

43:21-4.1

**LEGISLATIVE HISTORY CHECKLIST**  
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(Unemployment benefits for people  
enrolled in training programs--  
clairfy eligibility)

NJSA: 43:21-4.1

LAWS OF: 1992 CHAPTER: 46

BILL NO: A1405

SPONSOR(S): Haines, Mikulak and Roma

DATE INTRODUCED: May 7, 1992

COMMITTEE: ASSEMBLY: Labor

SENATE: ---

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denoted by asterisks

DATE OF PASSAGE: ASSEMBLY: June 25, 1992

SENATE: June 29, 1992

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**FOLLOWING STATEMENTS ARE ATTACHED IF AVAILABLE:**

SPONSOR STATEMENT: Yes

COMMITTEE STATEMENT: ASSEMBLY: Yes

SENATE: No

FISCAL NOTE: No

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REPORTS: No

HEARINGS: No

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KBG:pp

[FIRST REPRINT]  
ASSEMBLY, No. 1405

STATE OF NEW JERSEY

INTRODUCED MAY 7, 1992

By Assemblywoman HAINES, Assemblymen Mikulak and Roma

1 AN ACT concerning the approval of training programs for  
2 individuals receiving unemployment compensation, amending  
3 R.S.43:21-4 and supplementing chapter 21 of Title 43 of the  
4 Revised Statutes.

5

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

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

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

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

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

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

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

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

39 (4) (A) Subject to such limitations and conditions as the  
40 division may prescribe, an individual, who is otherwise eligible,  
41 shall not be deemed unavailable for work or ineligible because the

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

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:  
Assembly ALA committee amendments adopted June 11, 1992.

1 individual is attending a training program approved for the  
2 individual by the division to enhance the individual's employment  
3 opportunities or because the individual failed or refused to accept  
4 work while attending such program.

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

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

10 (ii) The training is provided by a competent and reliable  
11 private or public entity approved by the Commissioner of Labor,  
12 which approval shall be made, if the "1992 Employment and  
13 Workforce Development Act," P.L. , c. (C. )(now pending  
14 before the Legislature as Assembly Bill No. 1402 of 1992) is  
15 enacted, pursuant to the provisions of section 8 of that act;  
16 <sup>1</sup>[and]<sup>1</sup>

17 (iii) The individual can reasonably be expected to complete the  
18 program, either during or after the period of benefits <sup>1</sup>;

19 (iv) The training does not include on the job training or other  
20 training under which the individual is paid by an employer for  
21 work performed by the individual during the time that the  
22 individual receives benefits; and

23 (v) The individual enrolls in vocational training, remedial  
24 education or a combination of both on a full-time basis<sup>1</sup>.

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

29 (i) The training includes remedial basic skills education  
30 necessary for the individual to successfully complete the  
31 vocational component of the training;

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

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

36 (iv) The lack of a prior guarantee of employment upon  
37 completion of the training.

38 (D) For the purpose of this paragraph (4), "labor demand  
39 occupation" means an occupation for which there is or is likely to  
40 be an excess of demand over supply for adequately trained  
41 workers, including, but not limited to, an occupation designated  
42 as a labor demand occupation by the New Jersey Occupational  
43 Information Coordinating Committee pursuant to the provisions  
44 of subsection h. of section 1 of P.L.1987, c.457 (C.34:1A-76) or  
45 section <sup>1</sup>[9] <sup>12</sup><sup>1</sup> of P.L. , c. (C. )(now pending before the  
46 Legislature as Assembly Bill No. 1402 of 1992).

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

51 (6) An unemployed individual, who is otherwise eligible, shall  
52 not be deemed unavailable for work or ineligible solely by reason  
53 of the individual's attendance at the funeral of an immediate  
54 family member, provided that the duration of the attendance

1 does not extend beyond a two day period.

2 For purposes of this paragraph, "immediate family member"  
3 includes any of the following individuals: father, mother,  
4 mother-in-law, father-in-law, grandmother, grandfather,  
5 grandchild, spouse, child, foster child, sister or brother of the  
6 unemployed individual and any relatives of the unemployed  
7 individual residing in the unemployed individual's household.

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

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

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

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

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

27 (e) (1) With respect to a base year as defined in subsection (c)  
28 of R.S.43:21-19, the individual has established at least 20 base  
29 weeks as defined in paragraph (1) of subsection (t) of  
30 R.S.43:21-19, or, in those instances in which the individual has  
31 not established 20 base weeks, the individual has earned \$2,200.00  
32 for benefit years commencing prior to October 1, 1984; and,  
33 except as otherwise provided in paragraph (2) or paragraph (3) of  
34 this subsection, for benefit years commencing on or after  
35 October 1, 1984, the individual has earned 12 times the Statewide  
36 average weekly remuneration paid to workers, as determined  
37 under R.S.43:21-3(c), raised to the next higher multiple of  
38 \$100.00 if not already a multiple thereof, or more in the  
39 individual's base year.

40 (2) Notwithstanding the provisions of paragraph (1) of this  
41 subsection, for benefit years commencing on or after October 1,  
42 1984 and before January 1, 1985, an unemployed individual  
43 claiming benefits on the basis of service performed in the  
44 production and harvesting of agricultural crops shall, subject to  
45 the limitations of subsection (i) of R.S.43:21-19, be eligible to  
46 receive benefits if it appears that the individual has established  
47 at least 20 base weeks as defined in paragraph (2) of subsection  
48 (t) of R.S.43:21-19, or, in those instances in which the individual  
49 has not established 20 base weeks, the individual has earned  
50 \$2,200.00.

51 (3) Notwithstanding the provisions of paragraph (1) of this  
52 subsection, an unemployed individual claiming benefits on the  
53 basis of service performed in the production and harvesting of  
54 agricultural crops shall, subject to the limitations of subsection

1 (i) of R.S.43:21-19, be eligible to receive benefits if during his  
2 base year, as defined in subsection (c) of R.S.43:21-19, the  
3 individual:

4 (A) Has established at least 20 base weeks as defined in  
5 paragraph (1) of subsection (t) of R.S.43:21-19; or

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

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

12 (4) The individual applying for benefits in any successive  
13 benefit year has earned at least six times his previous weekly  
14 benefit amount and has had four weeks of employment since the  
15 beginning of the immediately preceding benefit year. This  
16 provision shall be in addition to the earnings requirements  
17 specified in paragraph (1), (2), or (3) of this subsection, as  
18 applicable.

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

34 (A) For any period during which such individual is not under  
35 the care of a legally licensed physician, dentist, optometrist,  
36 podiatrist, practicing psychologist or chiropractor;

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

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

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

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

52 (F) For any period of disability commencing while such  
53 individual is a "covered individual," as defined in subsection [3(b)]  
54 (b) of section 3 of the "Temporary Disability Benefits Law,"

1 P.L.1948, c.110 [(C.43:21-25 et seq.)] (C.43:21-27).

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

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

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

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

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

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

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

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

17 (i) (1) Benefits shall not be paid on the basis of services  
18 performed by an alien unless such alien is an individual who was  
19 lawfully admitted for permanent residence at the time the  
20 services were performed and was lawfully present for the purpose  
21 of performing the services or otherwise was permanently residing  
22 in the United States under color of law at the time the services  
23 were performed (including an alien who is lawfully present in the  
24 United States as a result of the application of the provisions of  
25 section 203(a)(7) (8 U.S.C. §1153 (a)(7)) or section 212(d)(5)  
26 (8 U.S.C. §1182 (d)(5)) of the Immigration and Nationality Act (8  
27 U.S.C. §1101 et seq.)); provided that any modifications of the  
28 provisions of section 3304(a)(14) of the [federal] Federal  
29 Unemployment Tax Act (26 U.S.C. §3304 (a)(14)), as provided by  
30 [Public] Pub. Law 94-566, which specify other conditions or other  
31 effective dates than stated herein for the denial of benefits based  
32 on services performed by aliens and which modifications are  
33 required to be implemented under State law as a condition for  
34 full tax credit against the tax imposed by the [federal] Federal  
35 Unemployment Tax Act, shall be deemed applicable under the  
36 provisions of this section.

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

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

45 (j) Notwithstanding any other provision of this chapter, the  
46 director may, to the extent that it may be deemed efficient and  
47 economical, provide for consolidated administration by one or  
48 more representatives or deputies of claims made pursuant to  
49 subsection (f) of this section with those made pursuant to Article  
50 III (State plan) of the "Temporary Disability Benefits Law,"  
51 P.L.1948, c.110 (C.43:21-25 et seq.).

52 (cf: P.L.1989, c.213, s.1)

53 2. (New section) The division shall provide each individual who  
54 applies for unemployment compensation with notice of the

1 benefits and services available pursuant to the provisions of this  
2 1992 amendatory and supplementary act and the provisions of  
3 P.L.1983, c.328 (C.34:15B-11 et seq.), the "1992 New Jersey  
4 Employment and Workforce Development Act," P.L. , c.  
5 (C. )(now pending before the Legislature as Assembly Bill  
6 No. of 1992) and the "Job Training Partnership Act," Pub.L.  
7 97-300 (29 U.S.C. §1501 et seq.) and of the tuition waivers  
8 available pursuant to P.L.1983, c.469 (C.18A:64-13.1 et seq.) and  
9 P.L.1983, c.470 (C.18A:64A-23.1 et seq.).

10 3. This act shall take effect immediately.

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15 \_\_\_\_\_  
16 Concerns approval of training programs for individuals receiving  
UI benefits.



1 P.L.1983, c.470 (C.18A:64A-23.1 et seq.).

2 3. This act shall take effect immediately.

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5 STATEMENT

6  
7 This bill sets standards for the approval of training programs  
8 for laid-off workers receiving unemployment benefits.

9 The bill directs the Division of Unemployment and Temporary  
10 Disability Insurance in the Department of Labor to approve a  
11 training program for an individual if: the training is provided by  
12 an approved public or private entity; the individual is likely to  
13 complete the program; and the training is for an occupation with  
14 a significant shortage or prospective shortage of trained workers  
15 and is likely to enhance the individual's marketable skills and  
16 earning power.

17 If those requirements are met, approval may not be withheld  
18 for any of the following reasons: the training includes remedial  
19 basic skills education needed to succeed in the vocational  
20 component of the training; the individual may obtain a college  
21 degree in connection with the training; the length of the training  
22 period; or the lack of a prior guarantee of employment upon  
23 completion.

24 Current law prohibits the division from deeming an otherwise  
25 eligible laid-off worker as ineligible for unemployment benefits  
26 because the individual attends a training program "approved for  
27 the individual by the division to enhance the individual's  
28 employment opportunities" or fails to accept work while  
29 attending the program. But the law provides no guidance about  
30 which programs should be approved.

31 This bill is designed to clarify which kinds of training are  
32 acceptable, and to encourage laid-off workers to seek training  
33 and education programs which will best enhance their  
34 productivity and earning power. The bill prevents the exclusion  
35 of in-depth programs which will benefit most the long-term  
36 career advancement of laid-off workers and help them make  
37 their fullest contribution to the State's economy.

38 The bill also directs the division to notify each laid-off worker  
39 of services and benefits available under various training and  
40 employment programs.

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45 Concerns approval of training programs for individuals receiving  
46 UI benefits.

ASSEMBLY LABOR COMMITTEE

STATEMENT TO

ASSEMBLY, No. 1405

with committee amendments

STATE OF NEW JERSEY

DATED: JUNE 10, 1992

The Assembly Labor Committee reports favorably Assembly Bill No. 1405 with committee amendments.

As amended by the Committee, the bill sets standards for the approval of training programs for laid-off workers receiving unemployment benefits.

As amended, the bill directs the Department of Labor to approve a training program for an individual if the individual is likely to complete the program, is enrolled on a full-time basis and is not paid for work performed during the training, and if the training is provided by an approved entity, is for an occupation with a shortage of trained workers and is likely to enhance the individual's marketable skills and earning power.

If those requirements are met, approval may not be withheld for any of the following reasons: the training includes remedial basic skills education needed to succeed in vocational training; the individual may obtain a college degree in connection with the training; the length of the training period; or the lack of a prior guarantee of employment upon completion.

Current law prohibits the department from deeming an otherwise eligible laid-off worker as ineligible for unemployment benefits because the individual attends a training program "approved for the individual by the division to enhance the individual's employment opportunities" or fails to accept work while attending the program. But the law provides no guidance about which programs should be approved.

This bill is designed to clarify which kinds of training are acceptable, and to encourage laid-off workers to seek training and education programs which will best enhance their productivity and earning power. The bill prevents the exclusion of in-depth programs which will benefit most the long-term career advancement of laid-off workers and help them make their fullest contribution to the State's economy.

The bill also directs the division to notify each laid-off worker of services and benefits available under various training and employment programs.

The amendments prohibit a laid-off worker from receiving unemployment benefits while enrolled in job training if the worker is not enrolled in the training on a full-time basis or if the worker is paid for work performed during the training.