This bill amends the unemployment compensation law to exclude from the definition of covered employment those services performed after January 1, 1969 by agents of mutual benefit associations where the compensation to such agents for such services is wholly on a commission basis.
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ASSEMBLY, No. 690

STATE OF NEW JERSEY

INTRODUCED FEBRUARY 14, 1978

By Assemblyman SCHUCK

Referred to Committee on Labor


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

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

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

(a) (1) “Annual payroll” means the total amount of wages paid during a calendar year (regardless of when earned) by an employer for employment.

(2) “Average annual payroll” means the average of the annual payrolls of any employer for the last 3 or 5 preceding calendar years, whichever average is higher, except that any year or years throughout which an employer has had no “annual payroll” because of military service shall be deleted from the reckoning; the “average annual payroll” in such case is to be determined on the basis of the prior 3 to 5 calendar years in each of which the employer had an “annual payroll” in the operation of his business, if the employer resumes his business within 12 months after separation, discharge or release from such service, under conditions other than dishonorable, and makes application to have his “average annual payroll” determined on the basis of such deletion within 12 months after he resumes his business; provided, however, that “average annual payroll” solely for the purposes of paragraph (3) of subsection (e) of section 43:21-7 of this Title means the average of the annual payrolls of any employer on which employer contributions have been paid on or before January 31 (or the next succeeding day if such January 31 is a Saturday)

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.
(b) "Benefits" means the money payments payable to an individual, as provided in this chapter (R. S. 43:21-1 et seq.), with respect to his unemployment.

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

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

(e) "Division" means the Division of Unemployment and Temporary Disability Insurance of the Department of Labor and Industry established by c. 446, P. L. 1948, and any transaction or exercise of authority by the director of the division thereunder, or under this chapter (R. S. 43:21-1 et seq.), shall be deemed to be performed by the division.

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

(g) "Employing unit" means the State or any of its instrumentalities or any political subdivision thereof or any of its instrumentalities or any instrumentality of more than one of the foregoing or any instrumentality of any of the foregoing and one or more other States or political subdivisions or any individual or type of organization, any partnership, association, trust, estate, joint-
stock company, insurance company or corporation, whether domestic or foreign, or the receiver, trustee in bankruptcy, trustee or successor thereof, or the legal representative of a deceased person, which has or subsequent to January 1, 1936, had in its employ one or more individuals performing services for it within this State. All individuals performing services within this State for any employing unit which maintains two or more separate establishments within this State shall be deemed to be employed by a single employing unit for all the purposes of this chapter (R. S. 43:21-1 et seq.). Each individual employed to perform or to assist in performing the work of any agent or employee of an employing unit shall be deemed to be employed by such employing unit for all the purposes of this chapter (R. S. 43:21-1 et seq.), whether such individual was hired or paid directly by such employing unit or by such agent or employee; provided, the employing unit had actual or constructive knowledge of the work.

(h) "Employer" means:

1. Any employing unit which in either the current or the preceding calendar year paid remuneration for employment in the amount of $1,000.00 or more;

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

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

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

5. Any employing unit for which service in employment as defined in R. S. 43:21-19 (i) (1) (B) (i); is performed after December 31, 1971; and as defined in R. S. 43:21-19 (i) (1) (B) (ii) is performed after December 31, 1977;
(6) Any employing unit for which service in employment as defined in R.S. 43:21-19 (i) (1) (C) is performed after December 31, 1971 and which in either the current or the preceding calendar year paid remuneration for employment in the amount of $1,000.00 or more;

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


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

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

(13) Any employing unit for which domestic service in employment as defined R. S. 43:21-19 in (i) (1) (J) is performed after December 31, 1977;

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

(i) (1) "Employment" means:

(A) Any service performed prior to January 1, 1972, which was employment as defined in the Unemployment Compensation Law (R. S. 43:21-1 et seq.) prior to such date, and, subject to the other provisions of this subsection, service performed on or after January 1, 1972, including service in interstate commerce, performed for remuneration or under any contract of hire, written or oral, express or implied.
(B) (i) Service performed after December 31, 1971 by an individual in the employ of this State or any of its instrumentalities or in the employ of this State and one or more other states or their instrumentalities for a hospital or institution of higher education located in this State, if such service is not excluded from employment under paragraph (D) below.

(ii) Service performed after December 31, 1977, in the employ of this State or any of its instrumentalities or any political subdivision thereof or any of its instrumentalities or any instrumentality of more than one of the foregoing or any instrumentality of the foregoing and one or more other states or political subdivisions if such service is not excluded from "employment" under paragraph (D) below.

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

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

(i) In the employ of (I) a church or convention or association of churches, or (II) an organization or school which is operated primarily for religious purposes and which is operated, supervised, controlled or principally supported by a church or convention or association of churches;

(ii) By a duly ordained, commissioned, or licensed minister of a church in the exercise of his ministry or by a member of a religious order in the exercise of duties required by such order;

(iii) Prior to January 1, 1978, in the employ of a school which is not an institution of higher education, and after December 31, 1977, in the employ of a governmental entity referred to in section 19 (i) (1) (B) if such service is performed by an individual in the exercise of duties

(aa) as an elected official;

(bb) as a member of a legislative body, or a member of the judiciary, of a State or political subdivision;

(cc) as a member of the State National Guard or Air National Guard;

(dd) as an employee serving on a temporary basis in case of fire, storm, snow, earthquake, flood or similar emergency;
(ee) in a position which, under or pursuant to the laws of this State, is designated as a major nontenured policymaking or advisory position, or a policymaking or advisory position the performance of the duties of which ordinarily does not require more than 8 hours per week; or

(iv) By an individual receiving rehabilitation or remunerative work in a facility conducted for the purpose of carrying out a program of rehabilitation of individuals whose earning capacity is impaired by age or physical or mental deficiency or injury or providing remunerative work for individuals who because of their impaired physical or mental capacity cannot be readily absorbed in the competitive labor market.

(v) By an individual receiving work-relief or work-training as part of an unemployment work-relief or work-training program assisted in whole or in part by any Federal agency or an agency of a State or political subdivision thereof; or

(vi) Prior to January 1, 1978, for a hospital in a State prison or other State correctional institution by an inmate of the prison or correction institution and after December 31, 1977, by an inmate of a custodial or penal institution.

(E) The term “employment” shall include the services of an individual who is a citizen of the United States, performed outside the United States after December 31, 1971 (except in Canada and in the case of the Virgin Islands, after December 31, 1971 and prior to January 1 of the year following the year in which the U.S. Secretary of Labor approves the unemployment compensation law of the Virgin Islands under section 3304 (a) of the Internal Revenue Code of 1954) in the employ of an American employer (other than the service which is deemed employment under the provisions of paragraphs 43:21-19 (i) (2) or (5) or the parallel provisions of another state’s Unemployment Compensation Law), if

(i) The American employer’s principal place of business in the United States is located in this State; or

(ii) The American employer has no place of business in the United States, but (I) the American employer is an individual who is a resident of this State; or (II) the American employer is a corporation which is organized under the laws of this State; or (III) the American employer is a partnership or trust and the number of partners or trustees who are residents of this State is greater than the number who are residents of any other state; or
(iii) None of the criteria of divisions (i) and (ii) of this subparagraph (E) is met but the American employer has elected to become an employer subject to the Unemployment Compensation Law (R.S. 43:21-1 et seq.) in this State, or the American employer having failed to elect to become an employer in any state, the individual has filed a claim for benefits, based on such service, under the law of this State.

(iv) An "American employer" for the purposes of this subparagraph (E), means (I) an individual who is a resident of the United States; or (II) a partnership if two-thirds or more of the partners are residents of the United States; or (III) a trust, if all the trustees are residents of the United States, or (IV) a corporation organized under the laws of the United States or of any state.

(F) Notwithstanding R.S. 43:21-19 (i) (2), all service performed after January 1, 1972 by an officer or member of the crew of an American vessel or American aircraft on or in connection with such vessel or aircraft, if the operating office from which the operations of such vessel or aircraft operating within, or within and without, the United States are ordinarily and regularly supervised, managed, directed, and controlled, is within this State.

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

(H) The term "United States" when used in a geographical sense in subsection R.S. 43:21-19 (i) includes the states, the District of Columbia the commonwealth of Puerto Rico and, effective on the day after the day on which the U.S. Secretary of Labor approves for the first time under section 3304 (a) of the Internal Revenue Code of 1954 an unemployment compensation law submitted to the Secretary by the Virgin Islands for such approval, the Virgin Islands.

(1) (i) Service performed after December 31, 1977 in agricultural labor in a calendar year for an entity which is an employer as defined in the Unemployment Compensation Law (R.S. 43:21-1 et seq.) as of January 1 of such year; or for an employing unit which
(aa) during any calendar quarter in either the current or
the preceding calendar year paid remuneration in cash of
$20,000.00 or more to individuals employed in agricultural
labor, or

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

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

(aa) if such crew leader holds a valid certification of reg­
ístration under the Farm Labor Contractor Registration Act
of 1963; or P. L. 1971, c. 192 (C. 34:8A-7 et seq.); or sub­
stantially all the members of such crew operate or maintain
tractors, mechanized harvesting or cropdusting equipment,
or any other mechanized equipment, which is provided by
such crew leader; and

(bb) if such individual is not an employee of such other
person for whom services were performed.

(iii) For the purposes of subparagraph (I) (i) in the case
of any individual who is furnished by a crew leader to perform
service in agricultural labor for any other entity and who is
not treated as an employee of such crew leader under (I) (ii)

(aa) such other entity and not the crew leader shall be
treated as the employer of such individual; and

(bb) such other entity shall be treated as having paid
cash remuneration to such individual in an amount equal to
the amount of cash remuneration paid to such individual
by the crew leader (either on his own behalf or on behalf
of such other entity) for the service in agricultural labor
performed for such other entity.

(iv) For the purposes of subparagraph (I) (i), the term
"crew leader" means an individual who

(aa) furnishes individual to perform service in agricul­
tural labor for any other entity;

(bb) pays (either on his own behalf or on behalf of such
other entity) the individuals so furnished by him for the
service in agricultural labor performed by them; and
(cc) has not entered into a written agreement with such
other entity under which such individual is designated as
an employee of such other entity.
(J) Domestic service after December 31, 1977 performed
in the private home of an employing unit which paid cash re-
muneration of $1,000.00 or more to one or more individuals
for such domestic service in any calendar quarter in the current
on preceding calendar year.
(2) The term "employment" shall include an individual's en-
tire service performed within or both within and without this
State if:
   (A) The service is localized in this State; or
   (B) The service is not localized in any state but some of the
      service is performed in this State, and (i) the base of opera-
tions, or, if there is no base of operations, then the place from
      which such service is directed or controlled, is in this State;
or (ii) the base of operations or place from which such service
      is directed or controlled is not in any state in which some part
      of the service is performed, but the individual's residence is
      in this State.
(3) Services performed within this State but not covered under
paragraph (2) of this subsection shall be deemed to be employment
subject to this chapter (R. S. 43:21-1 et seq.) if contributions are
not required and paid with respect to such services under an un-
employment compensation law of any other state or of the Federal
Government.
(4) Services not covered under paragraph (2) of this subsection
and performed entirely without this State, with respect to no part
of which contributions are required and paid under an Unemploy-
ment Compensation Law of any other state or of the Federal
Government, shall be deemed to be employment subject to this
chapter (R. S. 43:21-1 et seq.) if the individual performing such
services is a resident of this State and the employing unit for
whom such services are performed files with the division an election
that the entire service of such individual shall be deemed to be
employment subject to this chapter (R. S. 43:21-1 et seq.).
(5) Service shall be deemed to be localized within a state if:
   (A) The service is performed entirely within such state; or
   (B) The service is performed both within and without such
      state, but the service performed without such state is incidental
to the individual's service within the State, for example, is
temporary or transitory in nature or consists of isolated trans-
actions.
(6) Services performed by an individual for remuneration shall be deemed to be employment subject to this chapter (R.S. 43:21-1 et seq.) unless and until it is shown to the satisfaction of the division that

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

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

(C) Such individual is customarily engaged in an independently established trade, occupation, profession or business.

(7) Provided that such services are also exempted under the Federal Unemployment Tax Act, as amended, or that contributions with respect to such services are not required to be paid into a State Unemployment Fund as a condition for a tax offset credit against the tax imposed by the Federal Unemployment Tax Act, as amended, the term "employment" shall not include:

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

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

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

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

(C) Service performed by an individual in the employ of his son, daughter or spouse, and service performed by a child under the age of 18 in the employ of his father or mother;
(D) Service performed prior to January 1, 1978, in the employ of this State or of any political subdivision thereof or of any instrumentality of this State or its political subdivisions except as provided in R. S. 43:21-19 (i) (1) (B) above, and service in the employ of the South Jersey Port Corporation or its successors;

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

(F) Service performed in the employ of the United States Government or of an instrumentality of the United States exempt under the Constitution of the United States from the contributions imposed by the Unemployment Compensation Law, except that to the extent that the Congress of the United States shall permit states to require any instrumentalities of the United States to make payments into an unemployment fund under a State Unemployment Compensation Law, all of the provisions of this act shall be applicable to such instrumentalities, and to service performed for such instrumentalities, in the same manner, to the same extent and on the same terms as to all other employers, employing units, individuals and services; provided, that if this State shall not be certified for any year by the Secretary of Labor of the United States under section 3304 of the Federal Internal Revenue Code (26 U.S.C., sec. 3304), the payments required of such instrumentalities with respect to such year shall be refunded by the division from the fund in the same manner and within the same period as is provided in R. S. 43:21-14 (f) with respect to contributions erroneously paid to or collected by the division;

(G) Services performed in the employ of fraternal beneficiary societies, orders, or associations operating under the lodge system or for the exclusive benefit of the members of a fraternity itself operating under the lodge system and providing for the payment of life, sick, accident, or other benefits to the members of such society, order, or association, or their dependents;
(H) Services performed as a member of the board of directors, a board of trustees, a board of managers, or a committee of any bank, building and loan or savings and loan association, incorporated or organized under the laws of this State or of the United States, where such services do not constitute the principal employment of the individual;

(I) Service with respect to which unemployment insurance is payable under an unemployment insurance program established by an Act of Congress;

(J) Service performed by agents of mutual fund brokers or dealers in the sale of mutual funds or other securities, by agents of insurance companies, exclusive of industrial insurance agents, or by agents of investment companies, if the compensation to such agents for such services is wholly on a commission basis;

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

(L) Services performed in the employ of any veterans' organization chartered by Act of Congress or of any auxiliary thereof, no part of the net earnings of which organization, or auxiliary thereof, inures to the benefit of any private shareholder or individual;

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

(N) Services performed after January 1, 1973 by an individual for a labor union organization, known and recognized as a union local, as a member of a committee or committees reimbursed by the union local for time lost from regular employment, or as a part-time officer of a union local and the remuneration for such services is less than $1,000.00 in a calendar year;

(O) Services performed in the sale or distribution of merchandise by home-to-home salespersons or in-the-home demonstrators whose remuneration consists wholly of commissions or commissions and bonuses.

(P) Service performed in the employ of a foreign government, including service as a consular, nondiplomatic representative, or other officer or employee;
(Q) Service performed in the employ of an instrumentality wholly owned by a foreign government if (i) the service is of a character similar to that performed in foreign countries by employees of the United States Government or of an instrumentality thereof, and (ii) the division finds that the United States Secretary of State has certified to the United States Secretary of the Treasury that the foreign government with respect to whose instrumentality exemption is claimed, grants an equivalent exemption with respect to similar services performed in the foreign country by employees of the United States Government and of instrumentalities thereof;

(R) Service in the employ of an international organization entitled to enjoy the privileges, exemptions and immunities under the International Organization Immunities Act (22 U.S. C. 238 et seq.);

(S) Service covered by an election duly approved by an agency charged with the administration of any other state or Federal Unemployment Compensation or Employment Security Law, in accordance with an arrangement pursuant to R. S. 43:21–21 during the effective period of such election;

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

(U) Service performed by an individual under the age of 22 who is enrolled at a nonprofit or public educational institution which normally maintains a regular faculty and curriculum and normally has a regularly organized body of students in attendance at the place where its educational activities are carried on, as a student in a full-time program, taken for credit at such institution, which combines academic instruction with work experience, if such service is an integral part of such program, and such institution has so certified to the employer, except that this subparagraph shall not apply to service
performed in a program established for or on behalf of an employer or group of employers;
(V) Service performed in the employ of a hospital, if such service is performed by a patient of the hospital; service performed as a student nurse in the employ of a hospital or a nurses’ training school by an individual who is enrolled and regularly attending classes in a nurses’ training school approved under the laws of this State; and service performed as an intern in the employ of a hospital by an individual who has completed a 4-year course in a medical school approved pursuant to the law of this State.
(W) Services performed after January 1, 1969, by agents of mutual benefit associations if the compensation to such agents for such services is wholly on a commission basis.
(8) If one-half or more of the services in any pay period performed by an individual for an employing unit constitutes employment, all the services of such individual shall be deemed to be employment; but if more than one-half of the service in any pay period performed by an individual for an employing unit does not constitute employment, then none of the service of such individual shall be deemed to be employment. As used in this paragraph, the term “pay period” means a period of not more than 31 consecutive days for which a payment for service is ordinarily made by an employing unit to individuals in its employ.
(j) “Employment office” means a free public employment office, or branch thereof operated by this State or maintained as a part of a State-controlled system of public employment offices.
(k) “Fund” means the unemployment compensation fund established by this chapter (R.S. 43:21-1 et seq.), to which all contributions required and from which all benefits provided under this chapter (R.S. 43:21-1 et seq.) shall be paid.
(l) “State” includes, in addition to the states of the United States of America, the District of Columbia, the Virgin Islands and Puerto Rico.
(m) Unemployment.
(1) An individual shall be deemed “unemployed” for any week during which he is not engaged in full-time work and with respect to which his remuneration is less than his weekly benefit rate, including any week during which he is on vacation without pay; provided, such vacation is not the result of the individual’s voluntary action.
(2) The term “remuneration” with respect to any individual for benefit years commencing on or after July 1, 1961, and as used...
in this subsection, shall include only that part of the same which in any week exceeds 20% of his weekly benefit rate (fractional parts of a dollar omitted) or $5.00 whichever is the larger.

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

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

(o) "Wages" means remuneration paid by employers for employment; provided, however, that for eligibility and benefit purposes wages earned but not paid when the amount thereof has been calculated and is due as determined by the established and customary practices of the employer shall be construed as having been paid when earned. If a worker receives gratuities regularly in the course of his employment from others than his employer, his "wages" shall also include the gratuities so received if reported in writing to his employer in accordance with regulations of the division, and if not so reported, his "wages" shall be determined in accordance with the minimum wage rates prescribed under any labor law or regulation of this State or of the United States, or the amount or remuneration actually received by the employee from his employer, whichever is the higher.

(p) "Remuneration" means all compensation for personal services, including commissions and bonuses and the cash value of all compensation in any medium other than cash.

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

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

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

(t) "Base week" means any calendar week of an individual's base year during which he earned in employment from an employer remuneration equal to not less than $40.00; provided, if in any calendar week, an individual is in employment with more than one employer, he may in such calendar week establish a base week
with respect to each such employer from whom the individual earns remuneration equal to not less than $30.00 during such week.

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

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

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

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

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

(y) (1) "Education institution" means any public or other nonprofit institution (including an institution of higher education) in which participants, trainees, or students are offered an organized course of study or training designed to transfer to them knowledge, skills, information, doctrines, attitudes or abilities from, by or under the guidance of an instructor(s) or teacher(s);
Which is approved, licensed or issued a permit to operate as a school by the State Department of Education or other government agency that is authorized within the State to approve, license or issue a permit for the operation of a school; and

(C) Which offers courses of study or training which may be academic, technical, trade, or preparation for gainful employment in a recognized occupation.

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

(A) Admits as regular students only individuals having a certificate of graduation from a high school, or the recognized equivalent of such a certificate;

(B) Is legally authorized in this State to provide a program of education beyond high school;

(C) Provides an educational program for which it awards a bachelor's or higher degree, or provides a program which is acceptable for full credit toward such a degree, a program of post-graduate or post-doctoral studies, or a program of training to prepare students for gainful employment in a recognized occupation; and

(D) Is a public or other nonprofit institution.

Notwithstanding any of the foregoing provisions of this subsection, all colleges and universities in this State are institutions of higher education for purposes of this section.

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

1 2. This act shall take effect immediately.
The Assembly Labor Committee favorably reports this legislation, with amendments, to exempt any mutual benefit association operating in the State from coverage and therefore payment of unemployment compensation taxes for the service of its wholly commissioned agents. The exemption is made through a modification of the definition of (covered) "employment" in the unemployment compensation law.

At least one firm, a mutual company which the committee knows would be affected, has about twenty agents—most of whom work 10 to 12 hours a week for the firm—and who receive income from a variety of other sources. The bill is not without precedent since the law already exempts from coverage many workers in a similar class, such as those in commissioned home to home sales and demonstration, commissioned real estate sales and brokerage and commissioned agents of mutual fund brokers or dealers.

The committee amended the bill to delete the originally proposed retroactivity feature.
This bill amends the unemployment compensation law to exclude from the definition of covered employment those services performed after the effective date of the act by agents of mutual benefit associations where the compensation to such agents for such services is wholly on a commission basis.
3293, sponsored by Senator Charles B. Yates (D-Burlington), which repeals certain necessary sections of Title 9 of the Revised Statutes pertaining to children.

The bill repeals the following section of Title 9:

-- prohibiting the sale of cigarettes or tobacco to minors;
-- making it unlawful for a minor to play billiards or pool in any saloon or other public profit-making establishment;
-- authorizing courts, constables, sheriffs and police officers to assist in the prevention of cruelty to children;
-- authorizing benevolent and fraternal organizations to act as a guardian of a child; and
-- providing for the establishment of a Juvenile Delinquency Commission.

These sections have been repealed because they are superseded by pursuant statutes.

S-3309, sponsored by Senator John F. Russo (D-Ocean), which provides for the sale of a 4.5 acre parcel of land declared surplus by the Department of Defense located in Woodbridge across Route 1 from the Raritan State Prison.

S-3314, sponsored by Senator Frank J. Dodd (D-Essex), which provides for the sale of an approximately 1.4 acre parcel of land (the Orange Armory) in the City of Orange.

S-3477, sponsored by Senator Eugene J. Bedell (D-Monmouth), which authorizes the exchange of 44.918 acres of State land for a parcel of identical size now owned by the county of Monmouth. This exchange allows both parties to round out existing holdings in the Turkey Swamp area.

A-690, sponsored by Assemblyman Ernest F. Schuck (D-Camden), which exempts agents of mutual benefit associations from the provisions of the unemployment compensation law if the agents are solely paid through commissions.

Currently, mutual fund and securities brokers, insurance agents, real estate agents and door-to-door sales people are exempt from the law.