

43:21-3 et al

LEGISLATIVE HISTORY CHECKLIST

NJSA 43:21-3 et al (Conforms N.J. unemployment law with Federal law)

Laws of 1977 Chapter 307

Bill No. A3625

Sponsor(s) Jackman, Hamilton

Date Introduced Nov. 21, 1977

Committee: Assembly Labor

Senate -----

Amended during passage Yes ~~XX~~

Amendments during passage denoted by asterisks

Date of passage: Assembly Dec. 15, 1977

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Following statements are attached if available:

Sponsor statement Yes ~~XX~~

Committee Statement: Assembly Yes ~~XX~~

Senate ~~XX~~ No

Fiscal Note ~~XX~~ No

Veto message ~~XX~~ No

Message on signing Yes ~~XX~~

Following were printed:

Reports ~~XX~~ No

Hearings ~~XX~~ No

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ASSEMBLY, No. 3625

STATE OF NEW JERSEY

INTRODUCED NOVEMBER 21, 1977

By Assemblymen JACKMAN and HAMILTON

Referred to Committee on Labor

AN ACT concerning unemployment compensation and revising parts
of the statutory law.

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

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

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

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

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

14 (b) He has made a claim for benefits in accordance with the pro-
15 visions of subsection (a) of R. S. 43:21-6.

16 (c) He is able to work, and is available for work, and has demon-
17 strated that he is actively seeking work, except as hereinafter pro-
18 vided in this subsection or in subsection (f) of this section:

19 [(1) No woman shall be deemed to be able or available for work
20 during the 4 weeks immediately before the expected birth of her
21 child or the 4 weeks immediately following the birth of her child, in
22 either of which cases the division may require the production of a
23 doctor's certificate to establish such dates;]

24 [(2)] The director may, in his discretion, modify the requirement
25 of actively seeking work if, in his judgment, such modification of
26 this requirement is warranted by economic conditions.

27 No individual, who is otherwise eligible, shall be deemed ineligi-
28 ble, or unavailable for work, because he is on vacation, without pay,
29 during said week, if said vacation is not the result of his own action
30 as distinguished from any collective action of a collective bargain-
31 ing agent or other action beyond his individual control; nor subject
32 to such limitations and conditions as the division may prescribe,
33 shall any otherwise eligible individual who is attending a training
34 program which has been approved for him by the division to en-
35 hance his employment opportunities be deemed unavailable for
36 work or ineligible because he is attending such training program,
37 or because he failed or refused to accept work while attending such
38 program.

39 (d) He has been totally or partially unemployed for a waiting
40 period of 1 week in the benefit year which includes that week. When
41 benefits become payable with respect to the third consecutive week
42 next following the waiting period, he shall be eligible to receive
43 benefits as appropriate with respect to the waiting period. No week
44 shall be counted as a week of unemployment for the purposes of this
45 subsection:

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

50 (2) If it has constituted a waiting period week under temporary
51 disability benefits law;

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

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

56 (e) With respect to a base year as defined in subsection (c) of
57 R. S. 43:21-19 he has established at least 20 base weeks as defined
58 in subsection (t) of R. S. 43:21-19, or, in the alternative, has earned
59 \$2,200.00 or more in his base year, *except that with respect to bene-*
60 *fit years commencing on or after January 1, 1978, an individual's*
61 *base week wages in his base year shall include wages paid for*
62 *previously uncovered services. For the purposes of this subsection,*
63 *the term "previously uncovered services" means services—*

64 (1) *Which were not employment as defined in R. S. 43:21-19*
65 *(i)(1) and were not services covered pursuant to R. S. 43:21-8 at*
66 *any time during the 1-year period ending December 31, 1975; and*

67 (2) *Which—*

68 (A) *are agricultural labor (as defined in R. S. 43:21-19*
69 *(i)(1)(I)) or domestic service (as defined in R. S. 43:21-19*
70 *(i)(1)(J)), or*

71 (B) *are services performed by an employee of a governmental*
72 *unit or instrumentality in employment as defined in R. S. 43:21-19*
73 *(i)(1)(B)(ii), or by an employee of a nonprofit educational institu-*
74 *tion which is not an institution of higher education, as provided*
75 *in R. S. 43:21-19 (i)(1)(D)(iii):*

76 *except to the extent that assistance under Title II of the Emergency*
77 *Jobs and Unemployment Assistance Act of 1974 was paid on the*
78 *basis of such services. To the extent that the unemployment com-*
79 *ensation fund is reimbursed pursuant to Section 121 of the*
80 *Federal Unemployment Compensation Amendments of 1976 (Public*
81 *Law 94-566), an employer's account shall not be charged for that*
82 *portion of benefits paid to any individual attributable to base year*
83 *wages for previously uncovered services, nor shall any nonprofit*
84 *organization or governmental unit or instrumentality which elects*
85 *to make payments in lieu of contributions into the unemployment*
86 *fund be liable to make payments with respect to that portion of*
87 *benefits paid to any individual attributable to base year wages for*
88 *previously uncovered services as defined herein.*

89 (f) (1) He has suffered any accident or sickness not compensable
90 under the **[Workmen's]** Workers' Compensation Law (Title 34 of
91 the Revised Statutes) and resulting in his total disability to per-
92 form any work for remuneration, and would be eligible to receive
93 benefits under this chapter (R. S. 43:21-1 et seq.) (without regard
94 to the maximum amount of benefits payable during any benefit
95 year) except for his inability to work and has furnished notice and
96 proof of claim to the division, in accordance with its rules and
97 regulations, and payment is not precluded by the provisions of

98 R. S. 43:21-3 (d); provided, however, *that benefits paid under this*
99 *subsection (f) shall be computed on the basis of only those base*
100 *year wages earned by the claimant as a "covered individual" as*
101 *defined in R. S. 43:21-27 (b); provided further, that no benefits*
102 *shall be payable under this subsection to any individual:*

103 (A) For any period during which such individual is not under
104 the care of a legally licensed physician, dentist or [chiroprapist]
105 *podiatrist*;

106 (B) For any period of disability due to pregnancy or result-
107 ing childbirth, miscarriage, or abortion, except for disability exist-
108 ing during the 4 weeks immediately before the expected birth of
109 child, and the 4 weeks following the termination of the pregnancy;

110 (C) For any period of disability due to willfully or intention-
111 ally self-inflicted injury, or to injuries sustained in the perpe-
112 tration by the individual of a high misdemeanor;

113 (D) For any week with respect to which or a part of which he
114 has received or is seeking benefits under any unemployment com-
115 pensation or disability benefit law of any other state or of the
116 United States; provided, that if the appropriate agency of such
117 other state or of the United States finally determines that he is not
118 entitled to such benefits, this disqualification shall not apply;

119 (E) For any week with respect to which or part of which he
120 has received or is seeking disability benefits under the temporary
121 disability benefits law;

122 (F) For any period of disability commencing while such in-
123 dividual is a "covered individual" as defined in subsection 3 (b)
124 of the temporary disability benefits law (P. L. 1948, c. 110).

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

130 (g) Benefits based on service in employment defined in sub-
131 paragraphs (B) and (C) of R. S. 43:21-19 (i) (1) shall be payable
132 in the same amount and on the terms and subject to the same con-
133 ditions as benefits payable on the basis of other service subject
134 to the Unemployment Compensation Law; except that notwith-
135 standing any other provisions of the Unemployment Compensa-
136 tion Law, benefits based on service in an instructional, research,
137 or principal administrative capacity in an institution of higher
138 education shall not be paid to an individual for any week of un-
139 employment or period of disability during the period between 2

140 successive academic years, or during a similar period between two
141 regular terms, whether or not successive, or during a period of
142 leave provided for in the individual's employment, if the individual
143 has a contract or other method of understanding or contracts to
144 perform services in any such capacity for any institution or in-
145 stitutions of higher education for both such academic years or both
146 such terms. If, however, the individual performs service for an
147 employer in an instructional, research or principal administrative
148 capacity, as well as in any other capacity, and the amount of time
149 in the other capacity is in excess of one-half of his total time, the
150 exception contained in this subsection (g) shall not apply.】

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

163 (2) *With respect to service performed after December 31, 1977,*
164 *in any other capacity for an educational institution (other than an*
165 *institution of higher education as defined in R. S. 43:21-19 (y)(2))*
166 *benefits shall not be paid on the basis of such services to any in-*
167 *dividual for any week which commences during a period between*
168 *two successive academic years or terms if such individual performs*
169 *such services in the first of such academic years or terms and there*
170 *is a reasonable assurance that such individual will perform such*
171 *services in the second of such academic years or terms;*

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

180 (h) *Benefits shall not be paid to any individual on the basis of*
181 *any services, substantially all of which consist of participating in*

182 *sports or athletic events or training or preparing to so participate,*
183 *for any week which commences during the period between two*
184 *successive sport seasons (or similar periods) if such individual per-*
185 *formed such services in the first of such seasons (or similar periods)*
186 *and there is a reasonable assurance that such individual will per-*
187 *form such services in the later of such seasons (or similar periods).*

188 *(i) (1) Benefits shall not be paid on the basis of services per-*
189 *formed by an alien unless such alien is an individual who has been*
190 *lawfully admitted for permanent residence or otherwise is per-*
191 *manently residing in the United States under color of law (including*
192 *an alien who is lawfully present in the United States as a result of*
193 *the application of the provisions of section 203 (a)(7) or section*
194 *212 (d)(5) of the Immigration and Nationality Act); provided,*
195 *that any modifications of the provisions of section 3304 (a) (14)*
196 *of the Federal Unemployment Tax Act as provided by Public Law*
197 *94-566 which specify other conditions or other effective dates than*
198 *stated herein for the denial of benefits based on services performed*
199 *by aliens and which modifications are required to be implemented*
200 *under State law as a condition for full tax credit against the tax*
201 *imposed by the Federal Unemployment Tax Act, shall be deemed*
202 *applicable under the provisions of this section.*

203 *(2) Any data or information required of individuals applying for*
204 *benefits to determine whether benefits are not payable to them be-*
205 *cause of their alien status shall be uniformly required from all*
206 *applicants for benefits.*

207 *(3) In the case of an individual whose application for benefits*
208 *would otherwise be approved, no determination that benefits to*
209 *such individual are not payable because of his alien status shall be*
210 *made except upon a preponderance of the evidence.*

211 **[(h)]** *(j) Notwithstanding any other provision of this chapter,*
212 *the director may, to the extent that he deems efficient and eco-*
213 *nomical provide for consolidated administration by one or more*
214 *representatives or deputies of claims made pursuant to subsection*
215 *(f) of this section with those made pursuant to Article III (State*
216 *plan) of the Temporary Disability Benefits Law.*

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

2 43:21-6. Claim for benefits.

3 (a) Filing. Claims for benefits shall be made in accordance
4 with such regulations as the Director of the Division of Unemploy-
5 ment and Temporary Disability Insurance of the Department of
6 Labor and Industry of the State of New Jersey may approve.

7 Each employer shall post and maintain on his premises printed
8 notices of his subject status, of such design, in such numbers and
9 at such place as the director of the division may determine to be
10 necessary to give notice thereof to persons in the employer's ser-
11 vice. Each employer shall give to each individual at the time he
12 becomes unemployed a printed copy of benefit instructions. Both
13 the aforesaid notices and instructions shall be supplied by the
14 division to employers without cost to them.

15 (b) (1) Procedure for making initial determinations with respect
16 to benefit years commencing on or after January 1, 1953.

17 A representative or representatives designated by the director
18 of the division and hereafter referred to as a "deputy" shall
19 promptly examine the claim, and shall notify the most recent
20 employing unit and, successively as necessary, each employer in
21 inverse chronological order during the base year. Such notification
22 shall require said employing unit and employer to furnish such
23 information to the deputy as may be necessary to determine the
24 claimant's eligibility and his benefit rights with respect to the
25 employer in question and such notification shall also provide the
26 most recent chargeable employer in the base year with the name
27 and address of the most recent employing unit of the claimant.

28 In his discretion, the director may appoint special deputies to
29 make initial or subsequent determinations under subsections 4 (f)
30 and 5 (d) of this chapter.

31 If any employer or employing unit fails to respond to the
32 request for information within 7 days after the mailing of such
33 request, the deputy shall rely entirely on information from other
34 sources, including an affidavit to the best of the knowledge and
35 belief of the claimant with respect to his wages and time worked.
36 Except in the event of fraud, if it is determined that any informa-
37 tion in such affidavit is erroneous, no penalty shall be imposed
38 on the claimant.

39 The deputy shall promptly make an initial determination based
40 upon the available information. The initial determination shall
41 show the weekly benefit amount payable, the maximum duration
42 of benefits with respect to the employer to whom the determina-
43 tion relates, and also shall show whether the claimant is ineligible
44 or disqualified for benefits under the initial determination. The
45 claimant and the employer whose account may be charged for
46 benefits payable pursuant to said determination shall be promptly
47 notified thereof.

48 Whenever an initial determination is based upon information
49 other than that supplied by an employer because such employer
50 failed to respond to the deputy's request for information, such
51 initial determination and any subsequent determination thereunder
52 shall be incontestable by the noncomplying employer, as to any
53 charges to his employer's account because of benefits paid prior
54 to the close of the calendar week following the receipt of his reply.
55 Such initial determination shall be altered if necessary upon
56 receipt of information from the employer, and any benefits paid
57 or payable with respect to weeks occurring subsequent to the
58 close of the calendar week following the receipt of the employer's
59 reply shall be paid in accordance with such altered initial deter-
60 mination.

61 The deputy shall issue a separate initial benefit determination
62 with respect to each of the claimant's base year employers, starting
63 with the most recent employer and continuing as necessary in
64 the inverse chronological order of the claimant's last date of
65 employment with each such employer. If an appeal is taken from
66 an initial determination as hereinafter provided by any employer
67 other than the first chargeable base-year employer, then such
68 appeal shall be limited in scope to include only one or more of
69 the following matters:

70 (A) The correctness of the benefit payments authorized to be
71 made under the determination;

72 (B) Fraud in connection with the claim pursuant to which the
73 initial determination is issued; or

74 (C) The refusal of suitable work offered by the chargeable
75 employer filing the appeal.

76 The amount of benefits payable under an initial determination
77 may be reduced or canceled if necessary to avoid payment of
78 benefits for a number of weeks in excess of the maximum specified
79 in subsection (d) of section 43:21-3 of this Title.

80 Unless the claimant or any interested party within 7 calendar
81 days after delivery of notification of an initial determination or
82 within 10 calendar days after such notification was mailed to his
83 or their last-known address and addresses, files an appeal from
84 such decision, such decision shall be final and benefits shall be paid
85 or denied in accordance therewith, except for such determinations
86 as may be altered in benefit amounts or duration as provided in
87 this paragraph. **¶**If an appeal is duly filed, benefits with respect to
88 the period covered by the appeal shall be payable only after a
89 determination of entitlement by the appellate tribunal; **benefits** **¶**

90 *Benefits* payable for periods pending an appeal and not in dispute
91 shall be paid as such benefits accrue; provided, that insofar as any
92 such appeal is or may be an appeal from a determination to
93 the effect that the claimant is disqualified under the provisions of
94 R. S. 43:21-5 or any amendments thereof or supplements thereto,
95 benefits pending determination of the appeal shall be withheld
96 only for the period of disqualification as provided for in said
97 section, and notwithstanding such appeal the benefits otherwise
98 provided by this act shall be paid for the period subsequent to such
99 period of disqualification; and provided, also, that if there are two
100 determinations of entitlement, benefits for the period covered by
101 such determinations shall be paid regardless of any appeal which
102 may thereafter be taken, but no employer's account shall be
103 charged with benefits so paid if the decision is finally reversed.

104 (2) Procedure for making initial determinations in certain cases
105 of concurrent employment, with respect to benefit years commencing
106 on or after January 1, 1953.

107 Notwithstanding any other provisions of this Title, if an individual
108 shows to the satisfaction of the deputy that there were at
109 least 13 weeks in his base period in each of which he earned wages
110 from two or more employers totaling \$30.00 or more but in each
111 of which there was no single employer from whom he earned
112 as much as \$100.00, then such individual's claim shall be determined
113 in accordance with the special provisions of this paragraph. In
114 such case, the deputy shall determine the individual's eligibility
115 for benefits, his average weekly wage, weekly benefit rate and
116 maximum total benefits as if all his base year employers were a
117 single employer. Such determination shall apportion the liability
118 for benefit charges thereunder to the individual's several base
119 year employers so that each employer's maximum liability for
120 charges thereunder bears approximately the same relation to
121 the maximum total benefits allowed as the wages earned by the
122 individual from each employer during the base year bears to
123 his total wages earned from all employers during the base year.
124 Such initial determination shall also specify the individual's last
125 date of employment within the base year with respect to each
126 base year employer, and such employers shall be charged for
127 benefits paid under said initial determination in the inverse chronological
128 order of such last dates of employment.

129 (3) Procedure for making subsequent determinations with
130 respect to benefit years commencing on or after January 1, 1953.
131 The deputy shall make determinations with respect to claims for
132 benefits thereafter in the course of the benefit year in accordance

133 with any initial determination allowing benefits, and under which
134 benefits have not been exhausted, and each notification of a benefit
135 payment shall be a notification of an affirmative subsequent deter-
136 mination. The allowance of benefits by the deputy on any such
137 determination, or the denial of benefits by the deputy on any such
138 determination, shall be appealable in the same manner and under
139 the same limitations as is provided in the case of initial determi-
140 nations.

141 (c) Appeals. Unless such appeal is withdrawn, an appeal tri-
142 bunal, after affording the parties reasonable opportunity for fair
143 hearing, shall affirm or modify the findings of fact and the
144 determination. The parties shall be duly notified of such tribunal's
145 decision, together with its reasons therefor, which shall be deemed
146 to be the final decision of the board of review, unless within 10 days
147 after the date of notification or mailing of such decision, further
148 appeal is initiated pursuant to subsection (e) of this section.

149 (d) Appeal tribunals. To hear and decide disputed benefit claims,
150 including appeals from determinations with respect to demands
151 for refunds of benefits under section 43:21-16(d) of this chapter
152 (R. S. 43:21-1 et seq.), the director with the approval of the
153 Commissioner of Labor and Industry shall establish one or more
154 impartial appeal tribunals consisting in each case of either a
155 salaried examiner or a body, consisting of [three members, one of
156 whom shall be a salaried examiner, who shall serve as chairman,
157 one of whom shall be a representative of employers and the other of
158 whom shall be a representative of employees; each of the latter two
159 members shall serve at the pleasure of the commissioner and be
160 paid a fee of not more than \$20.00 per day of active service on
161 such tribunal plus necessary expenses. No person shall participate
162 on behalf of the division in any case in which he is an interested
163 party. The director may designate alternates to serve in the
164 absence or disqualification of any member of an appeal tribunal.
165 The chairman shall act alone in the absence or disqualification of
166 any other member and his alternates. In no case shall the hearings
167 proceed unless the chairman of the appeal tribunal is present]
168 *examiners under the supervision of a Chief Appeals Examiner*
169 *all of whom shall be appointed pursuant to the provisions of*
170 *Title 11 of the Revised Statutes, Civil Service and other applicable*
171 *statutes.*

172 (e) Board of review. The board of review may on its own
173 motion affirm, modify, or set aside any decision of an appeal
174 tribunal on the basis of the evidence previously submitted in such

175 case, or direct the taking of additional evidence, or may permit
176 any of the parties to such decision to initiate further appeals
177 before it. The board of review shall permit such further appeal by
178 any of the parties interested in a decision of an appeal tribunal
179 which is not unanimous and from any determination which has
180 been overruled or modified by any appeal tribunal. The board of
181 review may remove to itself or transfer to another appeal tribunal
182 the proceedings on any claim pending before an appeal tribunal.
183 Any proceeding so removed to the board of review shall be heard
184 by a quorum thereof in accordance with the requirements of
185 subsection (e) of this section. The board of review shall promptly
186 notify the interested parties of its findings and decision.

187 (f) Procedure. The manner in which disputed benefit claims,
188 and appeals from determinations with respect to (1) claims for
189 benefits and (2) demands for refunds of benefits under section
190 43:21-16 (d) of this chapter (R. S. 43:21-1 et seq.) shall be pre-
191 sented, the reports thereon required from the claimant and from
192 employers, and the conduct of hearings and appeals shall be in
193 accordance with rules prescribed by the board of review for deter-
194 mining the rights of the parties, whether or not such rules conform
195 to common law or statutory rules of evidence and other technical
196 rules of procedure. A full and complete record shall be kept of all
197 proceedings in connection with a disputed claim. All testimony at
198 any hearing upon a disputed claim shall be recorded, but need not
199 be transcribed unless the disputed claim is further appealed.

200 (g) Witness fees. Witness subpoenaed pursuant to this section
201 shall be allowed fees at a rate fixed by the director. Such fees and
202 all expenses of proceedings involving disputed claims shall be
203 deemed a part of the expense of administering this chapter
204 (R. S. 43:21-1 et seq.).

205 (h) Court review. Any decision of the board of review shall
206 become final as to any party upon the mailing of a copy thereof to
207 such party or to his attorney, or upon the mailing of a copy thereof
208 to such party at his last-known address. The Division of Unem-
209 ployment and Disability Insurance and any party to a proceeding
210 before the board of review may secure judicial review of the final
211 decision of the board of review. Any party not joining in the
212 appeal shall be made a defendant; the board of review shall be
213 deemed to be a party to any judicial action involving the review
214 of, or appeal from, any of its decisions, and may be represented
215 in any such judicial action by any qualified attorney who may be
216 a regular salaried employee of the board of review or has been

217 designated by it for that purpose, or, at the board of review's
218 request, by the Attorney General.

219 (i) Failure to give notice. The failure of any public officer or
220 employee at any time heretofore or hereafter to give notice of
221 determination or decision required in subsections (b), (c) and (e)
222 of this section, as originally passed or amended, shall not relieve
223 any employer's account of any charge by reason of any benefits
224 paid unless and until that employer can show to the satisfaction
225 of the director of the division that the said benefits, in whole or in
226 part, would not have been charged or chargeable to his account
227 had such notice been given. Any determination hereunder by the
228 director shall be subject to court review.

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

2 43:21-7. Contributions. Employers other than those liable for
3 payment in lieu of contributions on the basis set forth in subsec-
4 tion 3 of this act (C. 43:21-7.2), shall pay to the division **[of Em-**
5 **ployment Security]** for the Unemployment Compensation Fund,
6 contributions as set forth in subsections (a), (b) and (c) hereof,
7 and the provisions of subsections (d) and (e) shall be applicable
8 to all employers consistent with the provisions of the Unemploy-
9 ment Compensation Law and the Temporary Disability Benefits
10 Law. (a) Payment.

11 (1) Contributions shall accrue and become payable by each em-
12 ployer for each calendar year in which he is subject to this chapter
13 (R. S. 43:21-1 et seq.), with respect to having individuals in his
14 employ during such calendar year at the rates and on the basis
15 hereinafter set forth. Such contributions shall become due and be
16 paid by each employer to the division **[of Employment Security]**
17 for the fund in accordance with such regulations as may be
18 prescribed, and shall not be deducted, in whole or in part, from the
19 remuneration of individuals in his employ.

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

23 (b) Rate of contributions. Each employer shall pay the follow-
24 ing contributions:

25 (1) For the calendar year 1947, and each calendar year there-
26 after, $2\frac{1}{10}$ of wages paid by him during each such calendar year,
27 except as otherwise prescribed by subsection (c) of this section.

28 (2) The "wages" of any individual, with respect to any one em-
29 ployer as the term is used in this subsection (b) and in subsections

30 (c), (d) and (e) of this section 7, shall include the first \$3,000.00
31 paid during each calendar year prior to January 1, 1968, the
32 first \$3,600.00 paid during each calendar year commencing on
33 or after January 1, 1968 and prior to January 1, 1972, the first
34 \$4,200.00 paid during each calendar year commencing on or after
35 January 1, 1972 and prior to January 1, 1975, and the first
36 \$4,800.00 paid during each calendar year commencing on or after
37 January 1, 1975, for services performed either within or without
38 this State; provided, that no contribution shall be required by this
39 State with respect to services performed in another state if such
40 other state imposes contribution liability with respect thereto. If
41 an employer (hereinafter referred to as a successor employer)
42 during any calendar year acquires substantially all the property
43 used in a trade or business of another employer (hereinafter re-
44 ferred to as a predecessor), or used in a separate unit of a trade
45 or business of a predecessor, and immediately after the acquisition
46 employs in his trade or business an individual who immediately
47 prior to the acquisition was employed in the trade or business of
48 such predecessor, then, for the purpose of determining whether
49 the successor employer has paid wages with respect to employment
50 equal to \$3,000.00 to such individual during any calendar year
51 prior to January 1, 1968, or equal to \$3,600.00 during any calendar
52 year commencing on or after January 1, 1968 and prior to Janu-
53 ary 1, 1972, the first \$4,200.00 paid during each calendar year
54 commencing on or after January 1, 1972 and prior to January 1,
55 1975, and the first \$4,800.00 paid during each calendar year com-
56 mencing on or after January 1, 1975, any wages paid to such
57 individual by such predecessor during such calendar year and
58 prior to such acquisition shall be considered as having been paid
59 by such successor employer.

60 (3) For calendar years beginning on and after January 1, 1976,
61 the "wages" of any individual as defined in the preceding para-
62 graph (2) of this subsection (b) shall be established and promul-
63 gated by the Commissioner of Labor and Industry on or before
64 September 1 of the preceding year and shall be twenty-eight times
65 the Statewide average weekly remuneration paid to workers by
66 employers, as determined under R. S. 43:21-3 (c) (2), raised to
67 the next higher multiple of \$100.00 if not already a multiple thereof,
68 provided that if the amount of wages so determined for a calendar
69 year is less than the amount similarly determined for the preceding
70 year, the greater amount will be used; *provided, further, that if*
71 *the amount of such wages so determined due not equal or exceed*

72 *the amount of wages as defined in subsection (b) of Section 3306*
73 *of the Federal Unemployment Tax Act, Chapter 23 of the Internal*
74 *Revenue Code of 1954, the wages as determined in this paragraph*
75 *in any calendar year shall be raised to equal the amount established*
76 *under the Federal Unemployment Tax Act for that calendar year.*

77 (c) Future rates based on benefit experience.

78 (1) A separate account for each employer shall be maintained
79 and this shall be credited with all the contributions which he has
80 paid on his own behalf on or before January 31 of any calendar year
81 with respect to employment occurring in preceding calendar years;
82 provided, however, that if January 31 of any calendar year falls
83 on a Saturday or Sunday, an employer's account shall be credited
84 as of January 31 of such calendar year with all the contributions
85 which he has paid on or before the next succeeding day which is not
86 a Saturday or Sunday. But nothing in this chapter (R. S. 43:21-1
87 et seq.) shall be construed to grant any employer or individuals in
88 his service prior claims or rights to the amounts paid by him into
89 the fund either on his own behalf or on behalf of such individuals.
90 Benefits paid with respect to benefit years commencing on and after
91 January 1, 1953, to any individual on or before December 31 of any
92 calendar year with respect to unemployment in such calendar year
93 and in preceding calendar years shall be charged against the ac-
94 count or accounts of the employer or employers in whose employ-
95 ment such individual established base weeks constituting the basis
96 of such benefits. Benefits paid under a given benefit determination
97 shall be charged against the account of the employer to whom such
98 determination relates. When each benefit payment is made the di-
99 vision shall promptly send either a copy of the benefit check or other
100 form of notification to the employer against whose account the
101 benefits are to be charged. Such copy or notification shall identify
102 the employer against whose account the amount of such payment
103 is being charged, shall show at least the name and social security
104 account number of the claimant and shall specify the period of un-
105 employment to which said check applies. If the total amount of
106 benefits paid to a claimant and charged to the account of the ap-
107 propriate employer exceeds 50% of the total base-year base week
108 wages paid to the claimant by that employer, then such employer
109 may apply to the division to have canceled from his account such
110 excess benefit charges as specified above. Any such application
111 for the cancellation of excess charges shall be submitted by the
112 employer within 6 months from the date of the benefit check, pay-
113 ment of which creates such charges. In no event will the erasure

114 of such charges affect a contribution rate already assigned to the
115 employer with respect to any fiscal year commencing prior to the
116 date the application is received by the division.

117 The division shall furnish to each employer an annual summary
118 statement of benefits charged to his account.

119 (2) The division [of Employment Security] may prescribe regu-
120 lations for the establishment, maintenance, and dissolution of joint
121 accounts by two *or* more employers, and shall, in accordance with
122 such regulations and upon application by two or more employers
123 to establish such an account, or to merge their several individual
124 accounts in a joint account, maintain such joint account as if it
125 constituted a single employer's account.

126 (3) [Each employer's rate shall be $2\frac{8}{10}\%$, except as otherwise
127 provided in the following provisions: No employer's rate shall be
128 other than $2\frac{8}{10}\%$ unless and until there shall have been 3 calendar
129 years throughout which any individual in his employ could have
130 received benefits if eligible.] No employer's rate shall be lower than
131 $2\frac{7}{10}\%$ unless assignment of such lower rate is consistent with the
132 conditions applicable to additional credit allowance for such year
133 under section 3303 (a) (1) of the Internal Revenue Code (U. S.
134 Code Title 26, section 3303(a)(1)), any other provision of this
135 section to the contrary notwithstanding.

136 (4) (A) *Each employer's rate shall be $2\text{-}8/10\%$ except as
137 otherwise provided in the following provisions. No employer's rate
138 for the 12 months commencing July 1 of any calendar year shall be
139 other than $2\text{-}8/10\%$ unless as of the preceding January 31 such
140 employer shall have paid contributions with respect to wages paid
141 in each of the 3 calendar years immediately preceding such year;
142 in which case such employer's rate for the 12 months commencing
143 July 1 of any calendar year shall be determined on the basis of his
144 record up to the beginning of such calendar year. If, at the begin-
145 ning of such calendar year, the total of all his contributions, paid
146 on his own behalf, for all past years exceed the total benefits
147 charged to his account for all such years, his contribution rate
148 shall be:*

149 (1) $2\frac{5}{10}\%$, if such excess equals or exceeds 4%, but less
150 than 5% of his average annual payroll (as defined in para-
151 graph (2), subsection (a) of section 43:21-19 of this Title);

152 (2) $2\frac{2}{10}\%$, if such excess equals or exceeds 5%, but is less
153 than 6% of his average annual payroll;

154 (3) $1\frac{1}{10}\%$, if such excess equals or exceeds 6%, but is less
155 than 7%, of his average annual payroll;

- 156 (4) $1\frac{6}{10}\%$, if such excess equals or exceeds 7%, but is less
157 than 8%, of his average annual payroll;
158 (5) $1\frac{3}{10}\%$, if such excess equals or exceeds 8%, but is less
159 than 9%, of his average annual payroll;
160 (6) 1%, if such excess equals or exceeds 9%, but is less
161 than 10%, of his average annual payroll;
162 (7) $\frac{7}{10}$ of 1%, if such excess equals or exceeds 10%, but is
163 less than 11%, of his average annual payroll;
164 (8) $\frac{4}{10}$ of 1%, if such excess equals or exceeds 11%, of his
165 average annual payroll.

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

- 170 (1) 4%, if such excess is less than 10% of his average
171 annual payroll;
172 (2) $4\frac{3}{10}\%$, if such excess equals or exceeds 10%, but is
173 less than 20% of his average annual payroll;
174 (3) $4\frac{4}{10}\%$, if such excess equals or exceeds 20% of his
175 average annual payroll.

176 [provided, however, if the total of the contributions of such an
177 employer for the past 120 consecutive calendar months is more
178 than the total benefits charged against his account during the same
179 period, his rate shall be $2\frac{3}{10}\%$.]

180 (C) *Specially assigned rates. If no contributions were paid on*
181 *wages for employment in any calendar year used in determining the*
182 *average annual payroll of an employer eligible for an assigned rate*
183 *under this paragraph (4), the employer's rate shall be specially*
184 *assigned as follows: (i) if the reserve balance in its account is*
185 *positive, its assigned rate shall be the highest rate in effect for*
186 *positive balance accounts for that period, or 2-8/10%, whichever is*
187 *higher, and (ii) if the reserve balance in its account is negative, its*
188 *assigned rate shall be the highest rate in effect for deficit accounts*
189 *for that period.*

190 [(C)] (D) The contribution rates prescribed by subparagraphs
191 (A) and (B) of this paragraph (4) shall be increased or decreased
192 in accordance with the provisions of paragraph (5) of this sub-
193 section (c).

194 (5) (A) If on March 31 of any calendar year the balance in the
195 unemployment trust fund equals or exceeds 4% but is less than
196 7% of the total taxable wages reported to the division as of that
197 date in respect to employment during the preceding calendar year,

198 the contribution rate, effective July 1 following, of each employer
199 eligible for a contribution rate calculation based upon benefit ex-
200 perience, shall be increased by $\frac{3}{10}$ of 1% over the contribution rate
201 otherwise established under the provisions of paragraphs (3) or
202 (4) of this subsection. If on March 31 of any calendar year the
203 balance of the unemployment trust fund exceeds $2\frac{1}{2}\%$ but is less
204 than 4% of the total taxable wages reported to the division of
205 employment security as of that date in respect to employment
206 during the preceding calendar year, the contribution rate, effective
207 July 1 following, of each employer eligible for a contribution rate
208 calculation based upon benefit experience, shall be increased by
209 $\frac{1}{10}\%$ of 1% over the contribution rate otherwise established under
210 the provisions of paragraphs (3) or (4) of this subsection.

211 If on March 31 of any calendar year the balance of the un-
212 employment trust fund is less than $2\frac{1}{2}\%$ of the total taxable
213 wages reported to the Division **of Employment Security** as of
214 that date in respect to employment during the preceding calendar
215 year, the contribution rate, effective July 1 following, of each
216 employer (1) eligible for a contribution rate calculation based upon
217 benefit experience, shall be increased by (i) $\frac{1}{10}$ of 1% over the
218 contribution rate otherwise established under the provisions of
219 paragraphs (3), (4) (A) or (4) (B) of this subsection, and (ii) an
220 additional amount equal to 20% of the total rate established herein,
221 provided, however, that the final contribution rate for each
222 employer shall be computed to the nearest multiple of $\frac{1}{10}\%$ if not
223 already a multiple thereof; (2) not eligible for a contribution rate
224 calculation based upon benefit experience shall be increased by $\frac{1}{10}$
225 of 1% over the contribution rate otherwise established under the
226 provisions of paragraph (3) of this subsection.

227 (B) If on March 31 of any calendar year the balance in the
228 unemployment trust fund equals or exceeds 10% but is less than
229 $12\frac{1}{2}\%$ of the total taxable wages reported to the division **of Em-**
230 **ployment Security** as of that date in respect to employment during
231 the preceding calendar year, the contribution rate, effective July 1
232 following, of each employer eligible for a contribution rate calcula-
233 tion based upon benefit experience, shall be reduced by $\frac{3}{10}$ of 1%
234 under the contribution rate otherwise established under the pro-
235 visions of paragraphs (3) and (4) of this subsection; provided, that
236 in no event shall the contribution rate of any employer be reduced
237 to less than $\frac{1}{10}$ of 1%. If on March 31 of any calendar year the
238 balance in the unemployment trust fund equals or exceeds $12\frac{1}{2}\%$
239 of the total taxable wages reported to the division as of that date
240 in respect to employment during the preceding calendar year, the

241 contribution rate, effective July 1 following, of each employer
242 eligible for a contribution rate calculation based upon benefit ex-
243 perience, shall be reduced by $\frac{1}{10}$ of 1% if his account for all past
244 periods reflects an excess of contributions paid over total benefits
245 charged of 3% or more of his average annual payroll, otherwise by
246 $\frac{3}{10}$ of 1% under the contribution rate otherwise established under
247 the provisions of paragraphs (3) and (4) of this subsection; pro-
248 vided, that in no event shall the contribution rate of any employer
249 be reduced to less than $\frac{1}{10}$ of 1%.

250 (C) The "balance" in the unemployment trust fund as the term
251 is used in subparagraphs (A) and (B) above shall not include
252 moneys credited to the State's account under section 903 of the
253 Social Security Act, as amended (Title 42, U. S. Code, section 1103),
254 during any period in which such moneys are appropriated for the
255 payment of expenses incurred in the administration of Unemploy-
256 ment Compensation Law.

257 (6) Additional contributions.

258 Notwithstanding any other provision of law, any employer who
259 has been assigned a contribution rate pursuant to subsection (c) of
260 this section for the year commencing July 1, 1948, and for any year
261 commencing July 1 thereafter, may voluntarily make payment of
262 additional contributions, and upon such payment shall receive a
263 recomputation of the experience rate applicable to such employer
264 including in the calculation the additional contribution so made.
265 Any such additional contribution shall be made during the 30-day
266 period following the date of the mailing to the employer of the
267 notice of his contribution rate as prescribed in this section, unless,
268 for good cause, the time for payment has been extended by the
269 director for not to exceed an additional 60 days; provided, that in
270 no event may such payments which are made later than 120 days
271 after the beginning of the year for which such rates are effective be
272 considered in determining the experience rate for the year in which
273 the payment is made. Any employer receiving any extended period
274 of time within which to make such additional payment and failing
275 to make such payment timely shall pay, in addition to the required
276 amount of additional payment, a penalty of 5% thereof or \$5.00,
277 whichever is greater, not to exceed \$50.00. Any adjustment under
278 this subsection shall be made only in the form of credits against
279 accrued or future contributions.

280 (7) Transfers.

281 (A) Upon the transfer of the organization, trade or business, or
282 substantially all the assets of an employer to a successor in interest,

283 whether by merger, consolidation, sale, transfer, descent or other-
284 wise, the division **[of Employment Security]** shall transfer the em-
285 ployment experience of the predecessor employer to the successor in
286 interest, including credit for past years, contributions paid, annual
287 payrolls, benefit charges, et cetera, applicable to such predecessor
288 employer, pursuant to regulations adopted by the division, if the
289 division finds that the employment experience of the predecessor
290 employer with respect to the organization, trade, assets or business,
291 which has been transferred, may be considered indicative of the
292 future employment experience of the successor in interest. Unless
293 the predecessor employer was owned or controlled by legally en-
294 forcible means or otherwise), directly or indirectly, by the succes-
295 sor in interest, or the predecessor employer and the successor in
296 interest were owned or controlled (by legally enforceable means or
297 otherwise), directly or indirectly, by the same interest or interests,
298 the transfer of the employment experience of the predecessor shall
299 not be effective if such successor in interest, within 4 months of the
300 date of such transfer of the organization, trade, assets or business,
301 or thereafter upon good cause shown, files a written notice with the
302 division protesting the transfer of the employment experience of
303 the predecessor employer.

304 (B) An employer, who transfers part of his or its organization,
305 trade, assets or business to a successor in interest, whether by
306 merger, consolidation, sale, transfer, descent or otherwise, may
307 jointly make application with such successor in interest for transfer
308 of that portion of the employment experience of the predecessor
309 employer relating to the portion of the organization, trade, assets,
310 or business transferred to the successor in interest, including credit
311 for past years, contributions paid, annual payrolls, benefits charges,
312-313 et cetera, applicable to such predecessor employer. The division
314 **[of Employment Security]** may allow such transfer of employment
315 experience pursuant to regulations adopted by the division, only if it
316 finds that the employment experience of the predecessor employer
317 with respect to the portion of the organization, trade, assets or
318 business which has been transferred may be considered indicative
319 of the future employment experience of the successor in interest.
320 Credit shall be given to the successor in interest only for the years
321 during which contributions were paid by the predecessor employer
322 with respect to that part of the organization, trade, assets or busi-
323 ness transferred.

324 (C) A transfer of the employment experience in whole or in part
325 having become final, the predecessor employer thereafter shall not

326 be entitled to consideration for an adjusted rate based upon his or
327 its experience or the part thereof, as the case may be, which has
328 thus been transferred. A successor in interest to whom employment
329 experience or a part thereof is transferred pursuant to this sub-
330 section shall, as of the date of the transfer of the organization,
331 trade, assets or business, or part thereof, immediately become an
332 employer if not theretofore an employer subject to this chapter
333 (R. S. 43:21-1 et seq.).

334 (d) (1) Contribution of workers, transfers to temporary dis-
335 ability benefit fund.

336 Each worker shall contribute to the fund 1% of his wages with
337 respect to his employment *with an employer* which occurs on and
338 after January 1, 1971 and prior to January 1, 1975, [and]
339 after such employer has satisfied the conditions set forth in sub-
340 section (h) of section 43:21-19 of this Title with respect to becom-
341 ing an employer; provided, however, that such contribution shall be
342 at the rate of $\frac{1}{4}$ of 1% of wages paid with respect to employment
343 while the worker is in the employ of the State of New Jersey, or is
344 covered by an approved private plan under the Temporary Dis-
345 ability Benefits Law or while the worker is exempt from the
346 provisions of the Temporary Disability Benefits Law under section
347 7 of that law (C. 43:21-31); and provided further that there shall
348 be no contributions by workers in the employ of any employer
349 electing or required to make payments in lieu of contributions
350 unless the employer is covered by the State plan under the Tempo-
351 rary Disability Benefits Law (C. 43:21-37 et seq.), and in that case
352 contributions shall be at the rate of $\frac{3}{4}$ of 1%, and for periods after
353 January 1, 1975, each worker shall contribute to the fund 1% of
354 his wages with respect to his employment *with an employer* which
355 occurs on and after January 1, 1975, [and] after such employer
356 has satisfied the conditions set forth in subsection (h) of section
357 43:21-19 of this Title with respect to becoming an employer;
358 provided, however, that such contribution shall be at the rate of
359 $\frac{1}{2}$ of 1% of wages paid with respect to employment while the
360 worker is in the employ of the State of New Jersey, *or any*
361 *governmental entity or instrumentality which is an employer as*
362 *defined under R. S. 43:21-19(h)(5)*, or is covered by an approved
363 private plan under the Temporary Disability Benefits Law or while
364 the worker is exempt from the provisions of the Temporary Dis-
365 ability Benefits Law under section 7 of that law (C. 43:21-31); and
366 provided further that *effective January 1, 1978* there shall be no
367 contributions by workers in the employ of any *governmental or*

368 *nongovernmental* employer electing or required to make payments
369 in lieu of contributions unless the employer is covered by the State
370 plan under the Temporary Disability Benefits Law (C. 43:21-37
371 et seq.), and in that case contributions shall be at the rate of $\frac{1}{2}$ of
372 1%. Each employer shall, notwithstanding any provision of law in
373 this State to the contrary, withhold in trust the amount of his
374 workers' contributions from their wages at the time such wages are
375 paid, shall show such deduction on his payroll records, shall furnish
376 such evidence thereof to his workers as the division may prescribe,
377 and shall transmit all such contributions, in addition to his own
378 contributions, to the office of the division **[of Employment Security]**
379 in such manner and at such times as may be prescribed. If any
380 employer fails to deduct the contributions of any of his workers at
381 the time their wages are paid, or fails to make a deduction therefor
382 at the time wages are paid for the next succeeding payroll period,
383 he alone shall thereafter be liable for such contributions, and for
384 the purpose of section 43:21-14 of this Title, such contributions
385 shall be treated as employer's contributions required from him. As
386 used in this chapter (R. S. 43:21-1 et seq.), except when the context
387 clearly requires otherwise, the term "contributions" shall include
388 the contributions of workers pursuant to this section.

389 (2) (A) There shall be deposited in and credited to the State
390 Disability Benefits Fund, as established by law, three-fourths of
391 all worker contributions, received by the division **[of Employment**
392 **Security]** with respect to wages paid prior to January 1, 1953, and
393 upon which the rate of contributions is 1%.

394 (B) There shall be deposited in and credited to the State Dis-
395 ability Benefits Fund, as established by law, two-thirds of all
396 worker contributions received by the division **[of Employment**
397 **Security]** with respect to wages paid on and after January 1, 1953,
398 and prior to January 1, 1971, and upon which the rate of contribu-
399 tions is $\frac{3}{4}$ of 1%.

400 (C) There shall be deposited in and credited to the State Dis-
401 ability Benefits Fund, as established by law, three quarters of all
402 worker contributions, received by the division **[of Employment**
403 **Security]** with respect to wages paid on or after January 1, 1971
404 and prior to January 1, 1975, and upon which the rate of contribu-
405 tions is 1%, and with respect to wages paid on and after January
406 1, 1975, there shall be deposited in and credited to the State Dis-
407 ability Benefits Fund, as established by law, one-half of all worker
408 contributions received by the division **[of Employment Security]**
409 upon which the rate of contribution is 1%.

410 (D) There shall be deposited in and credited to the State Dis-
411 ability Benefits Fund, as established by law, all worker contribu-
412 tions received by the Division [of Employment Security] with
413 respect to wages paid on or after January 1, 1972 and prior to
414 January 1, 1975, upon which the rate of contributions is $\frac{3}{4}$ of 1%
415 and with respect to wages paid on or after January 1, 1975, there
416 shall be deposited to the State Disability Benefits Fund, as estab-
417 lished by law, all worker contributions received by the division [of
418 Employment Security] from all employers, [except the State of
419 New Jersey,] upon which the rate of contributions is $\frac{1}{2}$ of 1%,
420 *except the State of New Jersey or any other governmental entity*
421 *or instrumentality defined as an employer under R. S.*
422 *43:21-19(h)(5).*

423 (3) If an employee receives wages from more than one employer
424 during any calendar year, and either the sum of his contributions
425 deposited in and credited to the State Disability Benefits Fund (in
426 accordance with paragraph (2) of this subsection) plus the amount
427 of his contributions, if any, required towards the costs of benefits
428 under one or more approved private plans under the provisions
429 of section 9 of the Temporary Disability Benefits Law (C. 43:21-33)
430 and deducted from his wages, or the sum of such latter contribu-
431 tions if the employee is covered during such calendar year, only
432 by two or more private plans, exceeds \$18.00 in any calendar year
433 prior to January 1, 1971, \$27.00 during the calendar year 1971,
434 \$31.50 during calendar years 1972, 1973 and 1974; \$24.00 during
435 the calendar year 1975 or an amount equal to $\frac{1}{2}$ of 1% of the
436 "wages" determined in accordance with the provisions of R. S.
437 43:21-7(b) (3) during the calendar years beginning on or after
438 January 1, 1976, the employee shall be entitled to a refund of
439 the excess if he makes a claim to the division [of Employment
440 Security] within 2 years after the end of the calendar year in
441 which the wages are received with respect to which the refund
442 is claimed and establishes his right to such refund. Such refund
443 shall be made by the division [of Employment Security] from
444 the State Disability Benefits Fund. No interest shall be allowed or
445 paid with respect to any such refund. The division shall in
446 accordance with prescribed regulations, determine the portion of
447 the aggregate amount of such refunds made during any calendar
448 year which is applicable to private plans for which deductions
449 were made under section 9 of the "Temporary Disability Benefits
450 Law," such determination to be based upon the ratio of the
451 amount of such wages exempt from contributions to such fund as

452 provided in subparagraph (B) of paragraph (1) of this subsection
453 with respect to coverage under private plans to the total wages so
454 exempt plus the amount of such wages subject to contributions to
455 the disability benefits fund as provided in subparagraph (B) of
456 paragraph (2) of this subsection. The division shall, in accordance
457 with prescribed regulations, prorate the amount so determined
458 among the applicable private plans in the proportion that the wages
459 covered by each plan bears to the total private plan wages involved
460 in such refunds, and shall assess against and recover from the em-
461 ployer, or the insurer if the insurer has indemnified the employer
462 with respect thereto, the amount so prorated. The provisions of
463 R. S. 43:21-14, with respect to collection of employer contributions
464 shall apply to such assessments. The amount so recovered by the
465 division shall be paid into the State Disability Benefits Fund.

466 (4) If an individual does not receive any wages from the employ-
467 ing unit which for the purposes of this chapter (R. S. 43:21-1 et
468 seq.) is treated as his employer, or receives his wages from some
469 other employing unit, such employer shall nevertheless be liable for
470 such individual's contributions in the first instance; and after pay-
471 ment thereof such employer may deduct the amount of such contri-
472 butions from any sums payable by him to such employing unit, or
473 may recover the amount of such contributions from such employing
474 unit, or, in the absence of such an employing unit, from such indi-
475 vidual, in a civil action; provided, proceedings therefor are insti-
476 tuted within 3 months after the date on which such contributions
477 are payable. General rules shall be prescribed whereby such an em-
478 ploying unit may recover the amount of such contributions from
479 such individuals in the same manner as if it were the employer.

480 (5) Every employer who has elected to become an employer sub-
481 ject to this chapter (R. S. 43:21-1 et seq.), or to cease to be an
482 employer subject to this chapter (R. S. 43:21-1 et seq.), pursuant
483 to the provisions of section 43:21-8 of this Title, shall post and
484 maintain printed notices of such election on his premises, of such
485 design in such numbers, and at such places as the director may
486 determine to be necessary to give notice thereof to persons in his
486A service.

487 (6) Contributions by workers, payable to the division [of Em-
488 ployment Security] as herein provided, shall be exempt from
489 garnishment, attachment, execution, or any other remedy for the
490 collection of debts.

491 (e) Contributions by employers to State Disability Benefits
492 Fund.

493 (1) Except as hereinafter provided, each employer shall, in addi-
494 tion to the contributions required by subsections (a), (b), and (c)
495 of this section, contribute $\frac{1}{2}$ of 1% of the wages paid by such em-
496 ployer to workers with respect to employment unless he is not a
497 covered employer as defined in section 3 of the Temporary Dis-
498 ability Benefits Law (C. 43:21-27 (a)). Such contributions shall
499 become due and be paid by the employer to the division [of Em-
500 ployment Security] for the State Disability Benefits Fund as
501 established by law, in accordance with such regulations as may be
502 prescribed, and shall not be deducted, in whole or in part, from the
503 remuneration of individuals in his employ. In the payment of any
504 contributions, a fractional part of a cent shall be disregarded unless
505 it amounts to \$0.005 or more, in which case it shall be increased
506 to \$0.01.

507 (2) During the continuance of coverage of a worker by an
508 approved private plan of disability benefits under the Temporary
509 Disability Benefits Law, the employer shall be exempt from the
510 contribution required by subparagraph (1) above with respect to
511 wages paid to such worker.

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

515 (B) A separate disability benefits account shall be maintained
516 for each employer required to contribute to the State Disability
517 Benefits Fund and such account shall be credited with contributions
518 deposited in and credited to such fund with respect to employment
519 occurring on and after January 1, 1949. Each employer's account
520 shall be credited with all contributions paid on or before January
521 31 of any calendar year on his own behalf and on behalf of in-
522 dividuals in his service with respect to employment occurring in
523 preceding calendar years; provided, however, that if January 31
524 of any calendar year falls on a Saturday or Sunday an employer's
525 account shall be credited as of January 31 of such calendar year
526 with all the contributions which he has paid on or before the next
527 succeeding day which is not a Saturday or Sunday. But nothing in
528 this act shall be construed to grant any employer or individuals in
529 his service prior claims or rights to the amounts paid by him to the
530 fund either on his own behalf or on behalf of such individuals.
531 Benefits paid to any covered individual in accordance with Article
532 III of the Temporary Disability Benefits Law on or before De-
533 cember 31 of any calendar year with respect to disability in such
534 calendar year and in preceding calendar years shall be charged

535 against the account of the employer by whom such individual was
536 employed at the commencement of such disability or by whom he
537 was last employed if out of employment.

538 (C) The division may prescribe regulations for the establish-
539 ment, maintenance, and dissolution of joint accounts by two or more
540 employers, and shall, in accordance with such regulations and upon
541 application by two or more employers to establish such an account,
542 or to merge their several individual accounts in a joint account,
543 maintain such joint account as if it constituted a single employer's
544 account.

545 (D) Prior to July 1 of each calendar year, the division [of Em-
546 ployment Security] shall make a preliminary determination of the
547 rate of contribution for the 12 months commencing on such July 1
548 for each employer subject to the contribution requirements of this
549 subsection (e).

550 (1) Such preliminary rate shall be $\frac{1}{2}$ of 1% unless on the pre-
551 ceding January 31 of such year such employer shall have been a
552 covered employer who has paid contributions to the State Disability
553 Benefits Fund with respect to employment in the 3 calendar years
554 immediately preceding such year.

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

558 (i) $\frac{3}{10}$ of 1% if such excess over \$500.00 exceeds 1% but is
559 less than $1\frac{1}{4}$ % of his average annual payroll (as defined in
560 this chapter (R. S. 43:21-1 et seq.));

561 (ii) $\frac{15}{100}$ of 1% if such excess over \$500.00 equals or exceeds
562 $1\frac{1}{4}$ % but is less than $1\frac{1}{2}$ % of his average annual payroll;

563 (iii) $\frac{1}{10}$ of 1% if such excess over \$500.00 equals or exceeds
564 $1\frac{1}{2}$ % of his average annual payroll.

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

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

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

575 (ii) $\frac{45}{100}$ of 1% if such excess over \$500.00 equals or exceeds
576 $\frac{1}{4}$ of 1% but is less than $\frac{1}{2}$ of 1% of his average annual
577 payroll;

578 (iii) $5\frac{5}{100}$ of 1% if such excess over \$500.00 equals or ex-
579 ceeds $\frac{1}{2}$ of 1% but is less than $\frac{3}{4}$ of 1% of his average annual
580 payroll;

581 (iv) $6\frac{5}{100}$ of 1% if such excess over \$500.00 equals or ex-
582 ceeds $\frac{3}{4}$ of 1% but is less than 1% of his average annual
583 payroll;

584 (v) $7\frac{5}{100}$ of 1% if such excess over \$500.00 equals or exceeds
585 1% of his average annual payroll.

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

592 (E) (1) Prior to July 1 of each calendar year the division [of
593 Employment Security] shall determine the amount of the State Dis-
594 ability Benefits Fund as of December 31 of the preceding calendar
595 year increased by the contributions paid thereto during January of
596 the current calendar year with respect to employment occurring in
597 preceding calendar years. If such amount exceeds the total of the
598 amounts withdrawn from the unemployment trust fund pursuant
599 to section 23 of the Temporary Disability Benefits Law plus the
600 amount at the end of such preceding calendar year of the un-
601 employment disability account (as defined in section 22 of said
602 law), such excess shall be expressed as a percentage of the wages
603 on which contributions were paid to the State Disability Benefits
604 Fund on or before January 31 with respect to employment in the
605 preceding calendar year.

606 (2) The division [of Employment Security] shall then make a
607 final determination of the rates of contribution for the 12 months
608 commencing July 1 of such year for employers whose preliminary
609 rates are determined as provided in (D) hereof, as follows:

610 (i) If the percentage determined in accordance with para-
611 graph (E) (1) of this subsection equals or exceeds $1\frac{1}{4}\%$ the
612 final employer rates shall be the preliminary rates determined
613 as provided in (D) hereof, except that if the employer's pre-
614 liminary rate is determined as provided in (D) (2) or (D) (3)
615 hereof, the final employer rate shall be the preliminary em-
616 ployer rate decreased by such percentage of excess taken to
617 the nearest $\frac{5}{100}$ of 1%, but in no case shall such final rate be
618 less than $\frac{1}{10}$ of 1%.

619 . (ii) If the percentage determined in accordance with para-
620 graph (E) (1) of this subsection equals or exceeds $\frac{3}{4}$ of 1%
621 and is less than $1\frac{1}{4}$ of 1%, the final employer rates shall be
622 the preliminary employer rates.

623 (iii) If the percentage determined in accordance with para-
624 graph (E) (1) of this subsection is less than $\frac{3}{4}$ of 1%, but in
625 excess of $\frac{1}{4}$ of 1%, the final employer rates shall be the pre-
626 liminary employer rates determined as provided in (D) hereof
627 increased by the difference between $\frac{3}{4}$ of 1% and such per-
628 centage taken to the nearest $\frac{5}{100}$ of 1%; provided, however,
629 that no such final rate shall be more than $\frac{1}{4}$ of 1% in the case
630 of an employer whose preliminary rate is determined as pro-
631 vided in (D) (2) hereof, more than $\frac{1}{2}$ of 1% in the case of an
632 employer whose preliminary rate is determined as provided in
633 (D) (1) and (D) (3) hereof, nor more than $\frac{3}{4}$ of 1% in the
634 case of an employer whose preliminary rate is determined as
635 provided in (D) (4) hereof.

636 (iv) If the amount of the State Disability Benefits Fund
637 determined as provided in paragraph (E) (1) of this sub-
638 section is equal to or less than $\frac{1}{4}$ of 1%, then the final rate
639 shall be $\frac{2}{5}$ of 1% in the case of an employer whose preliminary
640 rate is determined as provided in (D) (2) hereof $\frac{7}{10}$ of 1% in
641 the case of an employer whose preliminary rate is determined
642 as provided in (D) (1) and (D) (3) hereof, and 1.1% in the
643 case of an employer whose preliminary rate is determined as
644 provided in (D) (4) hereof. Notwithstanding any other provi-
645 sion of law or any determination made by the Division [of
646 Employment Security] with respect to any 12-month period
647 commencing on July 1, 1970, the final rates for all employers
648 for the period beginning January 1, 1971, shall be as set
649 forth herein.

1 4. Section 3 of P. L. 1971, c. 346 (C. 43:21-7.2) is amended to
2 read as follows:

3 3. Nonprofit organizations. (a) Notwithstanding any other pro-
4 visions of the Unemployment Compensation Law for payments of
5 contributions by employers, benefits paid to individuals in the em-
6 ploy of nonprofit organizations, as described in section 501 (c) (3)
7 of the Internal Revenue Code and which are exempt from income
8 tax under section 501 (a) of the Internal Revenue Code, shall be
9 financed in accordance with the following provisions:

10 (1) Any nonprofit organization which is, or becomes, subject to
11 the Unemployment Compensation Law on or after January 1, 1972,

12 shall pay contributions under the provisions of R. S. 43:21-7, un-
13 less it elects in accordance with this paragraph, to pay to the divi-
14 sion for the unemployment fund an amount equal to the amount of
15 regular benefits and $\frac{1}{2}$ of the extended benefits paid, that are attrib-
16 utable to base year service in the employ of such nonprofit orga-
17 nization during the effective period of such election;

18 (2) Any nonprofit organization which is, or becomes subject to
19 the Unemployment Compensation Law on January 1, 1972 may
20 elect to become liable *for payments* in lieu of contributions for a
21 period of not less than 2 calendar years beginning with January 1,
22 1972, provided it files with the division a written notice of its elec-
23 tion within the 120-day period immediately followng such date or
24 within a like period immediately following the enactment of this
25 act, whichever occurs later;

26 (3) Any nonprofit organization which becomes subject to the
27 Unemployment Compensation Law after January 1, 1972, may elect
28 to become liable for payments in lieu of contributions for a period
29 of not less than 2 calendar years beginning with the date on which
30 such subjectivity begins, by filing a written notice of its election
31 with the division not later than 120 days immediately following
32 the date of such subjectivity;

33 (4) Any nonprofit organization which makes an election in ac-
34 cordance with paragraph (2) or paragraph (3) shall be liable for
35 payments in lieu of contributions on benefits paid that are attribu-
36 table to base year service in the employ of such organization during
37 the effective period of the election. Any nonprofit organization
38 may file a written notice terminating its election, not later than
39 February 1 of any year with respect to which the termination is
40 to become effective;

41 (5) Any nonprofit organization which has been paying contri-
42 butions under the Unemployment Compensation Law for a period
43 subsequent to January 1, 1972 may change to a reimbursable basis
44 by filing with the division not later than February 1 of any calendar
45 year a written notice of election to become liable for payments in
46 lieu of contributions. Such election shall not be terminable by the
47 organization during that calendar year or the next calendar year;

48 (6) The division may for good cause extend the period within
49 which a notice of election or a notice of termination must be filed
50 and may permit an election to be retroactive;

51 (7) If an election for payments in lieu of contributions is
52 terminated by a nonprofit organization or canceled by the division,
53 the nonprofit organization shall remain liable for payments in lieu

54 of contributions with respect to all benefits paid based on base year
55 wages earned in the employ of such nonprofit organization during
56 the effective period of the election; **[and]**

57 (8) The division in accordance with such regulations as it may
58 prescribe, shall notify such nonprofit organization of any deter-
59 mination which the division may make of the effective date and the
60 termination date of any such election and such determination shall
61 be subject to reconsideration, appeal and review *and*

62 (9) *As of the effective date of the termination of an election to*
63 *make payments in lieu of contributions, a nonprofit organization*
64 *shall become liable to pay unemployment insurance contributions*
65 *on taxable wages paid to its employees subsequent to the termina-*
66 *tion. Its contribution rate beginning with the first July 1 in the*
67 *period following the termination of an election shall be assigned in*
68 *accordance with the provisions of R. S. 43:21-7 except that:*

69 (A) *The benefit charges to its account which are attributable*
70 *to base year services in the employ of such nonprofit organi-*
71 *zation during the effective period of its election to make pay-*
72 *ments in lieu of contributions shall not be included in the total*
73 *benefit charges to its account in the calculation of its reserve*
74 *balance for determining its rate under R. S. 43:21-7(c);*

75 (B) *Its average annual payroll shall be determined without*
76 *inclusion of any of the wages paid in any calendar year during*
77 *which its election to make payments in lieu of contributions*
78 *was effective for any part of the calendar year;*

79 (C) *The period during which the election to make payments*
80 *in lieu of contributions was effective shall not be included in*
81 *calculating the period of eligibility for modification of its rate*
82 *under R. S. 43:21-7 (c) (3);*

83 (D) *For the period from the date of the termination of its*
84 *election to the July 1 following termination, the nonprofit*
85 *organization shall be assigned a rate of 1% for contributions*
86 *under the Unemployment Compensation Law.*

87 (b) Reimbursement payments. At the end of each calendar
88 month, or at the end of any other period as determined by the
89 division, the division shall bill each nonprofit organization or group
90 of such organizations which has elected to make payments in lieu
91 of contributions for an amount equal to the full amount of regular
92 benefits plus $\frac{1}{2}$ of the amount of any extended benefits paid during
93 such month or other prescribed period that are attributable to base
94 year service of individuals in the employ of such organization dur-
95 ing the effective period of the election, and the provisions of the

96 Unemployment Compensation Law (R. S. 43:21-1 et seq.), and the
97 amendments and supplements thereto, shall be applicable with
98 respect to the payment of claims for benefits and the charging
99 thereof; provided, however, that no employer who elects to make
100 payments in lieu of contributions shall be relieved of any charges
101 for benefits paid to his workers by reason of R. S. 43:21-6(b)(1),
102 R. S. 43:21-7(c)(1), or section 6 of chapter 324 of the laws of 1970
103 (C. 43:21-24.12, Extended Benefits Law).

104 (c) Payment of any bill rendered under subsection (b) above
105 shall be made not later than 30 days after such bill was mailed to
106 the last known address of the nonprofit organization or was other-
107 wise delivered to it unless there has been an application for review
108 and redetermination in accordance with subsection (e).

109 (d) Payments made by any nonprofit organization under the
110 provisions of this section shall not be deducted or deductible, in
111 whole or in part from the remuneration of individuals in the em-
112 ploy of the organization.

113 (e) The amount of any payment required under subsection (b)
114 from any nonprofit organization as specified in any bill from the
115 division shall be conclusive on the organization unless, not later
116 than 15 days after the bill was mailed to its last known address or
117 otherwise delivered to it, the organization files an application for
118 redetermination by the division setting forth the grounds for such
119 application. The division shall promptly review and reconsider
120 the amount specified in the bill and shall thereafter issue a re-
121 determination in any case in which such application for redetermi-
122 nation has been filed. Any such redetermination shall be conclusive
123 on the organization unless, not later than 15 days after the re-
124 determination was mailed to its last known address or otherwise
125 delivered to it, the organization files an appeal to the division [of
126 Employment Security] setting forth the grounds for the appeal.
127 Proceedings on appeal to the division [of Employment Security]
128 from the amount of a bill rendered under this subsection or a
129 redetermination of such amount shall be in accordance with the
130 rules and regulations of the division.

131 (f) Any organization failing to file a timely report or to make
132 a timely payment of the amount in lieu of contributions due here-
133 under shall be subject to the same interest, penalties, remedies
134 and methods of enforcement that apply to contributions and re-
135 ports due under the provisions of the Unemployment Compensation
136 Law.

137 (g) If any nonprofit organization is delinquent in making pay-
138 ments in lieu of contributions as required under this section, the
139 division may terminate such organization's election to make pay-
140 ments in lieu of contributions as of the January 1 immediately
141 following, and such termination shall be effective for at least two
142 calendar years and until all payments due the division have been
143 satisfied.

144 (h) Provision for bond or other security. In the discretion of
145 the division any nonprofit organization that elects to become liable
146 for payments in lieu of contributions shall be required within 30
147 days after the effective date of its election, to execute and file with
148 the division a surety bond approved by the division or it may elect
149 instead to deposit with the division moneys or securities approved
150 by the division. The amount of the bond or **[the amount of the]**
151 deposit shall be determined by the division and shall **[be not less]**
152 **than 1% of]** *not exceed the amount derived by multiplying* the
153 organization's taxable wages **[during]** *for* the preceding calendar
154 year, or **[1% of]** the *organization's* estimated **[total]** taxable
155 wages **[of such organization]** for the ensuing year, whichever is the
156 greater, *by the maximum unemployment insurance contribution*
157 *rate in effect at the beginning of the calendar year for which the*
158 *bond or deposit is required*; provided, however, that any organiza-
159 tion which is a self insurer and is exempt from insuring **[work-**
160 **men's]** *workers'* compensation liability under the **[Workmen's]**
161 *Workers'* Compensation Law, shall so long as such exemption re-
162 mains in effect be exempt from the surety bond and security
163 deposit requirements of this subsection; and any other organiza-
164 tion which shall satisfy the division as to its financial ability to
165 **[pay]** *meet the cost of* benefits provided under the Unemployment
166 Compensation Law and the Temporary Disability Benefits Law,
167 may, upon application, be exempted from such requirements by
168 written order of the division, which order shall be revocable at any
169 time.

170 (1) Bond. The amount of any bond deposited under this sub-
171 section shall require adjustments as the division deems appro-
172 priate. If the bond is to be increased, the adjusted bond shall be
173 filed by the organization within 30 days after notice of the required
174 adjustment was mailed or otherwise delivered to it. Failure of any
175 organization covered by such bond to pay the full amount of pay-
176 ment in lieu of contributions when due, together with any appli-
177 cable interest and penalties, shall render the surety liable on said
178 bond to the extent of said bond as though the surety was such or-
179 ganization.

180 (2) Deposit of money or securities. Any deposit of money or
181 securities in accordance with this subsection shall be retained by
182 the division in an escrow account until liability under the elec-
183 tion is terminated, at which time it shall be returned to the organi-
184 zation less any deductions as hereinafter provided. The division
185 may deduct from any moneys deposited under this subsection by
186 a nonprofit organization, or sell the securities it has so deposited,
187 to the extent necessary to satisfy any due and unpaid payments in
188 lieu of contributions and any applicable interest and penalties. The
189 division shall require the organization within 30 days following any
190 deduction from a money deposit or sale of deposited securities
191 under the provisions of this subsection to deposit sufficient addi-
192 tional money or securities to make whole the organization's deposit
193 at the prior level. Any cash remaining from the sale of such
194 securities shall be a part of the organization's escrow account.
195 The division may at any time review the adequacy of the deposit
196 made by any organization. If, as a result of such review, the divi-
197 sion determines that an adjustment is necessary it shall require
198 the organization to make an additional deposit within 30 days of
199 written notice of the division's determination or shall return to
200 it such portion as the division no longer considers necessary, as
201 deemed appropriate. Disposition of income from securities held
202 in escrow shall be governed by applicable State law.

203 (3) Authority to terminate elections. If any nonprofit organiza-
204 tion fails to file a bond or make a deposit, or to increase or make
205 whole the amount of a previously made bond or deposit, as pro-
206 vided under this subsection, the division may terminate such or-
207 ganization's election to make payments in lieu of contributions and
208 such termination shall continue for no less than 24 calendar months
209 beginning with the first quarter in which such termination becomes
210 effective, provided the division may extend for good cause the ap-
211 plicable filing, deposit or adjustment period by not more than 90
212 days.

213 (i) Group accounts. Two or more employers that have become
214 liable for payments in lieu of contributions may file a joint appli-
215 cation with the division for the establishment of a group account
216 for the purpose of sharing the cost of benefits paid that are attribut-
217 able to services in the employ of such employers. Each such ap-
218 plication shall identify and authorize a group representative to
219 act as the group's agent for the purpose of this subsection. Upon
220 approval of the application, the division shall establish a group ac-
221 count for such employers effective as of the beginning of the

222 calendar quarter in which the application is received or the next
223 calendar quarter, in the discretion of the division, and shall notify
224 the group's representative of the effective date of the account.
225 Such account shall remain in effect for not less than two calendar
226 years and thereafter until terminated at the discretion of the divi-
227 sion or upon application by the group. The division shall prescribe
228 such regulations as it may deem necessary, with respect to applica-
229 tions for establishment, maintenance, and termination of group
230 accounts authorized by this subsection, for addition of new mem-
231 bers to, and withdrawal of active members from, such accounts,
232 and for the determination of the amounts that are payable under
233 this subsection by members of the group, and the time and manner
234 of such payments.

1 5. Section 4 of P. L. 1971, c. 346 (C. 43:21-7.3) is amended to
2 read as follows:

3 4. (a) Notwithstanding any other provisions of the Unemploy-
4 ment Compensation Law for the payment of contributions, bene-
5 fits paid to individuals based upon wages earned in the employ-
6 of [the State, or any of its political subdivisions, or any instru-
7 mentality of the State or its political subdivisions, shall be financed
8 by payments in lieu of contributions on the basis set forth in sec-
9 tion 3 of this act (C. 43:21-7.2); provided, however, that payments
10 in lieu of contributions from the State of New Jersey shall be re-
11 duced by the contributions of workers deposited in the Unemploy-
12 ment Compensation Fund with respect to employment by the State
13 of New Jersey, or services performed in the employ of this State
14 and one or more other States or their instrumentalities.] *any*
15 *governmental entity or instrumentality which is an employer de-*
16 *finied under R. S. 43:21-19(h)(5) shall, to the extent that such*
17 *benefits are chargeable to the account of such governmental entity*
18 *or instrumentality in accordance with the provisions of R. S.*
19 *43:21-1 et seq., be financed by payments in lieu of contributions.*

20 (b) *Any governmental entity or instrumentality may, as an*
21 *alternative to financing benefits by payments in lieu of contribu-*
22 *tions, elect to pay contributions beginning with the date on which*
23 *its subjectivity begins by filing written notice of its election with*
24 *the division no later than 120 days after such subjectivity begins,*
25 *provided that such election shall be effective for at least 2 full*
26 *calendar years; or it may elect to pay contributions for a period*
27 *of not less than 2 calendar years beginning January 1 of any year*
28 *if written notice of such election is filed with the division not later*
29 *than February 1 of such year; provided, further, that such govern-*

30 *mental entity or instrumentality shall remain liable for payments*
31 *in lieu of contributions with respect to all benefits paid based on*
32 *base year wages earned in the employ of such entity or instru-*
33 *mentality in the period during which it financed its benefits by*
34 *payments in lieu of contributions.*

35 *(c) Any governmental entity or instrumentality may terminate*
36 *its election to pay contributions as of January 1 of any year by*
37 *filing written notice with the division not later than February 1*
38 *of any year with respect to which termination is to become effective.*
39 *It may not revert to a contributions method of financing for at*
40 *least 2 full calendar years after such termination.*

41 *(d) Any governmental entity or instrumentality electing the*
42 *option for contributoins financing shall report and pay contribu-*
43 *tions in accordance with the provisions of R. S. 43:21-7 except*
44 *that, notwithstanding the provisions of that section, the contribu-*
45 *tion rate for such governmental entity or instrumentality shall be*
46 *1% for the entire calendar year 1978 and the contribution rate for*
47 *any subsequent calendar years shall be the rate established for*
48 *governmental entities or instrumentalities under subsection (e)*
49 *of this section.*

50 *(e) On or before September 1 of each year, the Commissioner of*
51 *Labor and Industry shall review the composite benefit cost experi-*
52 *ence of all governmental entities and instrumentalities electing to*
53 *pay contributions and, on the basis of that experience, establish*
54 *the contribution rate for the next following calendar year which*
55 *can be expected to yield sufficient revenue in combination with*
56 *worker contributions to equal or exceed the projected costs for*
57 *that calendar year.*

58 *(f) Any covered governmental entity or instrumentality electing*
59 *to pay contributions shall each year appropriate, out of its general*
60 *funds, moneys to pay the projected costs of benefits at the rate*
61 *determined under subsection (e) of this section. These funds shall*
62 *be held in a trust fund maintained by the governmental entity for*
63 *this purpose. Any surplus remaining in this trust fund may be*
64 *retained in reserve for payment of benefit costs for subsequent*
65 *years either by contributions or payments in lieu of contributions.*

66 *(g) Any governmental entity or instrumentality electing to*
67 *finance benefit costs with payments in lieu of contributions shall*
68 *pay into the fund an amount equal to all benefit costs for which*
69 *it is liable pursuant to the provisions of the Unemployment Com-*
70 *ensation Law. Each subject governmental entity or instrumen-*
71 *tality shall require payments from its workers in the same manner*

72 and amount as prescribed under R. S. 43:21-7(d) for governmental
73 entities and instrumentalities financing their benefit costs with
74 contributions. No such payment shall be used for a purpose other
75 than to meet the benefits liability of such governmental entity or
76 instrumentality. In addition, each subject governmental entity or
77 instrumentality shall appropriate out of its general funds sufficient
78 moneys which, in addition to any worker payments it requires, are
79 necessary to pay its annual benefit costs estimated on the basis of
80 its past benefit cost experience; provided, that for its first year
81 of coverage, its benefit costs shall be deemed to require an appro-
82 priation equal to 1% of the projected total of its taxable wages
83 for the year. These appropriated moneys and worker payments
84 shall be held in a trust fund maintained by the governmental en-
85 tity or instrumentality for this purpose. Any surplus remaining
86 in this trust fund shall be retained in reserve for payment of benefit
87 costs in subsequent years. If a governmental entity or instru-
88 mentality requires its workers to make payments as authorized
89 herein, such workers shall not be subject to the contributions re-
90 quired in R. S. 43:21-7(d).

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

2 43:21-8. Period, election and termination of employers' cover-
3 age. (a) Any employing unit which is or becomes an employer
4 subject to this chapter (R. S. 43:21-1 et seq.) within any calendar
5 year shall be subject to this chapter (R. S. 43:21-1 et seq.) during
6 the whole of such calendar year.

7 (b) Except as otherwise provided in subsection (c) of this sec-
8 tion, an employing unit shall cease to be an employer subject to
9 this chapter (R. S. 43:21-1 et seq.) only as of January 1 of any
10 calendar year, if

11 (1) The employing unit files with the division [of Employment
12 Security] prior to February 1 of such year, a written application
13 for termination of coverage, and the division finds that the em-
14 ploying unit did not pay wages in the amount of \$1,000.00 or more
15 within the preceding calendar year for employment subject to
16 this chapter (R. S. 43:21-1 et seq.) or

17 (2) The division finds that during the 2 calendar years pre-
18 ceeding such January 1, there was no day on which such employing
19 unit employed one or more individuals in employment subject to
20 this chapter (R. S. 43:21-1 et seq.).

21 For the purpose of this subsection, the employing units men-
22 tioned in section 43:21-19 (h) (2), (3) or (4) of the Revised Stat-
23 utes shall be treated as a single employing unit.

24 (c) (1) An employing unit, not otherwise subject to this chapter
25 (R. S. 43:21-1 et seq.), which files with the division its written
26 election to become an employer subject hereto for not less than 2
27 calendar years shall become an employer subject hereto, to the
28 same extent as all other employers, as of the date of filing of such
29 election or as of an earlier date if approved by the division, and
30 shall cease to be subject to this chapter (R. S. 43:21-1 et seq.) as
31 of January 1 of any calendar year subsequent to such period of
32 election, only, if, prior to February 1, of such calendar year, such
33 employing unit has filed with the division a written notice to that
34 effect and it meets the conditions for termination of coverage set
35 forth in subsection (b) hereof.

36 (2) If an employing unit, other than a political subdivision of
37 this State, for which services are performed that do not constitute
38 employment as defined in this chapter (R. S. 43:21-1 et seq.) files
39 with the division its written election that all such services per-
40 formed by individuals in its employ in one or more distinct estab-
41 lishments or places of business shall be deemed to constitute em-
42 ployment for all purposes of this chapter (R. S. 43:21-1 et seq.)
43 for not less than 2 calendar years such services shall be deemed
44 to constitute employment subject to this chapter (R. S. 43:21-1
45 et seq.) as of the date of the filing of such election, or as of an
46 earlier date if approved by the division, and shall cease to be sub-
47 ject to this chapter (R. S. 43:21-1 et seq.) as of January 1 of any
48 calendar year subsequent to such period of election, only, if, (A)
49 prior to February 1 of such calendar year, such employing unit
50 has filed with the division a written notice to that effect, or (B) the
51 division finds that during the 2 calendar years preceding such
52 January 1, there was no day on which such services were performed
53 for the employing unit.

54 (3) Any employing unit that is a political subdivision of this
55 State may elect to cover under the Unemployment Compensation
56 Law for not less than 2 calendar years service performed by
57 individuals in all of the hospitals and institutions of higher educa-
58 tion operated by such political subdivision. Election is to be made
59 by filing with the division a written notice of such election at least
60 30 days prior to the effective date of such election. The election
61 may exclude any services described in R. S. 43:21-19(i)(1)(D).
62 Any political subdivision electing coverage under this paragraph
63 shall make payments in lieu of contributions with respect to benefits
64 attributable to such employment as provided with respect to non-
65 profit organizations in section 3 of this act (C. 43:21-7.2). No

66 election to become subject under this paragraph shall be submitted
67 unless the election has been authorized by the governing body of
68 such political subdivision. Any political subdivision so electing
69 shall cease to be subject to the Unemployment Compensation Law
70 as of January 1 of any calendar year subsequent to such period
71 of election, only, if, prior to February 1 of such calendar year,
72 such political subdivision files with the division a written notice
73 to that effect.

74 The provisions in R. S. 43:21-4(g) with respect to benefit rights
75 based on service for State and nonprofit institutions of higher
76 education shall be applicable also to services covered by an elec-
77 tion under this paragraph.

78 The amounts required to be paid in lieu of contributions by any
79 political subdivision that elects under this paragraph shall be billed
80 and payments made as provided in section 3 of this act
81 (C. 43:21-7.2) with respect to similar payments by nonprofit or-
82 ganizations.】

1 7. R. S. 43:21-19 is amended to read as follows:

2 43:21-19. Definitions. As used in this chapter (R. S. 43:21-1
3 et seq.) unless the context clearly requires otherwise:

4 (a) (1) "Annual payroll" means the total amount of wages paid
5 during a calendar year (regardless of when earned) by an em-
6 ployer for employment.

7 (2) "Average annual payroll" means the average of the annual
8 payrolls of any employer for the last 3 or 5 preceding calendar
9 years, whichever average is higher, except that any year or years
10 throughout which an employer has had no "annual payroll"
11 because of military service shall be deleted from the reckoning;
12 the "average annual payroll" in such case is to be determined on
13 the basis of the prior 3 or 5 calendar years in each of which the
14 employer had an "annual payroll" in the operation of his business,
15 if the employer resumes his business within 12 months after
16 separation, discharge or release from such service, under conditions
17 other than dishonorable, and makes application to have his "aver-
18 age annual payroll" determined on the basis of such deletion
19 within 12 months after he resumes his business; provided, how-
20 ever, that "average annual payroll" solely for the purposes of
21 paragraph (3) of subsection (e) of section 43:21-7 of this Title
22 means the average of the annual payrolls of any employer on
23 which he paid contributions to the State Disability Benefits Fund
24 for the last 3 or 5 preceding calendar years, whichever average is

25 higher; provided further, that only those wages be included on
26 which employer contributions have been paid on or before January
27 31 (or the next succeeding day if such January 31 is a Saturday
28 or Sunday) immediately preceding the beginning of the 12 months'
29 period for which the employer's contribution rate is computed.

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

33 (c) "Base year" with respect to benefit years commencing on
34 or after January 1, 1953, shall mean the 52 calendar weeks ending
35 with the second week immediately preceding an individual's benefit
36 year.

37 (d) "Benefit year" with respect to any individual means the
38 364 consecutive calendar days beginning with the day on, or as of,
39 which he first files a valid claim for benefits, and thereafter
40 beginning with the day on, or as of, which the individual next files
41 a valid claim for benefits after the termination of his last preceding
42 benefit year. Any claim for benefits made in accordance with sub-
43 section (a) of section 43:21-6 of this Title shall be deemed to be a
44 "valid claim" for the purpose of this subsection if (1) no remunera-
45 tion was paid or is payable for the day on which, or as of which he
46 files a claim for benefits, and no work is available to him with his
47 current employing unit on such day, or, he is unemployed for the
48 week in which, or as of which, he files a claim for benefits; and (2)
49 he has fulfilled the conditions imposed by subsection (e) of section
50 43:21-4 of this Title.

51 (e) "Division" means the Division of [Employment Security]
52 *Unemployment and Temporary Disability Insurance* of the Depart-
53 ment of Labor and Industry established by c. 446, P. L. 1948, and
54 any transaction or exercise of authority by the director of the
55 division thereunder, or under this chapter (R. S. 43:21-1 et seq.),
56 shall be deemed to be performed by the division.

57 (f) "Contributions" means the money payments to the State
58 Unemployment Compensation Fund required by R. S. 43:21-7.
59 "Payments in lieu of contributions" means the money payments
60 to the State Unemployment Compensation Fund by employers
61 electing or required to make payments in lieu of contributions as
62 provided in section 3 or section 4 of this act (C. 43:21-7.2 and
63 43:21-7.3).

64 (g) "Employing unit" means *the State or any of its instrumen-*
65 *talities or any political subdivision thereof or any of its instru-*
66 *mentalities or any instrumentality of more than one of the*
67 *foregoing or any instrumentality of any of the foregoing and one or*

68 *more other States or political subdivisions* or any individual or type
69 of organization, [including the State, its political subdivisions, the
70 State and one or more other states, and the instrumentalities of
71 the State and of the State and one or more other states] any
72 partnership, association, trust, estate, joint-stock company, in-
73 surance company or corporation, whether domestic or foreign, or
74 the receiver, trustee in bankruptcy, trustee or successor thereof,
75 or the legal representative of a deceased person, which has or
76 subsequent to January 1, 1936, had in its employ one or more
77 individuals performing services for it within this State. All in-
78 dividuals performing services within this State for any employing
79 unit which maintains two or more separate establishments within
80 this State shall be deemed to be employed by a single employing
81 unit for all the purposes of this chapter (R. S. 43:21-1 et seq.).
82 Each individual employed to perform or to assist in performing
83 the work of any agent or employee of an employing unit shall be
84 deemed to be employed by such employing unit for all the purposes
85 of this chapter (R. S. 43:21-1 et seq.), whether such individual was
86 hired or paid directly by such employing unit or by such agent or
87 employee; provided, the employing unit had actual or constructive
88 knowledge of the work.

89 (h) "Employer" means:

90 (1) Any employing unit which [after December 31, 1971,] in
91 either the current or the preceding calendar year paid remuneration
92 for employment in the amount of \$1,000.00 or more;

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

98 (3) Any employing unit which acquired the organization, trade
99 or business, or substantially all the assets thereof, of another em-
100 ploying unit and which, if treated as a single unit with such other
101 employing unit, would be an employer under paragraph (1) of
102 this subsection;

103 (4) Any employing unit which together with one or more other
104 employing units is owned or controlled (by legally enforceable
105 means or otherwise), directly or indirectly by the same interests,
106 or which owns or controls one or more other employing units (by
107 legally enforceable means or otherwise), and which, if treated as
108 a single unit with such other employing unit or interest, would
109 be an employer under paragraph (1) of this subsection;

110 (5) Any employing unit for which service in employment as
111 defined in R. S. 43:21-19 (i) (1) (B) (i); is performed after Decem-
112 ber 31, 1971; and as defined in R. S. 43:21-19 (i) (1) (B) (ii) is
113 performed after December 31, 1977;

114 (6) Any employing unit for which service in employment as
115 defined in R. S. 43:21-19 (i) (1) (C) is performed after December
116 31, 1971 and which in either the current or the preceding calendar
116A year paid remuneration for employment in the amount of \$1,000.00
116B or more;

117 (7) Any employing unit not an employer by reason of any other
118 paragraph of this subsection (h) for which, within either the
119 current or preceding calendar year, service is or was performed
120 with respect to which such employing unit is liable for any Federal
121 tax against which credit may be taken for contributions required
122 to be paid into a State unemployment fund; or which, as a condition
123 for approval of the Unemployment Compensation Law for full
124 tax credit against the tax imposed by the Federal Unemployment
125 Tax Act is required pursuant to such act to be an employer under
126 this chapter (R. S. 43:21-1 et seq.);

127 (8) ~~Any employing unit which, having become an employer~~
128 ~~under paragraphs (1), (2), (3), (4), (5), (6) or (7) has not, under~~
129 ~~section 43:21-8 ceased to be an employer subject to this chapter~~
130 ~~(R. S. 43:21-1 et seq.); or~~ Deleted by amendment (P. L.,
131 C.).

132 (9) ~~For the effective period of its election pursuant to R. S.~~
133 ~~43:21-8 any other employing unit which has elected to become~~
134 ~~fully subject to this chapter (R. S. 43:21-1 et seq.);~~ Deleted by
135 ~~amendment (P. L., C.).~~

136 (10) ~~For the purposes of paragraphs (1) and (6), employment~~
137 ~~shall include service which would constitute employment but for~~
138 ~~the fact that such services deemed to be performed entirely within~~
139 ~~another state pursuant to an election under an arrangement~~
140 ~~entered into under R. S. 43:21-21 between this State and an agency~~
141 ~~charged with the administration of any other state or Federal~~
142 ~~Unemployment Compensation Law;~~ Deleted by amendment (P. L.
143, C.).

144 (11) Any employing unit subject to the provisions of the Federal
145 Unemployment Tax Act within either the current or the preceding
146 calendar year except for employment hereinafter excluded under
147 paragraph (7) of subsection (i) of this section.

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

151 (13) Any employing unit for which domestic service is employ-
152 ment as defined in R. S. 43:21-19(i)(1)(J) is performed after
153 December 1, 1977;

154 (14) Any employing unit which, having become an employer
155 under the Unemployment Compensation Law (R. S. 43:21-1 et.
156 seq.), has not under R. S. 43:21-8 ceased to be an employer; or for
157 the effective period of its election pursuant to R. S. 43:21-8, any
158 other employing unit which has elected to become fully subject to
159 this chapter (R. S. 43:21-1 et seq.);

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

161 (A) Any service performed prior to January 1, 1972, which
162 was employment as defined in the Unemployment Compensation
163 Law (R. S. 43:21-1 et seq.) prior to such date, and, subject
164 to the other provisions of this subsection, service performed
165 on or after January 1, 1972, including service in interstate
166 commerce, performed for remuneration or under any contract
167 of hire, written or oral, express or implied.

168 (B) (i) Service performed after December 31, 1971 by an
169 individual in the employ of this State or any of its instrumen-
170 talities or in the employ of this State and one or more other
171 states or their instrumentalities for a hospital or institution
172 of higher education located in this State, if such service is
173 not excluded from employment under paragraph (D) below.

174 (ii) Service performed after December 31, 1977, in the em-
175 ploy of this State or any of its instrumentalities or any political
176 subdivision thereof or any of its instrumentalities or any
177 instrumentality of more than one of the foregoing or any in-
178 strumentality of the foregoing and one or more other states
179 or political subdivisions if such service is not excluded from
180 "employment" under paragraph (D) below.

181 (C) Service performed after December 31, 1971 by an indi-
182 vidual in the employ of a religious, charitable, educational, or
183 other organization, which is excluded from "employment" as
184 defined in the Federal Unemployment Tax Act solely by reason
185 of section 3306 (c) (8) of that act, if such service is not ex-
186 cluded from employment under paragraph (D) below.

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

189 (i) In the employ of (I) a church or convention or associa-
190 tion of churches, or (II) an organization which is operated
191 primarily for religious purposes and which is operated, super-

192 vised, controlled or principally supported by a church or
193 convention or association of churches;
194 (ii) By a duly ordained, commissioned, or licensed minister
195 of a church in the exercise of his ministry or by a member
196 of a religious order in the exercise of duties required by such
197 order;
198 (iii) **[In]** *Prior to January 1, 1978, in the employ of a*
199 *school which is not an institution of higher education, and*
200 *after December 31, 1977, in the employ of a governmental*
201 *entity referred to in section 19(i)(1)(B) if such service is*
202 *performed by an individual in the exercise of duties*
203 *(aa) as an elected official;*
204 *(bb) as a member of a legislative body, or a member of*
205 *the judiciary, of a State or political subdivision;*
206 *(cc) as a member of the State National Guard or Air*
207 *National Guard;*
208 *(dd) as an employee serving on a temporary basis in*
209 *case of fire, storm, snow, earthquake, flood or similar emer-*
210 *gency;*
211 *(ee) in a position which, under or pursuant to the laws*
212 *of this State, is designated as a major nontenured policy-*
213 *making or advisory position, or a policymaking or advisory*
214 *position the performance of the duties of which ordinarily*
215 *does not require more than 8 hours per week; or*
216 (iv) **[In]** *By an individual receiving rehabilitation or re-*
217 *munerative work in a facility conducted for the purpose of*
218 *carrying out a program of rehabilitation of individuals whose*
219 *earning capacity is impaired by age or physical or mental*
220 *deficiency or injury or providing remunerative work for in-*
221 *dividuals who because of their impaired physical or mental*
222 *capacity cannot be readily absorbed in the competitive labor*
223 *market [by an individual receiving such rehabilitation or*
224 *remunerative work];*
225 (v) **[As]** *By an individual receiving work-relief or work-*
226 *training as part of an unemployment work-relief or work-*
227 *training program assisted in whole or in part by any Federal*
228 *agency or an agency of a State or political subdivision thereof,*
229 *by an individual receiving such work-relief or work-training];*
230 or
231 (vi) **[For]** *Prior to January 1, 1978, for a hospital in a*
232 *State prison or other State correctional institution by an in-*
233 *mate of the prison or correctional institution and after De-*

234 *December 31, 1977, by an inmate of a custodial or penal institu-*
235 *tion.*
236 (E) The term "employment" shall include the services of
237 an individual who is a citizen of the United States, performed
238 outside the United States *after December 31, 1971* (except in
239 Canada **[or]**), *and in the case of the Virgin Islands**[]**, after
240 December 31, 1971 *and prior to January 1 of the year follow-*
241 *ing the year in which the U.S. Secretary of Labor approves*
242 *the unemployment compensation law of the Virgin Islands*
243 *under section 3304(a) of the Internal Revenue Code of 1954)*
244 in the employ of an American employer (other than the ser-
245 vice which is deemed employment under the provisions of
246 paragraphs 43:21-19 (i) (2) or (5) or the parallel provisions
247 of another state's Unemployment Compensation Law), if
248 **[(E)]** (i) The American employer's principal place of busi-
249 ness in the United States is located in this State; or
250 **[(E)]** (ii) The American employer has no place of business
251 in the United States, but (I) the American employer is an
252 individual who is a resident of this State; or (II) the American
253 employer is a corporation which is organized under the laws
254 of this State; or (III) the American employer is a partner-
255 ship or trust and the number of partners or trustees who are
256 residents of this State is greater than the number who are
257 residents of any other state; or
258 **[(E)]** (iii) None of the criteria of divisions (i) and (ii) of
259 this subparagraph (E) is met but the American employer has
260 elected to become an employer subject to the Unemployment
261 Compensation Law (R. S. 43:21-1 et seq.) in this State, or
262 the American employer having failed to elect to become an
263 employer in any state, the individual has filed a claim for
264 benefits, based on such service, under the law of this State.
265 **[(E)]** (iv) An "American employer" for the purposes of
266 this subparagraph (E), means (I) an individual who is a resi-
267 dent of the United States; or (II) a partnership if two-thirds
268 or more of the partners are residents of the United States;
269 or (III) a trust, if all the trustees are residents of the United
270 States, or (IV) a corporation organized under the laws of the
271 United States or of any state.
272 (F) Notwithstanding R. S. 43:21-19 (i) (2), all service per-
273 formed after January 1, 1972 by an officer or member of the
274 crew of an American vessel or American aircraft on or in
275 connection with such vessel or aircraft, if the operating office*

276 from which the operations of such vessel or aircraft operating
277 within, or within and without, the United States are ordinarily
278 and regularly supervised, managed, directed, and controlled,
279 is within this State.

280 (G) Notwithstanding any other provision of this subsection,
281 service in this State with respect to which the taxes required
282 to be paid under any Federal law imposing a tax against which
283 credit may be taken for contributions required to be paid into
284 a State unemployment fund or which as a condition for full
285 tax credit against the tax imposed by the Federal Unemploy-
286 ment Tax Act is required to be covered under the Unemploy-
287 ment Compensation Law (R. S. 43:21-1 et seq.).

288 (H) The term "United States" when used in a geographical
289 sense in subsection R. S. 43:21-19 (i) includes the states, the
290 District of Columbia, [and] the Commonwealth of Puerto
291 Rico[,] and, effective on the day after the day on which the
292 U.S. Secretary of Labor approves for the first time under sec-
293 tion 3304(a) of the Internal Revenue Code of 1954 an unem-
294 ployment compensation law submitted to the Secretary of the
295 Virgin Islands for such approval.

296 (I) (i) Service performed after December 31, 1977 in agri-
296A cultural labor in a calendar year for an entity which is an
296B employer as defined in the Unemployment Compensation Law
296C (R. S. 43:21-1 et seq.) as of January 1 of such year; or for
296D an employing unit which

296E (aa) during any calendar quarter in either the current or
296F the preceding calendar year paid remuneration in cash of
296G \$20,000.00 or more to individuals employed in agricultural
296H labor, or

296I (bb) for some portion of a day in each of 20 different
296J calendar weeks, whether or not such weeks were consecutive,
297 in either the current or the preceding calendar year, em-
298 ployed in agricultural labor 10 or more individuals, regard-
299 less of whether they were employed at the same moment
300 of time.

301 (ii) For the purposes of this subsection any individual who
302 is a member of a crew furnished by a crew leader to perform
303 service in agricultural labor for any other entity shall be
304 treated as an employee of such crew leader

305 (aa) if such crew leader holds a valid certification of reg-
306 istration under the Farm Labor Contractor Registration Act
307 of 1963; or P. L. 1971, c. 192 (C. 34:8A-7 et seq.); or sub-

308 *stantially all the members of such crew operate or maintain*
309 *tractors, mechanized harvesting or cropdusting equipment,*
310 *or any other mechanized equipment, which is provided by*
311 *such crew leader; and*
312 *(bb) if such individual is not an employee of such other*
313 *person for whom services were performed.*
314 *(iii) For the purposes of subparagraph (I) (i) in the case*
315 *of any individual who is furnished by a crew leader to perform*
316 *service in agricultural labor for any other entity and who is*
317 *not treated as an employee of such crew leader under (I) (ii)*
318 *(aa) such other entity and not the crew leader shall be*
319 *treated as the employer of such individual; and*
320 *(bb) such other entity shall be treated as having paid*
321 *cash remuneration to such individual in an amount equal to*
322 *the amount of cash remuneration paid to such individual*
323 *by the crew leader (either on his own behalf or on behalf*
324 *of such other entity) for the service in agricultural labor*
325 *performed for such other entity.*
326 *(iv) For the purposes of subparagraph (I) (i), the term*
327 *“crew leader” means an individual who*
328 *(aa) furnishes individuals to perform service in agricul-*
329 *tural labor for any other entity;*
330 *(bb) pays (either on his own behalf or on behalf of such*
331 *other entity) the individuals so furnished by him for the*
332 *service in agricultural labor performed by them; and*
333 *(cc) has not entered into a written agreement with such*
334 *other entity under which such individual is designated as*
335 *an employee of such other entity.*
336 *(J) Domestic service after December 31, 1977 performed*
337 *in the private home of an employing unit which paid cash re-*
338 *muneration of \$1,000.00 or more to one or more individuals*
339 *for such domestic service in any calendar quarter in the current*
340 *or preceding calendar year.*
341 (2) The term “employment” shall include an individual’s en-
342 tire service performed within or both within and without this
343 State if:
344 (A) The service is localized in this State; or
345 (B) The service is not localized in any state but some of the
346 service is performed in this State, and (i) the base of opera-
347 tions, or, if there is no base of operations, then the place from
348 which such service is directed or controlled, is in this State;
349 or (ii) the base of operations or place from which such service

350 is directed or controlled is not in any state in which some part
351 of the service is performed, but the individual's residence is
352 in this State.

353 (3) Services performed within this State but not covered under
354 paragraph (2) of this subsection shall be deemed to be employment
355 subject to this chapter (R. S. 43:21-1 et seq.) if contributions are
356 not required and paid with respect to such services under an un-
357 employment compensation law of any other state or of the Federal
358 Government.

359 (4) Services not covered under paragraph (2) of this subsection
360 and performed entirely without this State, with respect to no part
361 of which contributions are required and paid under an Unemploy-
362 ment Compensation Law of any other state or of the Federal
363 Government, shall be deemed to be employment subject to this
364 chapter (R. S. 43:21-1 et seq.) if the individual performing such
365 services is a resident of this State and the employing unit for
366 whom such services are performed files with the division an election
367 that the entire service of such individual shall be deemed to be
368 employment subject to this chapter (R. S. 43:21-1 et seq.).

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

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

371 (B) The service is performed both within and without such
372 state, but the service performed without such state is incidental
373 to the individual's service within the State, for example, is
374 temporary or transitory in nature or consists of isolated trans-
375 actions.

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

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

383 (B) Such service is either outside the usual course of the
384 business for which such service is performed, or that such
385 service is performed outside of all the places of business of
386 the enterprise for which such service is performed; and

387 (C) Such individual is customarily engaged in an inde-
388 pendently established trade, occupation, profession or business.

389 (7) Provided that such services are also exempted under the
390 Federal Unemployment Tax Act, as amended, or that contributions
391 with respect to such services are not required to be paid into a

392 State Unemployment Fund as a condition for a tax offset credit
393 against the tax imposed by the Federal Unemployment Tax Act,
394 as amended, the term "employment" shall not include:

395 (A) Agricultural labor performed prior to January 1, 1978;
396 and after December 31, 1977, only if performed in a calendar
397 year for an entity which is not an employer as defined in the
398 Unemployment Compensation Law (R. S. 43:21-1 et seq.) as
399 of January 1 of such calendar year; or unless performed for
400 an employing unit which

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

404 (ii) for some portion of a day in each of 20 different calendar
405 weeks, whether or not such weeks were consecutive, in either the
406 current or the preceding calendar year, employed in agricul-
407 tural labor 10 or more individuals, regardless of whether they
408 were employed at the same moment of time.

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

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

418 (D) Service performed prior to January 1, 1978, in the
419 employ of this State or of any political subdivision thereof or
420 of any instrumentality of this State or its political subdivisions
421 except as provided in R. S. 43:21-19 (i) (1) (B) above, and
422 service in the employ of the South Jersey Port [Commission]
423 Corporation or its successors;

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

432 (F) Service performed in the employ of the United States
433 Government or of an instrumentality of the United States

434 exempt under the Constitution of the United States from the
435 contributions imposed by the Unemployment Compensation
436 Law, except that to the extent that the Congress of the United
437 States shall permit states to require any instrumentalities of
438 the United States to make payments into an unemployment
439 fund under a State Unemployment Compensation Law, all of
440 the provisions of this act shall be applicable to such instru-
441 mentalities, and to service performed for such instrumentali-
442 ties, in the same manner, to the same extent and on the same
443 terms as to all other employers, employing units, individuals
444 and services; provided, that if this State shall not be certified
444A for any year by the Secretary of Labor of the United States
445 under section 3304 of the Federal Internal Revenue Code (26
446 U. S. C., sec. 3304), the payments required of such instrumentali-
447 ties with respect to such year shall be refunded by the division
448 from the fund in the same manner and within the same period
449 as is provided in R. S. 43:21-14 (f) with respect to contribu-
450 tions erroneously paid to or collected by the division;

451 (G) Services performed in the employ of fraternal bene-
452 ficiary societies, orders, or associations operating under the
453 lodge system or for the exclusive benefit of the members of a
454 fraternity itself operating under the lodge system and provid-
455 ing for the payment of life, sick, accident, or other benefits to
456 the members of such society, order, or association, or their
456A dependents;

457 (H) Services performed as a member of the board of
458 directors, a board of trustees, a board of managers, or a
459 committee of any bank, building and loan or savings and loan
460 association, incorporated or organized under the laws of this
461 State or of the United States, where such services do not
462 constitute the principal employment of the individual;

463 (I) Service with respect to which unemployment insurance
464 is payable under an unemployment insurance program estab-
465 lished by an Act of Congress;

466 (J) Service performed by agents of mutual fund brokers or
467 dealers in the sale of mutual funds or other securities, by agents
468 of insurance companies, exclusive of industrial insurance
469 agents, or by agents of investment companies, if the compensa-
470 tion to such agents for such services is wholly on a commission
470A basis;

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

473 (L) Services performed in the employ of any veterans' orga-
474 nization chartered by Act of Congress or of any auxiliary
475 thereof, no part of the net earnings of which organization, or
476 auxiliary thereof, inures to the benefit of any private share-
476A holder or individual;

477 (M) Service performed for or in behalf of the owner or
478 operator of any theatre, ballroom, amusement hall or other
479 place of entertainment, not in excess of 10 weeks in any
480 calendar year for the same owner or operator, by any leader or
481 musician of a band or orchestra, commonly called a "name
482 band," entertainer, vaudeville artist, actor, actress, singer or
482A other entertainer;

483 (N) Services performed after January 1, 1973 by an indi-
484 vidual for a labor union organization, known and recognized as
485 a union local, as a member of a committee or committees reim-
486 bursed by the union local for time lost from regular employ-
487 ment, or as a part-time officer of a union local and the
488 remuneration for such services is less than \$1,000.00 in a
488A calendar year;

489 (O) Services performed in the sale or distribution of mer-
490 chandise by home-to-home salespersons or in-the-home
491 demonstrators whose remuneration consists wholly of commis-
492 sions or commissions and bonuses.

493 (P) Service performed in the employ of a foreign govern-
494 ment, including service as a consular, nondiplomatic repre-
495 sentative, or other officer or employee;

496 (Q) Service performed in the employ of an instrumentality
497 wholly owned by a foreign government if (i) the service is of a
498 character similar to that performed in foreign countries by
499 employees of the United States Government or of an instru-
500 mentality thereof, and (ii) the division finds that the United
501 States Secretary of State has certified to the United States
502 Secretary of the Treasury that the foreign government with
503 respect to whose instrumentality exemption is claimed, grants
504 an equivalent exemption with respect to similar services per-
505 formed in the foreign country by employees of the United
506 States Government and of instrumentalities thereof;

507 (R) Service in the employ of an international organization
508 entitled to enjoy the privileges, exemptions and immunities
509 under the International Organization Immunities Act (22
510 U. S. C. 288 et seq.);

510A (S) Service covered by an election duly approved by an
510B agency charged with the administration of any other state or

511 Federal Unemployment Compensation or Employment Secu-
512 rity Law, in accordance with an arrangement pursuant to
513 R. S. 43:21-21 during the effective period of such election;

514 (T) Service performed in the employ of a school, college, or
515 university if such service is performed (i) by a student enrolled
516 at such school, college, or university on a full-time basis in an
517 educational program or completing such educational program
518 leading to a degree at any of the severally recognized levels, or
519 (ii) by the spouse of such a student, if such spouse is advised at
520 the time such spouse commences to perform such service that
521 (I) the employment of such spouse to perform such service is
522 provided under a program to provide financial assistance to
523 such student by such school, college, or university, and (II)
524 such employment will not be covered by any program of
524A unemployment insurance;

525 (U) Service performed by an individual under the age of
526 22 who is enrolled at a nonprofit or public educational institu-
527 tion which normally maintains a regular faculty and curricu-
528 lum and normally has a regularly organized body of students
529 in attendance at the place where its educational activities are
530 carried on, as a student in a full-time program, taken for
531 credit at such institution, which combines academic instruction
532 with work experience, if such service is an integral part of such
533 program, and such institution has so certified to the employer,
534 except that this subparagraph shall not apply to service
535 performed in a program established for or on behalf of an
535A employer or group of employers;

536 (V) Service performed in the employ of a hospital, if such
537 service is performed by a patient of the hospital; service
538 performed as a student nurse in the employ of a hospital or a
539 nurses' training school by an individual who is enrolled and
540 regularly attending classes in a nurses' training school
541 approved under the laws of this State; and service performed
542 as an intern in the employ of a hospital by an individual who
543 has completed a 4-year course in a medical school approved
543A pursuant to the law of this State.

544 (8) If one-half or more of the services in any pay period per-
545 formed by an individual for an employing unit constitutes employ-
546 ment, all the services of such individual shall be deemed to be
547 employment; but if ~~less~~ *more* than one-half of the service in any
548 pay period performed by an individual for an employing unit does
549 not constitute employment, then none of the service of such
550 individual shall be deemed to be employment. As used in this

551 paragraph, the term "pay period" means a period of not more
552 than 31 consecutive days for which a payment for service is ordi-
553 narily made by an employing unit to individuals in its employ.

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

557 (k) "Fund" means the unemployment compensation fund estab-
558 lished by this chapter (R. S. 43:21-1 et seq.), to which all con-
559 tributions required and from which all benefits provided under this
560 chapter (R. S. 43:21-1 et seq.) shall be paid.

561 (l) "State" includes, in addition to the states of the United
562 State of America, the District of Columbia, the Virgin Islands and
563 Puerto Rico.

564 (m) Unemployment.

565 (1) An individual shall be deemed "unemployed" for any week
566 during which he is not engaged in full-time work and with respect
567 to which his remuneration is less than his weekly benefit rate,
568 including any week during which he is on vacation without pay;
569 provided, such vacation is not the result of the individual's volun-
570 tary action.

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

576 (3) An individual's week of unemployment shall be deemed to
577 commence only after his registration at an employment office,
578 except as the division may by regulation otherwise prescribe.

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

583 (o) "Wages" means remuneration paid by employers for em-
584 ployment; provided, however, that for eligibility and benefit pur-
585 poses wages earned but not paid when the amount thereof has been
586 calculated and is due as determined by the established and custo-
587 mary practices of the employer shall be construed as having been
588 paid when earned. If a worker receives gratuities regularly in
589 the course of his employment from others than his employer,
590 his "wages" shall also include the gratuities so received if reported
591 in writing to his employer in accordance with regulations of the
592 division [of Employment Security], and if not so reported, his

593 "wages" shall be determined in accordance with the minimum
594 wage rates prescribed under any labor law or regulation of this
595 State or of the United States, or the amount or remuneration
596 actually received by the employee from his employer, whichever
597 is the higher.

598 (p) "Remuneration" means all compensation for personal ser-
599 vices, including commissions and bonuses and the cash value of all
600 compensation in any medium other than cash.

601 (q) "Week" means such period or periods of 7 consecutive days
602 ending at midnight, as the division may by regulation prescribe.

602A (r) "Calendar quarter" means the period of 3 consecutive
603 calendar months ending on March 31, June 30, September 30, or
604 December 31.

605 (s) "Investment company" means any company as defined in
606 paragraph 1-a of c. 322 of the laws of 1938, entitled "An act con-
607 cerning investment companies, and supplementing Title 17 of the
608 Revised Statutes by adding thereto a new chapter entitled 'invest-
609 ment companies.' "

610 (t) "Base week" means any calendar week of an individual's
611 base year during which he earned in employment from an employer
612 remuneration equal to not less than \$30.00; provided, if in
613 any calendar week, an individual is in employment with more than
614 one employer, he may in such calendar week establish a base week
615 with respect to each such employer from whom the individual earns
616 remuneration equal to not less than \$30.00 during such week.

617 (u) "Average weekly wage" means the amount derived by
618 dividing an individual's total wages received during his base year
619 base weeks (as defined in subsection (t) of this section) from that
620 most recent base year employer with whom he has established at
621 least 20 base weeks, by the number of base weeks in which
622 such wages were earned. In the event that such claimant had no em-
623 ployer in his base year with whom he had established at least 20
624 base weeks, then such individual's average weekly wage shall be
625 computed as if all of his base week wages were received from one
626 employer and as if all his base weeks of employment had been
627 performed in the employ of one employer.

628 If on application of a claimant it is determined that he has been
629 employed during at least the 4 weeks immediately preceding his
630 separation from employment by an employer on a substantially
631 reduced schedule of weekly hours due to lack of work, all weeks
632 of substantially reduced schedule within the base period and his
633 wages therefor shall be disregarded in computing his average
634 weekly wage.

635 (v) "Initial determination" means, subject to the provisions of
636 R. S. 43:21-6 (b) (2) and (3), a determination of benefit rights as
637 measured by an eligible individual's base year employment with a
638 single employer covering all periods of employment with that em-
639 ployer during the base year. Subject to the provisions of R. S.
640 43:21-3 (d) (3) if an individual has been in employment in his
641 base year with more than one employer, no benefits shall be paid to
642 that individual under any successive initial determination until his
643 benefit rights have been exhausted under the next preceding initial
644 determination.

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

648 (x) "Most recent base year employer" means that employer
649 with whom the individual most recently, in point of time, performed
650 services in employment in the base year.

651 (y) (1) "*Educational institution*" means any public or other
652 nonprofit institution (including an institution of higher education)

653 (A) in which participants, trainees, or students are offered
654 an organized course of study or training designed to transfer
655 to them knowledge, skills, information, doctrines, attitudes or
656 abilities from, by or under the guidance of an instructor(s) or
657 teacher(s);

658 (B) which is approved, licensed or issued a permit to op-
659 erate as a school by the State Department of Education or
660 other government agency that is authorized within the State
661 to approve, license or issue a permit for the operation of a
662 school; and

663 (C) which offers courses of study or training which may
664 be academic, technical, trade, or preparation for gainful em-
665 ployment in a recognized occupation.

666 (2) "Institution of higher education" means an educational
667 institution which:

668 **[(1)]** (A) Admits as regular students only individuals hav-
669 ing a certificate of graduation from a high school, or the rec-
670 ognized equivalent of such a certificate;

671 **[(2)]** (B) Is legally authorized in this State to provide a
672 program of education beyond high school;

673 **[(3)]** (C) Provides an educational program for which it
674 awards a bachelor's or higher degree, or provides a program
675 which is acceptable for full credit toward such a degree, a
676 program of post-graduate or post-doctoral studies, or a pro-

677 gram of training to prepare students for gainful employment
678 in a recognized occupation; and

679 **[(4)]** (D) Is a public or other nonprofit institution.

680 Notwithstanding any of the foregoing provisions of this subsec-
681 tion, all colleges and universities in this State are institutions of
682 higher education for purposes of this section.

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

1 8. Section 5 of P. L. 1970, c. 324 (C. 43:21-24.11) is amended
2 to read as follows:

3 5. Definitions. For the purposes of the extended benefit program
4 and as used in this act, unless the context clearly requires other-
5 wise:

6 a. "Extended benefit period" means a period which

7 (1) Begins with the third week after whichever of the following
8 weeks occurs first:

9 (a) A week for which there is a national "on" indicator, or

10 (b) A week for which there is a state "on" indicator; and

11 (2) Ends with either of the following weeks, whichever occurs
12 later:

13 (a) The third week after the first week for which there is
14 both a national "off" indicator and a state "off" indicator; or

15 (b) The thirteenth consecutive week of such period;

16 Provided, that no extended benefit period may begin by reason
17 of a state "on" indicator before the fourteenth week after the
18 close of a prior extended benefit period which was in effect with
19 respect to this State; and

20 Provided further, that no extended benefit period may become
21 effective in this State prior to the effective date of this act, and
22 that, within the period beginning on the effective date of this act
23 and ending on December 31, 1971, an extended benefit period shall
24 be determined solely by reason of a state "on" and a state "off"
25 indicator.

26 b. There is a "national 'on' indicator" for a week if the United
27 States Secretary of Labor determines that for *the period consisting*
28 *of such week and the immediately preceding 12 weeks*, the rate of
29 insured unemployment (seasonally adjusted) for all states equaled
30 or exceeded 4.5% (determined by reference to the average monthly
31 covered employment for the first 4 of the most recent 6 calendar
32 quarters ending before the *close of such period*).

33 c. There is a "national 'off' indicator" for a week if the United
34 States Secretary of Labor determines that for *the period consisting*

35 of such week and the immediately preceding 12 weeks, the rate of
36 insured unemployment (seasonally adjusted) for all states was less
37 than 4.5% (determined by reference to the average monthly covered
38 employment for the first 4 of the most recent 6 calendar quarters
39 ending before the close of such period).

40 d. There is a "state 'on' indicator" for this State for a week if
41 the division determines, in accordance with the regulations of the
42 United States Secretary of Labor, that for the period consisting of
43 such week and the immediately preceding 12 weeks, the rate of
44 insured unemployment (not seasonally adjusted) under the Unem-
45 ployment Compensation Law (R. S. 43:21-1 et seq.).

46 (1) Equaled or exceeded 120% of the average of such rates for
47 the corresponding 13-week period during in each of the preceding
48 2 calendar years, and equaled or exceeded 4%; or

49 (2) With respect to benefits for weeks of unemployment begin-
50 ning after March 30, 1977, equaled or exceeded 5%.

51 e. There is a "state 'off' indicator" for this State for a week if
52 the division determines, in accordance with the regulations of the
53 United States Secretary of Labor, that for the period consisting of
54 such week and the immediately preceding 12 weeks, neither sub-
55 paragraph (1) or (2) of paragraph d. was satisfied.

56 f. "Rate of insured unemployment," for purposes of subsec-
57 tions d. and e. means the percentage derived by dividing

58 (1) The average weekly number of individuals filing claims in
59 this State for weeks of unemployment with respect to the most
60 recent 13-consecutive-week period, as determined by the division
61 on the basis of its reports to the United State Secretary of Labor,
62 by

63 (2) The average monthly covered employment for the specified
64 period.

65 g. "Regular benefits" means benefits payable to an individual
66 under the Unemployment Compensation Law (R. S. 43:21-1 et seq.)
67 or under any other State law (including benefits payable to Federal
68 civilian employees and to ex-servicemen pursuant to 5 U.S.C.
69 chapter 85) other than extended benefits.

70 h. "Extended benefits" means benefits (including benefits pay-
71 able to Federal civilian employees and to ex-servicemen pursuant
72 to 5 U.S.C. chapter 85) payable to an individual under the pro-
73 visions of this act for weeks of unemployment in his eligibility
74 period.

75 i. "Eligibility period" of an individual means the period con-
76 sisting of the weeks in his benefit year which begin in an extended

77 benefit period and, if his benefit year ends within such extended
78 benefit period, any weeks thereafter which begin in such period.

79 j. "Exhaustee" means an individual who, with respect to any
80 week of unemployment in his eligibility period:

81 (1) Has received prior to such week, all of the regular benefits
82 that were available to him under the Unemployment Compensation
83 Law or any other State law (including dependents' allowances and
84 benefits payable to Federal civilian employees and ex-servicemen
84A under 5 U.S.C. chapter 85) in his current benefit year that includes
84B such week;

85 Provided, that for the purposes of this subparagraph, an indi-
86 vidual shall be deemed to have received all of the regular benefits
87 that were available to him although as a result of a pending appeal
88 with respect to wages and/or employment that were not considered
89 in the original monetary determination in his benefit year, he may
90 subsequently be determined to be entitled to added regular benefits;
91 or

92 (2) His benefit year having expired prior to such week, has no, or
93 insufficient, wages and/or employment on the basis of which he
94 could establish a new benefit year that would include such week;
95 and

96 (3) (a) Has no right to unemployment benefits or allowances,
97 as the case may be, under the Railroad Unemployment Insurance
98 Act, the Trade Expansion Act of 1962, the Automotive Products
99 Trade Act of 1965 and such other Federal laws as are specified in
100 regulations issued by the United States Secretary of Labor; and

101 (b) Has not received and is not seeking unemployment benefits
102 under the unemployment compensation law of the Virgin Islands
103 or of Canada; but if he is seeking such benefits and the appropriate
104 agency finally determines that he is not entitled to benefits under
105 such law he is considered an exhaustee *if the other provisions of*
106 *this definition are met: provided, that, the reference in this sub-*
107 *paragraph to the Virgin Islands shall be inapplicable effective on*
108 *the day on which the United States Secretary of Labor approves*
109 *under section 3304(a) of the Internal Revenue Code of 1954, an*
110 *unemployment compensation law submitted to the Secretary by*
111 *the Virgin Islands for approval.*

112 k. "State law" means the unemployment insurance law of any
113 state approved by the United States Secretary of Labor under
114 section 3304 of the Internal Revenue Code of 1954.

1 9. This act shall take effect on January 1, 1978, but the Com-
2 missioner of Labor and Industry is authorized to take such action
3 prior to January 1, 1978 as may be necessary to prepare for imple-
4 mentation of the provisions thereof.

STATEMENT

Public Law 94-566 was enacted on October 20, 1976. This law, known as the Federal Unemployment Compensation Amendments of 1976, made major changes in the federal-state unemployment insurance program.

New Jersey is required to enact legislation which will conform with the provisions of the new federal law. Failure on New Jersey's part to enact such legislation can result in the denial of certification by the Secretary of Labor. This denial would mean that covered employers in the State would no longer receive the 90% credit applicable to taxes paid under the Federal Unemployment Tax Act. In addition, New Jersey would lose federal grants which fund the administration of the unemployment insurance program.

This bill contains mandatory amendments needed to maintain conformity of New Jersey's Unemployment Compensation Law in accordance with the Secretary of Labor's standard.

This bill provides, effective January 1, 1978: (1) for the extension of unemployment insurance coverage to agricultural workers of employers with ten or more workers in 20 weeks, or who paid \$20,000.00 or more in wages for such services in any calendar quarter; (2) for the extension of coverage to domestic workers of employers who pay \$1,000.00 or more in cash remuneration for such services in any calendar quarter; (3) for the extension of coverage to all State and local government employees (with certain exceptions); and (4) for the extension of coverages to employees of nonprofit elementary and secondary schools.

The bill denies: (1) the payment of benefits to school employees between academic years and terms if an individual is employed in the first of such terms and has a reasonable assurance of being rehired for the succeeding year or term; (2) the payment of benefits to a professional athlete during the off season when such individual

has a reasonable assurance of performing similar services during the succeeding season; and (3) the payment of benefits to an alien not legally admitted to the United States as a permanent resident.

The bill deletes Section 43:21-4 (c) (1) which provides for an arbitrary fixed period of ineligibility for benefits for a woman during the four weeks immediately preceding the expected date of birth of her child and the four weeks immediately following the date of birth of her child.

The bill also establishes a maximum security requirement for nonprofit employers electing reimbursement.

ASSEMBLY LABOR COMMITTEE

STATEMENT TO

ASSEMBLY, No. 3625

STATE OF NEW JERSEY

DATED: NOVEMBER 30, 1977

The Assembly Labor Committee endorses the statement appended to and printed with this bill as adequately stating its principal provisions, most of which are designed to bring the State's law into conformity with the Federal Unemployment Compensation Amendments of 1976 (P. L. 94-566).

FISCAL IMPLICATIONS

It is expected that the first year cost of extending unemployment compensation coverage to all public employees (with few exceptions) will amount to roughly \$1.8 to \$2.3 million for the State government, \$1.7 to \$4.5 million for local governments and \$2.5 to \$5.5 million for local school systems. Employees can be expected to contribute at the rate set for workers in the private sector, 0.5% of the wage base. Translated into total amounts, worker contributions are expected to total about \$1.3 to \$1.5 million for State employees, \$4.2 to \$4.5 million for local government employees and \$4.3 to \$4.5 million for local school employees.

TESTIMONY

A number of witnesses appeared before the committee to state their positions on the bill. The League of Municipalities expressed concern over the question of benefit eligibility for part-time summer employees, requested a "self-destruct" clause should the federal law be overturned, and expressed its preference for leaving the coverage of public employees for temporary disability insurance (requested by the State Employees Association) to collective negotiations.

The N. J. Business and Industry Association raised several points about the bill including (1) the apparent differential in the low-level contribution rate of private versus public employers and (2) the federally-recommended language in the bill which precludes the payment of benefits to professional school employees during a period of paid sabbatical leave provided for in the individual's "contract"—which it felt may not be understood to apply to those with tenure but without contracts per se. (The committee expects that the aforesaid language will exempt such non-contract personnel from eligibility.)

Assemblyman Gewertz criticized the timing of the bill before the Legislature, the different contribution rates and the cost of the new coverage. Assemblyman Herman asked that the bill include a guarantee that the federal government assume payment for C.E.T.A. employees should the program be curtailed. He also appealed for the "self-destruct" clause mentioned above.

Lastly, the New Jersey Education Association expressed its displeasure with the degree of equity in the contribution scheme for the public sector, arguing that if the amount of money going into a local unemployment fund escalated beyond a school district's potential liability—resulting in a lower future contribution level for it—employees will, nevertheless, continue to contribute the same fixed percentage of their wage base as before. The association proposed that employer and employee continue to share the maintenance of the local fund at a contribution ratio of 2 to 1 until the required amount of funding is attained for that year.

AMENDMENTS

First, the committee agreed to a request from the N. J. Catholic Conference that the bill be amended to exempt service performed by employees of parochial schools.

Another substantive amendment incorporated into the bill by the committee was done at the request of the State Department of Education and the New Jersey Association of School Administrators. The committee agreed that school districts should be able to exempt from their budget "cap" law the mandated appropriations imposed herein for funding benefits. Municipalities and counties are already exempt under P. L. 1976, c. 68 for all expenditures mandated pursuant to State or Federal law.

In addition, the committee adopted an amendment proposed by its ranking minority member for a new benefit formula intended to raise the level of work incentive for low wage earners. Under the amendment (which consists of a portion of a recommendation of the Department of Labor and Industry's 1975 Unemployment Insurance Task Force, based in part on a proposed federal benefit standard), an eligible unemployed worker would be provided with a one-half wage replacement (presently two-thirds) up to a maximum weekly benefit amount of two-thirds the statewide average weekly wage (now one-half). Therefore, workers whose benefit years begin after March 31, 1978 and who had earned less than \$220.00 per week would receive a smaller benefit and those earning more than \$220.00 per week will see a larger benefit, with a new weekly maximum benefit of \$146.00 going to unemployed workers whose weekly wage had averaged \$292.00 or more. The Department estimates that a smaller overall benefit payout will result under the proposed formula.

ASSEMBLY COMMITTEE AMENDMENTS TO
ASSEMBLY, No. 3625

—◆—
STATE OF NEW JERSEY
—◆—

ADOPTED DECEMBER 1, 1977

Amend page 1, after enactment clause insert new section 1 as follows:

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

43:21-3. (a) Payment of benefits shall be promptly paid from the fund through local employment offices in accordance with such regulations as may be prescribed hereunder.

(b) Weekly benefits for unemployment.

With respect to an individual's benefit year commencing on or after July 1, 1961, such individual, if eligible and unemployed (as defined in subsection (m) of R. S. 43:21-19), shall be paid an amount (except as to final payment) equal to his weekly benefit rate less any remuneration paid or payable to him for such week in excess of 20% of his weekly benefit rate (fractional part of a dollar omitted) or \$5.00, whichever is the greater; provided that such amount shall be computed to the next higher multiple of \$1.00 if not already a multiple thereof.

(c) Weekly benefit rate.

(1) With respect to an individual whose benefit year commences on or after July 1, 1961, and prior to January 1, 1968 his weekly benefit rate under each benefit determination shall be an amount equal to the weekly benefit rate set forth in Column B of the table in this paragraph on the line in which in Column A there appears his average weekly wage:

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

COLUMN A		COLUMN B
AVERAGE WEEKLY RATE		WEEKLY BENEFIT RATE
\$18.00 or less		\$10.00
18.01 but not more than	\$19.50	11.00
19.51 but not more than	21.00	12.00
21.01 but not more than	22.50	13.00
22.51 but not more than	24.00	14.00
24.01 but not more than	25.50	15.00
25.51 but not more than	27.00	16.00
27.01 but not more than	28.50	17.00
28.51 but not more than	30.00	18.00
30.01 but not more than	31.50	19.00
31.51 but not more than	33.00	20.00
33.01 but not more than	34.50	21.00
34.51 but not more than	36.00	22.00
36.01 but not more than	37.50	23.00
37.51 but not more than	39.00	24.00
39.01 but not more than	40.50	25.00
40.51 but not more than	42.00	26.00
42.01 but not more than	43.50	27.00
43.51 but not more than	45.00	28.00
45.01 but not more than	47.50	29.00
47.51 but not more than	50.00	31.00
50.01 but not more than	52.50	31.00
52.51 but not more than	55.00	32.00
55.01 but not more than	57.50	33.00
57.51 but not more than	60.00	34.00
60.01 but not more than	63.00	35.00
63.01 but not more than	66.00	36.00
66.01 but not more than	69.00	37.00
69.01 but not more than	73.50	37.00
73.51 but not more than	76.00	39.00
76.01 but not more than	79.00	40.00
79.01 but not more than	82.00	41.00
82.01 but not more than	84.00	42.00
84.01 but not more than	86.00	43.00
86.01 but not more than	88.00	44.00
88.01 but not more than	90.00	45.00
90.01 but not more than	92.00	46.00
92.01 but not more than	94.00	47.00
94.01 but not more than	96.00	48.00
96.01 but not more than	98.00	49.00
98.01 or more		50.00

(2) With respect to an individual whose benefit year commences in any calendar year after ~~December 31, 1967~~ 1978, his weekly benefit rate under each determination shall be ~~two-thirds~~ *one-half* of his average weekly wage, subject to a maximum of ~~50%~~ *two-thirds* of the Statewide average weekly remuneration paid to workers by employers subject to this chapter (R. S. 43:21-1 et seq.), as determined and promulgated by the Commissioner of Labor and Industry, and to a minimum of \$10.00; provided, however, that such individual's weekly benefit rate shall be computed to the next higher multiple of \$1.00 if not already a multiple thereof. For the purposes of this paragraph, the "Statewide average weekly remuneration paid to workers by employers" shall be computed and determined by the Commissioner of Labor and Industry on or before September 1 of each year on the basis of one-fifty-second of the total remuneration reported for the preceding calendar year by employers subject to this chapter, divided by the average of the number of workers reported by such employers, and shall be effective as to benefit determinations in the calendar year following such computation and determination.

(d) Maximum total benefits.

(1) With respect to an individual to whom benefits shall be payable for benefit years prior to January 1, 1968, as provided in this section such individual shall be entitled to receive, under each successive benefit determination relating to each of his base year employers, a total amount of benefits equal to three-quarters of his base weeks from the employer in question multiplied by his weekly benefit rate; but the amount of benefits thus resulting under any such determination made with respect to an employer, shall be adjusted to the next higher multiple of \$1.00 if not already a multiple thereof.

With respect to an individual to whom benefits shall be payable for benefit years commencing on or after January 1, 1968 as provided in this section and prior to January 1, 1975, such individual shall be entitled to receive, under each successive benefit determination relating to each of his base year employers, a total amount of benefits equal to one-third of his total wages in his base year or three-quarters of his base weeks from the employer in question multiplied by his weekly benefit rate, whichever is the higher; but the amount of benefits thus resulting under any such determination made with respect to an employer shall be adjusted to the next higher multiple of \$1.00 if not already a multiple thereof.

With respect to an individual to whom benefits shall be payable for benefit years commencing on or after January 1, 1975, as provided in this section, such individual shall be entitled to receive, under each successive benefit determination relating to each of his base year

employers, a total amount of benefits equal to three-quarters of his base weeks from the employer in question multiplied by his weekly benefit rate; but the amount of benefits thus resulting under any such determination made with respect to any employer, shall be adjusted to the next higher multiple of \$1.00 if not already a multiple thereof.

(2) No such individual shall be entitled to receive benefits under this chapter (R. S. 43:21-1 et seq.) in excess of 26 times his weekly benefit rate in any benefit year under either of subsections (c) and (f) of section 43:21-4 of this chapter (R. S. 43:21-1 et seq.). In the event that any individual qualifies for benefits under both of said subsections during any benefit year, the maximum total amount of benefits payable under said subsections combined to such individual during the benefit year shall be one-and-one-half times the maximum amount of benefits payable under one of said subsections.

(3) The maximum total benefits of any individual shall be reduced by an amount equal to 17 times his weekly benefit rate upon the discovery by the division that such individual illegally received any sum as benefits contrary to the provisions of this chapter as the result of any false or fraudulent representation; provided, however, that such reduction shall apply only to a benefit year in existence at the time of the discovery and to a benefit year established within 1 year from the time of such discovery.''.
Amend pages 1-56, sections 1-8, renumber as sections "2.", through "9."

Amend page 28, section 4, line 32, after "subjectivity", insert "or not later than 30 days from the date the division notifies such organization of its subjectivity, whichever is later".

Amend page 40, section 7, line 148, omit "is", insert "in".

Amend page 41, section 7, line 151, omit "is", insert "in".

Amend page 41, section 7, line 153, omit "1", insert "31".

Amend page 41, section 7, line 190, after "organization", insert "or school".

Amend page 43, section 7, line 239, after "[or]", omit ")".

Amend page 44, section 7, line 294, omit "of", insert "by".

Amend page 44, section 7, line 295, after "approval", insert ", the Virgin Islands".

Amend page 56, section 8, after 114, insert a new section as follows:

"10. (new section) Notwithstanding the provisions of P. L. 1975, c. 212 (C. 18A:7A-3 and 18A:7A-25) or rules and regulations promulgated pursuant thereto, any increase in expenditure required as a result of this act shall not be subject to the expenditure limitations imposed pursuant to P. L. 1975, c. 212 (C. 18A:7A-3 and 18A:7A-25)."

Amend page 57, section 9, line 1, omit "9.", insert "11."

DECEMBER 30, 1977

FOR FURTHER INFORMATION

FOR IMMEDIATE RELEASE

JOE SANTANGELO

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Governor Brendan Byrne today signed into law A-3625 which revises the New Jersey unemployment Compensation Laws to conform with the federal law.

The measure was sponsored by Assembly Majority Leader Christopher J. Jackman, D-Hudson, and cosponsored by Assembly Speaker William J. Hamilton, D-Middlesex, and Assemblyman Harold Martin, D-Bergen.

The new law was required by the Federal Unemployment Compensation Amendments Act of 1976. Failure to enact it could have cost private employers up to \$450 million a year in federal tax credits and could have cost the state up to \$40 million a year in federal grants.

All states were required to enact conformity legislation by January 1, 1978, or face a denial of certification, which would cut off tax credits for unemployment taxes paid by employers and eliminate federal grants to administer the state unemployment insurance program.

"New Jersey law now conforms with the federal requirements," said the Governor. "Any uncertainty about the future of these tax credits and federal grants is now removed."

The law permanently extends unemployment insurance coverage, as required by the federal law, to most government employees, agricultural workers and household domestic employees, and to employees of non-profit elementary and secondary schools, except those of church-related parochial schools.

The law denies benefits during "between-term periods" to professional employees of educational institutions provided the employee has a contract or assurance of employment at the beginning of the next term.

(more)

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The law also eliminates a provision of the current New Jersey law that denies benefits to pregnant women.

Under an Assembly committee amendment, the law also revises the formula for paying benefits to unemployed workers. Previously, the benefits had been calculated at two-thirds of the worker's former salary up to a maximum payment of one-half the average weekly wage of all insured workers in the State.

Benefits now will be calculated at one-half the former worker's weekly pay up to a maximum payment of two-thirds the average weekly wage of all covered workers.

The new formula would save New Jersey about \$31.5 million a year on the basis of 1976 figures. This would be accomplished by reduction of the basic rate of unemployment compensation. At the same time, however, the formula would have the effect of increasing the maximum weekly benefit for higher-waged unemployed individuals from \$110 to \$146 a week. Further modifications of the benefit formula are to receive top priority in the early weeks of the new legislative session.

The cost of the unemployment insurance benefits for local government and school district employees will be exempt from State spending limits under the so-called "caps" law. State costs estimated at some \$2 million a year, however, are subject to the caps.

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TREASURY DEPARTMENT