35 (a) Payment.

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

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

1 (b) Rate of contributions. Each employer shall pay the
2 following contributions:

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

7 (2) The "wages" of any individual, with respect to any one
8 employer, as the term is used in this subsection (b) and in
9 subsections (c), (d) and (e) of this section 7, shall include the first
10 \$4,800.00 paid during calendar year 1975, for services performed
11 either within or without this State; provided that no contribution
12 shall be required by this State with respect to services performed in
13 another state if such other state imposes contribution liability with
14 respect thereto. If an employer (hereinafter referred to as a
15 successor employer) during any calendar year acquires substantially
16 all the property used in a trade or business of another employer
17 (hereinafter referred to as a predecessor), or used in a separate unit
18 of a trade or business of a predecessor, and immediately after the
19 acquisition employs in his trade or business an individual who
20 immediately prior to the acquisition was employed in the trade or
21 business of such predecessors, then, for the purpose of determining
22 whether the successor employer has paid wages with respect to
23 employment equal to the first \$4,800.00 paid during calendar year
24 1975, any wages paid to such individual by such predecessor during
25 such calendar year and prior to such acquisition shall be considered
26 as having been paid by such successor employer.

27 (3) For calendar years beginning on and after January 1, 1976,
28 the "wages" of any individual, as defined in the preceding
29 paragraph (2) of this subsection (b), shall be established and
30 promulgated by the Commissioner of Labor and Workforce
31 Development on or before September 1 of the preceding year and
32 shall be, 28 times the Statewide average weekly remuneration paid
33 to workers by employers, as determined under R.S.43:21-3(c),
34 raised to the next higher multiple of \$100.00 if not already a
35 multiple thereof, provided that if the amount of wages so
36 determined for a calendar year is less than the amount similarly
37 determined for the preceding year, the greater amount will be used;
38 provided, further, that if the amount of such wages so determined
39 does not equal or exceed the amount of wages as defined in
40 subsection (b) of section 3306 of the Federal Unemployment Tax
41 Act, Chapter 23 of the Internal Revenue Code of 1986 (26
42 U.S.C.s.3306(b)), the wages as determined in this paragraph in any
43 calendar year shall be raised to equal the amount established under
44 the Federal Unemployment Tax Act for that calendar year; provided
45 further that, for the purposes of determining the amount of
46 contributions made by an individual in calendar years beginning on
47 and after January 1, 2008 under the provisions of paragraph (1)

1 (G)(ii) of subsection (d) of this section, the "wages" of the
2 individual shall be all wages paid to the individual by an employer
3 not exceeding the contribution and benefit base as determined under
4 section 230 of the Social Security Act (42 U.S.C. s. 430).

5 (c) Future rates based on benefit experience.

6 (1) A separate account for each employer shall be maintained
7 and this shall be credited with all the contributions which he has
8 paid on his own behalf on or before January 31 of any calendar year
9 with respect to employment occurring in the preceding calendar
10 year; provided, however, that if January 31 of any calendar year
11 falls on a Saturday or Sunday, an employer's account shall be
12 credited as of January 31 of such calendar year with all the
13 contributions which he has paid on or before the next succeeding
14 day which is not a Saturday or Sunday. But nothing in this chapter
15 (R.S.43:21-1 et seq.) shall be construed to grant any employer or
16 individuals in his service prior claims or rights to the amounts paid
17 by him into the fund either on his own behalf or on behalf of such
18 individuals. Benefits paid with respect to benefit years
19 commencing on and after January 1, 1953, to any individual on or
20 before December 31 of any calendar year with respect to
21 unemployment in such calendar year and in preceding calendar
22 years shall be charged against the account or accounts of the
23 employer or employers in whose employment such individual
24 established base weeks constituting the basis of such benefits,
25 except that, with respect to benefit years commencing after January
26 4, 1998, an employer's account shall not be charged for benefits
27 paid to a claimant if the claimant's employment by that employer
28 was ended in any way which, pursuant to subsection (a), (b), (c),
29 (f), (g) or (h) of R.S.43:21-5, would have disqualified the claimant
30 for benefits if the claimant had applied for benefits at the time when
31 that employment ended. Benefits paid under a given benefit
32 determination shall be charged against the account of the employer
33 to whom such determination relates. When each benefit payment is
34 made, either a copy of the benefit check or other form of
35 notification shall be promptly sent to the employer against whose
36 account the benefits are to be charged. Such copy or notification
37 shall identify the employer against whose account the amount of
38 such payment is being charged, shall show at least the name and
39 social security account number of the claimant and shall specify the
40 period of unemployment to which said check applies. If the total
41 amount of benefits paid to a claimant and charged to the account of
42 the appropriate employer exceeds 50% of the total base year, base
43 week wages paid to the claimant by that employer, then such
44 employer shall have canceled from his account such excess benefit
45 charges as specified above.

46 Each employer shall be furnished an annual summary statement
47 of benefits charged to his account.

1 (2) Regulations may be prescribed for the establishment,
2 maintenance, and dissolution of joint accounts by two or more
3 employers, and shall, in accordance with such regulations and upon
4 application by two or more employers to establish such an account,
5 or to merge their several individual accounts in a joint account,
6 maintain such joint account as if it constituted a single employer's
7 account.

8 (3) No employer's rate shall be lower than 5.4% unless
9 assignment of such lower rate is consistent with the conditions
10 applicable to additional credit allowance for such year under section
11 3303(a)(1) of the Internal Revenue Code of 1986 (26
12 U.S.C.s.3303(a)(1)), any other provision of this section to the
13 contrary notwithstanding.

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

27 (1) $2\frac{5}{10}\%$, if such excess equals or exceeds 4%, but less than
28 5%, of his average annual payroll (as defined in paragraph (2),
29 subsection (a) of R.S.43:21-19);

30 (2) $2\frac{2}{10}\%$, if such excess equals or exceeds 5%, but is less
31 than 6%, of his average annual payroll;

32 (3) $1\frac{9}{10}\%$, if such excess equals or exceeds 6%, but is less
33 than 7%, of his average annual payroll;

34 (4) $1\frac{6}{10}\%$, if such excess equals or exceeds 7%, but is less
35 than 8%, of his average annual payroll;

36 (5) $1\frac{3}{10}\%$, if such excess equals or exceeds 8%, but is less
37 than 9%, of his average annual payroll;

38 (6) 1%, if such excess equals or exceeds 9%, but is less than
39 10%, of his average annual payroll;

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

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

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

- 1 (1) 4%, if such excess is less than 10% of his average annual
2 payroll;
- 3 (2) $4\frac{3}{10}\%$, if such excess equals or exceeds 10%, but is less
4 than 20%, of his average annual payroll;
- 5 (3) $4\frac{6}{10}\%$, if such excess equals or exceeds 20% of his
6 average annual payroll.
- 7 (C) Specially assigned rates.
- 8 (i) If no contributions were paid on wages for employment in
9 any calendar year used in determining the average annual payroll of
10 an employer eligible for an assigned rate under this paragraph (4),
11 the employer's rate shall be specially assigned as follows:
- 12 if the reserve balance in its account is positive, its assigned rate
13 shall be the highest rate in effect for positive balance accounts for
14 that period, or 5.4%, whichever is higher, and
- 15 if the reserve balance in its account is negative, its assigned rate
16 shall be the highest rate in effect for deficit accounts for that period.
- 17 (ii) If, following the purchase of a corporation with little or no
18 activity, known as a corporate shell, the resulting employing unit
19 operates a new or different business activity, the employing unit
20 shall be assigned a new employer rate.
- 21 (iii) Entities operating under common ownership, management or
22 control, when the operation of the entities is not identifiable,
23 distinguishable and severable, shall be considered a single employer
24 for the purposes of this chapter (R.S. 43:21-1 et seq.).
- 25 (D) The contribution rates prescribed by subparagraphs (A) and
26 (B) of this paragraph (4) shall be increased or decreased in
27 accordance with the provisions of paragraph (5) of this subsection
28 (c) for experience rating periods through June 30, 1986.
- 29 (5) (A) Unemployment Trust Fund Reserve Ratio. If on March
30 31 of any calendar year the balance in the unemployment trust fund
31 equals or exceeds 4% but is less than 7% of the total taxable wages
32 reported to the controller as of that date in respect to employment
33 during the preceding calendar year, the contribution rate, effective
34 July 1 following, of each employer eligible for a contribution rate
35 calculation based upon benefit experience, shall be increased by
36 $\frac{3}{10}$ of 1% over the contribution rate otherwise established under
37 the provisions of paragraph (3) or (4) of this subsection. If on
38 March 31 of any calendar year the balance of the unemployment
39 trust fund exceeds $2\frac{1}{2}\%$ but is less than 4% of the total taxable
40 wages reported to the controller as of that date in respect to
41 employment during the preceding calendar year, the contribution
42 rate, effective July 1 following, of each employer eligible for a
43 contribution rate calculation based upon benefit experience, shall be
44 increased by $\frac{6}{10}$ of 1% over the contribution rate otherwise
45 established under the provisions of paragraph (3) or (4) of this
46 subsection.

1 If on March 31 of any calendar year the balance of the
2 unemployment trust fund is less than 2 1/2% of the total taxable
3 wages reported to the controller as of that date in respect to
4 employment during the preceding calendar year, the contribution
5 rate, effective July 1 following, of each employer (1) eligible for a
6 contribution rate calculation based upon benefit experience, shall be
7 increased by (i) 6/10 of 1% over the contribution rate otherwise
8 established under the provisions of paragraph (3), (4)(A) or (4)(B)
9 of this subsection, and (ii) an additional amount equal to 20% of the
10 total rate established herein, provided, however, that the final
11 contribution rate for each employer shall be computed to the nearest
12 multiple of 1/10% if not already a multiple thereof; (2) not eligible
13 for a contribution rate calculation based upon benefit experience,
14 shall be increased by 6/10 of 1% over the contribution rate
15 otherwise established under the provisions of paragraph (4) of this
16 subsection. For the period commencing July 1, 1984 and ending
17 June 30, 1986, the contribution rate for each employer liable to pay
18 contributions under R.S.43:21-7 shall be increased by a factor of
19 10% computed to the nearest multiple of 1/10% if not already a
20 multiple thereof.

21 (B) If on March 31 of any calendar year the balance in the
22 unemployment trust fund equals or exceeds 10% but is less than 12
23 1/2% of the total taxable wages reported to the controller as of that
24 date in respect to employment during the preceding calendar year,
25 the contribution rate, effective July 1 following, of each employer
26 eligible for a contribution rate calculation based upon benefit
27 experience, shall be reduced by 3/10 of 1% under the contribution
28 rate otherwise established under the provisions of paragraphs (3)
29 and (4) of this subsection; provided that in no event shall the
30 contribution rate of any employer be reduced to less than 4/10 of
31 1%. If on March 31 of any calendar year the balance in the
32 unemployment trust fund equals or exceeds 12 1/2% of the total
33 taxable wages reported to the controller as of that date in respect to
34 employment during the preceding calendar year, the contribution
35 rate, effective July 1 following, of each employer eligible for a
36 contribution rate calculation based upon benefit experience, shall be
37 reduced by 6/10 of 1% if his account for all past periods reflects an
38 excess of contributions paid over total benefits charged of 3% or
39 more of his average annual payroll, otherwise by 3/10 of 1% under
40 the contribution rate otherwise established under the provisions of
41 paragraphs (3) and (4) of this subsection; provided that in no event
42 shall the contribution rate of any employer be reduced to less than
43 4/10 of 1%.

44 (C) The "balance" in the unemployment trust fund, as the term is
45 used in subparagraphs (A) and (B) above, shall not include moneys
46 credited to the State's account under section 903 of the Social
47 Security Act, as amended (42 U.S.C.s.1103), during any period in

1 which such moneys are appropriated for the payment of expenses
 2 incurred in the administration of the "unemployment compensation
 3 law."

4 (D) Prior to July 1 of each calendar year the controller shall
 5 determine the Unemployment Trust Reserve Ratio, which shall be
 6 calculated by dividing the balance of the unemployment trust fund
 7 as of the prior March 31 by total taxable wages reported to the
 8 controller by all employers as of March 31 with respect to their
 9 employment during the last calendar year.

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

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

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

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

14 (v) [With respect to the experience rating year beginning on
 15 July 1, 2003, the new employer rate or the unemployment
 16 experience rate of an employer under this section shall be the rate
 17 which appears in the column headed by the Unemployment Trust
 18 Fund Reserve Ratio as of the applicable calculation date and on the
 19 line with the Employer Reserve Ratio, as defined in paragraph 4 of
 20 this subsection (R.S.43:21-7 (c)(4)), as set forth in the following
 21 table:

22 EXPERIENCE RATING TAX TABLE

23 Fund Reserve Ratio¹

	2.50%	2.00%	1.50%	1.00%	0.99%
Employer	and	to	to	to	and
Reserve	Over	2.49%	1.99%	1.49%	Under
Ratio ²	A	B	C	D	E
29 Positive Reserve Ratio:					
30 17% and over	0.3	0.4	0.5	0.6	1.2
31 16.00% to 16.99%	0.4	0.5	0.6	0.6	1.2
32 15.00% to 15.99%	0.4	0.6	0.7	0.7	1.2
33 14.00% to 14.99%	0.5	0.6	0.7	0.8	1.2
34 13.00% to 13.99%	0.6	0.7	0.8	0.9	1.2
35 12.00% to 12.99%	0.6	0.8	0.9	1.0	1.2
36 11.00% to 11.99%	0.7	0.8	1.0	1.1	1.2
37 10.00% to 10.99%	0.9	1.1	1.3	1.5	1.6
38 9.00% to 9.99%	1.0	1.3	1.6	1.7	1.9
39 8.00% to 8.99%	1.3	1.6	1.9	2.1	2.3
40 7.00% to 7.99%	1.4	1.8	2.2	2.4	2.6
41 6.00% to 6.99%	1.7	2.1	2.5	2.8	3.0
42 5.00% to 5.99%	1.9	2.4	2.8	3.1	3.4
43 4.00% to 4.99%	2.0	2.6	3.1	3.4	3.7
44 3.00% to 3.99%	2.1	2.7	3.2	3.6	3.9
45 2.00% to 2.99%	2.2	2.8	3.3	3.7	4.0
46 1.00% to 1.99%	2.3	2.9	3.4	3.8	4.1
47 0.00% to 0.99%	2.4	3.0	3.6	4.0	4.3

1	Deficit Reserve Ratio:					
2	-0.00% to -2.99%	3.4	4.3	5.1	5.6	6.1
3	-3.00% to -5.99%	3.4	4.3	5.1	5.7	6.2
4	-6.00% to -8.99%	3.5	4.4	5.2	5.8	6.3
5	-9.00% to-11.99%	3.5	4.5	5.3	5.9	6.4
6	-12.00% to-14.99%	3.6	4.6	5.4	6.0	6.5
7	-15.00% to-19.99%	3.6	4.6	5.5	6.1	6.6
8	-20.00% to-24.99%	3.7	4.7	5.6	6.2	6.7
9	-25.00% to-29.99%	3.7	4.8	5.6	6.3	6.8
10	-30.00%to-34.99%	3.8	4.8	5.7	6.3	6.9
11	-35.00% and under	5.4	5.4	5.8	6.4	7.0
12	New Employer Rate	2.8	2.8	2.8	3.1	3.4

13 ¹Fund balance as of March 31 as a percentage of taxable wages
 14 in the prior calendar year.

15 ²Employer Reserve Ratio (Contributions minus benefits as a
 16 percentage of employer's taxable wages). **】 (Deleted by amendment,**
 17 **P.L. _____, c. _____)**

18 (vi) With respect to experience rating years beginning on or after
 19 July 1, 2004, the new employer rate or the unemployment
 20 experience rate of an employer under this section shall be the rate
 21 which appears in the column headed by the Unemployment Trust
 22 Fund Reserve Ratio as of the applicable calculation date and on the
 23 line with the Employer Reserve Ratio, as defined in paragraph 4 of
 24 this subsection (R.S.43:21-7 (c)(4)), as set forth in the following
 25 table:

26
 27 **EXPERIENCE RATING TAX TABLE**

28 **Fund Reserve Ratio¹**

30		1.40%	1.00%	0.75%	0.50%	0.49%
31	Employer	and	to	to	to	and
32	Reserve	Over	1.39%	0.99%	0.74%	Under
33	Ratio ²	A	B	C	D	E
34	Positive Reserve Ratio:					
35	17% and over	0.3	0.4	0.5	0.6	1.2
36	16.00% to 16.99%	0.4	0.5	0.6	0.6	1.2
37	15.00% to 15.99%	0.4	0.6	0.7	0.7	1.2
38	14.00% to 14.99%	0.5	0.6	0.7	0.8	1.2
39	13.00% to 13.99%	0.6	0.7	0.8	0.9	1.2
40	12.00% to 12.99%	0.6	0.8	0.9	1.0	1.2
41	11.00% to 11.99%	0.7	0.8	1.0	1.1	1.2
42	10.00% to 10.99%	0.9	1.1	1.3	1.5	1.6
43	9.00% to 9.99%	1.0	1.3	1.6	1.7	1.9
44	8.00% to 8.99%	1.3	1.6	1.9	2.1	2.3
45	7.00% to 7.99%	1.4	1.8	2.2	2.4	2.6
46	6.00% to 6.99%	1.7	2.1	2.5	2.8	3.0
47	5.00% to 5.99%	1.9	2.4	2.8	3.1	3.4

1	4.00% to 4.99%	2.0	2.6	3.1	3.4	3.7
2	3.00% to 3.99%	2.1	2.7	3.2	3.6	3.9
3	2.00% to 2.99%	2.2	2.8	3.3	3.7	4.0
4	1.00% to 1.99%	2.3	2.9	3.4	3.8	4.1
5	0.00% to 0.99%	2.4	3.0	3.6	4.0	4.3
6	Deficit Reserve Ratio:					
7	-0.00% to -2.99%	3.4	4.3	5.1	5.6	6.1
8	-3.00% to -5.99%	3.4	4.3	5.1	5.7	6.2
9	-6.00% to -8.99%	3.5	4.4	5.2	5.8	6.3
10	-9.00% to-11.99%	3.5	4.5	5.3	5.9	6.4
11	-12.00% to-14.99%	3.6	4.6	5.4	6.0	6.5
12	-15.00% to-19.99%	3.6	4.6	5.5	6.1	6.6
13	-20.00% to-24.99%	3.7	4.7	5.6	6.2	6.7
14	-25.00% to-29.99%	3.7	4.8	5.6	6.3	6.8
15	-30.00% to-34.99%	3.8	4.8	5.7	6.3	6.9
16	-35.00% and under	5.4	5.4	5.8	6.4	7.0
17	New Employer Rate	2.8	2.8	2.8	3.1	3.4

18 ¹Fund balance as of March 31 as a percentage of taxable wages
19 in the prior calendar year.

20 ²Employer Reserve Ratio (Contributions minus benefits as a
21 percentage of employer's taxable wages).

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

23 (ii) **[**With respect to experience rating years beginning on or
24 after July 1, 1997, if the fund reserve ratio, based on the fund
25 balance as of the prior March 31, is less than 1.00%, the
26 contribution rate for each employer liable to pay contributions, as
27 computed under subparagraph (E) of this paragraph (5), shall be
28 increased by a factor of 10% computed to the nearest multiple of
29 1/10% if not already a multiple thereof.**]** (Deleted by amendment,
30 P.L. , c.)

31 (iii) With respect to experience rating years beginning on or after
32 July 1, 2004, if the fund reserve ratio, based on the fund balance as
33 of the prior March 31, is less than 0.50%, the contribution rate for
34 each employer liable to pay contributions, as computed under
35 subparagraph (E) of this paragraph (5), shall be increased by a
36 factor of 10% computed to the nearest multiple of 1/10% if not
37 already a multiple thereof.

38 (G) On or after January 1, 1993, notwithstanding any other
39 provisions of this paragraph (5), the contribution rate for each
40 employer liable to pay contributions, as computed under
41 subparagraph (E) of this paragraph (5), shall be decreased by 0.1%,
42 except that, during any experience rating year starting before
43 January 1, 1998 in which the fund reserve ratio is equal to or greater
44 than 7.00% or during any experience rating year starting on or after
45 January 1, 1998, in which the fund reserve ratio is equal to or
46 greater than 3.5%, there shall be no decrease pursuant to this

1 subparagraph (G) in the contribution of any employer who has a
2 deficit reserve ratio of negative 35.00% or under.

3 (H) [On or after January 1, 1993 until December 31, 1993,
4 notwithstanding any other provisions of this paragraph (5), the
5 contribution rate for each employer liable to pay contributions, as
6 computed under subparagraph (E) of this paragraph (5), shall be
7 decreased by a factor of 52.0% computed to the nearest multiple of
8 1/10%, except that, if an employer has a deficit reserve ratio of
9 negative 35.0% or under, the employer's rate of contribution shall
10 not be reduced pursuant to this subparagraph (H) to less than 5.4%.
11 The amount of the reduction in the employer contributions
12 stipulated by this subparagraph (H) shall be in addition to the
13 amount of the reduction in the employer contributions stipulated by
14 subparagraph (G) of this paragraph (5), except that the rate of
15 contribution of an employer who has a deficit reserve ratio of
16 negative 35.0% or under shall not be reduced pursuant to this
17 subparagraph (H) to less than 5.4% and the rate of contribution of
18 any other employer shall not be reduced to less than 0.0%. On or
19 after January 1, 1994 until December 31, 1995, except as provided
20 pursuant to subparagraph (I) of this paragraph (5), notwithstanding
21 any other provisions of this paragraph (5), the contribution rate for
22 each employer liable to pay contributions, as computed under
23 subparagraph (E) of this paragraph (5), shall be decreased by a
24 factor of 36.0% computed to the nearest multiple of 1/10%, except
25 that, if an employer has a deficit reserve ratio of negative 35.0% or
26 under, the employer's rate of contribution shall not be reduced
27 pursuant to this subparagraph (H) to less than 5.4%. The amount of
28 the reduction in the employer contributions stipulated by this
29 subparagraph (H) shall be in addition to the amount of the reduction
30 in the employer contributions stipulated by subparagraph (G) of this
31 paragraph (5), except that the rate of contribution of an employer
32 who has a deficit reserve ratio of negative 35.0% or under shall not
33 be reduced pursuant to this subparagraph (H) to less than 5.4% and
34 the rate of contribution of any other employer shall not be reduced
35 to less than 0.0%.

36 On or after April 1, 1996 until December 31, 1996, the
37 contribution rate for each employer liable to pay contributions, as
38 computed under subparagraph (E) of this paragraph (5), shall be
39 decreased by a factor of 25.0% computed to the nearest multiple of
40 1/10%, except that, if an employer has a deficit reserve ratio of
41 negative 35.0% or under, the employer's rate of contribution shall
42 not be reduced pursuant to this subparagraph (H) to less than 5.4%.
43 The amount of the reduction in the employer contributions
44 stipulated by this subparagraph (H) shall be in addition to the
45 amount of the reduction in the employer contributions stipulated by
46 subparagraph (G) of this paragraph (5), except that the rate of
47 contribution of an employer who has a deficit reserve ratio of

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

4 On or after January 1, 1997 until December 31, 1997, the
5 contribution rate for each employer liable to pay contributions, as
6 computed under subparagraph (E) of this paragraph (5), shall be
7 decreased by a factor of 10.0% computed to the nearest multiple of
8 1/10%, except that, if an employer has a deficit reserve ratio of
9 negative 35.0% or under, the employer's rate of contribution shall
10 not be reduced pursuant to this subparagraph (H) to less than 5.4%.
11 The amount of the reduction in the employer contributions
12 stipulated by this subparagraph (H) shall be in addition to the
13 amount of the reduction in the employer contributions stipulated by
14 subparagraph (G) of this paragraph (5), except that the rate of
15 contribution of an employer who has a deficit reserve ratio of
16 negative 35.0% or under shall not be reduced pursuant to this
17 subparagraph (H) to less than 5.4% and the rate of contribution of
18 any other employer shall not be reduced to less than 0.0%.**】**
19 (Deleted by amendment, P.L. ____, c. __)

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

28 From January 1, 1998 until December 31, 1998, a factor of 12%;
29 From January 1, 1999 until December 31, 1999, a factor of 10%;
30 From January 1, 2000 until December 31, 2000, a factor of 7%;
31 From January 1, 2002 until March 31, 2002, a factor of 36%;
32 From April 1, 2002 until June 30, 2002, a factor of 85%;
33 From July 1, 2002 until June 30, 2003, a factor of 15%;
34 From July 1, 2003 until June 30, 2004, a factor of 15%;
35 From July 1, 2004 until June 30, 2005, a factor of 7%;
36 From July 1, 2005 until December 31, 2005, a factor of 16%; and
37 From January 1, 2006 until June 30, 2006, a factor of 34%.

38 The amount of the reduction in the employer contributions
39 stipulated by this subparagraph (H) shall be in addition to the
40 amount of the reduction in the employer contributions stipulated by
41 subparagraph (G) of this paragraph (5), except that the rate of
42 contribution of an employer who has a deficit reserve ratio of
43 negative 35.0% or under shall not be reduced pursuant to this
44 subparagraph (H) to less than 5.4% and the rate of contribution of
45 any other employer shall not be reduced to less than 0.0%.

46 (I) **【**If the fund reserve ratio decreases to a level of less than
47 4.00% on March 31 of calendar year 1994 or calendar year 1995,

1 the provisions of subparagraph (H) of this paragraph (5) shall cease
2 to be in effect as of July 1 of that calendar year.

3 If, upon calculating the unemployment compensation fund
4 reserve ratio pursuant to R.S.43:21-7(c)(5)(D) prior to March 31,
5 1997, March 31, 1998 or March 31, 1999, the controller finds that
6 the fund reserve ratio has decreased to a level of less than 3.00%,
7 the Commissioner of Labor and Workforce Development shall
8 notify the State Treasurer of this fact and of the dollar amount
9 necessary to bring the fund reserve ratio up to a level of 3.00%.
10 The State Treasurer shall, prior to March 31, 1997, March 31, 1998
11 or March 31, 1999, as applicable, transfer from the General Fund to
12 the unemployment compensation fund, revenues in the amount
13 specified by the commissioner and which, upon deposit in the
14 unemployment compensation fund, shall result, upon recalculation,
15 in a fund reserve ratio used to determine employer contributions
16 beginning July 1, 1997, July 1, 1998, July 1, 1999, as applicable, of
17 at least 3.00%. If, upon calculating the unemployment
18 compensation fund reserve ratio pursuant to R.S.43:21-7(c)(5)(D)
19 prior to March 31, 2000, the controller finds that the fund reserve
20 ratio has decreased to a level of less than 3.00%, the Commissioner
21 of Labor and Workforce Development shall notify the State
22 Treasurer of this fact and of the dollar amount necessary to bring
23 the fund reserve ratio up to a level of 3.00%. The State Treasurer
24 shall, prior to March 31, 2000, transfer from the General Fund to
25 the unemployment compensation fund, revenues in the amount
26 specified by the commissioner and which, upon deposit in the
27 unemployment compensation fund, shall result, upon recalculation,
28 in a fund reserve ratio used to determine employer contributions
29 beginning July 1, 2000 of at least 3.00%.] (Deleted by amendment,
30 P.L. , c.)

31 (J) On or after July 1, 2001, notwithstanding any other
32 provisions of this paragraph (5), the contribution rate for each
33 employer liable to pay contributions, as computed under
34 subparagraph (E) of this paragraph (5), shall be decreased by
35 0.0175%, except that, during any experience rating year starting on
36 or after July 1, 2001, in which the fund reserve ratio is equal to or
37 greater than 3.5%, there shall be no decrease pursuant to this
38 subparagraph (J) in the contribution of any employer who has a
39 deficit reserve ratio of negative 35.00% or under. The amount of the
40 reduction in the employer contributions stipulated by this
41 subparagraph (J) shall be in addition to the amount of the reduction
42 in the employer contributions stipulated by subparagraphs (G) and
43 (H) of this paragraph (5), except that the rate of contribution of an
44 employer who has a deficit reserve ratio of negative 35.0% or under
45 shall not be reduced pursuant to this subparagraph (J) to less than
46 5.4% and the rate of contribution of any other employer shall not be
47 reduced to less than 0.0%.

1 (6) Additional contributions.

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

28 (7) Transfers.

29 (A) Upon the transfer of the organization, trade or business, or
30 substantially all the assets of an employer to a successor in interest,
31 whether by merger, consolidation, sale, transfer, descent or
32 otherwise, the controller shall transfer the employment experience
33 of the predecessor employer to the successor in interest, including
34 credit for past years, contributions paid, annual payrolls, benefit
35 charges, et cetera, applicable to such predecessor employer,
36 pursuant to regulation, if it is determined that the employment
37 experience of the predecessor employer with respect to the
38 organization, trade, assets or business which has been transferred
39 may be considered indicative of the future employment experience
40 of the successor in interest. The successor in interest may, within
41 four months of the date of such transfer of the organization, trade,
42 assets or business, or thereafter upon good cause shown, request a
43 reconsideration of the transfer of employment experience of the
44 predecessor employer. The request for reconsideration shall
45 demonstrate, to the satisfaction of the controller, that the
46 employment experience of the predecessor is not indicative of the
47 future employment experience of the successor.

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

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

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

39 (E) The transfer of part of an employer's employment experience
40 to a successor in interest shall become effective as of the first day of
41 the calendar quarter following the acquisition by the successor in
42 interest. As of the effective date, the successor in interest shall
43 have its employer rate recalculated by merging its existing
44 employment experience, if any, with the employment experience
45 acquired. If the successor in interest is not an employer as of the
46 date of acquisition, it shall be assigned the new employer rate until
47 the effective date of the transfer of employment experience.

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

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

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

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

34 (C) (i) Notwithstanding the above provisions of this paragraph
35 (1), during the period starting July 1, 1986 and ending December
36 31, 1992, each worker shall contribute to the fund 1.125% of wages
37 paid with respect to his employment with a governmental employer
38 electing or required to pay contributions or nongovernmental
39 employer, including a nonprofit organization which is an employer
40 as defined under R.S.43:21-19(h)(6), regardless of whether that
41 nonprofit organization elects or is required to finance its benefit
42 costs with contributions to the fund or by payments in lieu of
43 contributions, after that employer has satisfied the conditions set
44 forth in subsection R.S.43:21-19(h) with respect to becoming an
45 employer. Contributions, however, shall be at the rate of 0.625%
46 while the worker is covered by an approved private plan under the
47 "Temporary Disability Benefits Law" while the worker is exempt

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

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

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

41 Each worker shall, starting on January 1, 1996 and ending March
42 31, 1996, contribute to the unemployment compensation fund
43 0.60% of wages paid with respect to the worker's employment with
44 a governmental employer electing or required to pay contributions
45 or nongovernmental employer, including a nonprofit organization
46 which is an employer as defined under paragraph (6) of subsection
47 (h) of R.S.43:21-19, regardless of whether that nonprofit

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

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

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

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

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

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

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

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

1 shall thereafter be liable for such contributions, and for the purpose
2 of R.S.43:21-14, such contributions shall be treated as employer's
3 contributions required from him.

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

7 (G) (i) Each worker shall, starting on July 1, 1994, contribute to
8 the State disability benefits fund an amount equal to 0.50% of
9 wages paid with respect to the worker's employment with a
10 government employer electing or required to pay contributions to
11 the State disability benefits fund or nongovernmental employer,
12 including a nonprofit organization which is an employer as defined
13 under paragraph (6) of subsection (h) of R.S.43:21-19, unless the
14 employer is covered by an approved private disability plan or is
15 exempt from the provisions of the "Temporary Disability Benefits
16 Law," P.L.1948, c.110 (C.43:21-25 et seq.) under section 7 of that
17 law (C.43:21-31) or any other provision of that law.

18 (ii) During calendar year 2008, each worker shall contribute to
19 the State disability benefits fund, in addition to any amount
20 contributed pursuant to subparagraph (i) of this subparagraph (G),
21 an amount equal to 0.1% of wages paid with respect to the worker's
22 employment with any covered employer, including a governmental
23 employer which is an employer as defined under paragraph (5) of
24 subsection (h) of R.S.43:21-19, unless the employer is covered by
25 an approved private disability plan. The contributions made
26 pursuant to this subparagraph (ii) to the State disability benefits
27 fund shall be deposited into an account reserved for the payment of
28 benefits during periods of family disability leave as defined in
29 section 3 of the "Temporary Disability Benefits Law," P.L.1948,
30 c.110 (C.43:21-27) and for the administration of those payments
31 and shall not be used for any other purpose. For calendar year 2009
32 and each calendar year after that year, the Commissioner of Labor
33 and Workforce Development shall make a determination of the
34 annual rate of contribution to be paid by workers pursuant to this
35 paragraph (ii), which shall be the rate that the commissioner finds
36 sufficient to obtain a total amount of contributions equal to 125% of
37 the benefits estimated by the commissioner to be payable for
38 periods of family disability leave during the calendar year plus
39 100% of the amount estimated by the commissioner to be necessary
40 for the cost of administration of the payment of those benefits, less
41 the amount estimated by the commissioner of net assets which will
42 remain in the account as of December 31 of the immediately
43 preceding year. Necessary administration costs shall include the
44 cost of an outreach program to inform employees of the availability
45 of the benefits and the cost of issuing annual reports on usage rates,
46 reasons for leave, benefits paid, demographics of participants, and
47 other relevant information as determined by the commissioner.

- 1 (2) (A) (Deleted by amendment, P.L.1984, c.24.)
2 (B) (Deleted by amendment, P.L.1984, c.24.)
3 (C) (Deleted by amendment, P.L.1994, c.112.)
4 (D) (Deleted by amendment, P.L.1994, c.112.)
5 (E) (i) (Deleted by amendment, P.L.1994, c.112.)
6 (ii) (Deleted by amendment, P.L.1996, c.28.)
7 (iii) (Deleted by amendment, P.L.1994, c.112.)
8 (3) If an employee receives wages from more than one employer
9 during any calendar year, and either the sum of his contributions
10 deposited in and credited to the State disability benefits fund plus
11 the amount of his contributions, if any, required towards the costs
12 of benefits under one or more approved private plans under the
13 provisions of section 9 of the "Temporary Disability Benefits Law"
14 (C.43:21-33) and deducted from his wages, or the sum of such latter
15 contributions, if the employee is covered during such calendar year
16 only by two or more private plans, exceeds an amount equal to 1/2
17 of 1% of the "wages" determined in accordance with the provisions
18 of R.S.43:21-7(b)(3) during the calendar years beginning on or after
19 January 1, 1976, the employee shall be entitled to a refund of the
20 excess if he makes a claim to the controller within two years after
21 the end of the calendar year in which the wages are received with
22 respect to which the refund is claimed and establishes his right to
23 such refund. Such refund shall be made by the controller from the
24 State disability benefits fund. No interest shall be allowed or paid
25 with respect to any such refund. The controller shall, in accordance
26 with prescribed regulations, determine the portion of the aggregate
27 amount of such refunds made during any calendar year which is
28 applicable to private plans for which deductions were made under
29 section 9 of the "Temporary Disability Benefits Law" (C.43:21-33)
30 such determination to be based upon the ratio of the amount of such
31 wages exempt from contributions to such fund, as provided in
32 subparagraph (B) of paragraph (1) of this subsection with respect to
33 coverage under private plans, to the total wages so exempt plus the
34 amount of such wages subject to contributions to the disability
35 benefits fund, as provided in subparagraph (G) of paragraph (1) of
36 this subsection. The controller shall, in accordance with prescribed
37 regulations, prorate the amount so determined among the applicable
38 private plans in the proportion that the wages covered by each plan
39 bear to the total private plan wages involved in such refunds, and
40 shall assess against and recover from the employer, or the insurer if
41 the insurer has indemnified the employer with respect thereto, the
42 amount so prorated. The provisions of R.S.43:21-14 with respect to
43 collection of employer contributions shall apply to such
44 assessments. The amount so recovered by the controller shall be
45 paid into the State disability benefits fund.
46 (4) If an individual does not receive any wages from the
47 employing unit which for the purposes of this chapter (R.S.43:21-1

1 et seq.) is treated as his employer, or receives his wages from some
2 other employing unit, such employer shall nevertheless be liable for
3 such individual's contributions in the first instance; and after
4 payment thereof such employer may deduct the amount of such
5 contributions from any sums payable by him to such employing
6 unit, or may recover the amount of such contributions from such
7 employing unit, or, in the absence of such an employing unit, from
8 such individual, in a civil action; provided proceedings therefor are
9 instituted within three months after the date on which such
10 contributions are payable. General rules shall be prescribed
11 whereby such an employing unit may recover the amount of such
12 contributions from such individuals in the same manner as if it were
13 the employer.

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

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

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

25 (1) Except as hereinafter provided, each employer shall, in
26 addition to the contributions required by subsections (a), (b), and
27 (c) of this section, contribute 1/2 of 1% of the wages paid by such
28 employer to workers with respect to employment unless he is not a
29 covered employer as defined in section 3 of the "Temporary
30 Disability Benefits Law" (C.43:21-27 (a)), except that the rate for
31 the State of New Jersey shall be 1/10 of 1% for the calendar year
32 1980 and for the first six months of 1981. Prior to July 1, 1981 and
33 prior to July 1 each year thereafter, the controller shall review the
34 experience accumulated in the account of the State of New Jersey
35 and establish a rate for the next following fiscal year which, in
36 combination with worker contributions, will produce sufficient
37 revenue to keep the account in balance; except that the rate so
38 established shall not be less than 1/10 of 1%. Such contributions
39 shall become due and be paid by the employer to the controller for
40 the State disability benefits fund as established by law, in
41 accordance with such regulations as may be prescribed, and shall
42 not be deducted, in whole or in part, from the remuneration of
43 individuals in his employ. In the payment of any contributions, a
44 fractional part of a cent shall be disregarded unless it amounts to
45 \$0.005 or more, in which case it shall be increased to \$0.01.

46 (2) During the continuance of coverage of a worker by an
47 approved private plan of disability benefits under the "Temporary

1 Disability Benefits Law," the employer shall be exempt from the
2 contributions required by subparagraph (1) above with respect to
3 wages paid to such worker.

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

7 (B) A separate disability benefits account shall be maintained for
8 each employer required to contribute to the State disability benefits
9 fund and such account shall be credited with contributions
10 deposited in and credited to such fund with respect to employment
11 occurring on and after January 1, 1949. Each employer's account
12 shall be credited with all contributions paid on or before January 31
13 of any calendar year on his own behalf and on behalf of individuals
14 in his service with respect to employment occurring in preceding
15 calendar years; provided, however, that if January 31 of any
16 calendar year falls on a Saturday or Sunday an employer's account
17 shall be credited as of January 31 of such calendar year with all the
18 contributions which he has paid on or before the next succeeding
19 day which is not a Saturday or Sunday. But nothing in this act shall
20 be construed to grant any employer or individuals in his service
21 prior claims or rights to the amounts paid by him to the fund either
22 on his own behalf or on behalf of such individuals. Benefits paid to
23 any covered individual in accordance with Article III of the
24 "Temporary Disability Benefits Law" on or before December 31 of
25 any calendar year with respect to disability in such calendar year
26 and in preceding calendar years shall be charged against the account
27 of the employer by whom such individual was employed at the
28 commencement of such disability or by whom he was last
29 employed, if out of employment.

30 (C) The controller may prescribe regulations for the
31 establishment, maintenance, and dissolution of joint accounts by
32 two or more employers, and shall, in accordance with such
33 regulations and upon application by two or more employers to
34 establish such an account, or to merge their several individual
35 accounts in a joint account, maintain such joint account as if it
36 constituted a single employer's account.

37 (D) Prior to July 1 of each calendar year, the controller shall
38 make a preliminary determination of the rate of contribution for the
39 12 months commencing on such July 1 for each employer subject to
40 the contribution requirements of this subsection (e).

41 (1) Such preliminary rate shall be 1/2 of 1% unless on the
42 preceding January 31 of such year such employer shall have been a
43 covered employer who has paid contributions to the State disability
44 benefits fund with respect to employment in the three calendar
45 years immediately preceding such year.

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

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

7 (ii) $\frac{15}{100}$ of 1% if such excess over \$500.00 equals or exceeds
8 $1\frac{1}{4}$ % but is less than $1\frac{1}{2}$ % of his average annual payroll;

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

11 (3) If the minimum requirements in (1) above have been
12 fulfilled and the contributions credited exceed the benefits charged
13 but by not more than \$500.00 plus 1% of his average annual
14 payroll, or if the benefits charged exceed the contributions credited
15 but by not more than \$500.00, the preliminary rate shall be $\frac{1}{4}$ of
16 1%.

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

20 (i) $\frac{35}{100}$ of 1% if such excess over \$500.00 is less than $\frac{1}{4}$ of
21 1% of his average annual payroll;

22 (ii) $\frac{45}{100}$ of 1% if such excess over \$500.00 equals or exceeds
23 $\frac{1}{4}$ of 1% but is less than $\frac{1}{2}$ of 1% of his average annual payroll;

24 (iii) $\frac{55}{100}$ of 1% if such excess over \$500.00 equals or exceeds
25 $\frac{1}{2}$ of 1% but is less than $\frac{3}{4}$ of 1% of his average annual payroll;

26 (iv) $\frac{65}{100}$ of 1% if such excess over \$500.00 equals or exceeds
27 $\frac{3}{4}$ of 1% but is less than 1% of his average annual payroll;

28 (v) $\frac{75}{100}$ of 1% if such excess over \$500.00 equals or exceeds
29 1% of his average annual payroll.

30 (5) Determination of the preliminary rate as specified in (2), (3)
31 and (4) above shall be subject, however, to the condition that it
32 shall in no event be decreased by more than $\frac{1}{10}$ of 1% of wages or
33 increased by more than $\frac{2}{10}$ of 1% of wages from the preliminary
34 rate determined for the preceding year in accordance with (1), (2),
35 (3) or (4), whichever shall have been applicable.

36 (E) (1) Prior to July 1 of each calendar year the controller shall
37 determine the amount of the State disability benefits fund as of
38 December 31 of the preceding calendar year, increased by the
39 contributions paid thereto during January of the current calendar
40 year with respect to employment occurring in the preceding
41 calendar year. If such amount exceeds the net amount withdrawn
42 from the unemployment trust fund pursuant to section 23 of the
43 "Temporary Disability Benefits Law," P.L.1948, c.110 (C.43:21-47)
44 plus the amount at the end of such preceding calendar year of the
45 unemployment disability account as defined in section 22 of said
46 law (C.43:21-46), such excess shall be expressed as a percentage of
47 the wages on which contributions were paid to the State disability

1 benefits fund on or before January 31 with respect to employment
2 in the preceding calendar year.

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

7 (i) If the percentage determined in accordance with paragraph
8 (E)(1) of this subsection equals or exceeds $1\frac{1}{4}\%$, the final
9 employer rates shall be the preliminary rates determined as
10 provided in (D) hereof, except that if the employer's preliminary
11 rate is determined as provided in (D)(2) or (D)(3) hereof, the final
12 employer rate shall be the preliminary employer rate decreased by
13 such percentage of excess taken to the nearest $\frac{5}{100}$ of 1%, but in
14 no case shall such final rate be less than $\frac{1}{10}$ of 1%.

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

19 (iii) If the percentage determined in accordance with paragraph
20 (E)(1) of this subsection is less than $\frac{3}{4}$ of 1%, but in excess of $\frac{1}{4}$
21 of 1%, the final employer rates shall be the preliminary employer
22 rates determined as provided in (D) hereof increased by the
23 difference between $\frac{3}{4}$ of 1% and such percentage taken to the
24 nearest $\frac{5}{100}$ of 1%; provided, however, that no such final rate
25 shall be more than $\frac{1}{4}$ of 1% in the case of an employer whose
26 preliminary rate is determined as provided in (D)(2) hereof, more
27 than $\frac{1}{2}$ of 1% in the case of an employer whose preliminary rate is
28 determined as provided in (D)(1) and (D)(3) hereof, nor more than
29 $\frac{3}{4}$ of 1% in the case of an employer whose preliminary rate is
30 determined as provided in (D)(4) hereof.

31 (iv) If the amount of the State disability benefits fund determined
32 as provided in paragraph (E)(1) of this subsection is equal to or less
33 than $\frac{1}{4}$ of 1%, then the final rate shall be $\frac{2}{5}$ of 1% in the case of
34 an employer whose preliminary rate is determined as provided in
35 (D)(2) hereof, $\frac{7}{10}$ of 1% in the case of an employer whose
36 preliminary rate is determined as provided in (D)(1) and (D)(3)
37 hereof, and 1.1% in the case of an employer whose preliminary rate
38 is determined as provided in (D)(4) hereof. Notwithstanding any
39 other provision of law or any determination made by the controller
40 with respect to any 12-month period commencing on July 1, 1970,
41 the final rates for all employers for the period beginning January 1,
42 1971, shall be as set forth herein.

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

1 the average worker would pay less than \$1.00 per week in
2 assessments. In each successive year, the Commissioner of Labor
3 and Workforce Development would set a contribution rate for
4 workers based on estimates of the expected cost of benefits and
5 administration, less funds left over from the preceding year. The
6 funds raised through that assessment would be deposited into an
7 account to be used only for family leave benefits and their
8 administration, including the cost of an outreach program to eligible
9 employees and the cost of issuing annual reports on the use of the
10 benefits. Neither the assessments nor the benefits would be
11 considered in determining the TDI tax rates of employers.

12 Finally, the bill reaffirms the State's commitment to sustaining
13 the State-operated, nonprofit State disability benefits plan, which
14 has been found to be a highly efficient and cost-effective means of
15 ensuring the availability of coverage for employers and workers
16 with low overhead costs and impartial claims processing.

ASSEMBLY LABOR COMMITTEE

STATEMENT TO

ASSEMBLY COMMITTEE SUBSTITUTE FOR **ASSEMBLY, No. 873**

STATE OF NEW JERSEY

DATED: FEBRUARY 28, 2008

The Assembly Labor Committee reports favorably an Assembly Committee Substitute for Assembly Bill No. 873.

This Assembly Committee Substitute extends the State's existing temporary disability insurance (TDI) system to provide workers with family temporary disability leave benefits to care for members of the worker's family unable to care for themselves, including sick family members and newborn and newly adopted children.

The substitute bill provides up to six weeks of TDI benefits for a worker taking leave to participate in providing care certified to be necessary for a family member of the worker suffering a serious health condition, including providing psychological comfort and arranging third party care for the family member, or taking leave to be with a child of the worker during the first 12 months after the child's birth or placement for adoption with the worker's family.

The bill applies to all private and governmental employers subject to the "unemployment compensation law" (R.S.43:21-1 et seq.), including local governmental employers who choose to opt out of the regular TDI program.

The weekly benefit amount paid under the bill is the same as the weekly amount for TDI benefits during a worker's own disability and is subject to the same one-week waiting period. The employer may require that the employee take up to two weeks of available sick or vacation pay or other fully-paid leave provided by the employer before receiving benefits under the bill, and may require that the period of benefits under this bill be reduced by the amount of time in which fully paid leave is provided. If the employee is required to take fully paid leave, the bill requires that the employee be permitted to use the first week's worth of the fully paid leave during the one-week waiting period that precedes the family leave benefits. If the leave is for care of a child after birth or adoption, the employee is required to give at least 30 days prior notice, except when unforeseeable circumstances prevent that prior notice. If the leave is for the care for sick family members, the employee is required to schedule, when possible, the leave in a manner to minimize disruption of employer operations, and give, if possible, 15 days prior notice for leave which is intermittent.

Employees are required to take benefits provided under the bill concurrently with any unpaid leave taken under the State “Family Leave Act,” P.L.1989, c.261 (C.34:11B-1 et seq.) or the federal “Family and Medical Leave Act of 1993,” Pub.L.103-3 (29U.S.C. s.2601 et seq.). The bill does not grant employees any entitlement to be restored by employers to employment held prior to taking family temporary disability leave or any right to take action against an employer who refuses to restore the employee to employment and does not increase, reduce or modify any employee entitlements or rights provided by the “Family Leave Act” or the federal “Family and Medical Leave Act of 1993.”

The bill provides that the collection of an assessment on employees to pay for family temporary disability leave benefits will commence on January 1, 2009 and that the payment of family leave benefits will commence on July 1, 2009. During 2009, the bill will raise revenues necessary to pay the benefits through an assessment paid by workers of 0.09% of the portion of each worker's wages subject to TDI taxes. In 2010 and subsequent years, the rate would be 0.12%. If the 0.12% assessment rate were applied to the \$27,700 of a worker's wage which is taxable in 2008, the maximum annual assessment paid by a worker would be \$33, approximately 64 cents per week. The funds raised through that assessment would be deposited into an account to be used only for family leave benefits and their administration, including the cost of an outreach program to eligible employees and the cost of issuing annual reports on the use of the benefits. Neither the assessments nor the benefits would be considered in determining the TDI tax rates of employers. The bill permits the Department of Labor and Workforce Development to borrow up to \$25 million from the TDI fund for start-up costs of the program, including the costs of setting up the revenue collection system, and requires the borrowed amount to be repaid by 2015.

The bill provides that, as with TDI, employers would have the option of using the State-operated plan or a private plan through self-insurance or an insurance policy, so long as employees are not charged more, the benefits are not lower and eligibility is not more restrictive than under the State plan. The bill provides that private plans may cover TDI benefits, family leave benefits, both or neither. The bill requires no changes in existing private plans.

Finally, the bill reaffirms the State's commitment to sustaining the State-operated, nonprofit State disability benefits plan, which has been found to be a highly efficient and cost-effective means of ensuring the availability of coverage for employers and workers with low overhead costs and impartial claims processing.

As reported, this Assembly Committee Substitute is identical to Senate Bill No. 786(1R).

ASSEMBLY APPROPRIATIONS COMMITTEE

STATEMENT TO

ASSEMBLY COMMITTEE SUBSTITUTE FOR **ASSEMBLY, No. 873**

with Assembly committee amendments

STATE OF NEW JERSEY

DATED: MARCH 10, 2008

The Assembly Appropriations Committee reports favorably Assembly Bill No. 873 (ACS), with committee amendments.

This bill, as amended, extends the State's existing temporary disability insurance (TDI) system to provide workers with family temporary disability leave benefits to care for members of the worker's family unable to care for themselves, including sick family members and newborn and newly adopted children.

The bill provides up to six weeks of TDI benefits for a worker taking leave to participate in providing care certified to be necessary for a family member of the worker suffering a serious health condition, or taking leave to be with a child of the worker during the first 12 months after the child's birth or placement for adoption with the worker's family.

The bill applies to all private and governmental employers subject to the "unemployment compensation law" (R.S.43:21-1 et seq.), including local governmental employees who choose to opt out of the regular TDI program.

The weekly benefit amount paid under the bill is the same as the weekly amount for TDI benefits during a worker's own disability and is subject to the same one-week waiting period. The employer may require that the employee take up to two weeks of available sick or vacation pay or other fully-paid leave provided by the employer before receiving benefits under the bill, and may require that the period of benefits under this bill be reduced by the amount of time in which fully paid leave is provided. If the employee is required to take fully paid leave, the bill requires that the employee be permitted to use the first week's worth of the fully paid leave during the one-week waiting period that precedes the family leave benefits.

If the leave is for care of a child after birth or adoption, the employee is required to give at least 30 days prior notice, except when unforeseeable circumstances prevent that prior notice. If the leave is for the care for sick family members, the employee is required to schedule, when possible, the leave in a manner to minimize disruption

of employer operations, and give, if possible, 15 days prior notice for leave which is intermittent. Intermittent leave is provided in increments of not less than one day. Employees are required to take benefits provided under the bill concurrently with any unpaid leave taken under the State "Family Leave Act," P.L.1989, c.261 (C.34:11B-1 et seq.) or the federal "Family and Medical Leave Act of 1993," Pub.L.103-3 (29 U.S.C. s.2601 et seq.).

The bill does not grant employees any entitlement to be restored by employers to employment held prior to taking family temporary disability leave or any right to take action against an employer who refuses to restore the employee to employment and does not increase, reduce or modify any employee entitlements or rights provided by the "Family Leave Act" or the federal "Family and Medical Leave Act of 1993". The bill provides that if an employee receives family leave benefits under the bill with respect to employment with an employer who is not an employer as defined in the State "Family Leave Act" and that employer fails or refuses to restore the employee to employment after the period of family leave benefits, that failure or refusal shall not be a wrongful discharge in violation of a clear mandate of public policy, and the employee shall not have a cause of action against that employer, in tort, or for breach of an implied provision of the employment agreement, or under common law, for that failure or refusal. The bill affirms as the reason for treating periods of family leave benefits differently from periods of worker disability that, while the Legislature recognizes the pressing need for benefits for workers taking leave to care for family members incapable of self-care, it also finds that the need of workers for leave during their own disability continues to be especially acute, as a disabled worker has less discretion about taking time off from work than a worker caring for a family member.

The bill provides that the collection of an assessment on employees to pay for family temporary disability leave benefits will commence on January 1, 2009 and that the payment of family leave benefits will commence on July 1, 2009. During 2009, the bill will raise revenues necessary to pay the benefits through an assessment paid by workers of 0.09% of the portion of each worker's wages subject to TDI taxes. In 2010 and subsequent years, the rate would be 0.12%. If the 0.12% assessment rate were applied to the \$27,700 of a worker's wage which is taxable in 2008, the maximum annual assessment paid by a worker would be \$33, approximately 64 cents per week. The funds raised through that assessment would be deposited into an account to be used only for family leave benefits and their administration, including the cost of an outreach program to eligible employees and the cost of issuing annual reports on the use of the benefits. The bill permits the Department of Labor and Workforce Development to borrow up to \$25 million from the TDI fund for start-up costs of the program, including the costs of setting up the revenue collection system, and

requires the borrowed amount to be repaid by 2015. No family leave benefits, assessments or loans under the bill will be considered in determining the TDI tax rates of employers, ensuring that the bill has no effect on employer TDI tax rates.

The bill increase the penalties for misrepresentations, fraud and other violations regarding both the existing TDI program and the family temporary disability benefit program established by the bill. Penalties for knowingly making a false statement or knowingly failing to disclose a material fact to improperly obtain benefits or avoid paying benefits or taxes are increased from \$20 to \$250 per statement or non-disclosure. Penalties for other willful violations of the TDI law or the bills are increased from \$50 to \$500 and additional penalties for violations with intent to defraud the program are increased from not more than \$250 to not more than \$1,000.

The bill provides that, as with TDI, employers would have the option of using the State-operated plan or a private plan though self-insurance or an insurance policy, so long as employees are not charged more, the benefits are not lower and eligibility is not more restrictive than under the State plan. The bill provides that private plans may cover TDI benefits, family leave benefits, both or neither. The bill requires no changes in existing private plans.

Finally, the bill reaffirms the State's commitment to sustaining the State-operated, nonprofit State disability benefits plan, which has been found to be a highly efficient and cost-effective means of ensuring the availability of coverage for employers and workers with low overhead costs and impartial claims processing.

As amended and reported, this bill is identical to S-786 (1R) as also amended and reported by the committee.

FISCAL IMPACT:

The Office of Legislative Services (OLS) notes that the cost of the benefits provided under this bill are paid for from assessments on employees' wages. This bill, therefore, will have no impact on the State General Fund.

The bill assesses an additional tax on that portion of an employee's wages that are subject to the State TDI tax. Beginning January 1, 2009, the additional tax rate would be 0.09 percent and will increase to 0.12 percent on January 1, 2010. The revenue generated by this additional tax will be deposited into the Family Temporary Disability Leave Account within the State TDI fund. Paid Family Leave (PFL) benefits would be made available from this account beginning July 1, 2009. An amount not to exceed \$25 million may be transferred from the State TDI fund to the new account to support start-up costs. Any such transferred funds must be repaid starting January 1, 2011 and must be completely repaid by December 31, 2015.

Benefit Costs

The OLS estimates that approximately 38,200 people may file claims under this program in 2009, but since the program is only operable during the second half of the first year, the actual experience should be approximately 19,100 claims (half of the total expected for CY 2009). The estimate of claims is extrapolated using CY 2005 NJ TDI eligible pregnancy claims (the most recent available) and analyzing California's experience (the only other state to have a currently operating Paid Family Leave program). The number of estimated claims will need to be adjusted upward in future years to reflect the actual increase in covered employment and benefit rates.

Each claimant is eligible for six weeks of PFL at the same rate as TDI benefits. The average weekly benefit for PFL for 2009 is estimated to be \$415. The experience in California indicates that the average claimant takes 5.5 weeks PFL. Therefore, the total benefit cost of PFL for CY 2009 is \$43.6 million (19,100 claimants multiplied by \$415 is equal to \$7.9 million; 5.5 weeks multiplied by \$7.9 million is \$43.6 million). The PFL benefits for CY 2010 and 2011 are calculated in the same manner and are estimated to total \$90.4 million and \$94 million, respectively.

Administrative Costs

According to the department, estimated administrative costs will be \$5.2 million for CY 2009. The first year may have unforeseen costs associated with the establishment of the program and the administration of the benefits in the second half of the year only. Some of these costs may be covered by the \$25 million maximum that may be borrowed by PFL from the TDI fund.

Repayment of Start Up Costs to TDI fund

The department has previously indicated that a repayment schedule of \$2.5 million per year for the five years, as permitted under the bill, would be followed. It is uncertain at this time what amount will be borrowed from the TDI fund to establish the program.

Estimated Revenue

The revenue to fund the PFL program will be generated from an additional employee only tax on wages subject to the TDI tax, approximately \$27,700 in CY 2008. The maximum cost of the PFL program to an employee, assuming the CY 2008 wages of \$27,700, will be \$25 in CY 2009 and \$33 for CY 2010.

The department has estimated that taxable wages subject to the TDI tax would equal \$82.1 billion in CY 2009, \$86.1 billion in CY 2010 and \$89.9 billion in CY 2011.

Based on these estimated taxable wages, the OLS estimates that \$64.5 million in revenue will be raised in CY2009 (at a tax rate equal to 0.09 percent), and \$97.4 million in CY 2010 and \$104.2 million in CY 2011 (at a tax rate equal to 0.12 percent).

In summary, the OLS estimates that the revenue generated from the PFL tax will adequately fund the costs associated with the program, for the time period addressed in this estimate.

COMMITTEE AMENDMENTS:

The committee amendments:

1. Provide that if an employee receives family leave benefits under the bill with respect to employment with an employer who is not an employer as defined in the State “Family Leave Act,” P.L.1989, c.261 (C.34:11B-1 et seq.), and that employer fails or refuses to restore the employee to employment after the period of family leave benefits, that failure or refusal shall not be a wrongful discharge in violation of a clear mandate of public policy, and the employee shall not have a cause of action against that employer, in tort, or for breach of an implied provision of the employment agreement, or under common law, for that failure or refusal;

2. Affirm that while the Legislature recognizes the pressing need for benefits for workers taking leave to care for family members incapable of self-care, it also finds that the need of workers for leave during their own disability continues to be especially acute, as a disabled worker has less discretion about taking time off from work than a worker caring for a family member. The amendments further affirm that, notwithstanding any interpretation of law which may be construed as providing a worker with rights to take action against an employer who fails or refuses to restore the worker to employment after the worker’s own disability, the Legislature does not intend that the policy established by the bill of providing family leave benefits be construed as granting any worker an entitlement to be restored by the employer to employment held by the worker prior to taking family leave or any right to take action, in tort, or for breach of an implied provision of the employment agreement, or under common law, against an employer who fails or refuses to restore the worker to employment after the leave, and the Legislature does not intend that the policy of providing family leave benefits be construed as increasing, reducing or otherwise modifying any entitlement of a worker to return to employment or right of the worker to take action under the provisions of the State “Family Leave Act” or the federal “Family and Medical Leave Act of 1993,” Pub.L.103-3 (29 U.S.C. s.2601 et seq.).

3. Eliminate references in the bill to “providing psychological comfort and arranging third party care for the family members” as part of the care of family members during periods of leave covered by the bill, instead indicating that care covered by the bills is the same as is defined and provided in the State “Family Leave Act,” and regulations adopted pursuant to that act; and

4. Increase the penalties for misrepresentations, fraud and other violations regarding both the existing TDI program and the family

temporary disability benefit program established by the bill. Penalties for knowingly making a false statement or knowingly failing to disclose a material fact to improperly obtain benefits or avoid paying benefits or taxes are increased from \$20 to \$250 per statement or non-disclosure. Penalties for other willful violations of the TDI law or the bills are increased from \$50 to \$500 and additional penalties for violations with intent to defraud the program are increased from not more than \$250 to not more than \$1,000.

5. Provide that employer TDI taxes will be calculated as if no funds are loaned from the regular TDI fund to the “Family Temporary Disability Leave Account,” effectively ensuring that the loans will not result in any increase in employer TDI tax payments.

LEGISLATIVE FISCAL ESTIMATE

[First Reprint]

ASSEMBLY COMMITTEE SUBSTITUTE FOR

ASSEMBLY, No. 873

STATE OF NEW JERSEY

213th LEGISLATURE

DATED: APRIL 11, 2008

SUMMARY

- Synopsis:** Extends TDI to provide family leave benefits for workers caring for sick family members, newborn and newly adopted children.
- Type of Impact:** Expenditure increase offset by revenue increase in the newly created Family Temporary Disability Leave Account within the State disability benefits fund. No impact on the State General Fund.
- Agencies Affected:** Department of Labor and Workforce Development.

Office of Legislative Services Estimate*

Fiscal Impact	Calendar Year 2009	Calendar Year 2010	Calendar Year 2011
State Cost	\$48.8 million	\$97.6 million	\$103.9 million
State Revenue	\$64.5 million	\$97.4 million	\$104.2 million
Family Temporary Disability Leave Account Balance	\$15.7 million**	\$15.5 million	\$15.8 million

*This estimate does not include the amount up to \$25 million that may be borrowed (and must be paid back, beginning in 2011) from the State disability benefits fund to support start up costs.

** See page two for projected balances.

- The Office of Legislative Services (OLS) estimates that the cost of the benefits provided under this bill are paid for from assessments on employees' wages, for the time period addressed in this estimate. This bill, therefore, will have no impact on the State General Fund.

BILL DESCRIPTION

Assembly Committee Substitute (1R) for Assembly Bill No. 873 of 2008 extends the current State temporary disability insurance (TDI) system to provide any eligible worker with up to 6 weeks of paid family leave during the first 12 months after the birth or adoption of a child, or to

care for a family member with a serious medical condition. The bill would apply to all private and government sector employers that are subject to the unemployment compensation law, including local government employers who currently choose to opt out of the regular TDI program. The bill would not apply to federal government employees.

The bill assesses an additional tax on that portion of an employee's wages that are subject to the State TDI tax. Beginning January 1, 2009, the additional tax rate would be 0.09 percent and will increase to 0.12 percent on January 1, 2010. The revenue generated by this additional tax will be deposited into the Family Temporary Disability Leave Account within the State TDI fund. Paid Family Leave (PFL) benefits would be made available from this account beginning July 1, 2009. An amount not to exceed \$25 million will be transferred from the State TDI fund to the new account to support start-up costs. Any such transferred funds must be repaid starting January 1, 2011 and must be completely repaid by December 31, 2015. The program would not affect the General Fund.

FISCAL ANALYSIS

OFFICE OF LEGISLATIVE SERVICES

The OLS estimates that the costs of the PFL program will be entirely paid by revenue generated through the employee only tax, for the time period addressed in this estimate.

The Department of Labor and Workforce Development (department) did not provide a formal estimate for A-873 (ACS (1R)). However, the department conducted an analysis and evaluation of previous similar legislation in October, 2007 (S-2249 (1R)). This analysis included the evaluation of a six week PFL program with available data. Much of that information has been shared by the department with the OLS and is relied on heavily for this analysis.

Paid Family Leave Program - 6 Weeks of Benefits

Estimated Costs and Revenues¹

(in millions of dollars)

	<u>CY 2009</u>	<u>CY 2010</u>	<u>CY 2011</u>
Beginning Balance	0	15.7	15.5
Benefit Costs	43.6 (six months)	90.4	94
Administrative Costs	5.2	7.2	7.5
Payback of start up costs	0	0	2.4
Total Estimated Costs	48.8	97.6	103.9
Estimated Revenue	64.5	97.4	104.2
Estimated Year-End Balance	15.7	15.5	15.8

¹This estimate does not include the amount up to \$25 million that may be borrowed (and must be paid back) from the TDI fund to support start up costs.

Benefit Costs:

In order to determine the costs of the program, it is imperative to first estimate how many individuals may participate in the program. The OLS estimates that 38,200 people would be expected to file claims in 2009, but the program is only available for the second half of that year, so the actual experience that year should be approximately 19,100 claims (half of the total expected claims for CY 2009).

The estimate of 38,200 claims was extrapolated using CY 2005 NJ TDI eligible pregnancy claims (the most recent available) and analyzing California's experience (the only other state to have a Paid Family Leave program). The CY 2005 data indicate that 37,200 people would have filed claims if the program had been in effect that year. Twenty-nine thousand people would have participated under birth and adoption claims and 5,000 claims would have been made for care of sick family members. In addition, 3,200 claims would have been made by laid off individuals. (If a person who is laid off and receiving unemployment insurance (UI) benefits, becomes eligible for PFL through birth, adoption or family care, they may stop collecting UI benefits and start collecting PFL benefits. This will have minimal to no effect on unemployment insurance costs because it does not extend the current 26 weeks of eligibility for unemployment insurance.) Thus, the total claimants for 2005 would have been 37,200 (29,000 + 5,000 + 3,200). Each year the number of estimated claims will need to be adjusted upward to reflect the actual increase in covered employment and benefit rates as estimated by the department. In total, the estimated claims will be 19,100 in the second half of 2009, 38,300 in 2010 and 38,500 in 2011.

Each claimant is eligible for six weeks of PFL at the same rate as TDI benefits. The average weekly benefit for PFL for 2009 is estimated to be \$415. The experience in California indicates that the average claimant takes 5.5 weeks PFL. Therefore, the total benefit cost of PFL for CY 2009 is \$43.6 million (19,100 claimants multiplied by \$415 is equal to \$7.9 million; 5.5 weeks multiplied by \$7.9 million is \$43.6 million). The PFL benefits for CY 2010 and 2011 are calculated in the same manner.

Administrative Costs

The department in its October, 2007 analysis estimated that administrative costs would be \$5.2 million for CY 2009. The first year may have unforeseen costs associated with the establishment of the program and the administration of the benefits in the second half of the year only. Some of these costs may be covered by the \$25 million maximum that may be borrowed by PFL from the TDI fund.

Payback of Start Up Costs

The department in its October, 2007 analysis estimated that a payback schedule of \$2.5 million per year for the five years permitted under A-873 ACS (1R)) would be followed. It is uncertain at this time what amount will be borrowed from the TDI fund to establish the program.

Estimated Revenue

The revenue to fund the PFL program would be generated from an additional employee only tax on wages subject to the TDI tax, approximately \$27,700 in CY 2008. The maximum cost of the PFL program to an employee, assuming the CY2008 wages of \$27,700, will be \$25 in CY 2009 and \$33 for CY 2010.

The department in its October, 2007 analysis estimated that taxable wages subject to the TDI tax would equal \$82.1 billion in CY 2009, \$86.1 billion in CY 2010 and \$89.9 billion in CY 2011.

The department further estimated that the collection rate for this tax will equal 97 percent. In addition, the revenue collected as of December 31, 2009 represents approximately 90 percent of the total 2009 taxable wages because tax revenue is actually collected from April through March. Thus in the following years, each CY estimated revenue represents $\frac{3}{4}$ of the collection for that year in addition to $\frac{1}{4}$ of the previous year. Based on these estimated taxable wages, the OLS estimates that \$64.5 million in revenue will be raised in CY 2009 (when the tax rate would equal 0.09 percent), \$97.4 million in CY 2010 and \$104.2 million in CY 2011 (when the tax rate would equal 0.12 percent).

In summary, the OLS estimates that the revenue generated from the PFL tax will adequately fund the costs associated with the program, for the time period addressed in this estimate.

Section: Commerce, Labor and Industry
Analyst: Robin C. Ford
Assistant 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 (C. 52:13B-1 et seq.).

SENATE, No. 786

STATE OF NEW JERSEY 213th LEGISLATURE

INTRODUCED JANUARY 24, 2008

Sponsored by:

Senator STEPHEN M. SWEENEY

District 3 (Salem, Cumberland and Gloucester)

Senator BARBARA BUONO

District 18 (Middlesex)

Co-Sponsored by:

Senator Redd

SYNOPSIS

Extends TDI to provide family leave benefits for workers caring for sick family members, newborn and newly adopted children.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 1/29/2008)

1 AN ACT providing benefits for family temporary disability leave,
2 amending R.S.43:21-4 and R.S.43:21-7, amending and
3 supplementing P.L.1948, c.110, and supplementing Title 54A of
4 the New Jersey Statutes.

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

8
9 1. Section 2 of P.L.1948, c.110 (C.43:21-26) is amended to
10 read as follows:

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

14 The public policy of this State, already established, is to protect
15 employees against the suffering and hardship generally caused by
16 involuntary unemployment. But the **[unemployment compensation**
17 **law]** "unemployment compensation law" provides benefit payments
18 to replace wage loss caused by involuntary unemployment only so
19 long as an individual is "able to work, and is available for work,"
20 and fails to provide any protection against wage loss suffered
21 because of inability to perform the duties of a job interrupted by
22 nonoccupational illness, injury, or other disability of the individual
23 or of members of the individual's family. Nor is there any other
24 comprehensive and systematic provision for the protection of
25 working people against loss of earnings due to a nonoccupational
26 sickness [or], accident, or other disability.

27 The prevalence and incidence of nonoccupational sickness
28 **[and], accident, and other disability** among employed people is
29 greatest among the lower income groups, who either cannot or will
30 not voluntarily provide out of their own resources against the
31 hazard of an earnings loss caused by nonoccupational sickness [or],
32 accident, or other disability. Disabling sickness or accident occurs
33 throughout the working population at one time or another, and
34 approximately fifteen per centum (15%) of the number of people at
35 work may be expected to suffer disabling illness of more than one
36 week each year.

37 It **[has been]** was found, prior to the enactment of the
38 "Temporary Disability Benefits Law," P.L.1948, c.110 (C.43:21-25
39 et seq.), that then existing voluntary plans for the payment of cash
40 sickness benefits **[cover]** covered less than one-half of the number
41 of working people of this State who **[are now]** were covered by the
42 **[unemployment compensation law,]** "unemployment compensation
43 law," and that even **[this]** that degree of voluntary protection

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 **[affords]** afforded uneven, unequal and sometimes uncertain
2 protection among the various voluntary benefit programs.

3 While the enactment of that law has provided stable protection
4 for New Jersey's disabled workers, very few workers are protected
5 from income losses caused by the need to take time off from work
6 to care for family members who are incapable of self-care,
7 including newborn and newly-adopted children. The growing
8 portion of middle-income families in which all adult family
9 members work, largely due to economic necessity, points to the
10 desperate need for replacement income when a working family
11 member must take time to care for family members who are unable
12 to take care of themselves. Moreover, the United States is the only
13 industrialized nation in the world which does not have a mandatory
14 workplace-based program for such income support. It is therefore
15 desirable and necessary to fill the gap in existing provisions for
16 protection against the loss of earnings caused by involuntary
17 unemployment, by extending such protection to meet the hazard of
18 earnings loss due to inability to work caused by nonoccupational
19 sickness **[or accident]**, accidents, or other disabilities of workers
20 and members of their families. Developing systems that help
21 families adapt to the competing interests of work and home not only
22 benefits workers, but also benefits employers by reducing employee
23 turnover and increasing worker productivity.

24 The foregoing facts and considerations require that there be a
25 uniform minimum program providing in a systematic manner for
26 the payment of reasonable benefits to replace partially such
27 earnings loss and to meet the continuing need for benefits where an
28 individual becomes disabled during unemployment or needs to care
29 for family members incapable of self-care. In order to maintain
30 consumer purchasing power, relieve the serious menace to health,
31 morals and welfare of the people caused by insecurity and the loss
32 of earnings, to reduce the necessity for public relief of needy
33 persons, to increase workplace productivity and alleviate the
34 enormous and growing stress on working families of balancing the
35 demands of work and family needs, and in the interest of the health,
36 welfare and security of the people of this State, such a system,
37 enacted under the police power, is hereby established, requiring the
38 payment of reasonable cash benefits to eligible individuals
39 **[suffering]** who are subject to accident or illness which is not
40 compensable under the **[workmen's]** worker's compensation law or
41 who need to care for family members incapable of self-care.

42 Since the enactment of the "Temporary Disability Benefits Law,"
43 P.L.1948, c.110 (C.43:21-25 et seq.), the State government-operated
44 State temporary disability benefits plan, or "State plan," has proven
45 to be highly efficient and cost effective in providing temporary
46 disability benefits to New Jersey workers. The State plan
47 guarantees the availability of coverage for all employers, regardless
48 of experience, with low overhead costs and a rapid processing of

1 claims and appeals by knowledgeable, impartial public employees.
2 Consequently, the percentage of all employers using the State plan
3 increased from 64% in 1952 to 98% in 2006, while the percentage
4 of employees covered by the State plan increased from 28% to 83%.
5 A publicly-operated, nonprofit State plan is therefore indispensable
6 to achieving the goals of the "Temporary Disability Benefits Law,"
7 P.L.1948, c.110 (C.43:21-25 et seq.).

8 (cf: P.L.1948, c.110, s.2)

9

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

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

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

33 "Covered employer" means, after June 30, 2009, with respect to
34 whether the employer is an employer whose employees are eligible
35 for benefits during periods of family temporary disability leave
36 pursuant to P.L.1948, c.110 (C.43:21-25 et seq.), and, after
37 December 31, 2008, whether employees of the employer are
38 required to make contributions pursuant to R.S.43:21-7(d)(1)(G)(ii),
39 any individual or type of organization, including any partnership,
40 association, trust, estate, joint-stock company, insurance company
41 or domestic or foreign corporation, or the receiver, trustee in
42 bankruptcy, trustee or successor thereof, or the legal representative
43 of a deceased person, who is an employer subject to the
44 "unemployment compensation law" (R.S.43:21-1 et seq.), including
45 any governmental entity or instrumentality which is an employer
46 under R.S.43:21-19(h)(5), notwithstanding that the governmental
47 entity or instrumentality has not elected to be a covered employer
48 pursuant to paragraph (2) of this subsection (a).

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

13 (b) (1) "Covered individual" means, with respect to whether an
14 individual is eligible for benefits during an individual's own
15 disability pursuant to P.L.1948, c.110 (C.43:21-25 et seq.), any
16 person who is in employment, as defined in the **[chapter to which**
17 **this act is a supplement]**, "unemployment compensation law"
18 (R.S.43:21-1 et seq.) for which the individual is entitled to
19 remuneration from a covered employer, or who has been out of such
20 employment for less than two weeks**[. However,]**, except that a
21 "covered individual" who is employed by the State of New Jersey,
22 including Rutgers, The State University, the University of Medicine
23 and Dentistry of New Jersey and the New Jersey Institute of
24 Technology, or by any governmental entity or instrumentality
25 which elects to become a "covered employer" pursuant to this
26 amendatory act, shall not be eligible to receive any benefits under
27 the "Temporary Disability Benefits Law" until such individual has
28 exhausted all sick leave accumulated as an employee in the
29 classified service of the State or accumulated under terms and
30 conditions similar to classified employees or accumulated under the
31 terms and conditions pursuant to the laws of this State or as the
32 result of a negotiated contract with any governmental entity or
33 instrumentality which elects to become a "covered employer."

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

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

1 (c) "Division" or "commission" means the Division of
2 **【Unemployment and】** Temporary Disability Insurance of the
3 Department of Labor and Workforce Development, and any
4 transaction or exercise of authority by the director of the division
5 shall be deemed to be performed by the division.

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

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

10 (f) "Disability benefits" shall mean any cash payments which
11 are payable to a covered individual for all or part of a period of
12 disability pursuant to this act.

13 (g) "Period of disability" with respect to any covered individual
14 shall mean **【the】**:

15 (1) The entire period of time during which the covered
16 individual is continuously and totally unable to perform the duties
17 of **【his】** the covered individual's employment because of the
18 covered individual's own disability, except that two periods of
19 disability due to the same or related cause or condition and
20 separated by a period of not more than 14 days shall be considered
21 as one continuous period of disability; provided the individual has
22 earned wages during such 14-day period with the employer who
23 was the individual's last employer immediately preceding the first
24 period of disability; and

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

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

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

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

34 (3) "Base week" with respect to periods of disability
35 commencing on or after October 1, 1985 and before January 1,
36 2001, means any calendar week during which **【an】** a covered
37 individual earned in employment from a covered employer
38 remuneration equal to not less than 20% of the Statewide average
39 weekly **【remuneration】** wage determined under subsection (c) of
40 R.S.43:21-3, which shall be adjusted to the next higher multiple of
41 \$1.00 if not already a multiple thereof.

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

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

10 (j) (1) "Average weekly wage" means the amount derived
11 by dividing a covered individual's total wages earned from the
12 individual's most recent covered employer during the base weeks in
13 the eight calendar weeks immediately preceding the calendar week
14 in which a period of disability commenced, by the number of such
15 base weeks.

16 (2) If **[this]** the computation in paragraph (1) of this subsection
17 (j) yields a result which is less than the individual's average weekly
18 earnings in employment**],** as defined in the chapter to which this act
19 is a supplement,**]** with all covered employers during the base weeks
20 in such eight calendar weeks, then the average weekly wage shall be
21 computed on the basis of earnings from all covered employers
22 during the **[eight]** base weeks in the eight calendar weeks
23 immediately preceding the week in which the period of disability
24 commenced.

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

39 When determining the "average weekly wage" with respect to a
40 period of family temporary disability leave for an individual who
41 has a period of family temporary disability immediately after the
42 individual has a period of disability for the individual's own
43 disability, the period of disability is deemed to have commenced at
44 the beginning of the period of disability for the individual's own
45 disability, not the period of family temporary disability.

46 (k) "Child" means a biological, adopted, or foster child,
47 stepchild or legal ward of a covered individual, child of a domestic
48 partner of the covered individual, or child of a civil union partner of

1 the covered individual, who is less than 19 years of age or is 19
2 years of age or older but incapable of self-care because of mental or
3 physical impairment.

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

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

8 (n) "Family member" means a child, spouse, domestic partner,
9 civil union partner or parent of a covered individual.

10 (o) "Family temporary disability leave" means leave taken by a
11 covered individual from work with an employer to (1) participate in
12 the providing of care for a family member of the individual made
13 necessary by a serious health condition of the family member,
14 including providing psychological comfort and arranging third party
15 care for the family member; or (2) be with a child during the first 12
16 months after the child's birth, if the individual, or the domestic
17 partner or civil union partner of the individual, is a biological parent
18 of the child, or the first 12 months after the placement of the child
19 for adoption with the individual. "Family temporary disability
20 leave" does not include any period of time in which a covered
21 individual is paid benefits pursuant to P.L.1948, c.110 (C.43:21-25
22 et seq.) because the individual is unable to perform the duties of the
23 individual's employment due to the individual's own disability.

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

27 (q) "Parent of a covered individual" means a biological parent,
28 foster parent, adoptive parent, or stepparent of the covered
29 individual or a person who was a legal guardian of the covered
30 individual when the covered individual was a child.

31 (r) "Placement for adoption" means the time when a covered
32 individual adopts a child or becomes responsible for a child pending
33 adoption by the covered individual.

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

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

44 (cf: P.L.2001, c.17, s. 3)

45

46 3. Section 5 of P.L.1948, c.110 (C.43:21-29) is amended to
47 read as follows:

1 5. Compensable disability. **【Disability】** (a) In the case of the
2 disability of a covered individual, disability shall be compensable
3 subject to the limitations of this act**【, where a】** if the disability is
4 the result of the covered individual **【suffers any】** suffering an
5 accident or sickness not arising out of and in the course of the
6 individual's employment or if so arising not compensable under the
7 workers' compensation law **【(Title 34 of the Revised Statutes)】**
8 R.S.34:15-1 et seq., and resulting in the individual's total inability
9 to perform the duties of employment.

10 (b) In the case of an individual taking family temporary
11 disability leave, the leave shall be compensable subject to the
12 limitations of P.L. c. (C.)(pending before the
13 Legislature as this bill).

14 (cf: P.L.1980, c.90, s.13)

15

16 4. Section 11 of P.L.1948, c.110 (C.43:21-35) is amended to
17 read as follows:

18 11. (a) If the division is furnished satisfactory evidence that a
19 majority of the employees covered by an approved private plan
20 have made election in writing to discontinue such plan, the division
21 shall withdraw its approval of such plan effective at the end of the
22 calendar quarter next succeeding that in which such evidence is
23 furnished. Upon receipt of a petition therefor signed by not less
24 than 10% of the employees covered by an approved private plan,
25 the division shall require the employer upon 30 days' written notice
26 to conduct an election by ballot in writing to determine whether or
27 not a majority of the employees covered by such private plan favor
28 discontinuance thereof; provided, that such election shall not be
29 required more often than once in any 12-month period.

30 (b) Unless sooner permitted, for cause, by the division, no
31 approved private plan shall be terminated by an employer, in whole
32 or in part, until at least 30 days after written notice of intention so
33 to do has been given by the employer to the division and after
34 notices are conspicuously posted so as reasonably to assure their
35 being seen, or after individual notices are given to the employees
36 concerned.

37 (c) The division may, after notice and hearing, withdraw its
38 approval of any approved private plan if it finds that there is danger
39 that the benefits accrued or to accrue will not be paid, that the
40 security for such payment is insufficient, or for other good cause
41 shown. No employer, and no union or association representing
42 employees, shall so administer or apply the provisions of an
43 approved private plan as to derive any profit therefrom. The
44 division may withdraw its approval from any private plan which is
45 administered or applied in violation of this provision.

46 (d) No termination of an approved private plan shall affect the
47 payment of benefits, in accordance with the provisions of the plan,

1 to [disabled] employees whose period of disability commenced
2 prior to the date of termination. Employees who have ceased to be
3 covered by an approved private plan because of its termination
4 shall, subject to the limitations and restrictions of this act, become
5 eligible forthwith for benefits from the State Disability Benefits
6 Fund for a period of disability commencing after such cessation,
7 and contributions with respect to their wages shall immediately
8 become payable as otherwise provided by law. Any withdrawal of
9 approval of a private plan pursuant to this section shall be
10 reviewable by writ of certiorari or by such other procedure as may
11 be provided by law. With respect to a period of family temporary
12 disability leave immediately after the individual has a period of
13 disability during the individual's own disability, the period of
14 disability is deemed, for the purposes of determining whether the
15 period of disability commenced prior to the date of the termination,
16 to have commenced at the beginning of the period of disability
17 during the individual's own disability, not the period of family
18 temporary disability leave.

19 (e) Anything in this act to the contrary notwithstanding, a
20 covered employer who, under an approved private plan, is
21 providing benefits at least equal to those required by the State plan,
22 may modify the benefits under the private plan so as to provide
23 benefits not less than the benefits required by the State plan[;
24 provided, that individuals]. Individuals covered under [such] a
25 private plan shall not be required to contribute to [such] the plan at
26 a rate exceeding 3/4 of 1% of the amount of "wages" established for
27 any calendar year under the provisions of R.S.43:21-7(b) prior to
28 January 1, 1975, and 1/2 of 1% for calendar years beginning on or
29 after January 1, 1975. For a calendar year beginning on or after
30 January 1, 2009: an employer providing a private plan only for
31 benefits for employees during their own disabilities may require the
32 employees to contribute to the plan at a rate not exceeding 0.5% of
33 the amount of "wages" established for the calendar year under the
34 provisions of R.S.43:21-7(b); an employer providing a private plan
35 only for benefits for employees during periods of family temporary
36 disability may require the individuals covered by the private plan to
37 contribute an amount not exceeding the amount the individuals
38 would pay pursuant to R.S.43:21-7(d)(1)(G)(ii); an employer
39 providing a private plan both for benefits for employees during their
40 own disabilities and for benefits during periods of family temporary
41 disability may require the employees to contribute to the plan at a
42 rate not exceeding 0.5% of the amount of "wages" established for
43 the calendar year under the provisions of R.S.43:21-7(b) plus an
44 additional amount not exceeding the amount the individuals would
45 pay pursuant to R.S.43:21-7(d)(1)(G)(ii). Notification of [such]
46 the proposed modification shall be given by the employer to the

1 division and to the individuals covered under **[such] the plan**[, on
2 or before May 1, 1975].

3 (cf: P.L.1974, c.86, s.8)

4

5 5. Section 14 of P.L.1948, c.110 (C.43:21-38) is amended to
6 read as follows:

7 14. Duration of benefits.

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

43 (cf: P.L.1984, c.104, s.2)

44

45 6. Section 15 of P.L.1948, c.110 (C.43:21-39) is amended to
46 read as follows:

47 15. Limitation of benefits. Notwithstanding any other provision
48 of the "Temporary Disability Benefits Law," P.L.1948, c.110

1 (C.43:21-25 et seq.), no benefits shall be payable under the State
2 plan to any **[person]** individual:

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

5 (1) if benefits shall be payable for three consecutive weeks with
6 respect to any period of disability **[commencing on or after January**
7 **1, 1968]**, then benefits shall also be payable with respect to the first
8 seven days thereof;

9 (2) in the case of intermittent leave in a single period of family
10 temporary disability leave taken to provide care for a family
11 member of the individual with a serious health condition, benefits
12 shall be payable with respect to the first day of leave taken after the
13 first one-week period following the commencement of the period of
14 family temporary disability leave and each subsequent day of leave
15 during that period of family temporary disability leave; and if
16 benefits become payable on any day after the first three weeks in
17 which leave is taken, then benefits shall also be payable with
18 respect to any leave taken during the first one-week period in which
19 leave is taken, and

20 (3) in the case of an individual taking family temporary
21 disability leave immediately after the individual has a period of
22 disability for the individual's own disability, there shall be no
23 waiting period between the period of the individual's own disability
24 and the period of family temporary disability.

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

27 (2) for more than six weeks with respect to any one period of
28 family temporary disability leave, or more than 42 days with respect
29 to any one period of family temporary disability leave taken on an
30 intermittent basis to provide care for a family member of the
31 individual with a serious health condition; and

32 (3) for more than six weeks of family temporary disability leave
33 during any 12-month period, or more than 42 days of family
34 temporary disability leave taken during any 12-month period, on an
35 intermittent basis to provide care for a family member of the
36 individual with a serious health condition, including family
37 temporary disability leave taken pursuant to R.S.43:21-4(f)(2) while
38 unemployed.

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

41 (d) for any period of disability of a claimant during which the
42 claimant is not under the care of a legally licensed physician,
43 dentist, optometrist, podiatrist, practicing psychologist, advanced
44 practice nurse, or chiropractor, who, when requested by the
45 division, shall certify within the scope of the practitioner's practice,
46 the disability of the claimant, the probable duration thereof, and,
47 where applicable, the medical facts within the practitioner's
48 knowledge or for any period of family temporary disability leave

1 for a serious health condition of a family member of the claimant,
2 the family member is not receiving inpatient care in a hospital,
3 hospice, or residential medical care facility or is not subject to
4 continuing medical treatment or continuing supervision by a health
5 care provider, who, when requested by the division, shall certify
6 within the scope of the provider's practice, the serious health
7 condition of the family member, the probable duration thereof, and,
8 where applicable, the medical facts within the provider's
9 knowledge;

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

11 (f) for any period of disability due to willfully and intentionally
12 self-inflicted injury, or to injury sustained in the perpetration by the
13 claimant of a crime of the first, second, or third degree;

14 (g) for any period during which the claimant performs any work
15 for remuneration or profit;

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

19 (i) for any period during which a covered individual would be
20 disqualified for unemployment compensation benefits under
21 subsection (d) of R.S.43:21-5, unless the disability commenced
22 prior to such disqualification; and there shall be no other cause of
23 disqualification or ineligibility to receive disability benefits
24 hereunder except as may be specifically provided in this act.

25 (cf: P.L.2004, c.168, s.2)

26

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

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

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

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

32 (d) (1) **【**With respect to periods of disability commencing on or
33 after October 1, 1984 and before January 1, 2001, no individual
34 shall be entitled to benefits under this act unless the individual has
35 established at least 20 base weeks within the 52 calendar weeks
36 preceding the week in which the individual's period of disability
37 commenced, or, in the alternative, the individual has earned twelve
38 times the Statewide average weekly remuneration paid to workers,
39 as determined under subsection (c) of R.S. 43:21-3, raised to the
40 next higher multiple of \$100.00, if not already a multiple thereof, or
41 more within the 52 calendar weeks preceding the week in which the
42 period of disability commenced, nor shall the individual be entitled
43 to benefits unless he shall duly file notice and proof of claim, and
44 submit to such reasonable examinations as are required by this act
45 and the rules and regulations of the division. **】** (Deleted by
46 amendment, P.L. , c.)(pending before the Legislature as this
47 bill)

1 (2) With respect to periods of disability commencing on or after
2 January 1, 2001, no individual shall be entitled to benefits under
3 this act unless the individual has, within the 52 calendar weeks
4 preceding the week in which the individual's period of disability
5 commenced, established at least 20 base weeks or earned not less
6 than 1,000 times the minimum wage in effect pursuant to section 5
7 of P.L.1996, c.113 (C.34:11-56a4) on October 1 of the calendar
8 year preceding the calendar year in which the disability commences,
9 which amount shall be adjusted to the next higher multiple of
10 \$100.00, if not already a multiple thereof.

11 (e) With respect to a period of family temporary disability leave
12 for an individual who has a period of family temporary disability
13 immediately after the individual has a period of disability for the
14 individual's own disability, the period of disability is deemed, for
15 the purposes of specifying the time of the 52-week period in which
16 base weeks or earnings are required to be established for benefit
17 eligibility pursuant to this subsection (e), to have commenced at the
18 beginning of the period of disability for the individual's own
19 disability, not the period of family temporary disability.

20 (cf: P.L.2001, c.17, s.4)

21

22 8. Section 31 of P.L.1948, c.110 (C.43:21-55) is amended to
23 read as follows:

24 31. Penalties. (a) Whoever makes a false statement or
25 representation knowing it to be false or knowingly fails to disclose
26 a material fact, and each such false statement or representation or
27 failure to disclose a material fact shall constitute a separate offense,
28 to obtain or increase any disability benefit under the State plan or
29 an approved private plan, or for a disability during unemployment,
30 including any benefit during a period of family temporary disability
31 leave, either for himself or for any other person, shall be liable for a
32 fine of twenty dollars (\$20.00) to be paid to the division. Upon
33 refusal to pay such fine, the same shall be recovered in a civil
34 action by the division in the name of the State of New Jersey. If in
35 any case liability for the payment of a fine as aforesaid shall be
36 determined, any person who shall have received any benefits
37 hereunder by reason of the making of such false statements or
38 representations or failure to disclose a material fact, shall not be
39 entitled to any benefits under this act for any disability occurring
40 prior to the time he shall have discharged his liability hereunder to
41 pay such fine.

42 (b) Any employer or any officer or agent of any employer or
43 any other person who makes a false statement or representation
44 knowing it to be false or knowingly fails to disclose a material fact,
45 to prevent or reduce the benefits to any person entitled thereto, or to
46 avoid becoming or remaining subject hereto or to avoid or reduce
47 any contribution or other payment required from an employer under
48 this act, or who willfully fails or refuses to make any such

1 contributions or other payment or to furnish any reports required
2 hereunder or to produce or permit the inspection or copying of
3 records as required hereunder, shall be liable for a fine of twenty
4 dollars (\$20.00) to be paid to the division. Upon refusal to pay such
5 fine, the same shall be recovered in a civil action by the division in
6 the name of the State of New Jersey.

7 (c) Any person who shall willfully violate any provision hereof
8 or any rule or regulation made hereunder, for which a fine is neither
9 prescribed herein nor provided by any other applicable statute, shall
10 be liable to a fine of fifty dollars (\$50.00) to be paid to the division.
11 Upon the refusal to pay such fine, the same shall be recovered in a
12 civil action by the division in the name of the State of New Jersey.

13 (d) Any person, employing unit, employer or entity violating
14 any of the provisions of the above subsections with intent to
15 defraud the division shall in addition to the penalties hereinbefore
16 described, be liable for each offense upon conviction before the
17 Superior Court or any municipal court for a fine not to exceed two
18 hundred fifty dollars (\$250.00) or by imprisonment for a term not to
19 exceed ninety days, or both, at the discretion of the court. The fine
20 upon conviction shall be payable to the State disability benefits
21 fund of the division. Any penalties imposed by this subsection shall
22 be in addition to those otherwise prescribed in this chapter
23 (R.S.43:21-1 et seq.).

24 (cf: P.L.1997, c.318, s.1.)

25

26 9. Section 2 of P.L.1997, c.318 (C.43:21-55.1) is amended to
27 read as follows:

28 2. (a) If it is determined by the division that an individual for
29 any reason has received, under the State plan, an approved private
30 plan or for a disability during unemployment, any sum of disability
31 benefits, including benefits during a period of family temporary
32 disability leave, to which the individual was not entitled, the
33 individual shall, except as provided in subsection (b) of this section,
34 be liable to repay the sum in full. Except as provided in subsection
35 (b) of this section, the sum that the individual is liable to repay shall
36 be deducted from future benefits payable to the individual under
37 this act (C.43:21-25 et seq.) or subsection (f) of R.S.43:21-4, or
38 shall be repaid by the individual to the division, the employer or the
39 insurer, and that sum shall be collectible in the manner provided for
40 by law, including, but not limited to, the filing of a certificate of
41 debt with the Clerk of the Superior Court of New Jersey; except that
42 no individual who does not knowingly misrepresent or withhold any
43 material fact to obtain benefits shall be liable for any repayments or
44 deductions against future benefits unless notified before four years
45 have elapsed from the time the benefits in question were paid. The
46 division shall promptly notify the individual by mail of the
47 determination and the reasons for the determination. Unless the
48 individual files an appeal of the determination within 20 calendar

1 days following the receipt of the notice, or, within 24 days after the
2 notice was mailed to the individual's last known address, the
3 determination shall be final.

4 (b) If the individual received the overpayment of benefits
5 because of error made by the division, the employer or the
6 physician, and if the individual did not knowingly misrepresent or
7 withhold any material fact to obtain the benefits, the following
8 limits shall apply:

9 (1) The amount withheld from any subsequent benefit check
10 shall be an amount not greater than 50% of the amount of the check;
11 and

12 (2) All repayments of the overpayments by the individual or the
13 estate of the individual shall be waived if the individual is deceased
14 or permanently disabled.

15 Any demand for repayment from an individual pursuant to this
16 subsection shall include an explanation of the provisions of this
17 subsection.

18 (cf: P.L.1997, c.318, s.2)

19

20 10. (New section) a. Family temporary disability leave shall be
21 compensable subject to the limitations of P.L.____, c.__ (C.__)
22 (pending before the Legislature as this bill) for any period of family
23 temporary disability leave taken by a covered individual which
24 commences after June 30, 2009.

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

29 c. The employer of an individual may permit or require the
30 individual, during a period of family temporary disability leave, to
31 use any paid sick leave, vacation time or other leave at full pay
32 made available by the employer before the individual is eligible for
33 disability benefits for family temporary disability leave pursuant to
34 P.L.____, c.__(C.__) (pending before the Legislature as this bill)
35 this act, except that the employer may not require the individual to
36 use more than two weeks worth of leave at full pay. The employer
37 may also have the total number of days worth of disability benefits
38 paid pursuant to P.L.____, c.__(C.__) (pending before the
39 Legislature as this bill) to the individual during a period of family
40 temporary disability leave reduced by the number of days of leave
41 at full pay paid by the employer to the individual during that period.
42 If the employer requires the individual to use leave at full pay, the
43 employee shall be permitted to take that fully-paid leave during the
44 waiting period required pursuant to subsection (a) of section 15 of
45 P.L.1948, c.110 (C.43:21-39). Nothing in P.L.____, c.__(C.__)
46 (pending before the Legislature as this bill) shall be construed as
47 nullifying any provision of an existing collective bargaining
48 agreement or employer policy, or preventing any new provision of a

1 collective bargaining agreement or employer policy, which provides
2 employees more generous leave or gives employees greater rights to
3 select which kind of leave is used or select the order in which the
4 different kinds of leave are used. Nothing in P.L. __, c. __ (C. __)
5 (pending before the Legislature as this bill) shall be construed as
6 preventing an employer from providing more generous benefits than
7 are provided under this act P.L. __, c. __ (C. __) (pending before the
8 Legislature as this bill) or providing benefits which supplement the
9 benefits provided under P.L. __, c. __ (C. __) (pending before the
10 Legislature as this bill) for some or all of the employer's
11 employees.

12 d. An individual who is entitled to leave under the provisions
13 of the "Family Leave Act," P.L.1989, c.261 (C.34:11B-1 et seq.) or
14 the federal "Family and Medical Leave Act of 1993," Pub.L.103-3
15 (29 U.S.C. s.2601 et seq.), shall take any benefits provided for
16 family temporary disability leave pursuant to P.L. __, c. __ (C. __)
17 (pending before the Legislature as this bill) concurrently with leave
18 taken pursuant to the Family Leave Act, P.L.1989, c.261
19 (C.34:11B-1 et seq.) or the federal "Family and Medical Leave Act
20 of 1993," Pub.L.103-3 (29 U.S.C. s.2601 et seq.). Nothing in
21 P.L. __, c. __ (C. __) (pending before the Legislature as this bill)
22 shall be construed to grant an employee any entitlement to be
23 restored by the employer to employment held by the employee prior
24 to taking family or any right to take action against an employer who
25 refuses to restore the employee to employment after the leave.
26 Nothing in P.L. __, c. __ (C. __) (pending before the Legislature as
27 this bill) shall be construed to increase, reduce or otherwise modify
28 any entitlement of an employee to return to employment or right of
29 the employee to take action under the provisions of the "Family
30 Leave Act," P.L.1989, c.261 (C.34:11B-1 et seq.) or the federal
31 "Family and Medical Leave Act of 1993," Pub.L.103-3 (29 U.S.C.
32 s.2601 et seq.).

33 e. An employee taking family temporary disability leave or an
34 employer from whom the employee is taking the leave shall have
35 the same right to appeal a determination of a benefit for the family
36 temporary disability leave made under this act as an employee or
37 employer has to appeal a determination of a benefit for the
38 disability of the employee under the "Temporary Disability Benefits
39 Law," P.L.1948, c.110 (C.43:21-26 et seq., and any regulations
40 adopted pursuant to the "Temporary Disability Benefits Law,"
41 P.L.1948, c.110 (C.43:21-26 et seq.).

42 f. In the event of a period of family temporary disability leave
43 of any individual covered under the State plan, the employer shall,
44 not later than the ninth day of the period of family temporary
45 disability leave, including any waiting period or time in which the
46 employer provides sick leave, vacation or other fully paid leave,
47 issue to the individual and to the division printed notices on
48 division forms containing the name, address and Social Security

1 number of the individual, such wage information as the division
2 may require to determine the individual's eligibility for benefits,
3 including any sick pay, vacation or other fully paid time off
4 provided by the employer during the period of family temporary
5 disability leave, and the name, address, and division identity
6 number of the employer. Not later than 30 days after the
7 commencement of the period of family temporary disability leave
8 for which the notice is furnished by the employer, the individual
9 shall furnish to the division a notice and claim for family temporary
10 disability leave benefits. Upon the submission of the notices by the
11 employer and the individual, the division may issue benefit
12 payments. In the case of family temporary disability leave taken to
13 care for a family member with a serious health condition, the
14 benefits may be paid for periods not exceeding three weeks pending
15 the receipt of the certification required pursuant to subsection b. of
16 section 11 of P.L. __, c. __ (C. __) (pending before the Legislature
17 as this bill). Failure to furnish notice and certification in the
18 manner above provided shall not invalidate or reduce any claim if it
19 shall be shown to the satisfaction of the division not to have been
20 reasonably possible to furnish the notice and certification and that
21 the notice and certification was furnished as soon as reasonably
22 possible.

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

36
37 11. (New section) a. In the case of a family member who has a
38 serious health condition, the benefits for family temporary disability
39 leave may be taken intermittently when medically necessary, if: the
40 total time within which the leave is taken does not exceed 12
41 months; the covered individual provides the employer with a copy
42 of the certification required pursuant to subsection b. of this section;
43 the covered individual provides the employer with prior notice of
44 the leave not less than 15 days before the first day on which
45 benefits are paid for the intermittent leave, unless an emergency or
46 other unforeseen circumstance precludes prior notice; and the
47 covered individual makes a reasonable effort to schedule the leave
48 so as not to unduly disrupt the operations of the employer and, if

1 possible, provide the employer, prior to the commencement of
2 intermittent leave, with a regular schedule of the days or days of the
3 week on which the intermittent leave will be taken. In the case of
4 family temporary disability leave benefits to care for a family
5 member with a serious health condition which are taken on a
6 continuous, non-intermittent basis, the covered individual shall:
7 provide the employer with prior notice of the leave in a reasonable
8 and practicable manner, unless an emergency or other unforeseen
9 circumstance precludes prior notice; provide a copy of the
10 certification required pursuant to subsection b. of this section; make
11 a reasonable effort to schedule the leave so as not to unduly disrupt
12 the operations of the employer.

13 b. Any period of family temporary disability leave for the
14 serious health condition of a family member of the covered
15 individual shall be supported by certification provided by a legally
16 licensed physician, dentist, optometrist, podiatrist, practicing
17 psychologist, advanced practice nurse, or chiropractor. The
18 certification shall be sufficient if it states:

19 (1) The date, if known, on which the serious health condition
20 commenced;

21 (2) The probable duration of the condition;

22 (3) The medical facts within the knowledge of the provider of
23 the certification regarding the condition;

24 (4) A statement that the serious health condition warrants the
25 participation of the covered individual in providing health care,
26 including providing psychological comfort and arranging third party
27 care for the family member;

28 (5) An estimate of the amount of time that the covered
29 individual is needed for participation in the care of the family
30 member;

31 (6) If the leave is intermittent, a statement of the medical
32 necessity for the intermittent leave and the expected duration of the
33 intermittent leave; and

34 (7) If the leave is intermittent and for planned medical
35 treatment, the dates of the treatment.

36 c. A covered individual claiming benefits to provide care for a
37 family member with a serious health condition under the State plan
38 or during unemployment shall, if requested by the division, have the
39 family member submit to an examination by a legally licensed
40 physician, dentist, optometrist, podiatrist, chiropractor, practicing
41 psychologist, advanced practice nurse, or public health nurse
42 designated by the division. The examinations shall not be more
43 frequent than once a week, shall be made without cost to the
44 claimant and shall be held at a reasonable time and place. Refusal
45 of the family member to submit to an examination requested
46 pursuant to this subsection shall disqualify the claimant from all
47 benefits for the period in question, except from benefits already
48 paid.

1 12. (New section) a. All of the disability benefits paid to a
2 covered individual during a period of family temporary disability
3 leave with respect to any one birth or adoption shall be for a single
4 continuous period of time, except that the employer of the covered
5 individual may permit the covered individual to receive the
6 disability benefits during non-consecutive weeks in a manner
7 mutually agreed to by the employer and the covered individual and
8 disclosed to the division by the employer.

9 b. The covered individual shall provide the employer with
10 notice of the period of family temporary disability leave with
11 respect to birth or adoption not less than 30 days before the leave
12 commences, unless it commences while the individual is receiving
13 unemployment benefits, in which case the covered individual shall
14 notify the division. The amount of benefits shall be reduced by two
15 weeks worth of benefits if the individual does not provide notice to
16 an employer as required by this subsection b., unless the time of the
17 leave is unforeseeable or the time of the leave changes for
18 unforeseeable reasons.

19 c. Family temporary disability leave taken because of the birth
20 or placement for adoption of a child may be taken at any time
21 within a year after the date of the birth or placement for adoption.
22

23 13. (New section) a. The Commissioner of Labor and
24 Workforce Development shall issue and make available to the
25 public, not later than December 31, 2010, and each subsequent year,
26 annual reports providing data on temporary disability benefits,
27 including separate data for claims involving pregnancy and
28 childbirth, and family temporary disability benefits, including
29 separate data for each of the following categories of claims: care of
30 newborn children; care of newly adopted children; care of sick
31 children; care of sick spouses, and care of other sick family
32 members. The reports shall include, for each category of claims,
33 the number of workers receiving the benefits, the amount of
34 benefits paid, the average duration of benefits, the average weekly
35 benefit, and, in the case of family temporary disability benefits, any
36 reported amount of sick leave, vacation or other fully paid time
37 which resulted in reduced benefit duration. The report shall provide
38 data by gender and by any other demographic factors determined to
39 be relevant by the commissioner. The reports shall also provide, for
40 all temporary disability benefits and for all family temporary
41 disability benefits, the total costs of benefits and the total cost of
42 administration, the portion of benefits for claims during
43 unemployment, and the total revenues from: employer assessments,
44 where applicable; employee assessments; and other sources.

45 b. The commissioner may, in his discretion, conduct surveys
46 and other research regarding, and include in the annual reports
47 descriptions and evaluations of, the impact and potential future
48 impact of the provisions of P.L.____, c.____(C.____) (now pending

1 before the Legislature as this bill) on the State disability benefits
2 fund, and other effects of those provisions, including the costs and
3 benefits resulting from the provisions of P.L.____, c.____(C.____) (now
4 pending before the Legislature as this bill) for:

5 (1) Employees and their families, including surveys and
6 evaluations of: what portion of the total number of employees
7 taking leave would not have taken leave, or would have taken less
8 leave, without the availability of benefits; what portion of
9 employees return to work after receiving benefits and what portion
10 are not permitted to return to work; and what portion of employees
11 who are eligible for benefits do not claim or receive them and why
12 they do not;

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

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

19 c. The total amount of any expenses which the commissioner
20 determines are necessary to carry out its duties pursuant to this
21 section shall be charged to the Family Temporary Disability Leave
22 Account of the State disability benefits fund, except that the amount
23 shall in no case exceed \$150,000 during any fiscal year.

24

25 14. R.S. 43:21-4 is amended to read as follows:

26 43:21-4. Benefit eligibility conditions. An unemployed
27 individual shall be eligible to receive benefits with respect to any
28 week only if:

29 (a) The individual has filed a claim at an unemployment
30 insurance claims office and thereafter continues to report at an
31 employment service office or unemployment insurance claims
32 office, as directed by the division in accordance with such
33 regulations as the division may prescribe, except that the division
34 may, by regulation, waive or alter either or both of the requirements
35 of this subsection as to individuals attached to regular jobs, and as
36 to such other types of cases or situations with respect to which the
37 division finds that compliance with such requirements would be
38 oppressive, or would be inconsistent with the purpose of this act;
39 provided that no such regulation shall conflict with subsection (a) of
40 R.S.43:21-3.

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

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

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

4 (3) No individual, who is otherwise eligible, shall be deemed
5 ineligible, or unavailable for work, because the individual is on
6 vacation, without pay, during said week, if said vacation is not the
7 result of the individual's own action as distinguished from any
8 collective action of a collective bargaining agent or other action
9 beyond the individual's control.

10 (4) (A) Subject to such limitations and conditions as the division
11 may prescribe, an individual, who is otherwise eligible, shall not be
12 deemed unavailable for work or ineligible because the individual is
13 attending a training program approved for the individual by the
14 division to enhance the individual's employment opportunities or
15 because the individual failed or refused to accept work while
16 attending such program.

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

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

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

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

29 (iv) The training does not include on the job training or other
30 training under which the individual is paid by an employer for work
31 performed by the individual during the time that the individual
32 receives benefits; and

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

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

38 (i) The training includes remedial basic skills education
39 necessary for the individual to successfully complete the vocational
40 component of the training;

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

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

45 (iv) The lack of a prior guarantee of employment upon
46 completion of the training.

47 (D) For the purpose of this paragraph (4), "labor demand
48 occupation" means an occupation for which there is or is likely to

1 be an excess of demand over supply for adequately trained workers,
2 including, but not limited to, an occupation designated as a labor
3 demand occupation by the [New Jersey] Center for Occupational
4 Employment Information [Coordinating Committee] pursuant to
5 the provisions of subsection [h.] d. of section [1 of P.L.1987, c.457
6 (C.34:1A-76) or section 12 of P.L.1992, c.43 (C.34:1A-78)] 27 of
7 P.L.2005, c.354 (C.34:1A-86).

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

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

17 For purposes of this paragraph, "immediate family member"
18 includes any of the following individuals: father, mother, mother-
19 in-law, father-in-law, grandmother, grandfather, grandchild, spouse,
20 child, child placed by the Division of Youth and Family Services in
21 the Department of Children and Families, sister or brother of the
22 unemployed individual and any relatives of the unemployed
23 individual residing in the unemployed individual's household.

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

31 (8) Any individual who is determined to be likely to exhaust
32 regular benefits and need reemployment services based on
33 information obtained by the worker profiling system shall not be
34 eligible to receive benefits if the individual fails to participate in
35 available reemployment services to which the individual is referred
36 by the division or in similar services, unless the division determines
37 that:

38 (A) The individual has completed the reemployment services; or
39 (B) There is justifiable cause for the failure to participate, which
40 shall include participation in employment and training, self-
41 employment assistance activities or other activities authorized by
42 the division to assist reemployment or enhance the marketable skills
43 and earning power of the individual and which shall include any
44 other circumstance indicated pursuant to this section in which an
45 individual is not required to be available for and actively seeking
46 work to receive benefits.

47 (9) An unemployed individual, who is otherwise eligible, shall
48 not be deemed unavailable for work or ineligible solely by reason of

1 the individual's work as a board worker for a county board of
2 elections on an election day.

3 (d) With respect to any benefit year commencing before January
4 1, 2002, the individual has been totally or partially unemployed for
5 a waiting period of one week in the benefit year which includes that
6 week. When benefits become payable with respect to the third
7 consecutive week next following the waiting period, the individual
8 shall be eligible to receive benefits as appropriate with respect to
9 the waiting period. No week shall be counted as a week of
10 unemployment for the purposes of this subsection:

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

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

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

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

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

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

33 (2) **W**ith respect to benefit years commencing on or after
34 January 1, 1996 and before January 7, 2001, except as otherwise
35 provided in paragraph (3) of this subsection, the individual has,
36 during his base year as defined in subsection (c) of R.S.43:21-19:

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

39 (B) If the individual has not met the requirements of
40 subparagraph (A) of this paragraph (2), earned remuneration not
41 less than an amount 12 times the Statewide average weekly
42 remuneration paid to workers, as determined under R.S.43:21-3(c),
43 which amount shall be adjusted to the next higher multiple of \$100
44 if not already a multiple thereof; or

45 If the individual has not met the requirements of subparagraph
46 (A) or (B) of this paragraph (2), earned remuneration not less than
47 an amount 1,000 times the minimum wage in effect pursuant to
48 section 5 of P.L.1966, c.113 (C.34:11-56a4) on October 1 of the

1 calendar year preceding the calendar year in which the benefit year
2 commences, which amount shall be adjusted to the next higher
3 multiple of \$100 if not already a multiple thereof.】 Deleted by
4 amendment, P.L. C.) (pending before the legislature as
5 this bill).

6 【(3)With respect to benefit years commencing before January 7,
7 2001, notwithstanding the provisions of paragraph (2) of this
8 subsection, an unemployed individual claiming benefits on the basis
9 of service performed in the production and harvesting of
10 agricultural crops shall, subject to the limitations of subsection (i)
11 of R.S.43:21-19, be eligible to receive benefits if during his base
12 year, as defined in subsection of R.S.43:21-19, the individual:

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

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

19 (C) Has performed at least 770 hours of service in the
20 production and harvesting of agricultural crops.】 (Deleted by
21 amendment, P.L. , c.) (pending before the Legislature as this
22 bill).

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

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

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

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

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

45 (B) Has earned remuneration not less than an amount 1,000
46 times the minimum wage in effect pursuant to section 5 of
47 P.L.1966, c.113 (C.34:11-56a4) on October 1 of the calendar year
48 preceding the calendar year in which the benefit year commences,

1 which amount shall be adjusted to the next higher multiple of \$100
2 if not already a multiple thereof; or

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

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

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

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

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

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

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

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

47 (F) For any period of disability commencing while such
48 individual is a "covered individual," as defined in subsection (b) of

1 section 3 of the "Temporary Disability Benefits Law," P.L.1948,
2 c.110 (C.43:21-27).

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

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

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

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

34 (D) For any period of family temporary disability leave for a
35 serious health condition of a family member of the claimant during
36 which the family member is not receiving inpatient care in a
37 hospital, hospice, or residential medical care facility and is not
38 subject to continuing medical treatment or continuing supervision
39 by a health care provider, who, when requested by the division,
40 shall certify within the scope of the provider's practice, the serious
41 health condition of the family member, the probable duration
42 thereof, and, where applicable, the medical facts within the
43 provider's knowledge.

44 (3) Benefit payments under this subsection (f) shall be charged
45 to and paid from the State disability benefits fund established by the
46 "Temporary Disability Benefits Law," P.L.1948, c.110 (C.43:21-25
47 et seq.), and shall not be charged to any employer account in

1 computing any employer's experience rate for contributions payable
2 under this chapter.

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

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

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

37 (3) With respect to those services described in paragraphs (1)
38 and (2) above, benefits shall not be paid on the basis of such
39 services to any individual for any week which commences during
40 an established and customary vacation period or holiday recess if
41 such individual performs such services in the period immediately
42 before such vacation period or holiday recess, and there is a
43 reasonable assurance that such individual will perform such
44 services in the period immediately following such period or holiday
45 recess;

46 (4) With respect to any services described in paragraphs (1) and
47 (2) above, benefits shall not be paid as specified in paragraphs (1),
48 (2), and (3) above to any individual who performed those services

1 in an educational institution while in the employ of an educational
2 service agency, and for this purpose the term "educational service
3 agency" means a governmental agency or governmental entity
4 which is established and operated exclusively for the purpose of
5 providing those services to one or more educational institutions.

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

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

33 (2) Any data or information required of individuals applying for
34 benefits to determine whether benefits are not payable to them
35 because of their alien status shall be uniformly required from all
36 applicants for benefits.

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

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

48 (cf: P.L.2006, c.47, s.187)

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

2 43:21-7. Contributions. Employers other than governmental
3 entities, whose benefit financing provisions are set forth in section 4
4 of P.L.1971, c.346 (C.43:21-7.3), and those nonprofit organizations
5 liable for payment in lieu of contributions on the basis set forth in
6 section 3 of P.L.1971, c.346 (C.43:21-7.2), shall pay to the
7 controller for the unemployment compensation fund, contributions
8 as set forth in subsections (a), (b) and (c) hereof, and the provisions
9 of subsections (d) and (e) shall be applicable to all employers,
10 consistent with the provisions of the "unemployment compensation
11 law" and the "Temporary Disability Benefits Law," P.L.1948, c.110
12 (C.43:21-25 et seq.).

13 (a) Payment.

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

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

26 (b) Rate of contributions. Each employer shall pay the
27 following contributions:

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

32 (2) The "wages" of any individual, with respect to any one
33 employer, as the term is used in this subsection (b) and in
34 subsections (c), (d) and (e) of this section 7, shall include the first
35 \$4,800.00 paid during calendar year 1975, for services performed
36 either within or without this State; provided that no contribution
37 shall be required by this State with respect to services performed in
38 another state if such other state imposes contribution liability with
39 respect thereto. If an employer (hereinafter referred to as a
40 successor employer) during any calendar year acquires substantially
41 all the property used in a trade or business of another employer
42 (hereinafter referred to as a predecessor), or used in a separate unit
43 of a trade or business of a predecessor, and immediately after the
44 acquisition employs in his trade or business an individual who
45 immediately prior to the acquisition was employed in the trade or
46 business of such predecessors, then, for the purpose of determining
47 whether the successor employer has paid wages with respect to
48 employment equal to the first \$4,800.00 paid during calendar year

1 1975, any wages paid to such individual by such predecessor during
2 such calendar year and prior to such acquisition shall be considered
3 as having been paid by such successor employer.

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

22 (c) Future rates based on benefit experience.

23 (1) A separate account for each employer shall be maintained
24 and this shall be credited with all the contributions which he has
25 paid on his own behalf on or before January 31 of any calendar year
26 with respect to employment occurring in the preceding calendar
27 year; provided, however, that if January 31 of any calendar year
28 falls on a Saturday or Sunday, an employer's account shall be
29 credited as of January 31 of such calendar year with all the
30 contributions which he has paid on or before the next succeeding
31 day which is not a Saturday or Sunday. But nothing in this chapter
32 (R.S.43:21-1 et seq.) shall be construed to grant any employer or
33 individuals in his service prior claims or rights to the amounts paid
34 by him into the fund either on his own behalf or on behalf of such
35 individuals. Benefits paid with respect to benefit years
36 commencing on and after January 1, 1953, to any individual on or
37 before December 31 of any calendar year with respect to
38 unemployment in such calendar year and in preceding calendar
39 years shall be charged against the account or accounts of the
40 employer or employers in whose employment such individual
41 established base weeks constituting the basis of such benefits,
42 except that, with respect to benefit years commencing after January
43 4, 1998, an employer's account shall not be charged for benefits
44 paid to a claimant if the claimant's employment by that employer
45 was ended in any way which, pursuant to subsection (a), (b), (c),
46 (f), (g) or (h) of R.S.43:21-5, would have disqualified the claimant
47 for benefits if the claimant had applied for benefits at the time when
48 that employment ended. Benefits paid under a given benefit

1 determination shall be charged against the account of the employer
2 to whom such determination relates. When each benefit payment is
3 made, either a copy of the benefit check or other form of
4 notification shall be promptly sent to the employer against whose
5 account the benefits are to be charged. Such copy or notification
6 shall identify the employer against whose account the amount of
7 such payment is being charged, shall show at least the name and
8 social security account number of the claimant and shall specify the
9 period of unemployment to which said check applies. If the total
10 amount of benefits paid to a claimant and charged to the account of
11 the appropriate employer exceeds 50% of the total base year, base
12 week wages paid to the claimant by that employer, then such
13 employer shall have canceled from his account such excess benefit
14 charges as specified above.

15 Each employer shall be furnished an annual summary statement
16 of benefits charged to his account.

17 (2) Regulations may be prescribed for the establishment,
18 maintenance, and dissolution of joint accounts by two or more
19 employers, and shall, in accordance with such regulations and upon
20 application by two or more employers to establish such an account,
21 or to merge their several individual accounts in a joint account,
22 maintain such joint account as if it constituted a single employer's
23 account.

24 (3) No employer's rate shall be lower than 5.4% unless
25 assignment of such lower rate is consistent with the conditions
26 applicable to additional credit allowance for such year under section
27 3303(a)(1) of the Internal Revenue Code of 1986 (26 U.S.C.
28 s.3303(a)(1)), any other provision of this section to the contrary
29 notwithstanding.

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

43 (1) $2 \frac{5}{10}\%$, if such excess equals or exceeds 4%, but less than
44 5%, of his average annual payroll (as defined in paragraph (2),
45 subsection (a) of R.S.43:21-19);

46 (2) $2 \frac{2}{10}\%$, if such excess equals or exceeds 5%, but is less
47 than 6%, of his average annual payroll;

1 (3) 1 9/10%, if such excess equals or exceeds 6%, but is less
2 than 7%, of his average annual payroll;

3 (4) 1 6/10%, if such excess equals or exceeds 7%, but is less
4 than 8%, of his average annual payroll;

5 (5) 1 3/10%, if such excess equals or exceeds 8%, but is less
6 than 9%, of his average annual payroll;

7 (6) 1%, if such excess equals or exceeds 9%, but is less than
8 10%, of his average annual payroll;

9 (7) 7/10 of 1%, if such excess equals or exceeds 10%, but is less
10 than 11%, of his average annual payroll;

11 (8) 4/10 of 1%, if such excess equals or exceeds 11% of his
12 average annual payroll.

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

17 (1) 4%, if such excess is less than 10% of his average annual
18 payroll;

19 (2) 4 3/10%, if such excess equals or exceeds 10%, but is less
20 than 20%, of his average annual payroll;

21 (3) 4 6/10%, if such excess equals or exceeds 20% of his
22 average annual payroll.

23 (C) Specially assigned rates.

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

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

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

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

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

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

45 (5) (A) Unemployment Trust Fund Reserve Ratio. If on March
46 31 of any calendar year the balance in the unemployment trust fund
47 equals or exceeds 4% but is less than 7% of the total taxable wages
48 reported to the controller as of that date in respect to employment

1 during the preceding calendar year, the contribution rate, effective
2 July 1 following, of each employer eligible for a contribution rate
3 calculation based upon benefit experience, shall be increased by
4 $\frac{3}{10}$ of 1% over the contribution rate otherwise established under
5 the provisions of paragraph (3) or (4) of this subsection. If on
6 March 31 of any calendar year the balance of the unemployment
7 trust fund exceeds $2\frac{1}{2}\%$ but is less than 4% of the total taxable
8 wages reported to the controller as of that date in respect to
9 employment during the preceding calendar year, the contribution
10 rate, effective July 1 following, of each employer eligible for a
11 contribution rate calculation based upon benefit experience, shall be
12 increased by $\frac{6}{10}$ of 1% over the contribution rate otherwise
13 established under the provisions of paragraph (3) or (4) of this
14 subsection.

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

35 (B) If on March 31 of any calendar year the balance in the
36 unemployment trust fund equals or exceeds 10% but is less than $12\frac{1}{2}\%$
37 of the total taxable wages reported to the controller as of that
38 date in respect to employment during the preceding calendar year,
39 the contribution rate, effective July 1 following, of each employer
40 eligible for a contribution rate calculation based upon benefit
41 experience, shall be reduced by $\frac{3}{10}$ of 1% under the contribution
42 rate otherwise established under the provisions of paragraphs (3)
43 and (4) of this subsection; provided that in no event shall the
44 contribution rate of any employer be reduced to less than $\frac{4}{10}$ of
45 1%. If on March 31 of any calendar year the balance in the
46 unemployment trust fund equals or exceeds $12\frac{1}{2}\%$ of the total
47 taxable wages reported to the controller as of that date in respect to
48 employment during the preceding calendar year, the contribution

1 rate, effective July 1 following, of each employer eligible for a
 2 contribution rate calculation based upon benefit experience, shall be
 3 reduced by 6/10 of 1% if his account for all past periods reflects an
 4 excess of contributions paid over total benefits charged of 3% or
 5 more of his average annual payroll, otherwise by 3/10 of 1% under
 6 the contribution rate otherwise established under the provisions of
 7 paragraphs (3) and (4) of this subsection; provided that in no event
 8 shall the contribution rate of any employer be reduced to less than
 9 4/10 of 1%.

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

17 (D) Prior to July 1 of each calendar year the controller shall
 18 determine the Unemployment Trust Reserve Ratio, which shall be
 19 calculated by dividing the balance of the unemployment trust fund
 20 as of the prior March 31 by total taxable wages reported to the
 21 controller by all employers as of March 31 with respect to their
 22 employment during the last calendar year.

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

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

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

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

27 (v) [With respect to the experience rating year beginning on
 28 July 1, 2003, the new employer rate or the unemployment
 29 experience rate of an employer under this section shall be the rate
 30 which appears in the column headed by the Unemployment Trust
 31 Fund Reserve Ratio as of the applicable calculation date and on the
 32 line with the Employer Reserve Ratio, as defined in paragraph 4 of
 33 this subsection (R.S.43:21-7 (c)(4)), as set forth in the following
 34 table:

35

36 EXPERIENCE RATING TAX TABLE

37 Fund Reserve Ratio¹

38

39 2.50% 2.00% 1.50% 1.00% 0.99%

40 Employer and to to to and

41 Reserve Over 2.49% 1.99% 1.49% Under

42 Ratio² A B C D E

43 Positive Reserve Ratio:

44 17% and over 0.3 0.4 0.5 0.6 1.2

45 16.00% to 16.99% 0.4 0.5 0.6 0.6 1.2

46 15.00% to 15.99% 0.4 0.6 0.7 0.7 1.2

47 14.00% to 14.99% 0.5 0.6 0.7 0.8 1.2

48 13.00% to 13.99% 0.6 0.7 0.8 0.9 1.2

1	12.00% to 12.99%	0.6	0.8	0.9	1.0	1.2
2	11.00% to 11.99%	0.7	0.8	1.0	1.1	1.2
3	10.00% to 10.99%	0.9	1.1	1.3	1.5	1.6
4	9.00% to 9.99%	1.0	1.3	1.6	1.7	1.9
5	8.00% to 8.99%	1.3	1.6	1.9	2.1	2.3
6	7.00% to 7.99%	1.4	1.8	2.2	2.4	2.6
7	6.00% to 6.99%	1.7	2.1	2.5	2.8	3.0
8	5.00% to 5.99%	1.9	2.4	2.8	3.1	3.4
9	4.00% to 4.99%	2.0	2.6	3.1	3.4	3.7
10	3.00% to 3.99%	2.1	2.7	3.2	3.6	3.9
11	2.00% to 2.99%	2.2	2.8	3.3	3.7	4.0
12	1.00% to 1.99%	2.3	2.9	3.4	3.8	4.1
13	0.00% to 0.99%	2.4	3.0	3.6	4.0	4.3
14	Deficit Reserve Ratio:					
15	-0.00% to -2.99%	3.4	4.3	5.1	5.6	6.1
16	-3.00% to -5.99%	3.4	4.3	5.1	5.7	6.2
17	-6.00% to -8.99%	3.5	4.4	5.2	5.8	6.3
18	-9.00% to-11.99%	3.5	4.5	5.3	5.9	6.4
19	-12.00% to-14.99%	3.6	4.6	5.4	6.0	6.5
20	-15.00% to-19.99%	3.6	4.6	5.5	6.1	6.6
21	-20.00% to-24.99%	3.7	4.7	5.6	6.2	6.7
22	-25.00% to-29.99%	3.7	4.8	5.6	6.3	6.8
23	-30.00%to-34.99%	3.8	4.8	5.7	6.3	6.9
24	-35.00% and under	5.4	5.4	5.8	6.4	7.0
25	New Employer Rate	2.8	2.8	2.8	3.1	3.4

26 ¹Fund balance as of March 31 as a percentage of taxable wages
 27 in the prior calendar year.

28 ²Employer Reserve Ratio (Contributions minus benefits as a
 29 percentage of employer's taxable wages). **】 (Deleted by amendment,**
 30 **P.L. _____, c. _____)(pending before the Legislature as this bill)**

31 (vi) With respect to experience rating years beginning on or after
 32 July 1, 2004, the new employer rate or the unemployment
 33 experience rate of an employer under this section shall be the rate
 34 which appears in the column headed by the Unemployment Trust
 35 Fund Reserve Ratio as of the applicable calculation date and on the
 36 line with the Employer Reserve Ratio, as defined in paragraph 4 of
 37 this subsection (R.S.43:21-7 (c)(4)), as set forth in the following
 38 table:

39

40 EXPERIENCE RATING TAX TABLE

41 Fund Reserve Ratio¹

42						
43		1.40%	1.00%	0.75%	0.50%	0.49%
44	Employer	and	to	to	to	and
45	Reserve	Over	1.39%	0.99%	0.74%	Under
46	Ratio ²	A	B	C	D	E

47 Positive Reserve Ratio:

1	17% and over	0.3	0.4	0.5	0.6	1.2
2	16.00% to 16.99%	0.4	0.5	0.6	0.6	1.2
3	15.00% to 15.99%	0.4	0.6	0.7	0.7	1.2
4	14.00% to 14.99%	0.5	0.6	0.7	0.8	1.2
5	13.00% to 13.99%	0.6	0.7	0.8	0.9	1.2
6	12.00% to 12.99%	0.6	0.8	0.9	1.0	1.2
7	11.00% to 11.99%	0.7	0.8	1.0	1.1	1.2
8	10.00% to 10.99%	0.9	1.1	1.3	1.5	1.6
9	9.00% to 9.99%	1.0	1.3	1.6	1.7	1.9
10	8.00% to 8.99%	1.3	1.6	1.9	2.1	2.3
11	7.00% to 7.99%	1.4	1.8	2.2	2.4	2.6
12	6.00% to 6.99%	1.7	2.1	2.5	2.8	3.0
13	5.00% to 5.99%	1.9	2.4	2.8	3.1	3.4
14	4.00% to 4.99%	2.0	2.6	3.1	3.4	3.7
15	3.00% to 3.99%	2.1	2.7	3.2	3.6	3.9
16	2.00% to 2.99%	2.2	2.8	3.3	3.7	4.0
17	1.00% to 1.99%	2.3	2.9	3.4	3.8	4.1
18	0.00% to 0.99%	2.4	3.0	3.6	4.0	4.3
19	Deficit Reserve Ratio:					
20	-0.00% to -2.99%	3.4	4.3	5.1	5.6	6.1
21	-3.00% to -5.99%	3.4	4.3	5.1	5.7	6.2
22	-6.00% to -8.99%	3.5	4.4	5.2	5.8	6.3
23	-9.00% to-11.99%	3.5	4.5	5.3	5.9	6.4
24	-12.00% to-14.99%	3.6	4.6	5.4	6.0	6.5
25	-15.00% to-19.99%	3.6	4.6	5.5	6.1	6.6
26	-20.00% to-24.99%	3.7	4.7	5.6	6.2	6.7
27	-25.00% to-29.99%	3.7	4.8	5.6	6.3	6.8
28	-30.00% to-34.99%	3.8	4.8	5.7	6.3	6.9
29	-35.00% and under	5.4	5.4	5.8	6.4	7.0
30	New Employer Rate	2.8	2.8	2.8	3.1	3.4

31 ¹Fund balance as of March 31 as a percentage of taxable wages
32 in the prior calendar year.

33 ²Employer Reserve Ratio (Contributions minus benefits as a
34 percentage of employer's taxable wages).

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

36 (ii) **【**With respect to experience rating years beginning on or
37 after July 1, 1997, if the fund reserve ratio, based on the fund
38 balance as of the prior March 31, is less than 1.00%, the
39 contribution rate for each employer liable to pay contributions, as
40 computed under subparagraph (E) of this paragraph (5), shall be
41 increased by a factor of 10% computed to the nearest multiple of
42 1/10% if not already a multiple thereof.**】** (Deleted by amendment,
43 P.L. _____, c. _____)(pending before the Legislature as this bill)

44 (iii) With respect to experience rating years beginning on or after
45 July 1, 2004, if the fund reserve ratio, based on the fund balance as
46 of the prior March 31, is less than 0.50%, the contribution rate for
47 each employer liable to pay contributions, as computed under
48 subparagraph (E) of this paragraph (5), shall be increased by a

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

3 (G) On or after January 1, 1993, notwithstanding any other
4 provisions of this paragraph (5), the contribution rate for each
5 employer liable to pay contributions, as computed under
6 subparagraph (E) of this paragraph (5), shall be decreased by 0.1%,
7 except that, during any experience rating year starting before
8 January 1, 1998 in which the fund reserve ratio is equal to or greater
9 than 7.00% or during any experience rating year starting on or after
10 January 1, 1998, in which the fund reserve ratio is equal to or
11 greater than 3.5%, there shall be no decrease pursuant to this
12 subparagraph (G) in the contribution of any employer who has a
13 deficit reserve ratio of negative 35.00% or under.

14 (H) [On or after January 1, 1993 until December 31, 1993,
15 notwithstanding any other provisions of this paragraph (5), the
16 contribution rate for each employer liable to pay contributions, as
17 computed under subparagraph (E) of this paragraph (5), shall be
18 decreased by a factor of 52.0% computed to the nearest multiple of
19 1/10%, except that, if an employer has a deficit reserve ratio of
20 negative 35.0% or under, the employer's rate of contribution shall
21 not be reduced pursuant to this subparagraph (H) to less than 5.4%.
22 The amount of the reduction in the employer contributions
23 stipulated by this subparagraph (H) shall be in addition to the
24 amount of the reduction in the employer contributions stipulated by
25 subparagraph (G) of this paragraph (5), except that the rate of
26 contribution of an employer who has a deficit reserve ratio of
27 negative 35.0% or under shall not be reduced pursuant to this
28 subparagraph (H) to less than 5.4% and the rate of contribution of
29 any other employer shall not be reduced to less than 0.0%. On or
30 after January 1, 1994 until December 31, 1995, except as provided
31 pursuant to subparagraph (I) of this paragraph (5), notwithstanding
32 any other provisions of this paragraph (5), the contribution rate for
33 each employer liable to pay contributions, as computed under
34 subparagraph (E) of this paragraph (5), shall be decreased by a
35 factor of 36.0% computed to the nearest multiple of 1/10%, except
36 that, if an employer has a deficit reserve ratio of negative 35.0% or
37 under, the employer's rate of contribution shall not be reduced
38 pursuant to this subparagraph (H) to less than 5.4%. The amount of
39 the reduction in the employer contributions stipulated by this
40 subparagraph (H) shall be in addition to the amount of the reduction
41 in the employer contributions stipulated by subparagraph (G) of this
42 paragraph (5), except that the rate of contribution of an employer
43 who has a deficit reserve ratio of negative 35.0% or under shall not
44 be reduced pursuant to this subparagraph (H) to less than 5.4% and
45 the rate of contribution of any other employer shall not be reduced
46 to less than 0.0%.

47 On or after April 1, 1996 until December 31, 1996, the
48 contribution rate for each employer liable to pay contributions, as

1 computed under subparagraph (E) of this paragraph (5), shall be
2 decreased by a factor of 25.0% computed to the nearest multiple of
3 1/10%, except that, if an employer has a deficit reserve ratio of
4 negative 35.0% or under, the employer's rate of contribution shall
5 not be reduced pursuant to this subparagraph (H) to less than 5.4%.
6 The amount of the reduction in the employer contributions
7 stipulated by this subparagraph (H) shall be in addition to the
8 amount of the reduction in the employer contributions stipulated by
9 subparagraph (G) of this paragraph (5), except that the rate of
10 contribution of an employer who has a deficit reserve ratio of
11 negative 35.0% or under shall not be reduced pursuant to this
12 subparagraph (H) to less than 5.4% and the rate of contribution of
13 any other employer shall not be reduced to less than 0.0%.

14 On or after January 1, 1997 until December 31, 1997, the
15 contribution rate for each employer liable to pay contributions, as
16 computed under subparagraph (E) of this paragraph (5), shall be
17 decreased by a factor of 10.0% computed to the nearest multiple of
18 1/10%, except that, if an employer has a deficit reserve ratio of
19 negative 35.0% or under, the employer's rate of contribution shall
20 not be reduced pursuant to this subparagraph (H) to less than 5.4%.
21 The amount of the reduction in the employer contributions
22 stipulated by this subparagraph (H) shall be in addition to the
23 amount of the reduction in the employer contributions stipulated by
24 subparagraph (G) of this paragraph (5), except that the rate of
25 contribution of an employer who has a deficit reserve ratio of
26 negative 35.0% or under shall not be reduced pursuant to this
27 subparagraph (H) to less than 5.4% and the rate of contribution of
28 any other employer shall not be reduced to less than 0.0%.]

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

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

47 The amount of the reduction in the employer contributions
48 stipulated by this subparagraph (H) shall be in addition to the

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

7 (I) [If the fund reserve ratio decreases to a level of less than
8 4.00% on March 31 of calendar year 1994 or calendar year 1995,
9 the provisions of subparagraph (H) of this paragraph (5) shall cease
10 to be in effect as of July 1 of that calendar year.

11 If, upon calculating the unemployment compensation fund
12 reserve ratio pursuant to R.S.43:21-7(c)(5)(D) prior to March 31,
13 1997, March 31, 1998 or March 31, 1999, the controller finds that
14 the fund reserve ratio has decreased to a level of less than 3.00%,
15 the Commissioner of Labor and Workforce Development shall
16 notify the State Treasurer of this fact and of the dollar amount
17 necessary to bring the fund reserve ratio up to a level of 3.00%.
18 The State Treasurer shall, prior to March 31, 1997, March 31, 1998
19 or March 31, 1999, as applicable, transfer from the General Fund to
20 the unemployment compensation fund, revenues in the amount
21 specified by the commissioner and which, upon deposit in the
22 unemployment compensation fund, shall result, upon recalculation,
23 in a fund reserve ratio used to determine employer contributions
24 beginning July 1, 1997, July 1, 1998, July 1, 1999, as applicable, of
25 at least 3.00%. If, upon calculating the unemployment
26 compensation fund reserve ratio pursuant to R.S.43:21-7(c)(5)(D)
27 prior to March 31, 2000, the controller finds that the fund reserve
28 ratio has decreased to a level of less than 3.00%, the Commissioner
29 of Labor and Workforce Development shall notify the State
30 Treasurer of this fact and of the dollar amount necessary to bring
31 the fund reserve ratio up to a level of 3.00%. The State Treasurer
32 shall, prior to March 31, 2000, transfer from the General Fund to
33 the unemployment compensation fund, revenues in the amount
34 specified by the commissioner and which, upon deposit in the
35 unemployment compensation fund, shall result, upon recalculation,
36 in a fund reserve ratio used to determine employer contributions
37 beginning July 1, 2000 of at least 3.00%.] (Deleted by amendment,
38 P.L. _____, c. _____)(pending before the Legislature as this bill)

39 (J) On or after July 1, 2001, notwithstanding any other
40 provisions of this paragraph (5), the contribution rate for each
41 employer liable to pay contributions, as computed under
42 subparagraph (E) of this paragraph (5), shall be decreased by
43 0.0175%, except that, during any experience rating year starting on
44 or after July 1, 2001, in which the fund reserve ratio is equal to or
45 greater than 3.5%, there shall be no decrease pursuant to this
46 subparagraph (J) in the contribution of any employer who has a
47 deficit reserve ratio of negative 35.00% or under. The amount of the
48 reduction in the employer contributions stipulated by this

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

8 (6) Additional contributions.

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

35 (7) Transfers.

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

1 assets or business, or thereafter upon good cause shown, request a
2 reconsideration of the transfer of employment experience of the
3 predecessor employer. The request for reconsideration shall
4 demonstrate, to the satisfaction of the controller, that the
5 employment experience of the predecessor is not indicative of the
6 future employment experience of the successor.

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

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

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

45 (E) The transfer of part of an employer's employment experience
46 to a successor in interest shall become effective as of the first day of
47 the calendar quarter following the acquisition by the successor in
48 interest. As of the effective date, the successor in interest shall

1 have its employer rate recalculated by merging its existing
2 employment experience, if any, with the employment experience
3 acquired. If the successor in interest is not an employer as of the
4 date of acquisition, it shall be assigned the new employer rate until
5 the effective date of the transfer of employment experience.

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

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

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

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

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

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

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

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

45 Each worker shall, starting on January 1, 1996 and ending March
46 31, 1996, contribute to the unemployment compensation fund
47 0.60% of wages paid with respect to the worker's employment with
48 a governmental employer electing or required to pay contributions

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

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

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

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

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

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

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

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

1 time wages are paid for the next succeeding payroll period, he alone
2 shall thereafter be liable for such contributions, and for the purpose
3 of R.S.43:21-14, such contributions shall be treated as employer's
4 contributions required from him.

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

8 (G) (i) Each worker shall, starting on July 1, 1994, contribute to
9 the State disability benefits fund an amount equal to 0.50% of
10 wages paid with respect to the worker's employment with a
11 government employer electing or required to pay contributions to
12 the State disability benefits fund or nongovernmental employer,
13 including a nonprofit organization which is an employer as defined
14 under paragraph (6) of subsection (h) of R.S.43:21-19, unless the
15 employer is covered by an approved private disability plan or is
16 exempt from the provisions of the "Temporary Disability Benefits
17 Law," P.L.1948, c.110 (C.43:21-25 et seq.) under section 7 of that
18 law (C.43:21-31) or any other provision of that law.

19 (ii) Each worker shall contribute to the State disability benefits
20 fund, in addition to any amount contributed pursuant to
21 subparagraph (i) of this paragraph (1)(G), an amount equal to,
22 during calendar year 2009, 0.09%, and during calendar year 2010
23 and each subsequent calendar year, 0.12%, of wages paid with
24 respect to the worker's employment with any covered employer,
25 including a governmental employer which is an employer as defined
26 under R.S.43:21-19(h)(5), unless the employer is covered by an
27 approved private disability plan for benefits during periods of
28 family temporary disability leave. The contributions made pursuant
29 to this subparagraph (ii) to the State disability benefits fund shall be
30 deposited into an account of that fund reserved for the payment of
31 benefits during periods of family temporary disability leave as
32 defined in section 3 of the "Temporary Disability Benefits Law,"
33 P.L.1948, c.110 (C.43:21-27) and for the administration of those
34 payments and shall not be used for any other purpose. This account
35 shall be known as the "Family Temporary Disability Leave
36 Account." Necessary administrative costs shall include the cost of
37 an outreach program to inform employees of the availability of the
38 benefits and the cost of issuing the reports required or permitted
39 pursuant to section 13 of P.L. , c. (C.) (pending before the
40 Legislature as this bill). No monies, other than the funds in the
41 "Family Temporary Disability Leave Account," shall be used for
42 the payment of benefits during periods of family disability leave or
43 for the administration of those payments, with the sole exception
44 that, during calendar years 2008 and 2009, a total amount not
45 exceeding \$25 million may be transferred to that account from the
46 revenues received in the State disability benefits fund pursuant to
47 subparagraph (i) of this paragraph (1)(G) and be expended for those
48 payments and their administration, including the administration of

1 the collection of contributions made pursuant to this subparagraph
2 (ii) and any other necessary administrative costs. Any amount
3 transferred to the account pursuant to this subparagraph (ii) shall be
4 repaid during a period beginning not later than January 1, 2011 and
5 ending not later than December 31, 2015. No monies, other than
6 the funds in the "Family Temporary Disability Leave Account,"
7 shall be used under any circumstances after December 31, 2009, for
8 the payment of benefits during periods of family temporary
9 disability leave or for the administration of those payments,
10 including for the administration of the collection of contributions
11 made pursuant to this subparagraph (ii).

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

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

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

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

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

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

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

19 (3) If an employee receives wages from more than one employer
20 during any calendar year, and either the sum of his contributions
21 deposited in and credited to the State disability benefits fund plus
22 the amount of his contributions, if any, required towards the costs
23 of benefits under one or more approved private plans under the
24 provisions of section 9 of the "Temporary Disability Benefits Law"
25 (C.43:21-33) and deducted from his wages, or the sum of such latter
26 contributions, if the employee is covered during such calendar year
27 only by two or more private plans, exceeds an amount equal to 1/2
28 of 1% of the "wages" determined in accordance with the provisions
29 of R.S.43:21-7(b)(3) during the calendar years beginning on or after
30 January 1, 1976, the employee shall be entitled to a refund of the
31 excess if he makes a claim to the controller within two years after
32 the end of the calendar year in which the wages are received with
33 respect to which the refund is claimed and establishes his right to
34 such refund. Such refund shall be made by the controller from the
35 State disability benefits fund. No interest shall be allowed or paid
36 with respect to any such refund. The controller shall, in accordance
37 with prescribed regulations, determine the portion of the aggregate
38 amount of such refunds made during any calendar year which is
39 applicable to private plans for which deductions were made under
40 section 9 of the "Temporary Disability Benefits Law" (C.43:21-33)
41 such determination to be based upon the ratio of the amount of such
42 wages exempt from contributions to such fund, as provided in
43 subparagraph (B) of paragraph (1) of this subsection with respect to
44 coverage under private plans, to the total wages so exempt plus the
45 amount of such wages subject to contributions to the disability
46 benefits fund, as provided in subparagraph (G) of paragraph (1) of
47 this subsection. The controller shall, in accordance with prescribed
48 regulations, prorate the amount so determined among the applicable

1 private plans in the proportion that the wages covered by each plan
2 bear to the total private plan wages involved in such refunds, and
3 shall assess against and recover from the employer, or the insurer if
4 the insurer has indemnified the employer with respect thereto, the
5 amount so prorated. The provisions of R.S.43:21-14 with respect to
6 collection of employer contributions shall apply to such
7 assessments. The amount so recovered by the controller shall be
8 paid into the State disability benefits fund.

9 (4) If an individual does not receive any wages from the
10 employing unit which for the purposes of this chapter (R.S.43:21-1
11 et seq.) is treated as his employer, or receives his wages from some
12 other employing unit, such employer shall nevertheless be liable for
13 such individual's contributions in the first instance; and after
14 payment thereof such employer may deduct the amount of such
15 contributions from any sums payable by him to such employing
16 unit, or may recover the amount of such contributions from such
17 employing unit, or, in the absence of such an employing unit, from
18 such individual, in a civil action; provided proceedings therefor are
19 instituted within three months after the date on which such
20 contributions are payable. General rules shall be prescribed
21 whereby such an employing unit may recover the amount of such
22 contributions from such individuals in the same manner as if it were
23 the employer.

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

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

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

35 (1) Except as hereinafter provided, each employer shall, in
36 addition to the contributions required by subsections (a), (b), and
37 (c) of this section, contribute 1/2 of 1% of the wages paid by such
38 employer to workers with respect to employment unless he is not a
39 covered employer as defined in section 3 of the "Temporary
40 Disability Benefits Law" (C.43:21-27 (a)), except that the rate for
41 the State of New Jersey shall be 1/10 of 1% for the calendar year
42 1980 and for the first six months of 1981. Prior to July 1, 1981 and
43 prior to July 1 each year thereafter, the controller shall review the
44 experience accumulated in the account of the State of New Jersey
45 and establish a rate for the next following fiscal year which, in
46 combination with worker contributions, will produce sufficient
47 revenue to keep the account in balance; except that the rate so
48 established shall not be less than 1/10 of 1%. Such contributions

1 shall become due and be paid by the employer to the controller for
2 the State disability benefits fund as established by law, in
3 accordance with such regulations as may be prescribed, and shall
4 not be deducted, in whole or in part, from the remuneration of
5 individuals in his employ. In the payment of any contributions, a
6 fractional part of a cent shall be disregarded unless it amounts to
7 \$0.005 or more, in which case it shall be increased to \$0.01.

8 (2) During the continuance of coverage of a worker by an
9 approved private plan of disability benefits under the "Temporary
10 Disability Benefits Law," the employer shall be exempt from the
11 contributions required by subparagraph (1) above with respect to
12 wages paid to such worker.

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

16 (B) A separate disability benefits account shall be maintained for
17 each employer required to contribute to the State disability benefits
18 fund and such account shall be credited with contributions
19 deposited in and credited to such fund with respect to employment
20 occurring on and after January 1, 1949. Each employer's account
21 shall be credited with all contributions paid on or before January 31
22 of any calendar year on his own behalf and on behalf of individuals
23 in his service with respect to employment occurring in preceding
24 calendar years; provided, however, that if January 31 of any
25 calendar year falls on a Saturday or Sunday an employer's account
26 shall be credited as of January 31 of such calendar year with all the
27 contributions which he has paid on or before the next succeeding
28 day which is not a Saturday or Sunday. But nothing in this act shall
29 be construed to grant any employer or individuals in his service
30 prior claims or rights to the amounts paid by him to the fund either
31 on his own behalf or on behalf of such individuals. Benefits paid to
32 any covered individual in accordance with Article III of the
33 "Temporary Disability Benefits Law" on or before December 31 of
34 any calendar year with respect to disability in such calendar year
35 and in preceding calendar years shall be charged against the account
36 of the employer by whom such individual was employed at the
37 commencement of such disability or by whom he was last
38 employed, if out of employment.

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

46 (D) Prior to July 1 of each calendar year, the controller shall
47 make a preliminary determination of the rate of contribution for the

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

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

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

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

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

16 (iii) $\frac{1}{10}$ of 1% if such excess over \$500.00 equals or exceeds $1\frac{1}{2}$
17 % of his average annual payroll.

18 (3) If the minimum requirements in (1) above have been
19 fulfilled and the contributions credited exceed the benefits charged
20 but by not more than \$500.00 plus 1% of his average annual
21 payroll, or if the benefits charged exceed the contributions credited
22 but by not more than \$500.00, the preliminary rate shall be $\frac{1}{4}$ of
23 1%.

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

27 (i) $\frac{35}{100}$ of 1% if such excess over \$500.00 is less than $\frac{1}{4}$ of
28 1% of his average annual payroll;

29 (ii) $\frac{45}{100}$ of 1% if such excess over \$500.00 equals or exceeds
30 $\frac{1}{4}$ of 1% but is less than $\frac{1}{2}$ of 1% of his average annual payroll;

31 (iii) $\frac{55}{100}$ of 1% if such excess over \$500.00 equals or exceeds
32 $\frac{1}{2}$ of 1% but is less than $\frac{3}{4}$ of 1% of his average annual payroll;

33 (iv) $\frac{65}{100}$ of 1% if such excess over \$500.00 equals or exceeds
34 $\frac{3}{4}$ of 1% but is less than 1% of his average annual payroll;

35 (v) $\frac{75}{100}$ of 1% if such excess over \$500.00 equals or exceeds
36 1% of his average annual payroll.

37 (5) Determination of the preliminary rate as specified in (2), (3)
38 and (4) above shall be subject, however, to the condition that it
39 shall in no event be decreased by more than $\frac{1}{10}$ of 1% of wages or
40 increased by more than $\frac{2}{10}$ of 1% of wages from the preliminary
41 rate determined for the preceding year in accordance with (1), (2),
42 (3) or (4), whichever shall have been applicable.

43 (E) (1) Prior to July 1 of each calendar year the controller shall
44 determine the amount of the State disability benefits fund as of
45 December 31 of the preceding calendar year, increased by the
46 contributions paid thereto during January of the current calendar
47 year with respect to employment occurring in the preceding
48 calendar year. If such amount exceeds the net amount withdrawn

1 from the unemployment trust fund pursuant to section 23 of the
2 "Temporary Disability Benefits Law," P.L.1948, c.110 (C.43:21-47)
3 plus the amount at the end of such preceding calendar year of the
4 unemployment disability account as defined in section 22 of said
5 law (C.43:21-46), such excess shall be expressed as a percentage of
6 the wages on which contributions were paid to the State disability
7 benefits fund on or before January 31 with respect to employment
8 in the preceding calendar year.

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

13 (i) If the percentage determined in accordance with paragraph
14 (E)(1) of this subsection equals or exceeds $1\frac{1}{4}\%$, the final
15 employer rates shall be the preliminary rates determined as
16 provided in (D) hereof, except that if the employer's preliminary
17 rate is determined as provided in (D)(2) or (D)(3) hereof, the final
18 employer rate shall be the preliminary employer rate decreased by
19 such percentage of excess taken to the nearest $\frac{5}{100}$ of 1%, but in
20 no case shall such final rate be less than $\frac{1}{10}$ of 1%.

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

25 (iii) If the percentage determined in accordance with paragraph
26 (E)(1) of this subsection is less than $\frac{3}{4}$ of 1%, but in excess of $\frac{1}{4}$
27 of 1%, the final employer rates shall be the preliminary employer
28 rates determined as provided in (D) hereof increased by the
29 difference between $\frac{3}{4}$ of 1% and such percentage taken to the
30 nearest $\frac{5}{100}$ of 1%; provided, however, that no such final rate
31 shall be more than $\frac{1}{4}$ of 1% in the case of an employer whose
32 preliminary rate is determined as provided in (D)(2) hereof, more
33 than $\frac{1}{2}$ of 1% in the case of an employer whose preliminary rate is
34 determined as provided in (D)(1) and (D)(3) hereof, nor more than
35 $\frac{3}{4}$ of 1% in the case of an employer whose preliminary rate is
36 determined as provided in (D)(4) hereof.

37 (iv) If the amount of the State disability benefits fund determined
38 as provided in paragraph (E)(1) of this subsection is equal to or less
39 than $\frac{1}{4}$ of 1%, then the final rate shall be $\frac{2}{5}$ of 1% in the case of
40 an employer whose preliminary rate is determined as provided in
41 (D)(2) hereof, $\frac{7}{10}$ of 1% in the case of an employer whose
42 preliminary rate is determined as provided in (D)(1) and (D)(3)
43 hereof, and 1.1% in the case of an employer whose preliminary rate
44 is determined as provided in (D)(4) hereof. Notwithstanding any
45 other provision of law or any determination made by the controller
46 with respect to any 12-month period commencing on July 1, 1970,
47 the final rates for all employers for the period beginning January 1,
48 1971, shall be as set forth herein.

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

6 (i) No disability benefits have been paid with respect to periods
7 of family temporary disability leave; and

8 (ii) No worker paid any contributions to the State disability
9 benefits fund pursuant to paragraph (1)(G)(ii) of subsection (d) of
10 this section.

11 (cf: P.L.2005, c.249, s.1)

12

13 16. (New Section) Gross income shall not include benefits for
14 family temporary disability leave paid pursuant to P.L.1948, c.110
15 (C.43:21-25 et seq.) and P.L._____,c._____.(C._____) (pending
16 before the Legislature as this bill).

17

18 17. This act shall take effect immediately.

19

20

21

STATEMENT

22

23 This bill extends the State's existing temporary disability
24 insurance (TDI) system to provide workers with family temporary
25 disability leave benefits to care for members of the worker's family
26 unable to care for themselves, including sick family members and
27 newborn and newly adopted children.

28 The bill provides up to six weeks of TDI benefits for a worker
29 taking leave to participate in providing care certified to be
30 necessary for a family member of the worker suffering a serious
31 health condition, including providing psychological comfort and
32 arranging third party care for the family member; or taking leave to
33 be with a child of the worker during the first 12 months after the
34 child's birth or placement for adoption with the worker's family.

35 The bill applies to all private and governmental employers
36 subject to the "unemployment compensation law" (R.S.43:21-1 et
37 seq.), including local governmental employees who choose to opt
38 out of the regular TDI program.

39 The weekly benefit amount paid under the bill is the same as the
40 weekly amount for TDI benefits during a worker's own disability
41 and is subject to the same one-week waiting period. The employer
42 may require that the employee take up to two weeks of available
43 sick or vacation pay or other fully-paid leave provided by the
44 employer before receiving benefits under the bill, and may require
45 that the period of benefits under this bill be reduced by the amount
46 of time in which fully paid leave is provided. If the employee is
47 required to take fully paid leave, the bill requires that the employee
48 be permitted to use the first week's worth of the fully paid leave

1 during the one-week waiting period that precedes the family leave
2 benefits. If the leave is for care of a child after birth or adoption,
3 the employee is required to give at least 30 days prior notice. If the
4 leave is for the care for sick family members, the employee is
5 required to schedule, when possible, the leave in a manner to
6 minimize disruption of employer operations, and give, if possible,
7 15 days prior notice for leave which is intermittent. Employees are
8 required to take benefits provided under the bill concurrently with
9 any unpaid leave taken under the State "Family Leave Act,"
10 P.L.1989, c.261 (C.34:11B-1 et seq.) or the federal "Family and
11 Medical Leave Act of 1993," Pub.L.103-3 (29 U.S.C. s.2601 et
12 seq.). The bill does not grant employees any entitlement to be
13 restored by employers to employment held prior to taking family
14 temporary disability leave or any right to take action against an
15 employer who refuses to restore the employee to employment and
16 does not increase, reduce or modify any employee entitlements or
17 rights provided by the "Family Leave Act" or the federal "Family
18 and Medical Leave Act of 1993".

19 The bill provides that the collection of an assessment on
20 employees to pay for family leave temporary disability benefits will
21 commence on January 1, 2009 and that the payment of family leave
22 benefits will commence on July 1, 2009. During 2009, the bill will
23 raise revenues necessary to pay the benefits through an assessment
24 paid by workers of 0.09% of the portion of each worker's wages
25 which is subject to TDI taxes. In 2010 and subsequent years, the
26 rate would be 0.12%. If the 0.12% assessment rate were applied to
27 the \$27,700 of a worker's wage which is taxable in 2008, the
28 maximum annual assessment paid by a worker would be \$33,
29 approximately 64 cents per week. The funds raised through that
30 assessment would be deposited into an account to be used only for
31 family leave benefits and their administration, including the cost of
32 an outreach program to eligible employees and the cost of issuing
33 annual reports on the use of the benefits. Neither the assessments
34 nor the benefits would be considered in determining the TDI tax
35 rates of employers. The bill permits the Department of Labor and
36 Workforce Development to borrow up to \$25 million from the TDI
37 fund for start-up costs of the program, including the costs of setting
38 up the revenue collection system, and requires the borrowed amount
39 to be repaid by 2015.

40 The bill provides that, as with TDI, employers would have the
41 option of using the State-operated plan or a private plan though
42 self-insurance or an insurance policy, so long as employees are not
43 charged more, the benefits are not lower and eligibility is not more
44 restrictive than under the State plan. The bill provides that private
45 plans may cover TDI benefits, family leave benefits, both or
46 neither. The bill requires no changes in existing private plans.

47 Finally, the bill reaffirms the State's commitment to sustaining
48 the State-operated, nonprofit State disability benefits plan, which

- 1 has been found to be a highly efficient and cost-effective means of
- 2 ensuring the availability of coverage for employers and workers
- 3 with low overhead costs and impartial claims processing.

SENATE BUDGET AND APPROPRIATIONS COMMITTEE

STATEMENT TO

SENATE, No. 786

with committee amendments

STATE OF NEW JERSEY

DATED: JANUARY 28, 2008

The Senate Budget and Appropriations Committee reports favorably Senate Bill No. 786, with committee amendments.

This bill, as amended by the committee, extends the State's existing temporary disability insurance (TDI) system to provide workers with family temporary disability leave benefits to care for members of the worker's family unable to care for themselves, including sick family members and newborn and newly adopted children.

The bill provides up to six weeks of TDI benefits for a worker taking leave to participate in providing care certified to be necessary for a family member of the worker suffering a serious health condition, including providing psychological comfort and arranging third party care for the family member; or taking leave to be with a child of the worker during the first 12 months after the child's birth or placement for adoption with the worker's family.

The bill applies to all private and governmental employers subject to the "unemployment compensation law" (R.S.43:21-1 et seq.), including local governmental employees who choose to opt out of the regular TDI program.

The weekly benefit amount paid under the bill is the same as the weekly amount for TDI benefits during a worker's own disability and is subject to the same one-week waiting period. The employer may require that the employee take up to two weeks of available sick or vacation pay or other fully-paid leave provided by the employer before receiving benefits under the bill, and may require that the period of benefits under this bill be reduced by the amount of time in which fully paid leave is provided. If the employee is required to take fully paid leave, the bill requires that the employee be permitted to use the first week's worth of the fully paid leave during the one-week waiting period that precedes the family leave benefits. If the leave is for care of a child after birth or adoption, the employee is required to give at least 30 days prior notice, except when unforeseeable circumstances prevent that prior notice. If the leave is for the care for sick family members, the employee is required to schedule, when possible, the leave in a manner to minimize disruption of employer operations, and

give, if possible, 15 days prior notice for leave which is intermittent. Employees are required to take benefits provided under the bill concurrently with any unpaid leave taken under the State “Family Leave Act,” P.L.1989, c.261 (C.34:11B-1 et seq.) or the federal “Family and Medical Leave Act of 1993,” Pub.L.103-3 (29 U.S.C. s.2601 et seq.). The bill does not grant employees any entitlement to be restored by employers to employment held prior to taking family temporary disability leave or any right to take action against an employer who refuses to restore the employee to employment and does not increase, reduce or modify any employee entitlements or rights provided by the “Family Leave Act” or the federal “Family and Medical Leave Act of 1993”.

The bill provides that the collection of an assessment on employees to pay for family leave temporary disability benefits will commence on January 1, 2009 and that the payment of family leave benefits will commence on July 1, 2009. During 2009, the bill will raise revenues necessary to pay the benefits through an assessment paid by workers of 0.09% of the portion of each worker's wages subject to TDI taxes. In 2010 and subsequent years, the rate would be 0.12%. If the 0.12% assessment rate were applied to the \$27,700 of a worker's wage which is taxable in 2008, the maximum annual assessment paid by a worker would be \$33, approximately 64 cents per week. The funds raised through that assessment would be deposited into an account to be used only for family leave benefits and their administration, including the cost of an outreach program to eligible employees and the cost of issuing annual reports on the use of the benefits. Neither the assessments nor the benefits would be considered in determining the TDI tax rates of employers. The bill permits the Department of Labor and Workforce Development to borrow up to \$25 million from the TDI fund for start-up costs of the program, including the costs of setting up the revenue collection system, and requires the borrowed amount to be repaid by 2015.

The bill provides that, as with TDI, employers would have the option of using the State-operated plan or a private plan though self-insurance or an insurance policy, so long as employees are not charged more, the benefits are not lower and eligibility is not more restrictive than under the State plan. The bill provides that private plans may cover TDI benefits, family leave benefits, both or neither. The bill requires no changes in existing private plans.

Finally, the bill reaffirms the State's commitment to sustaining the State-operated, nonprofit State disability benefits plan, which has been found to be a highly efficient and cost-effective means of ensuring the availability of coverage for employers and workers with low overhead costs and impartial claims processing.

COMMITTEE AMENDMENTS:

The committee amended the bill to:

1. Provide that an employer may permit or require an employee to use paid sick leave or other paid leave time before using benefits provided under the bill, notwithstanding any other law which would prohibit such use of sick leave, such as N.J.S.18A:30-1 et seq., which would otherwise prohibit such use of sick leave by school employees; and

2. Clarifies that the health care providers permitted to provide certification and examinations under the bill, like the providers permitted to provide care, are the same as the health care providers covered under the State's "Family Leave Act," not the providers covered under the TDI law.

The other amendments are technical.

FISCAL IMPACT:

The Office of Legislative Services (OLS) notes that the cost of the benefits provided under this bill are paid for from assessments on employees' wages. This bill, therefore, will have no impact on the State General Fund.

The bill assesses an additional tax on that portion of an employee's wages that are subject to the State TDI tax. Beginning January 1, 2009, the additional tax rate would be 0.09 percent and will increase to 0.12 percent on January 1, 2010. The revenue generated by this additional tax will be deposited into the Family Temporary Disability Leave Account within the State TDI fund. Paid Family Leave (PFL) benefits would be made available from this account beginning July 1, 2009. An amount not to exceed \$25 million may be transferred from the State TDI fund to the new account to support start-up costs. Any such transferred funds must be repaid starting January 1, 2011 and must be completely repaid by December 31, 2015.

Benefit Costs

The OLS estimates that approximately 38,200 people may file claims under this program in 2009, but since the program is only operable during the second half of the first year, the actual experience should be approximately 19,100 claims (half of the total expected for CY 2009). The estimate of claims is extrapolated using CY 2005 NJ TDI eligible pregnancy claims (the most recent available) and analyzing California's experience (the only other state to have a currently operating Paid Family Leave program). The number of estimated claims will need to be adjusted upward in future years to reflect the actual increase in covered employment and benefit rates.

Each claimant is eligible for six weeks of PFL at the same rate as TDI benefits. The average weekly benefit for PFL for 2009 is estimated to be \$415. The experience in California indicates that the average claimant takes 5.5 weeks PFL. Therefore, the total benefit cost of PFL for CY 2009 is \$43.6 million (19,100 claimants multiplied by \$415 is equal to \$7.9 million; 5.5 weeks multiplied by \$7.9 million is \$43.6 million). The PFL benefits for CY 2010 and 2011 are calculated

in the same manner and are estimated to total \$90.4 million and \$94 million, respectively.

Administrative Costs

According to the department, estimated administrative costs will be \$5.2 million for CY 2009. The first year may have unforeseen costs associated with the establishment of the program and the administration of the benefits in the second half of the year only. Some of these costs may be covered by the \$25 million maximum that may be borrowed by PFL from the TDI fund.

Repayment of Start Up Costs to TDI fund

The department has previously indicated that a repayment schedule of \$2.5 million per year for the five years, as permitted under the bill, would be followed. It is uncertain at this time what amount will be borrowed from the TDI fund to establish the program.

Estimated Revenue

The revenue to fund the PFL program will be generated from an additional employee only tax on wages subject to the TDI tax, approximately \$27,700 in CY 2008. The maximum cost of the PFL program to an employee, assuming the CY 2008 wages of \$27,700, will be \$25 in CY 2009 and \$33 for CY 2010.

The department has estimated that taxable wages subject to the TDI tax would equal \$82.1 billion in CY 2009, \$86.1 billion in CY 2010 and \$89.9 billion in CY 2011.

Based on these estimated taxable wages, the OLS estimates that \$64.5 million in revenue will be raised in CY2009 (at a tax rate equal to 0.09 percent), and \$97.4 million in CY 2010 and \$104.2 million in CY 2011 (at a tax rate equal to 0.12 percent).

In summary, the OLS estimates that the revenue generated from the PFL tax will adequately fund the costs associated with the program, for the time period addressed in this estimate.

LEGISLATIVE FISCAL ESTIMATE
SENATE, No. 786
STATE OF NEW JERSEY
213th LEGISLATURE

DATED: FEBRUARY 1, 2008

SUMMARY

- Synopsis:** Extends TDI to provide family leave benefits for workers caring for sick family members, newborn and newly adopted children.
- Type of Impact:** Expenditure increase offset by revenue increase in the newly created Family Temporary Disability Leave Account within the State disability benefits fund. No impact on the State General Fund.
- Agencies Affected:** Department of Labor and Workforce Development.

Office of Legislative Services Estimate*

Fiscal Impact	<u>Calendar Year 2009</u>	<u>Calendar Year 2010</u>	<u>Calendar Year 2011</u>
Family Temporary Disability Leave Account			
Revenue	\$64.5 million	\$97.4 million	\$104.2 million
Cost	<u>\$48.8 million</u>	<u>\$97.6 million</u>	<u>\$103.9 million</u>
Balance (Accumulated)	\$15.7 million	\$15.8 million	\$15.8 million

*This estimate does not include the amount up to \$25 million that may be borrowed (and must be paid back, beginning in 2011) from the State disability benefits fund to support start up costs.

- The Office of Legislative Services (OLS) estimates that the cost of the benefits provided under this bill are paid for from assessments on employees' wages, for the time period addressed in this estimate. This bill, therefore, will have no impact on the State General Fund.

BILL DESCRIPTION

Senate Bill No. 786 of 2008 extends the current State temporary disability insurance (TDI) system to provide any eligible worker with up to 6 weeks of paid family leave during the first 12 months after the birth or adoption of a child, or to care for a family member with a serious medical condition. The bill would apply to all private and government sector employers that are subject to the unemployment compensation law, including local government employers who currently choose to opt out of the regular TDI program. The bill would not apply to federal government employees.

The bill assesses an additional tax on that portion of an employee's wages that are subject to the State TDI tax. Beginning January 1, 2009, the additional tax rate would be 0.09 percent and will increase to 0.12 percent on January 1, 2010. The revenue generated by this additional tax will be deposited into the Family Temporary Disability Leave Account within the State TDI fund. Paid Family Leave (PFL) benefits would be made available from this account beginning July 1, 2009. An amount not to exceed \$25 million will be transferred from the State TDI fund to the new account to support start-up costs. Any such transferred funds must be repaid starting January 1, 2011 and must be completely repaid by December 31, 2015. The program would not affect the General Fund.

FISCAL ANALYSIS

OFFICE OF LEGISLATIVE SERVICES

The OLS estimates that the costs of the PFL program will be entirely paid by revenue generated through the employee only tax.

The Department of Labor and Workforce Development (department) did not provide a formal estimate for S-786. However, the department conducted an analysis and evaluation of previous similar legislation in October, 2007 (S-2249 (1R)). This analysis included the evaluation of a six week PFL program with available data. Much of that information has been shared by the department with the OLS and is relied on heavily for this analysis.

Paid Family Leave Program - 6 Weeks of Benefits Estimated Costs and Revenues¹ (in millions of dollars)

	Calendar Year 2009	Calendar Year 2010	Calendar Year 2011
Beginning Balance	0	15.7	15.5
Benefit Costs	43.6 (six months)	90.4	94
Administrative Costs	5.2	7.2	7.5
Payback of start up costs	0	0	2.4
Total Estimated Costs	48.8	97.6	103.9
Estimated Revenue	64.5	97.4	104.2
Estimated Year-End Balance	15.7	15.5	15.8

¹This estimate does not include the amount up to \$25 million that may be borrowed (and must be paid back) from the TDI fund to support start up costs.

Benefit Costs

In order to determine the costs of the program, it is imperative to first estimate how many individuals may participate in the program. The OLS estimates that 38,200 people would be expected to file claims in 2009, but the program is only available for the second half of that year, so the actual experience that year should be approximately 19,100 claims (half of the total expected claims for CY 2009).

The estimate of 38,200 claims was extrapolated using CY 2005 NJ TDI eligible pregnancy claims (the most recent available) and analyzing California's experience (the only other state to have a Paid Family Leave program). The CY 2005 data indicate that 37,200 people would have filed claims if the program had been in effect that year. Twenty-nine thousand people would have participated under birth and adoption claims and 5,000 claims would have been made for

care of sick family members. In addition, 3,200 claims would have been made by laid off individuals. (If a person who is laid off and receiving unemployment insurance (UI) benefits, becomes eligible for PFL through birth, adoption or family care, they may stop collecting UI benefits and start collecting PFL benefits. This will have minimal to no effect on unemployment insurance costs because it does not extend the current 26 weeks of eligibility for unemployment insurance.) Thus, the total claimants for 2005 would have been 37,200 (29,000 + 5,000 + 3,200). Each year the number of estimated claims will need to be adjusted upward to reflect the actual increase in covered employment and benefit rates as estimated by the department. In total, the estimated claims will be 19,100 in the second half of 2009, 38,300 in 2010 and 38,500 in 2011.

Each claimant is eligible for six weeks of PFL at the same rate as TDI benefits. The average weekly benefit for PFL for 2009 is estimated to be \$415. The experience in California indicates that the average claimant takes 5.5 weeks PFL. Therefore, the total benefit cost of PFL for CY 2009 is \$43.6 million (19,100 claimants multiplied by \$415 is equal to \$7.9 million; 5.5 weeks multiplied by \$7.9 million is \$43.6 million). The PFL benefits for CY 2010 and 2011 are calculated in the same manner.

Administrative Costs

The department in its October, 2007 analysis estimated that administrative costs would be \$5.2 million for CY 2009. The first year may have unforeseen costs associated with the establishment of the program and the administration of the benefits in the second half of the year only. Some of these costs may be covered by the \$25 million maximum that may be borrowed by PFL from the TDI fund.

Payback of Start Up Costs

The department in its October, 2007 analysis estimated that a payback schedule of \$2.5 million per year for the five years permitted under S-786 would be followed. It is uncertain at this time what amount will be borrowed from the TDI fund to establish the program.

Estimated Revenue

The revenue to fund the PFL program would be generated from an additional employee only tax on wages subject to the TDI tax, approximately \$27,700 in CY 2008. The maximum cost of the PFL program to an employee, assuming the CY 2008 wages of \$27,700, will be \$25 in CY 2009 and \$33 for CY 2010.

The department in its October, 2007 analysis estimated that taxable wages subject to the TDI tax would equal \$82.1 billion in CY 2009, \$86.1 billion in CY 2010 and \$89.9 billion in CY 2011.

The department further estimated that the collection rate for this tax will equal 97 percent. In addition, the revenue collected as of December 31, 2009 represents approximately 90 percent of the total 2009 taxable wages because tax revenue is actually collected from April through March. Thus in the following years, each CY estimated revenue represents $\frac{3}{4}$ of the collection for that year in addition to $\frac{1}{4}$ of the previous year. Based on these estimated taxable wages, the OLS estimates that \$64.5 million in revenue will be raised in CY2009 (when the tax rate would equal 0.09 percent), \$97.4 million in CY 2010 and \$104.2 million in CY 2011 (when the tax rate would equal 0.12 percent).

In summary, the OLS estimates that the revenue generated from the PFL tax will adequately fund the costs associated with the program, for the time period addressed in this estimate.

S786

4

Section: Commerce, Labor and Industry

*Analyst: Robin C. Ford
Assistant Fiscal Analyst*

*Approved: David J. Rosen
Legislative Budget and Finance Officer*

This fiscal estimate has been prepared pursuant to P.L. 1980, c.67 (C. 52:13B-1 et seq.).

ASSEMBLY APPROPRIATIONS COMMITTEE

STATEMENT TO

[First Reprint]

SENATE, No. 786

with Assembly committee amendments

STATE OF NEW JERSEY

DATED: MARCH 10, 2008

The Assembly Appropriations Committee reports favorably Senate Bill No. 786 (1R), with committee amendments.

This bill, as amended, extends the State's existing temporary disability insurance (TDI) system to provide workers with family temporary disability leave benefits to care for members of the worker's family unable to care for themselves, including sick family members and newborn and newly adopted children.

The bill provides up to six weeks of TDI benefits for a worker taking leave to participate in providing care certified to be necessary for a family member of the worker suffering a serious health condition, or taking leave to be with a child of the worker during the first 12 months after the child's birth or placement for adoption with the worker's family.

The bill applies to all private and governmental employers subject to the "unemployment compensation law" (R.S.43:21-1 et seq.), including local governmental employees who choose to opt out of the regular TDI program.

The weekly benefit amount paid under the bill is the same as the weekly amount for TDI benefits during a worker's own disability and is subject to the same one-week waiting period. The employer may require that the employee take up to two weeks of available sick or vacation pay or other fully-paid leave provided by the employer before receiving benefits under the bill, and may require that the period of benefits under this bill be reduced by the amount of time in which fully paid leave is provided. If the employee is required to take fully paid leave, the bill requires that the employee be permitted to use the first week's worth of the fully paid leave during the one-week waiting period that precedes the family leave benefits.

If the leave is for care of a child after birth or adoption, the employee is required to give at least 30 days prior notice, except when unforeseeable circumstances prevent that prior notice. If the leave is for the care for sick family members, the employee is required to schedule, when possible, the leave in a manner to minimize disruption

of employer operations, and give, if possible, 15 days prior notice for leave which is intermittent. Intermittent leave is provided in increments of not less than one day. Employees are required to take benefits provided under the bill concurrently with any unpaid leave taken under the State "Family Leave Act," P.L.1989, c.261 (C.34:11B-1 et seq.) or the federal "Family and Medical Leave Act of 1993," Pub.L.103-3 (29 U.S.C. s.2601 et seq.).

The bill does not grant employees any entitlement to be restored by employers to employment held prior to taking family temporary disability leave or any right to take action against an employer who refuses to restore the employee to employment and does not increase, reduce or modify any employee entitlements or rights provided by the "Family Leave Act" or the federal "Family and Medical Leave Act of 1993". The bill provides that if an employee receives family leave benefits under the bill with respect to employment with an employer who is not an employer as defined in the State "Family Leave Act" and that employer fails or refuses to restore the employee to employment after the period of family leave benefits, that failure or refusal shall not be a wrongful discharge in violation of a clear mandate of public policy, and the employee shall not have a cause of action against that employer, in tort, or for breach of an implied provision of the employment agreement, or under common law, for that failure or refusal. The bill affirms as the reason for treating periods of family leave benefits differently from periods of worker disability that, while the Legislature recognizes the pressing need for benefits for workers taking leave to care for family members incapable of self-care, it also finds that the need of workers for leave during their own disability continues to be especially acute, as a disabled worker has less discretion about taking time off from work than a worker caring for a family member.

The bill provides that the collection of an assessment on employees to pay for family temporary disability leave benefits will commence on January 1, 2009 and that the payment of family leave benefits will commence on July 1, 2009. During 2009, the bill will raise revenues necessary to pay the benefits through an assessment paid by workers of 0.09% of the portion of each worker's wages subject to TDI taxes. In 2010 and subsequent years, the rate would be 0.12%. If the 0.12% assessment rate were applied to the \$27,700 of a worker's wage which is taxable in 2008, the maximum annual assessment paid by a worker would be \$33, approximately 64 cents per week. The funds raised through that assessment would be deposited into an account to be used only for family leave benefits and their administration, including the cost of an outreach program to eligible employees and the cost of issuing annual reports on the use of the benefits. The bill permits the Department of Labor and Workforce Development to borrow up to \$25 million from the TDI fund for start-up costs of the program, including the costs of setting up the revenue collection system, and

requires the borrowed amount to be repaid by 2015. No family leave benefits, assessments or loans under the bill will be considered in determining the TDI tax rates of employers, ensuring that the bill has no effect on employer TDI tax rates.

The bill increase the penalties for misrepresentations, fraud and other violations regarding both the existing TDI program and the family temporary disability benefit program established by the bill. Penalties for knowingly making a false statement or knowingly failing to disclose a material fact to improperly obtain benefits or avoid paying benefits or taxes are increased from \$20 to \$250 per statement or non-disclosure. Penalties for other willful violations of the TDI law or the bills are increased from \$50 to \$500 and additional penalties for violations with intent to defraud the program are increased from not more than \$250 to not more than \$1,000.

The bill provides that, as with TDI, employers would have the option of using the State-operated plan or a private plan though self-insurance or an insurance policy, so long as employees are not charged more, the benefits are not lower and eligibility is not more restrictive than under the State plan. The bill provides that private plans may cover TDI benefits, family leave benefits, both or neither. The bill requires no changes in existing private plans.

Finally, the bill reaffirms the State's commitment to sustaining the State-operated, nonprofit State disability benefits plan, which has been found to be a highly efficient and cost-effective means of ensuring the availability of coverage for employers and workers with low overhead costs and impartial claims processing.

As amended and reported, this bill is identical to A-873 (ACS) as also amended and reported by the committee.

FISCAL IMPACT:

The Office of Legislative Services (OLS) notes that the cost of the benefits provided under this bill are paid for from assessments on employees' wages. This bill, therefore, will have no impact on the State General Fund.

The bill assesses an additional tax on that portion of an employee's wages that are subject to the State TDI tax. Beginning January 1, 2009, the additional tax rate would be 0.09 percent and will increase to 0.12 percent on January 1, 2010. The revenue generated by this additional tax will be deposited into the Family Temporary Disability Leave Account within the State TDI fund. Paid Family Leave (PFL) benefits would be made available from this account beginning July 1, 2009. An amount not to exceed \$25 million may be transferred from the State TDI fund to the new account to support start-up costs. Any such transferred funds must be repaid starting January 1, 2011 and must be completely repaid by December 31, 2015.

Benefit Costs

The OLS estimates that approximately 38,200 people may file claims under this program in 2009, but since the program is only operable during the second half of the first year, the actual experience should be approximately 19,100 claims (half of the total expected for CY 2009). The estimate of claims is extrapolated using CY 2005 NJ TDI eligible pregnancy claims (the most recent available) and analyzing California's experience (the only other state to have a currently operating Paid Family Leave program). The number of estimated claims will need to be adjusted upward in future years to reflect the actual increase in covered employment and benefit rates.

Each claimant is eligible for six weeks of PFL at the same rate as TDI benefits. The average weekly benefit for PFL for 2009 is estimated to be \$415. The experience in California indicates that the average claimant takes 5.5 weeks PFL. Therefore, the total benefit cost of PFL for CY 2009 is \$43.6 million (19,100 claimants multiplied by \$415 is equal to \$7.9 million; 5.5 weeks multiplied by \$7.9 million is \$43.6 million). The PFL benefits for CY 2010 and 2011 are calculated in the same manner and are estimated to total \$90.4 million and \$94 million, respectively.

Administrative Costs

According to the department, estimated administrative costs will be \$5.2 million for CY 2009. The first year may have unforeseen costs associated with the establishment of the program and the administration of the benefits in the second half of the year only. Some of these costs may be covered by the \$25 million maximum that may be borrowed by PFL from the TDI fund.

Repayment of Start Up Costs to TDI fund

The department has previously indicated that a repayment schedule of \$2.5 million per year for the five years, as permitted under the bill, would be followed. It is uncertain at this time what amount will be borrowed from the TDI fund to establish the program.

Estimated Revenue

The revenue to fund the PFL program will be generated from an additional employee only tax on wages subject to the TDI tax, approximately \$27,700 in CY 2008. The maximum cost of the PFL program to an employee, assuming the CY 2008 wages of \$27,700, will be \$25 in CY 2009 and \$33 for CY 2010.

The department has estimated that taxable wages subject to the TDI tax would equal \$82.1 billion in CY 2009, \$86.1 billion in CY 2010 and \$89.9 billion in CY 2011.

Based on these estimated taxable wages, the OLS estimates that \$64.5 million in revenue will be raised in CY2009 (at a tax rate equal to 0.09 percent), and \$97.4 million in CY 2010 and \$104.2 million in CY 2011 (at a tax rate equal to 0.12 percent).

In summary, the OLS estimates that the revenue generated from the PFL tax will adequately fund the costs associated with the program, for the time period addressed in this estimate.

COMMITTEE AMENDMENTS:

The committee amendments:

1. Provide that if an employee receives family leave benefits under the bill with respect to employment with an employer who is not an employer as defined in the State “Family Leave Act,” P.L.1989, c.261 (C.34:11B-1 et seq.), and that employer fails or refuses to restore the employee to employment after the period of family leave benefits, that failure or refusal shall not be a wrongful discharge in violation of a clear mandate of public policy, and the employee shall not have a cause of action against that employer, in tort, or for breach of an implied provision of the employment agreement, or under common law, for that failure or refusal;

2. Affirm that while the Legislature recognizes the pressing need for benefits for workers taking leave to care for family members incapable of self-care, it also finds that the need of workers for leave during their own disability continues to be especially acute, as a disabled worker has less discretion about taking time off from work than a worker caring for a family member. The amendments further affirm that, notwithstanding any interpretation of law which may be construed as providing a worker with rights to take action against an employer who fails or refuses to restore the worker to employment after the worker’s own disability, the Legislature does not intend that the policy established by the bill of providing family leave benefits be construed as granting any worker an entitlement to be restored by the employer to employment held by the worker prior to taking family leave or any right to take action, in tort, or for breach of an implied provision of the employment agreement, or under common law, against an employer who fails or refuses to restore the worker to employment after the leave, and the Legislature does not intend that the policy of providing family leave benefits be construed as increasing, reducing or otherwise modifying any entitlement of a worker to return to employment or right of the worker to take action under the provisions of the State “Family Leave Act” or the federal “Family and Medical Leave Act of 1993,” Pub.L.103-3 (29 U.S.C. s.2601 et seq.).

3. Eliminate references in the bill to “providing psychological comfort and arranging third party care for the family members” as part of the care of family members during periods of leave covered by the bill, instead indicating that care covered by the bills is the same as is defined and provided in the State “Family Leave Act,” and regulations adopted pursuant to that act; and

4. Increase the penalties for misrepresentations, fraud and other violations regarding both the existing TDI program and the family

temporary disability benefit program established by the bill. Penalties for knowingly making a false statement or knowingly failing to disclose a material fact to improperly obtain benefits or avoid paying benefits or taxes are increased from \$20 to \$250 per statement or non-disclosure. Penalties for other willful violations of the TDI law or the bills are increased from \$50 to \$500 and additional penalties for violations with intent to defraud the program are increased from not more than \$250 to not more than \$1,000.

5. Provide that employer TDI taxes will be calculated as if no funds are loaned from the regular TDI fund to the “Family Temporary Disability Leave Account,” effectively ensuring that the loans will not result in any increase in employer TDI tax payments.

LEGISLATIVE FISCAL ESTIMATE

[Second Reprint]

SENATE, No. 786

STATE OF NEW JERSEY 213th LEGISLATURE

DATED: APRIL 11, 2008

SUMMARY

- Synopsis:** Extends TDI to provide family leave benefits for workers caring for sick family members, newborn and newly adopted children.
- Type of Impact:** Expenditure increase offset by revenue increase in the newly created Family Temporary Disability Leave Account within the State disability benefits fund. No impact on the State General Fund.
- Agencies Affected:** Department of Labor and Workforce Development.

Office of Legislative Services Estimate*

Fiscal Impact	<u>Calendar Year 2009</u>	<u>Calendar Year 2010</u>	<u>Calendar Year 2011</u>
State Cost	\$48.8 million	\$97.6 million	\$103.9 million
State Revenue	\$64.5 million	\$97.4 million	\$104.2 million
Family Temporary Disability Leave Account Balance	\$15.7 million**	\$15.5 million	\$15.8 million

*This estimate does not include the amount up to \$25 million that may be borrowed (and must be paid back, beginning in 2011) from the State disability benefits fund to support start up costs.

**See page two for projected balances.

- The Office of Legislative Services (OLS) estimates that the cost of the benefits provided under this bill are paid entirely from assessments on employees' wages. This bill, therefore, will have no impact on the State General Fund.

BILL DESCRIPTION

Senate Bill No. 786 (2R) of 2008 extends the current State temporary disability insurance (TDI) system to provide any eligible worker with up to 6 weeks of paid family leave during the first 12 months after the birth or adoption of a child, or to care for a family member with a serious medical condition. The bill would apply to all private and government sector employers that are subject to the unemployment compensation law, including local government employers who currently choose to opt out of the regular TDI program. The bill would not apply to federal government employees.

The bill assesses an additional tax on that portion of an employee's wages that are subject to the State TDI tax. Beginning January 1, 2009, the additional tax rate would be 0.09 percent and will increase to 0.12 percent on January 1, 2010. The revenue generated by this additional tax will be deposited into the Family Temporary Disability Leave Account within the State TDI fund. Paid Family Leave (PFL) benefits would be made available from this account beginning July 1, 2009. An amount not to exceed \$25 million will be transferred from the State TDI fund to the new account to support start-up costs. Any such transferred funds must be repaid starting January 1, 2011 and must be completely repaid by December 31, 2015. The program would not affect the General Fund.

FISCAL ANALYSIS

OFFICE OF LEGISLATIVE SERVICES

The OLS estimates that the costs of the PFL program will be entirely paid by revenue generated through the employee only tax.

The Department of Labor and Workforce Development (department) did not provide a formal estimate for S-786 (2R). However, the department conducted an analysis and evaluation of previous similar legislation in October, 2007 (S-2249 (1R)). This analysis included the evaluation of a six week PFL program with available data. Much of that information has been shared by the department with the OLS and is relied on heavily for this analysis.

Paid Family Leave Program - 6 Weeks of Benefits Estimated Costs and Revenues¹ (in millions of dollars)

	CY 2009	CY 2010	CY 2011
Beginning Balance	----	15.7	15.5
Benefit Costs	43.6 (six months)	90.4	94
Administrative Costs	5.2	7.2	7.5
Payback of start up costs	----	----	2.4
Total Estimated Costs	48.8	97.6	103.9
Estimated Revenue	64.5	97.4	104.2
Estimated Year-End Balance	15.7	15.5	15.8

¹This estimate does not include the amount up to \$25 million that may be borrowed (and must be paid back) from the TDI fund to support start up costs.

Benefit Costs:

In order to determine the costs of the program, it is imperative to first estimate how many individuals may participate in the program. The OLS estimates that 38,200 people would be expected to file claims in 2009, but the program is only available for the second half of that year, so the actual experience that year should be approximately 19,100 claims (half of the total expected claims for CY 09).

The estimate of 38,200 claims was extrapolated using CY2005 NJ TDI eligible pregnancy claims (the most recent available) and analyzing California's experience (the only other state to have a Paid Family Leave program). The CY2005 data indicate that 37,200 people would have filed claims if the program had been in effect that year. Twenty-nine thousand people would have participated under birth and adoption claims and 5,000 claims would have been made for

care of sick family members. In addition, 3,200 claims would have been made by laid off individuals. (If a person who is laid off and receiving unemployment insurance (UI) benefits, becomes eligible for PFL through birth, adoption or family care, they may stop collecting UI benefits and start collecting PFL benefits. This will have minimal to no effect on unemployment insurance costs because it does not extend the current 26 weeks of eligibility for unemployment insurance.) Thus, the total claimants for 2005 would have been 37,200 (29,000 + 5,000 + 3,200). Each year the number of estimated claims will need to be adjusted upward to reflect the actual increase in covered employment and benefit rates as estimated by the department. In total, the estimated claims will be 19,100 in the second half of 2009, 38,300 in 2010 and 38,500 in 2011.

Each claimant is eligible for six weeks of PFL at the same rate as TDI benefits. The average weekly benefit for PFL for 2009 is estimated to be \$415. The experience in California indicates that the average claimant takes 5.5 weeks PFL. Applying that experience to New Jersey, the total benefit cost of PFL for CY 2009 is \$43.6 million (19,100 claimants multiplied by \$415 is equal to \$7.9 million; 5.5 weeks multiplied by \$7.9 million is \$43.6 million). The PFL benefits for CY 2010 and 2011 are calculated in the same manner.

Administrative Costs

The department in its October, 2007 analysis estimated that administrative costs would be \$5.2 million for CY 2009. The first year may have unforeseen costs associated with the establishment of the program and the administration of the benefits in the second half of the year only. Some of these costs may be covered by the \$25 million maximum that may be borrowed from the TDI fund.

Payback of Start Up Costs

The department in its October, 2007 analysis estimated that a payback schedule of \$2.5 million per year for the five years permitted under S-786 (2R) would be followed. It is uncertain at this time what amount will be borrowed from the TDI fund to establish the program.

Estimated Revenue

The revenue to fund the PFL program would be generated from an additional employee only tax on wages subject to the TDI tax, approximately \$27,700 in CY 2008. The maximum cost of the PFL program to an employee, assuming the CY 2008 wages of \$27,700, will be \$25 in CY 2009 and \$33 for CY 2010.

The department in its October, 2007 analysis estimated that taxable wages subject to the TDI tax would equal \$82.1 billion in CY 2009, \$86.1 billion in CY 2010 and \$89.9 billion in CY 2011.

The department further estimated that the collection rate for this tax will equal 97 percent. In addition, the revenue collected as of December 31, 2009 represents approximately 90 percent of the total 2009 taxable wages because tax revenue is actually collected from April through March. Thus in the following years, each CY estimated revenue represents 75 percent of the collection for that year in addition to 25 percent of the previous year. Based on these estimated taxable wages, the OLS estimates that \$64.5 million in revenue will be raised in CY 2009 (when the tax rate would equal 0.09 percent), \$97.4 million in CY 2010 and \$104.2 million in CY 2011 (when the tax rate would equal 0.12 percent).

In summary, the OLS estimates that the revenue generated from the PFL tax will adequately fund the costs associated with the program.

Section: Commerce, Labor and Industry
Analyst: Robin C. Ford
Assistant 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 (C. 52:13B-1 et seq.).

GOVERNOR'S STATEMENT UPON SIGNING
ASSEMBLY COMMITTEE SUBSTITUTE FOR
ASSEMBLY BILL NO. 873
(First Reprint)

The Assembly Committee Substitute for Assembly Bill No. 873 (First Reprint), which I signed today, creates a new State family leave insurance program. This program will provide partial wage replacement to New Jersey workers who need to take leave from work to care for family members, including those who are seriously ill, newborns, and newly adopted family members. The bill recognizes the increasing difficulties confronting workers struggling to achieve a balance between work and family life.

The family leave insurance program created by this bill has an important but straight-forward function. It provides a mechanism by which workers pay into a fund that provides limited wage replacement should those workers determine to take a leave to care for a close family member. The program is not intended to govern the effect such a leave would have on the relationship between the employer and the worker with respect to the worker's right to return to the job following a leave. The program, then, does not alter current law and practice with respect to worker job security following the leave. So stated, it is clear that the creation of the program is well within the Legislature's power to create a new social insurance program.

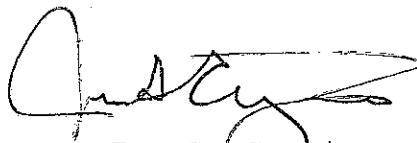
It has been suggested, however, that this bill establishes an arbitrary and unreasonable categorization of workers. Some opponents argue that the bill somehow violates State and federal constitutional principles because it does not create a right of a worker to return to the job following a family leave. This is alleged to be arbitrary because such a right may exist under other, existing statutes applicable in the workplace.

Employees of employers with 50 or more workers already are entitled to return to their jobs following a family leave under the New Jersey Family Leave Act and the federal Family and Medical Leave Act of 1993. State and federal legislatures carefully restricted this right to employees of large employers in recognition of the fact that small employers face coverage and continuity concerns not faced by larger employers. The division between employees of large and small employers for these purposes is clearly a permissible exercise of legislative discretion that appropriately accounts for differences among classes of regulated persons when creating new social and economic programs. The overlay of the family leave insurance program created by this bill does not upset that constitutional analysis. This bill, in recognition of the coverage and continuity concerns of small employers, leaves in place the law regarding the rights of workers to return to their jobs following leave, and hews to its narrow purpose: to provide

limited wage replacement for workers choosing to take a family leave. I am satisfied that this narrowly targeted action is a reasonable exercise of legislative discretion.

Moreover, while the bill disclaims any intent to affect the right of a worker to return to the job following a family leave, it does not include similar language with respect to a worker who takes a leave occasioned by his own disability and receives benefits under the existing Temporary Disability Insurance law. It has been suggested that this differential treatment is arbitrary. There are, however, significant differences in the circumstances of a disability leave and a family leave. For example, the bill points out that in the former case, the worker is disabled and unable to work, and the leave is therefore not a matter of choice. Furthermore, in the case of a family leave, the worker is physically able to work and has a choice - albeit perhaps a painful one - whether or not to take a family leave. It is entirely rational for the Legislature to treat differently these relevantly different circumstances.

In conclusion, I am satisfied that this bill properly draws reasonable distinctions among differently situated workers with respect to their receipt of economic and social assistance through legislation, and this conclusion also is reflected in a letter I have received from bill sponsors Senator Stephen M. Sweeney and Assemblyman Nelson T. Albano. I have therefore approved this bill.



Jon S. Corzine
Governor

Date: *May 2, 2008*

Attest:



Edward J. McBride, Jr.
Chief Counsel to the Governor