

43:21-57

LEGISLATIVE HISTORY CHECKLIST
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("Self-Employment Assistance &
Entrepreneurial Training Act")

NJSA: 43:21-57

LAWS OF: 1995 CHAPTER: 394

BILL NO: S1428

SPONSOR(S): DiFrancesco & Lynch

DATE INTRODUCED: September 19, 1994

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SENATE: Natural Resources; Budget

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[THIRD REPRINT]

SENATE, No. 1428

STATE OF NEW JERSEY

INTRODUCED SEPTEMBER 19, 1994

By Senators DiFRANCESCO and LYNCH

1 AN ACT providing self-employment assistance and
2 entrepreneurial training ², amending P.L.1992, c.43, P.L.1992,
3 c.46,² and amending and supplementing chapter 21 of Title 43
4 of the Revised Statutes.

5

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

8 1. (New section) This act shall be known and may be cited as
9 the "Self-Employment Assistance and Entrepreneurial Training
10 Act."

11 2. (New section) The Legislature finds and declares that a
12 significant percentage of new jobs in this country are created by
13 small businesses and that approximately 12 percent of the persons
14 employed in the United States are self-employed, mostly in small
15 businesses. In the wake of recent corporate downsizing, it is
16 imperative that ways are found to help unemployed individuals,
17 including professional and technical employees, to re-enter the
18 labor force. Experience in numerous other states and in certain
19 urban areas of New Jersey has shown that "micro-lending," or
20 carefully targeting small loans to individuals with
21 well-developed, realistic business plans, has been successful in
22 helping those individuals to establish small businesses and become
23 self-employed entrepreneurs. This approach is particularly
24 successful where the loan recipients are part of a peer group that
25 provides support, advice and assistance, and helps to ensure loan
26 repayments.

27 3 (New section) As used in ²[this 1994 amendatory and
28 supplementary act] P.L. _____, c. _____ (C. _____) (now pending
29 before the Legislature as this bill)²:

30 ²["Authority" means the New Jersey Economic Development
31 Authority established pursuant to section 4 of P.L.1974, c.80
32 (C.34:1B- 4).]²

33 ²"Division" means the Division of Unemployment and
34 Temporary Disability Insurance of the Department of Labor.²

35 "Full-time basis" with respect to the amount of time spent
36 participating in self-employment assistance activities shall have
37 the meaning contained in regulations adopted by the
38 Commissioner of Labor.

39 "Peer group" means a group of not more than twenty
40 participating individuals who provide mutual assistance and
41 support for each other's efforts to establish businesses and
42 become self-employed entrepreneurs.

43 "Reemployment services" means job search assistance and job

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

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

1 Senate: SNT committee amendments adopted December 1, 1994.

2 Senate: SBA committee amendments adopted December 11, 1995.

3 Senate: floor amendments adopted December 21, 1995.

1 placement services, including counseling, testing, assessment, job
2 search workshops, job clubs, referrals to employers and providing
3 occupational and labor market information.

4 "Regular benefits" means benefits payable to an individual
5 under the "unemployment compensation law" (R.S.43:21-1 et
6 seq.), including benefits payable to federal civilian employees and
7 to ex-servicemembers pursuant to 5 U.S.C. chapter 85, but not
8 including additional benefits provided pursuant to P.L.1992, c.47
9 (C.43:21-57 et seq.) or extended benefits.

10 "Self-employment assistance activities" means activities,
11 approved by the division, in which an individual participates for
12 the purpose of establishing a business and becoming
13 self-employed, including: activities in which the individual
14 participates in connection with self-employment assistance
15 services; and other activities in which the individual engages to
16 establish the business ², which may, at the discretion of the
17 division, include participation in a peer group².

18 "Self-employment assistance allowance" means an allowance,
19 payable in lieu of regular benefits and from the unemployment
20 compensation fund, to an individual participating in
21 self-employment assistance activities who meets the
22 requirements of ²[this 1994 amendatory and supplementary act]
23 P.L. _____, c. _____ (C. _____) (now pending before the Legislature
24 as this bill)².

25 ²["Self-employment Assistance Financing Program" means the
26 Self-employment Assistance Financing Program established
27 pursuant to section 4 of this 1994 amendatory and supplementary
28 act.]²

29 "Self-employment assistance services" means services
30 provided to an individual, including entrepreneurial training,
31 business counseling, and technical assistance, to help the
32 individual to develop a business plan, establish a business and
33 become self-employed ², including entrepreneurial training and
34 technical assistance supported by training grants provided
35 pursuant to subsection b. of section 6 of P.L.1992, c.43
36 (C.34:15D-6)².

37 "Worker profiling system" means the worker profiling system
38 established pursuant to section 2 of P.L.1992, c.46 (C.43:21-4.1).

39 ²"Workforce Development Partnership Program" means the
40 program created pursuant to P.L.1992, c.43 (C.34:15D-1 et seq.).²

41 ²[4. (New section) a. There is created in the authority a
42 Self-employment Assistance Financing Program which shall
43 provide loans and loan guarantees to individuals selected by the
44 authority from those who are referred to the authority for
45 self-employment assistance services pursuant to subsection a. of
46 section 5 of this 1994 amendatory and supplementary act.

47 b. The authority shall set the terms of the loans and loan
48 guarantees. ¹The authority, notwithstanding any provisions of
49 "The New Jersey Economic Development Authority Act,"
50 P.L.1974, C.80 (C.34:1B-1 et seq.), shall develop flexible
51 underwriting criteria to reflect the special financing
52 requirements for loans and loan guarantees made under the
53 program which are consistent with the purposes of this 1994
54 amendatory and supplementary act.¹ The loans and loan

1 guarantees, self-employment assistance services provided
2 pursuant to subsection a. of section 5 of this 1994 amendatory
3 and supplementary act and all related administrative expenses
4 may be funded from:

5 (1) Funds available from existing authority loan and loan
6 guarantee programs;

7 (2) The Economic Growth Account for Business Programs,
8 within the Economic Recovery Fund, established pursuant to the
9 "Economic Recovery Fund Act," P.L.1992, c.16 (C.34:1B-7.10 et
10 seq.);

11 (3) Program loan repayments;

12 (4) Any funds made available by the authority or appropriated
13 for the program; and

14 (5) Any other appropriate sources of funding¹, including
15 funding from other State agencies or authorities¹.

16 c. ¹[To the extent feasible, a loan or loan guarantee provided
17 by the program may be provided through a peer group.]¹ The
18 authority may, when making a decision regarding the granting of
19 a loan or loan guarantee ¹to an individual who is a member of a
20 peer group¹, take into consideration the recommendation of the
21 peer group. When determining whether to make a loan or loan
22 guarantee to a participant of a peer group, the authority may
23 take into consideration how reliable other participants in the
24 group have been in repayments of previous loans.

25 d. After consultation with the Department of Labor and the
26 Department of Commerce and Economic Development, the
27 authority shall report to the Governor and the Legislature within
28 two years of the effective date of this act, and not later than
29 September 15 of each third year thereafter. Each report shall
30 include information on the number of participants and peer
31 groups, the amount of loans or loan guarantees outstanding, the
32 number of loan or loan guarantee repayments and defaults, the
33 types of businesses that program participants have established
34 and are operating, the number of business successes and failures,
35 and any recommendations of the authority regarding the
36 expansion of, or changes in, the program.]²

37 ²[5.] 4.² (New section) a. Any unemployed individual who
38 qualifies for regular benefits and is identified through the worker
39 profiling system as likely to exhaust regular benefits may apply
40 to the division for a self-employment assistance allowance.
41 ²[The division shall review the application to determine whether
42 to refer the individual to the authority for self-employment
43 assistance services. If the individual is referred and if the
44 authority, based on the individual's skills, employment
45 experience or other qualifications, determines that the individual
46 is able to successfully develop and manage a small business, the
47 authority may make the self-employment assistance services
48 available to the individual. To make the services available, the
49 authority shall collaborate with the New Jersey Small Business
50 Development Center Program, the Department of Commerce and
51 Economic Development and any community-based agency,
52 non-profit organization, educational institution or other ¹public
53 or private¹ entity deemed competent ¹and selected¹ by the
54 authority and the division to provide the services. The provision

1 of the services shall be, to the extent feasible, based
 2 predominantly on peer groups, the formation of which shall be
 3 facilitated by the authority and the collaborating entities. The
 4 primary purpose of the services provided to an individual prior to
 5 approval of the payment of a self-employment assistance
 6 allowance to the individual is to assist the individual to meet
 7 prerequisites set by the division for receiving the allowance,
 8 which shall include the development of an acceptable business
 9 plan, and the obtaining of an adequate commitment for any
 10 continued services needed after payment of the allowance is
 11 approved and the obtaining of adequate commitment for the
 12 financing needed to implement the plan, including financing from
 13 the Self-employment Assistance Financing Program or financing
 14 from private sources. Upon certification by the authority that
 15 the prerequisites have been met, the division may approve
 16 payment of the self-employment assistance allowance to the
 17 individual pursuant to the provisions of this section. ¹The
 18 authority shall monitor each individual who is referred by the
 19 division to the authority for self-employment services and notify
 20 the division whenever the individual is not participating on a
 21 full-time basis in self-employment activities authorized by the
 22 division¹] If the individual is selected to receive a
 23 self-employment assistance allowance, the Department of Labor
 24 may also provide the individual with any available
 25 self-employment assistance services it deems appropriate,
 26 including services available from the Workforce Development
 27 Partnership Program, or the department may refer the individual
 28 to any other private or public entity it deems appropriate to
 29 provide the services. The department shall provide the individual
 30 with appropriate information available to the department
 31 regarding possible sources of financing for entrepreneurial
 32 activities, including information obtained from the Department
 33 of Banking and information regarding suitable "micro-lending"
 34 programs².

35 b. The weekly self-employment assistance allowance payable
 36 pursuant to this section to an individual shall be equal to the
 37 weekly benefit amount for regular benefits. In no instance shall a
 38 self-employment assistance allowance and regular benefits be
 39 paid to an individual with respect to the same period. The sum of
 40 the allowance and regular benefits paid under ²[this 1994
 41 amendatory and supplementary act] P.L. _____, c. _____ (C. _____)
 42 (now pending before the Legislature as this bill)² with respect to
 43 any benefit year shall not exceed the maximum benefit amount
 44 established for regular benefits alone with respect to that benefit
 45 year. The allowance shall not be paid for any week in which the
 46 individual does not participate, on a full-time basis, in
 47 self-employment assistance activities authorized by the division.

48 c. A self-employment assistance allowance shall be payable to
 49 an individual at the same interval, on the same terms, and subject
 50 to the same conditions as regular benefits, except as otherwise
 51 provided in ²[this 1994 amendatory and supplementary act]
 52 P.L. _____, c. _____ (C. _____)(now pending before the Legislature as
 53 this bill)².

54 c. The aggregate number of individuals receiving

1 self-employment assistance allowances at any time shall not
 2 exceed ¹[one] ³[0.5¹] one³ percent of the number of individuals
 3 receiving regular benefits. The Commissioner of Labor shall ²[,
 4 through regulations, prescribe the actions necessary to assure
 5 that the requirements of this subsection are met] adopt
 6 regulations consistent with the provisions of P.L. _____, c.
 7 (C. _____)(now pending before the Legislature as this bill) to
 8 establish eligibility requirements and procedures for the selection
 9 of individuals to receive self-employment assistance allowances
 10 and self-employment assistance services².

11 e. Self-employment assistance allowances shall be charged to
 12 employers in the same manner as provided for the charging of
 13 regular benefits.

14 f. The provisions of this section ¹[will] shall¹ apply to weeks
 15 beginning after the effective date of ²[this 1994 amendatory and
 16 supplementary act] P.L. _____, c. _____ (C. _____)(now pending
 17 before the Legislature as this bill)² and after any plan required by
 18 the United States Department of Labor is approved by that
 19 department. The authority provided by this section shall
 20 terminate as of the end of the week preceding the date when
 21 federal law no longer authorizes the provisions of this section,
 22 unless that date is a Saturday in which case the authority shall
 23 terminate as of that date.

24 ²[6.] 5.² (New section) The ²[authority, the Department of
 25 Commerce and Economic Development, and the]² Department of
 26 Labor shall ²[respectively]² adopt, pursuant to the
 27 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
 28 seq.), any rules and regulations necessary to effectuate the
 29 purposes of ²[this 1994 amendatory and supplementary act]
 30 P.L. _____, c. _____ (C. _____)(now pending before the Legislature as
 31 this bill)².

32 ²[7.] 6.² R.S.43:21-3 is amended to read as follows:

33 ~~43:21-3.~~ Benefits

34 (a) Payment of benefits.

35 All benefits shall be promptly paid from the fund in accordance
 36 with such regulations as may be prescribed hereunder.

37 (b) Weekly benefits for unemployment.

38 With respect to an individual's benefit year commencing on or
 39 after July 1, 1961, such individual, if eligible and unemployed (as
 40 defined in subsection (m) of R.S.43:21-19), shall be paid an
 41 amount (except as to final payment) equal to his weekly benefit
 42 rate less any remuneration, other than remuneration from
 43 self-employment paid to an individual who is receiving a
 44 self-employment assistance allowance, paid or payable to him for
 45 such week in excess of 20% of his weekly benefit rate (fractional
 46 part of a dollar omitted) or \$5.00, whichever is the greater;
 47 provided that such amount shall be computed to the next lower
 48 multiple of \$1.00 if not already a multiple thereof.

49 (c) Weekly benefit rate.

50 (1) With respect to an individual whose benefit year
 51 commences after September 30, 1984, his weekly benefit rate
 52 under each determination shall be 60% of his average weekly
 53 wage, subject to a maximum of $56 \frac{2}{3}$ % of the Statewide
 54 average weekly remuneration paid to workers by employers

1 subject to this chapter (R.S.43:21-1 et seq.), as determined and
2 promulgated by the Commissioner of Labor; provided, however,
3 that such individual's weekly benefit rate shall be computed to
4 the next lower multiple of \$1.00 if not already a multiple thereof.

5 (2) Dependency benefits.

6 (A) With respect to an individual whose benefit year
7 commences after September 30, 1984, the individual's weekly
8 benefit rate as determined in paragraph (1) of this subsection (c)
9 will be increased by 7% for the first dependent and 4% each for
10 the next two dependents (up to a maximum of three dependents),
11 computed to the next lower multiple of \$1.00 if not already a
12 multiple thereof, except that the maximum weekly benefit rate
13 payable for an individual claiming dependency benefits shall not
14 exceed the maximum amount determined under paragraph (1) of
15 this subsection (c).

16 (B) For the purposes of this paragraph (2), a dependent is
17 defined as an individual's unemployed spouse or an unemployed
18 unmarried child (including a stepchild or a legally adopted child)
19 under the age of 19 or an unemployed unmarried child, who is
20 attending an educational institution as defined in subsection (y) of
21 R.S.43:21-19 on a full-time basis and is under the age of 22. If
22 an individual's spouse is employed during the week the individual
23 files an initial claim for benefits, this paragraph (2) shall not
24 apply. If both spouses establish a claim for benefits in accordance
25 with the provisions of this chapter (R.S. 43:21-1 et seq.), only one
26 shall be entitled to dependency benefits as provided in this
27 paragraph (2).

28 (C) Any determination establishing dependency benefits under
29 this paragraph (2) shall remain fixed for the duration of the
30 individual's benefit year and shall not be increased or decreased
31 unless it is determined by the division that the individual
32 wrongfully claimed dependency benefits as a result of false or
33 fraudulent representation.

34 (D) Notwithstanding the provisions of any other law, the
35 division shall use every available administrative means to insure
36 that dependency benefits are paid only to individuals who meet
37 the requirements of this paragraph (2). These administrative
38 actions may include, but shall not be limited to, the following:

39 (i) All married individuals claiming dependents under this
40 paragraph (2) shall be required to provide the social security
41 number of the individual's spouse. If the individual indicates that
42 the spouse is unemployed, the division shall match the social
43 security number of the spouse against available wage records to
44 determine whether earnings were reported on the last quarterly
45 earnings report filed by employers under R.S. 43:21-14 of this
46 chapter. If earnings were reported, the division shall contact in
47 writing the last employer to determine whether the spouse is
48 currently employed.

49 (ii) Where a child is claimed as a dependent by an individual
50 under this paragraph (2), the individual shall be required to
51 provide to the division the most recent federal income tax return
52 filed by the individual to assist the division in verifying the claim.

53 (3) For the purposes of this subsection (c), the "Statewide
54 average weekly remuneration paid to workers by employers" shall

1 be computed and determined by the Commissioner of Labor on or
2 before September 1 of each year on the basis of one-fifty-second
3 of the total remuneration reported for the preceding calendar
4 year by employers subject to this chapter, divided by the average
5 of the number of workers reported by such employers, and shall
6 be effective as to benefit determinations in the calendar year
7 following such computation and determination.

8 (d) Maximum total benefits.

9 (1) (A) With respect to an individual to whom benefits shall be
10 payable for benefit years commencing on or after January 1, 1975
11 and prior to July 1, 1986, as provided in this section, such
12 individual shall be entitled to receive, under each successive
13 benefit determination relating to each of his base year
14 employers, a total amount of benefits equal to three-quarters of
15 his base weeks from the employer in question multiplied by his
16 weekly benefit rate; but the amount of benefits thus resulting
17 under any such determination made with respect to any employer
18 shall be adjusted to the next lower multiple of \$1.00 if not
19 already a multiple thereof.

20 (B)(i) With respect to an individual for whom benefits shall be
21 payable for benefit years commencing on or after July 1, 1986, as
22 provided in this section, the individual shall be entitled to receive
23 a total amount of benefits equal to three-quarters of the
24 individual's base weeks with all employers in the base year
25 multiplied by the individual's weekly benefit rate; but the
26 amount of benefits thus resulting under that determination shall
27 be adjusted to the next lower multiple of \$1.00 if not already a
28 multiple thereof.

29 (ii) Except that benefits paid to an individual for benefit years
30 commencing on or after July 1, 1986 shall be charged against the
31 accounts of the individual's base year employers in the following
32 manner:

33 Each week of benefits paid to an eligible individual shall be
34 charged against each base year employer's account in the same
35 proportion that the wages paid by each employer to the individual
36 during the base year bear to the wages paid by all employers to
37 that individual during the base year.

38 (iii) Wages earned during a base year, which had previously
39 been used to establish a benefit year commencing prior to July 1,
40 1986, may also be used to establish benefit years commencing on
41 or after July 1, 1986 but prior to October 1, 1987. No employer's
42 account shall be charged for any benefits payable based on base
43 year wages which may be used to establish entitlement under the
44 provisions of this subparagraph (iii).

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

1 (3) (Deleted by amendment, P.L.1984, c. 24.)

2 (cf: P.L.1984, c.24, s.1)

3 ²[8.] ² R.S.43:21-4 is amended to read as follows:

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

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

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

21 (c) (1) The individual is able to work, and is available for work,
22 and has demonstrated to be actively seeking work, except as
23 hereinafter provided in this subsection or in subsection (f) of this
24 section.

25 (2) The director may modify the requirement of actively
26 seeking work if such modification of this requirement is
27 warranted by economic conditions.

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

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

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

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

46 (ii) The training is provided by a competent and reliable
47 private or public entity approved by the Commissioner of Labor
48 ¹[, which approval shall be made, if the "1992 Employment and
49 Workforce Development Act," P.L.1992, c.43 (C.34:15D-1 et al.)
50 is enacted,¹ pursuant to the provisions of section 8 of ¹[that act]
51 the "1992 New Jersey Employment and Workforce Development
52 Act " P.L.1992, c.43 (C.34:15D-8)¹;

53 (i) The individual can reasonably be expected to complete the
54 program, (either during or after the period of benefits;

1 (iv) The training does not include on the job training or other
 2 training under which the individual is paid by an employer for
 3 work performed by the individual during the time that the
 4 individual receives benefits; and

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

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

11 (i) The training includes remedial basic skills education
 12 necessary for the individual to successfully complete the
 13 vocational component of the training;

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

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

18 (iv) The lack of a prior guarantee of employment upon
 19 completion of the training.

20 (D) For the purpose of this paragraph (4), "labor demand
 21 occupation" means an occupation for which there is or is likely to
 22 be an excess of demand over supply for adequately trained
 23 workers, including, but not limited to, an occupation designated
 24 as a labor demand occupation by the New Jersey Occupational
 25 Information Coordinating Committee pursuant to the provisions
 26 of subsection h. of section 1 of P.L.1987, c.457 (C.34:1A-76) or
 27 section 12 of P.L.1992, c.43 ¹[(C.34:15D-12)] (C.34:1A-78)¹.

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

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

37 For purposes of this paragraph, "immediate family member"
 38 includes any of the following individuals: father, mother,
 39 mother-in-law, father-in-law, grandmother, grandfather,
 40 grandchild, spouse, child, foster child, sister or brother of the
 41 unemployed individual and any relatives of the unemployed
 42 individual residing in the unemployed individual's household.

43 (7) No individual, who is otherwise eligible, shall be deemed
 44 ineligible or unavailable for work with respect to any week
 45 because, during that week, the individual fails or refuses to
 46 accept work while the individual is participating on a full-time
 47 basis in self-employment assistance activities authorized by the
 48 division, whether or not the individual is receiving a
 49 self-employment allowance during that week.

50 (8) Any individual who is determined to be likely to exhaust
 51 regular benefits and need reemployment services based on
 52 information obtained by the worker profiling system shall not be
 53 eligible to receive benefits if the individual fails to participate in
 54 available reemployment services to which the individual is

1 referred by the division ¹or in similar services¹, unless the
 2 division determines that:

3 (A) The individual has completed the reemployment services; or
 4 (B) There is justifiable cause for the failure to participate,
 5 which shall include participation in employment and training,
 6 self-employment assistance activities or other activities
 7 authorized by the division to assist reemployment or ¹[enhancing]
 8 enhance¹ the marketable skills and earning power of the
 9 individual ¹and which shall include any other circumstance
 10 indicated pursuant to this section in which an individual is not
 11 required to be available for and actively seeking work to receive
 12 benefits¹.

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

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

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

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

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

32 (e) (1) With respect to a base year as defined in subsection (c)
 33 of R.S.43:21-19, the individual has established at least 20 base
 34 weeks as defined in ²[paragraph (1) of]² subsection (t) of
 35 R.S.43:21-19, or, in those instances in which the individual has
 36 not established 20 base weeks, ²[the individual has earned
 37 \$2,100.00 for benefit years commencing prior to October 1, 1984;
 38 and,]² except as otherwise provided in ²[paragraph (2) or]²
 39 paragraph (3) of this subsection, for benefit years commencing on
 40 or after October 1, 1984 ²and before January 1, 1996², the
 41 individual has earned 12 times the Statewide average weekly
 42 remuneration paid to workers, as determined under
 43 R.S.43:21-3(c), raised to the next higher multiple of \$100.00 if
 44 not already a multiple thereof, or more in the individual's base
 45 year.

46 (2) ²[Notwithstanding the provisions of paragraph (1) of this
 47 subsection, for benefit years commencing on or after October 1,
 48 1984 and before January 1, 1985, an unemployed individual
 49 claiming benefits on the basis of service performed in the
 50 production and harvesting of agricultural crops shall, subject to
 51 the limitations of subsection (i) of R.S.43:21-19, be eligible to
 52 receive benefits if it appears that the individual has established
 53 at least 20 base weeks as defined in paragraph (2) of subsection
 54 (t) of R.S.43:21-19, or, in those instances in which the individual

1 has not established 20 base weeks, the individual has earned
2 \$2,200.00.] With respect to benefit years commencing on or after
3 January 1, 1996, except as otherwise provided in paragraph (3) of
4 this subsection, the individual has, during his base year as defined
5 in subsection (c) of R.S.43:21-19:

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

8 (B) If the individual has not met the requirements of
9 subparagraph (A) of this paragraph (2), earned remuneration not
10 less than an amount 12 times the Statewide average weekly
11 remuneration paid to workers, as determined under
12 R.S.43:21-3(c), which amount shall be adjusted to the next higher
13 multiple of \$100.00 if not already a multiple thereof; or

14 (C) If the individual has not met the requirements of
15 subparagraphs (A) or (B) of this paragraph (2), earned
16 remuneration not less than an amount 1,000 times the minimum
17 wage in effect pursuant to section 5 of P.L.1966, c.113
18 (C.34:11-56a4) on October 1 of the calendar year preceding the
19 calendar year in which the benefit year commences, which
20 amount shall be adjusted to the next higher multiple of \$100.00 if
21 not already a multiple thereof.²

22 (3) Notwithstanding the provisions of paragraph (1) ²or
23 paragraph (2)² of this subsection, an unemployed individual
24 claiming benefits on the basis of service performed in the
25 production and harvesting of agricultural crops shall, subject to
26 the limitations of subsection (i) of R.S.43:21-19, be eligible to
27 receive benefits if during his base year, as defined in subsection
28 (c) of R.S.43:21-19, the individual:

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

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

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

37 (4) The individual applying for benefits in any successive
38 benefit year has earned at least six times his previous weekly
39 benefit amount and has had four weeks of employment since the
40 beginning of the immediately preceding benefit year. This
41 provision shall be in addition to the earnings requirements
42 specified in paragraph (1), (2), or (3) of this subsection, as
43 applicable.

44 (f) (1) The individual has suffered any accident or sickness not
45 compensable under the workers' compensation law, R.S.34:15-1
46 et seq. and resulting in the individual's total disability to perform
47 any work for remuneration, and would be eligible to receive
48 benefits under this chapter (R.S.43:21-1 et seq.) (without regard
49 to the maximum amount of benefits payable during any benefit
50 year) except for the inability to work and has furnished notice
51 and proof of claim to the division, in accordance with its rules
52 and regulations, and payment is not precluded by the provisions of
53 R.S.43:21-3(d); provided, however, that benefits paid under this
54 subsection (f) shall be computed on the basis of only those base

1 year wages earned by the claimant as a "covered individual," as
2 defined in R.S.43:21-27(b); provided further that no benefits shall
3 be payable under this subsection to any individual:

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

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

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

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

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

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

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

32 (g) Benefits based on service in employment defined in
33 subparagraphs (B) and (C) of R.S.43:21-19(i)(1) shall be payable in
34 the same amount and on the terms and subject to the same
35 conditions as benefits payable on the basis of other service
36 subject to the "unemployment compensation law"; except that,
37 notwithstanding any other provisions of the "unemployment
38 compensation law":

39 (1) With respect to service performed after December 31,
40 1977, in an instructional research, or principal administrative
41 capacity for an educational institution, benefits shall not be paid
42 based on such services for any week of unemployment
43 commencing during the period between two successive academic
44 years, or during a similar period between two regular terms,
45 whether or not successive, or during a period of paid sabbatical
46 leave provided for in the individual's contract, to any individual
47 if such individual performs such services in the first of such
48 academic years (or terms) and if there is a contract or a
49 reasonable assurance that such individual will perform services in
50 any such capacity for any educational institution in the second of
51 such academic years or terms;

52 (2) With respect to weeks of unemployment beginning after
53 September 3, 1982, on the basis of service performed in any other
54 capacity for an educational institution, benefits shall not be paid

1 on the basis of such services to any individual for any week which
2 commences during a period between two successive academic
3 years or terms if such individual performs such services in the
4 first of such academic years or terms and there is a reasonable
5 assurance that such individual will perform such services in the
6 second of such academic years or terms, except that if benefits
7 are denied to any individual under this paragraph (2) and the
8 individual was not offered an opportunity to perform these
9 services for the educational institution for the second of any
10 academic years or terms, the individual shall be entitled to a
11 retroactive payment of benefits for each week for which the
12 individual filed a timely claim for benefits and for which benefits
13 were denied solely by reason of this clause;

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

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

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

41 (i) (ii) Benefits shall not be paid on the basis of services
42 performed by an alien unless such alien is an individual who was
43 lawfully admitted for permanent residence at the time the
44 services were performed and was lawfully present for the purpose
45 of performing the services or otherwise was permanently residing
46 in the United States under color of law at the time the services
47 were performed (including an alien who is lawfully present in the
48 United States as a result of the application of the provisions of
49 section 203(a)(7) (8 U.S.C. §1153 (a)(7)) or section 212(d)(5)
50 (8 U.S.C. §1182 (d)(5)) of the Immigration and Nationality Act
51 (8 U.S.C. §1101 et seq.)); provided that any modifications of the
52 provisions of section 3304(a)(14) of the Federal Unemployment
53 Tax Act (26 U.S.C. §3304 (a)(14)), as provided by Pub.L.94-566,
54 which specify other conditions or other effective dates than

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

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

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

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

21 (cf: P.L.1995, c.234, s.1)

22 ²[9.] ²8.2 Section 2 of P.L.1992, c.46 (C.43:21-4.1) is amended
 23 to read as follows:

24 2. a. There is established a worker profiling system for the
 25 purpose of determining which new claimants for regular benefits
 26 are likely to exhaust benefits and therefore have the greatest
 27 need for reemployment services to make a successful transition
 28 to new employment. Information obtained from the profiling
 29 system shall be used in making referrals for reemployment
 30 services and may be used in making referrals to other services
 31 and benefits, but no individual shall be excluded from seeking or
 32 receiving reemployment services or other services or benefits
 33 because the individual is not among those determined to be likely
 34 to exhaust benefits, unless the exclusion is specifically required
 35 by federal law. Nor shall an individual be required to participate,
 36 as a condition for receiving regular benefits, in any employment
 37 and training services because the individual is among those
 38 determined to be likely to exhaust benefits, unless that
 39 participation by the individual is specifically required by federal
 40 law. A characteristic of an individual shall not be used in making
 41 a determination regarding whether the individual is likely to
 42 exhaust benefits unless it is demonstrated to be an actual
 43 indicator of a high likelihood that benefits will be exhausted.

44 b. The division shall provide each individual who applies for
 45 unemployment compensation with [notice] an initial interview
 46 which includes:

47 (1) Notice of the benefits and services available pursuant to
 48 the provisions of this 1992 amendatory and supplementary act and
 49 the provisions of [P.L.1983, c.328 (C.34:15B-11 et seq.),] the
 50 "1992 New Jersey Employment and Workforce Development
 51 Act," P.L.1992, c.43 (C.34:15D-1 et al.), P.L.1992, c.47
 52 (C. 3:21-57 et al.) and the "Job Training Partnership Act,"
 53 Pu: L. 97-300 (29 U.S.C. §1501 et seq.) and of the tuition waivers
 54 available pursuant to P.L.1983, c.469 (C.18A:64-13.1 et seq.) and

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

2 (2) A review of the individual's rights and responsibilities with
3 respect to the unemployment compensation, including an
4 explanation of the appeal process and of the worker profiling
5 system and its possible impact on the individual.

6 (cf: P.L.1992, c.46, s.2)

7 ²[10.] 9.2 R.S.43:21-19 is amended to read as follows:

8 43:21-19. Definitions. As used in this chapter (R.S.43:21-1 et
9 seq.), unless the context clearly requires otherwise:

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

13 (2) "Average annual payroll" means the average of the annual
14 payrolls of any employer for the last three or five preceding
15 calendar years, whichever average is higher, except that any year
16 or years throughout which an employer has had no "annual
17 payroll" because of military service shall be deleted from the
18 reckoning; the "average annual payroll" in such case is to be
19 determined on the basis of the prior three or five calendar years
20 in each of which the employer had an "annual payroll" in the
21 operation of his business, if the employer resumes his business
22 within 12 months after separation, discharge or release from such
23 service, under conditions other than dishonorable, and makes
24 application to have his "average annual payroll" determined on
25 the basis of such deletion within 12 months after he resumes his
26 business; provided, however, that "average annual payroll" solely
27 for the purposes of paragraph (3) of subsection (e) of R.S.43:21-7
28 means the average of the annual payrolls of any employer on
29 which he paid contributions to the State disability benefits fund
30 for the last three or five preceding calendar years, whichever
31 average is higher; provided further that only those wages be
32 included on which employer contributions have been paid on or
33 before January 31 (or the next succeeding day if such January 31
34 is a Saturday or Sunday) immediately preceding the beginning of
35 the 12-month period for which the employer's contribution rate
36 is computed.

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

40 (c) (1) ²["Base year" with respect to benefit years commencing
41 on or after January 1, 1953, shall mean the 52 calendar weeks
42 ending with the second week immediately preceding an
43 individual's benefit year.]² "Base year" with respect to benefit
44 years commencing on or after July 1, 1986, shall mean the first
45 four of the last five completed calendar quarters immediately
46 preceding an individual's benefit year.

47 ²With respect to a benefit year commencing on or after July 1,
48 1995, if an individual does not have sufficient qualifying weeks or
49 wages in his base year to qualify for benefits, the individual shall
50 have the option of designating that his base year shall be the
51 "alternative base year," which means the last four completed
52 calendar quarters immediately preceding the individual's benefit
53 year; except that, with respect to a benefit year commencing on
54 or after October 1, 1995, if the individual also does not have

1 sufficient qualifying weeks or wages in the last four completed
2 calendar quarters immediately preceding his benefit year to
3 qualify for benefits, "alternative base year" means the last three
4 completed calendar quarters immediately preceding his benefit
5 year and, of the calendar quarter in which the benefit year
6 commences, the portion of the quarter which occurs before the
7 commencing of the benefit year.

8 The division shall inform the individual of his options under this
9 section as amended by P.L.1995, c.234. If information regarding
10 weeks and wages for the calendar quarter or quarters
11 immediately preceding the benefit year is not available to the
12 division from the regular quarterly reports of wage information
13 and the division is not able to obtain the information using other
14 means pursuant to State or federal law , the division may base
15 the determination of eligibility for benefits on the affidavit of an
16 individual with respect to weeks and wages for that calendar
17 quarter. The individual shall furnish payroll documentation, if
18 available, in support of the affidavit. A determination of
19 benefits based on an alternative base year shall be adjusted when
20 the quarterly report of wage information from the employer is
21 received if that information causes a change in the
22 determination.²

23 (2) With respect to a benefit year commencing on or after
24 June 1, 1990 for an individual who immediately preceding the
25 benefit year was subject to a disability compensable under the
26 provisions of the "Temporary Disability Benefits Law," P.L.1948,
27 c.110 (C.43:21-25 et seq.), "base year" shall mean the first four
28 of ~~the~~ last five completed calendar quarters immediately
29 preceding the individual's period of disability, if the employment
30 held by the individual immediately preceding the period of
31 disability is no longer available at the conclusion of that period
32 and ~~the~~ individual files a valid claim for unemployment benefits
33 after the conclusion of that period. For the purposes of this
34 paragraph, "period of disability" means the period defined as a
35 period of disability by section 3 of the "Temporary Disability
36 Benefits Law," P.L.1948, c.110 (C.43:21-27). An individual who
37 files a claim under the provisions of this paragraph (2) shall not
38 be regarded as having left work voluntarily for the purposes of
39 subsection (a) of R.S.43:21-5.

40 (3) With respect to a benefit year commencing on or after
41 June 1, 1990 for an individual who immediately preceding the
42 benefit year was subject to a disability compensable under the
43 provisions of the workers' compensation law (chapter 15 of Title
44 34 of ~~the~~ Revised Statutes), "base year" shall mean the first four
45 of ~~the~~ last five completed calendar quarters immediately
46 preceding the individual's period of disability, if the period of
47 disability was not longer than two years, if the employment held
48 by ~~the~~ individual immediately preceding the period of disability is
49 no longer available at the conclusion of that period and if the
50 individual files a valid claim for unemployment benefits after the
51 conclusion of that period. For the purposes of this paragraph,
52 "period of disability" means the period from the time at which
53 the individual becomes unable to work because of the
54 compensable disability until the time that the individual becomes

1 able to resume work and continue work on a permanent basis. An
2 individual who files a claim under the provisions of this paragraph
3 (3) shall not be regarded as having left work voluntarily for the
4 purposes of subsection (a) of R.S.43:21-5.

5 (d) "Benefit year" with respect to any individual means the
6 364 consecutive calendar days beginning with the day on, or as of,
7 which he first files a valid claim for benefits, and thereafter
8 beginning with the day on, or as of, which the individual next files
9 a valid claim for benefits after the termination of his last
10 preceding benefit year. Any claim for benefits made in
11 accordance with subsection (a) of R.S.43:21-6 shall be deemed to
12 be a "valid claim" for the purpose of this subsection if (1) he is
13 unemployed for the week in which, or as of which, he files a
14 claim for benefits; and (2) he has fulfilled the conditions imposed
15 by subsection (e) of R.S.43:21-4.

16 (e) (1) "Division" means the Division of Unemployment and
17 Temporary Disability Insurance of the Department of Labor, and
18 any transaction or exercise of authority by the director of the
19 division thereunder, or under this chapter (R.S.43:21-1 et seq.),
20 shall be deemed to be performed by the division.

21 (2) "Controller" means the Office of the Assistant
22 Commissioner for Finance and Controller of the Department of
23 Labor, established by the 1982 Reorganization Plan of the
24 Department of Labor.

25 (f) "Contributions" means the money payments to the State
26 Unemployment Compensation Fund, required by R.S.43:21-7.
27 "Payments in lieu of contributions" means the money payments
28 to the State Unemployment Compensation Fund by employers
29 electing or required to make payments in lieu of contributions, as
30 provided in section 3 or section 4 of P.L.1971, c.346 (C.43:21-7.2
31 or 43:21-7.3).

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

- 1 (h) "Employer" means:
- 2 (1) Any employing unit which in either the current or the
3 preceding calendar year paid remuneration for employment in the
4 amount of \$1,000.00 or more;
- 5 (2) Any employing unit (whether or not an employing unit at
6 the time of acquisition) which acquired the organization, trade or
7 business, or substantially all the assets thereof, of another which,
8 at the time of such acquisition, was an employer subject to this
9 chapter (R.S.43:21-1 et seq.);
- 10 (3) Any employing unit which acquired the organization, trade
11 or business, or substantially all the assets thereof, of another
12 employing unit and which, if treated as a single unit with such
13 other employing unit, would be an employer under paragraph (1)
14 of this subsection;
- 15 (4) Any employing unit which together with one or more other
16 employing units is owned or controlled (by legally enforceable
17 means or otherwise), directly or indirectly by the same interests,
18 or which owns or controls one or more other employing units (by
19 legally enforceable means or otherwise), and which, if treated as
20 a single unit with such other employing unit or interest, would be
21 an employer under paragraph (1) of this subsection;
- 22 (5) Any employing unit for which service in employment as
23 defined in R.S.43:21-19 (i) (1) (B) (i) is performed after
24 December 31, 1971; and as defined in R.S.43:21-19 (i) (1) (B) (ii) is
25 performed after December 31, 1977;
- 26 (6) Any employing unit for which service in employment as
27 defined in R.S.43:21-19 (i) (1) (C) is performed after December
28 31, 1971 and which in either the current or the preceding
29 calendar year paid remuneration for employment in the amount
30 of \$1,000.00 or more;
- 31 (7) Any employing unit not an employer by reason of any other
32 paragraph of this subsection (h) for which, within either the
33 current or preceding calendar year, service is or was performed
34 with respect to which such employing unit is liable for any
35 federal tax against which credit may be taken for contributions
36 required to be paid into a state unemployment fund; or which, as
37 a condition for approval of the "unemployment compensation
38 law" for full tax credit against the tax imposed by the Federal
39 Unemployment Tax Act, is required pursuant to such act to be an
40 employer under this chapter (R.S.43:21-1 et seq.);
- 41 (8) ~~(Deleted by amendment; P.L.1977, c.307.)~~
- 42 (9) ~~(Deleted by amendment; P.L.1977, c.307.)~~
- 43 (10) ~~(Deleted by amendment; P.L.1977, c.307.)~~
- 44 (11) Any employing unit subject to the provisions of the
45 Federal Unemployment Tax Act within either the current or the
46 preceding calendar year, except for employment hereinafter
47 excluded under paragraph (7) of subsection (i) of this section;
- 48 (12) Any employing unit for which agricultural labor in
49 employment as defined in R.S.43:21-19 (i) (1) (I) is performed
50 after December 31, 1977;
- 51 (13) Any employing unit for which domestic service in
52 employment as defined in R.S.43:21-19 (i) (1) (J) is performed
53 after December 31, 1977;
- 54 (14) Any employing unit which having become an employer

1 under the "unemployment compensation law" (R.S.43:21-1 et
2 seq.), has not under R.S.43:21-8 ceased to be an employer; or for
3 the effective period of its election pursuant to R.S.43:21-8, any
4 other employing unit which has elected to become fully subject to
5 this chapter (R.S.43:21-1 et seq.).

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

7 (A) Any service performed prior to January 1, 1972, which was
8 employment as defined in the "unemployment compensation law"
9 (R.S.43:21-1 et seq.) prior to such date, and, subject to the other
10 provisions of this subsection, service performed on or after
11 January 1, 1972, including service in interstate commerce,
12 performed for remuneration or under any contract of hire,
13 written or oral, express or implied.

14 (B) (i) Service performed after December 31, 1971 by an
15 individual in the employ of this State or any of its
16 instrumentalities or in the employ of this State and one or more
17 other states or their instrumentalities for a hospital or institution
18 of higher education located in this State, if such service is not
19 excluded from "employment" under paragraph (D) below.

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

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

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

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

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

43 (iii) Prior to January 1, 1978, in the employ of a school which
44 is not an institution of higher education, and after December 31,
45 1977, in the employ of a governmental entity referred to in
46 R.S.43:21-19 (i) (1) (B), if such service is performed by an
47 individual in the exercise of duties

48 (aa) as an elected official;

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

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

53 (dd) as an employee serving on a temporary basis in case of
54 fire, storm, snow, earthquake, flood or similar emergency;

1 (ee) in a position which, under or pursuant to the laws of this
2 State, is designated as a major nontenured policy making or
3 advisory position, or a policy making or advisory position, the
4 performance of the duties of which ordinarily does not require
5 more than eight hours per week; or

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

13 (v) By an individual receiving work-relief or work-training as
14 part of an unemployment work-relief or work-training program
15 assisted in whole or in part by any federal agency or an agency of
16 a state or political subdivision thereof; or

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

21 (E) The term "employment" shall include the services of an
22 individual who is a citizen of the United States, performed
23 outside the United States after December 31, 1971 (except in
24 Canada and in the case of the Virgin Islands, after December 31,
25 1971 and prior to January 1 of the year following the year in
26 which the U.S. Secretary of Labor approves the unemployment
27 compensation law of the Virgin Islands, under section 3304 (a)
28 of the Internal Revenue Code of 1986 (26 U.S.C. §3304 (a)) in the
29 employ of an American employer (other than the service which is
30 deemed employment under the provisions of R.S.43:21-19 (i) (2)
31 or (5) of the parallel provisions of another state's unemployment
32 compensation law), if

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

35 (ii) The American employer has no place of business in the
36 United States, but (I) the American employer is an individual who
37 is a resident of this State; or (II) the American employer is a
38 corporation which is organized under the laws of this State; or
39 (III) the American employer is a partnership or trust and the
40 number of partners or trustees who are residents of this State is
41 greater than the number who are residents of another state; or

42 (iii) None of the criteria of divisions (i) and (ii) of this
43 subparagraph (E) is met but the American employer has elected
44 to become an employer subject to the "unemployment
45 compensation law" (R.S.43:21-1 et seq.) in this State, or the
46 American employer having failed to elect to become an employer
47 in any state, the individual has filed a claim for benefits, based
48 on such service, under the law of this State;

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

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

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

16 (H) The term "United States" when used in a geographical
 17 sense in subsection R.S.43:21-19 (i) includes the states, the
 18 District of Columbia, the Commonwealth of Puerto Rico and,
 19 effective on the day after the day on which the U.S. Secretary of
 20 Labor approves for the first time under section 3304 (a) of the
 21 Internal Revenue Code of 1986 (26 U.S.C §3304 (a)) an
 22 unemployment compensation law submitted to the Secretary by
 23 the Virgin Islands for such approval, the Virgin Islands.

24 (I) (i) Service performed after December 31, 1977 in
 25 agricultural labor in a calendar year for an entity which is an
 26 employer as defined in the "unemployment compensation law,"
 27 (R.S.43:21-1 et seq.) as of January 1 of such year; or for an
 28 employing unit which

29 (aa) during any calendar quarter in either the current or the
 30 preceding calendar year paid remuneration in cash of \$20,000.00
 31 or more for individuals employed in agricultural labor, or

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

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

41 (aa) if such crew leader holds a certification of registration
 42 under the Migrant and Seasonal Agricultural Worker Protection
 43 Act, Pub.L.97-470 (29 U.S.C.§1801 et seq.), or P.L.1971, c.192
 44 (C.34:3A-7 et seq.); or substantially all the members of such crew
 45 operate or maintain tractors, mechanized harvesting or
 46 cropping equipment, or any other mechanized equipment,
 47 which is provided by such crew leader; and

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

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

54 (a) such other entity and not the crew leader shall be treated

- 1 as the employer of such individual; and
- 2 (bb) such other entity shall be treated as having paid cash
3 remuneration to such individual in an amount equal to the amount
4 of cash remuneration paid to such individual by the crew leader
5 (either on his own behalf or on behalf of such other entity) for the
6 service in agricultural labor performed for such other entity.
- 7 (iv) For the purpose of subparagraph (I) (i), the term "crew
8 leader" means an individual who
- 9 (aa) furnishes individuals to perform service in agricultural
10 labor for any other entity;
- 11 (bb) pays (either on his own behalf or on behalf of such other
12 entity) the individuals so furnished by him for the service in
13 agricultural labor performed by them; and
- 14 (cc) has not entered into a written agreement with such other
15 entity under which such individual is designated as an employee
16 of such other entity.
- 17 (J) Domestic service after December 31, 1977 performed in
18 the private home of an employing unit which paid cash
19 remuneration of \$1,000.00 or more to one or more individuals for
20 such domestic service in any calendar quarter in the current or
21 preceding calendar year.
- 22 (2) The term "employment" shall include an individual's entire
23 service performed within or both within and without this State if:
- 24 (A) The service is localized in this State; or
- 25 (B) The service is not localized in any state but some of the
26 service is performed in this State, and (i) the base of operations,
27 or, if there is no base of operations, then the place from which
28 such service is directed or controlled, is in this State; or (ii) the
29 base of operations or place from which such service is directed or
30 controlled is not in any state in which some part of the service is
31 performed, but the individual's residence is in this State.
- 32 (3) Services performed within this State but not covered under
33 paragraph (2) of this subsection shall be deemed to be
34 employment subject to this chapter (R.S.43:21-1 et seq.) if
35 contributions are not required and paid with respect to such
36 services under an unemployment compensation law of any other
37 state or of the federal government.
- 38 (4) Services not covered under paragraph (2) of this subsection
39 and performed entirely without this State, with respect to no part
40 of which contributions are required and paid under an
41 unemployment compensation law of any other state or of the
42 federal government, shall be deemed to be employment subject to
43 this chapter (R.S.43:21-1 et seq.) if the individual performing
44 such services is a resident of this State and the employing unit
45 for whom such services are performed files with the division an
46 election that the entire service of such individual shall be deemed
47 to be employment subject to this chapter (R.S.43:21-1 et seq.).
- 48 (5) Service shall be deemed to be localized within a state if:
- 49 (A) The service is performed entirely within such state; or
- 50 (B) The service is performed both within and without such
51 state, but the service performed without such state is incidental
52 to the individual's service within the state; for example, is
53 temporary or transitory in nature or consists of isolated
54 transactions.

- 1 (6) Services performed by an individual for remuneration shall
2 be deemed to be employment subject to this chapter (R.S.43:21-1
3 et seq.) unless and until it is shown to the satisfaction of the
4 division that:
- 5 (A) Such individual has been and will continue to be free from
6 control or direction over the performance of such service, both
7 under his contract of service and in fact; and
- 8 (B) Such service is either outside the usual course of the
9 business for which such service is performed, or that such service
10 is performed outside of all the places of business of the
11 enterprise for which such service is performed; and
- 12 (C) Such individual is customarily engaged in an independently
13 established trade, occupation, profession or business.
- 14 (7) Provided that such services are also exempt under the
15 Federal Unemployment Tax Act, as amended, or that
16 contributions with respect to such services are not required to be
17 paid into a state unemployment fund as a condition for a tax
18 offset credit against the tax imposed by the Federal
19 Unemployment Tax Act, as amended, the term "employment"
20 shall not include:
- 21 (A) Agricultural labor performed prior to January 1, 1978; and
22 after December 31, 1977, only if performed in a calendar year for
23 an entity which is not an employer as defined in the
24 "unemployment compensation law," (R.S.43:21-1 et seq.) as of
25 January 1 of such calendar year; or unless performed for an
26 employing unit which
- 27 (i) during a calendar quarter in either the current or the
28 preceding calendar year paid remuneration in cash of \$20,000.00
29 or more to individuals employed in agricultural labor, or
- 30 (ii) for some portion of a day in each of 20 different calendar
31 weeks, whether or not such weeks were consecutive, in either the
32 current or the preceding calendar year, employed in agricultural
33 labor 10 or more individuals, regardless of whether they were
34 employed at the same moment in time;
- 35 (B) Domestic service in a private home performed prior to
36 January 1, 1978; and after December 31, 1977, unless performed
37 in the private home of an employing unit which paid cash
38 remuneration of \$1,000.00 or more to one or more individuals for
39 such domestic service in any calendar quarter in the current or
40 preceding calendar year;
- 41 (C) Service performed by an individual in the employ of his
42 son, daughter or spouse, and service performed by a child under
43 the age of 18 in the employ of his father or mother;
- 44 (D) Service performed prior to January 1, 1978, in the employ
45 of this State or of any political subdivision thereof or of any
46 instrumentality of this State or its political subdivisions, except
47 as provided in R.S.43:21-19 (i) (1) (B) above, and service in the
48 employ of the South Jersey Port Corporation or its successors;
- 49 (E) Service performed in the employ of any other state or its
50 political subdivisions or of an instrumentality of any other state
51 or states or their political subdivisions to the extent that such
52 instrumentality is with respect to such service exempt under the
53 Constitution of the United States from the tax imposed under the
54 Federal Unemployment Tax Act, as amended, except as provided

1 in R.S.43:21-19 (i) (1) (B) above;

2 (F) Service performed in the employ of the United States
3 Government or of any instrumentality of the United States
4 except under the Constitution of the United States from the
5 contributions imposed by the "unemployment compensation law,"
6 except that to the extent that the Congress of the United States
7 shall permit states to require any instrumentalities of the United
8 States to make payments into an unemployment fund under a
9 state unemployment compensation law, all of the provisions of
10 this act shall be applicable to such instrumentalities, and to
11 service performed for such instrumentalities, in the same
12 manner, to the same extent and on the same terms as to all other
13 employers, employing units, individuals and services; provided
14 that if this State shall not be certified for any year by the
15 Secretary of Labor of the United States under section 3304 of the
16 federal Internal Revenue Code of 1986 (26 U.S.C. §3304), the
17 payments required of such instrumentalities with respect to such
18 year shall be refunded by the division from the fund in the same
19 manner and within the same period as is provided in R.S.43:21-14
20 (f) with respect to contributions erroneously paid to or collected
21 by the division;

22 (G) Services performed in the employ of fraternal beneficiary
23 societies, orders, or associations operating under the lodge
24 system or for the exclusive benefit of the members of a
25 fraternity itself operating under the lodge system and providing
26 for the payment of life, sick, accident, or other benefits to the
27 members of such society, order, or association, or their
28 dependents;

29 (H) Services performed as a member of the board of directors,
30 a board of trustees, a board of managers, or a committee of any
31 bank, building and loan, or savings and loan association,
32 incorporated or organized under the laws of this State or of the
33 United States, where such services do not constitute the principal
34 employment of the individual;

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

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

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

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

50 (M) Service performed for or in behalf of the owner or
51 operator of any theatre, ballroom, amusement hall or other place
52 of entertainment, not in excess of 10 weeks in any calendar year
53 for the same owner or operator, by any leader or musician of a
54 band or orchestra, commonly called a "name band," entertainer,

- 1 vaudeville artist, actor, actress, singer or other entertainer;
- 2 (N) Services performed after January 1, 1973 by an individual
3 for a labor union organization, known and recognized as a union
4 local, as a member of a committee or committees reimbursed by
5 the union local for time lost from regular employment, or as a
6 part-time officer of a union local and the remuneration for such
7 services is less than \$1,000.00 in a calendar year;
- 8 (O) Services performed in the sale or distribution of
9 merchandise by home-to-home salespersons or in-the-home
10 demonstrators whose remuneration consists wholly of
11 commissions or commissions and bonuses;
- 12 (P) Service performed in the employ of a foreign government,
13 including service as a consular, nondiplomatic representative, or
14 other officer or employee;
- 15 (Q) Service performed in the employ of an instrumentality
16 wholly owned by a foreign government if (i) the service is of a
17 character similar to that performed in foreign countries by
18 employees of the United States Government or of an
19 instrumentality thereof, and (ii) the division finds that the United
20 States Secretary of State has certified to the United States
21 Secretary of the Treasury that the foreign government, with
22 respect to whose instrumentality exemption is claimed, grants an
23 equivalent exemption with respect to similar services performed
24 in the foreign country by employees of the United States
25 Government and of instrumentalities thereof;
- 26 (R) Service in the employ of an international organization
27 entitled to enjoy the privileges, exemptions and immunities under
28 the International Organizations Immunities Act (22 U.S.C. §288 et
29 seq.);
- 30 (S) Service covered by an election duly approved by an agency
31 charged with the administration of any other state or federal
32 unemployment compensation or employment security law, in
33 accordance with an arrangement pursuant to R.S.43:21-21 during
34 the effective period of such election;
- 35 (T) Service performed in the employ of a school, college, or
36 university if such service is performed (i) by a student enrolled at
37 such school, college, or university on a full-time basis in an
38 educational program or completing such educational program
39 leading to a degree at any of the severally recognized levels, or
40 (ii) by the spouse of such a student, if such spouse is advised at
41 the time such spouse commences to perform such service that (I)
42 the employment of such spouse to perform such service is
43 provided under a program to provide financial assistance to such
44 student by such school, college, or university, and (II) such
45 employment will not be covered by any program of unemployment
46 insurance;
- 47 (U) Service performed by an individual who is enrolled at a
48 nonprofit or public educational institution which normally
49 maintains a regular faculty and curriculum and normally has a
50 regularly organized body of students in attendance at the place
51 where its educational activities are carried on, as a student in a
52 full-time program, taken for credit at such institution, which
53 combines academic instruction with work experience, if such
54 service is an integral part of such program, and such institution

1 has so certified to the employer, except that this subparagraph
2 shall not apply to service performed in a program established for
3 or on behalf of an employer or group of employers;

4 (V) Service performed in the employ of a hospital, if such
5 service is performed by a patient of the hospital; service
6 performed as a student nurse in the employ of a hospital or a
7 nurses' training school by an individual who is enrolled and
8 regularly attending classes in a nurses' training school approved
9 under the laws of this State; and service performed as an intern
10 in the employ of a hospital by an individual who has completed a
11 four-year course in a medical school approved pursuant to the
12 laws of this State;

13 (W) Services performed after the effective date of this
14 amendatory act by agents of mutual benefit associations if the
15 compensation to such agents for such services is wholly on a
16 commission basis;

17 (X) Services performed by operators of motor vehicles
18 weighing 18,000 pounds or more, licensed for commercial use and
19 used for the highway movement of motor freight, who own their
20 equipment or who lease or finance the purchase of their
21 equipment through an entity which is not owned or controlled
22 directly or indirectly by the entity for which the services were
23 performed and who were compensated by receiving a percentage
24 of the gross revenue generated by the transportation move or by
25 a schedule of payment based on the distance and weight of the
26 transportation move;

27 (Y) Services performed by a certified shorthand reporter
28 certified pursuant to P.L.1940, c.175 (C.45:15B-1 et seq.),
29 provided to a third party by the reporter who is referred to the
30 third party pursuant to an agreement with another certified
31 shorthand reporter or shorthand reporting service, on a freelance
32 basis, compensation for which is based upon a fee per transcript
33 page, flat attendance fee, or other flat minimum fee, or
34 combination thereof, set forth in the agreement;

35 (Z) Services performed, using facilities provided by a travel
36 agent, by a person, commonly known as an outside travel agent,
37 who acts as an independent contractor, is paid on a commission
38 basis, sets his own work schedule and receives no benefits, sick
39 leave, vacation or other leave from the travel agent owning the
40 facilities.

41 (8) If one-half or more of the services in any pay period
42 performed by an individual for an employing unit constitutes
43 employment, all the services of such individual shall be deemed
44 to be employment; but if more than one-half of the service in any
45 pay period performed by an individual for an employing unit does
46 not constitute employment, then none of the service of such
47 individual shall be deemed to be employment. As used in this
48 paragraph, the term "pay period" means a period of not more
49 than 31 consecutive days for which a payment for service is
50 ordinarily made by an employing unit to individuals in its employ.

51 (9) Services performed by the owner of a limousine franchise
52 (franchisee) shall not be deemed to be employment subject to the
53 "unemployment compensation law," R.S.43:21-1 et seq., with
54 regard to the franchisor if:

1 (A) The limousine franchisee is incorporated;

2 (B) The franchisee is subject to regulation by the Interstate
3 Commerce Commission;

4 (C) The limousine franchise exists pursuant to a written
5 franchise arrangement between the franchisee and the franchisor
6 as defined by section 3 of P.L.1971, c.356 (C.56:10-3); and

7 (D) The franchisee registers with the Department of Labor and
8 receives an employer registration number.

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

12 (k) (Deleted by amendment, P.L.1984, c.24.)

13 (l) "State" includes, in addition to the states of the United
14 States of America, the District of Columbia, the Virgin Islands
15 and Puerto Rico.

16 (m) "Unemployment."

17 (1) An individual shall be deemed "unemployed" for any week
18 during which [he] :

19 (A) The individual is not engaged in full-time work and with
20 respect to which his remuneration is less than his weekly benefit
21 rate, including any week during which he is on vacation without
22 pay; provided such vacation is not the result of the individual's
23 voluntary action, except that for benefit years commencing on or
24 after July 1, 1984, an officer of a corporation, or a person who
25 has more than a 5% equitable or debt interest in the corporation,
26 whose claim for benefits is based on wages with that corporation
27 shall not be deemed to be unemployed in any week during the
28 individual's term of office or ownership in the corporation; or

29 (B) The individual is eligible for and receiving a
30 self-employment assistance allowance pursuant to the
31 requirements of ²[this 1994 amendatory and supplementary act]
32 P.L. , c. (C.)(now pending before the Legislature as
33 this bill)².

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

39 (3) An individual's week of unemployment shall be deemed to
40 commence only after the individual has filed a claim at an
41 unemployment insurance claims office, except as the division
42 may by regulation otherwise prescribe.

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

47 (o) "Wages" means remuneration paid by employers for
48 employment. If a worker receives gratuities regularly in the
49 course of his employment from other than his employer, his
50 "wages" shall also include the gratuities so received, if reported
51 in writing to his employer in accordance with regulations of the
52 division, and if not so reported, his "wages" shall be determined
53 in accordance with the minimum wage rates prescribed under any
54 labor law or regulation of this State or of the United States, or

1 the amount of remuneration actually received by the employee
2 from his employer, whichever is the higher.

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

6 (q) "Week" means for benefit years commencing on or after
7 October 1, 1984, the calendar week ending at midnight Saturday,
8 or as the division may by regulation prescribe.

9 (r) "Calendar quarter" means the period of three consecutive
10 calendar months ending March 31, June 30, September 30, or
11 December 31.

12 (s) "Investment company" means any company as defined in
13 subsection a. of section 1 of P.L.1938, c.322 (C.17:16A-1).

14 (t) (1) ²["Base week" for a benefit year commencing prior to
15 October 1, 1984, means, except as otherwise provided in
16 paragraph (2) of this subsection, any calendar week of an
17 individual's base year during which he earned in employment
18 from an employer remuneration equal to not less than \$30.00.
19 "Base week" for a benefit year commencing on or after
20 October 1, 1984 and prior to October 1, 1985 means any calendar
21 week of an individual's base year during which the individual
22 earned in employment from an employer remuneration equal to
23 not less than 15% of the Statewide average weekly remuneration
24 defined in subsection (c) of R.S.43:21-3, which shall be adjusted
25 to the next higher multiple of \$1.00 if not already a multiple
26 thereof.]²

27 "Base week" for a benefit year commencing on or after
28 October 1, 1985 ²and before January 1, 1996² means, ²[except as
29 otherwise provided in paragraph (2) of this subsection,]² any
30 calendar week of an individual's base year during which the
31 individual earned in employment from an employer remuneration
32 equal to not less than 20% of the Statewide average weekly
33 remuneration defined in subsection (c) of R.S.43:21-3 which shall
34 be adjusted to the next higher multiple of \$1.00 if not already a
35 multiple thereof; provided if in any calendar week an individual is
36 in employment with more than one employer, he may in such
37 calendar week establish a base week with respect to each such
38 employer from whom the individual earns remuneration equal to
39 not less than the amount defined in this paragraph (1) during such
40 week.

41 (2) "Base week," ²[with respect to an individual claiming
42 benefits on the basis of service performed in the production and
43 harvesting of agricultural crops, means,]² for a benefit year
44 commencing on or after ²[October] January² 1, ²[1984 and before
45 January 1, 1985, any calendar week of an individual's base year
46 during which the individual earned in employment from an
47 employer remuneration equal to not less than \$30.00,] 1996,
48 means:

49 (A) Any calendar week of an individual's base year during
50 which the individual earned in employment from an employer
51 remuneration not less than an amount which is 20% of the
52 Statewide average weekly remuneration defined in subsection (c)
53 of R.S.43:21-3 which amount shall be adjusted to the next higher
54 multiple of \$1.00 if not already a multiple thereof,² except that

1 if in any calendar week an individual subject to this ²[paragraph]
 2 subparagraph (A)² is in employment with more than one
 3 employer, the individual may in that calendar week establish a
 4 base week with respect to each of the employers from whom the
 5 individual earns remuneration equal to not less than the amount
 6 defined in this ²[paragraph (2)] subparagraph (A)² during that
 7 week ²; or

8 (B) If the individual does not establish in his base year 20 or
 9 more base weeks as defined in subparagraph (A) of this paragraph
 10 (2), any calendar week of an individual's base year during which
 11 the individual earned in employment from an employer
 12 remuneration not less than an amount 20 times the minimum
 13 wage in effect pursuant to section 5 of P.L.1966, c.113
 14 (C.34:11-56a4) on October 1 of the calendar year preceding the
 15 calendar year in which the benefit year commences, which
 16 amount shall be adjusted to the next higher multiple of \$1.00 if
 17 not already a multiple thereof, except that if in any calendar
 18 week an individual subject to this subparagraph (B) is in
 19 employment with more than one employer, the individual may in
 20 that calendar week establish a base week with respect to each of
 21 the employers from whom the individual earns remuneration not
 22 less than the amount defined in this subparagraph (B) during that
 23 week.²

24 (u) "Average weekly wage" means the amount derived by
 25 dividing an individual's total wages received during his base year
 26 base weeks (as defined in subsection (t) of this section) from that
 27 most recent base year employer with whom he has established at
 28 least 20 base weeks, by the number of base weeks in which such
 29 wages were earned. In the event that such claimant had no
 30 employer in his base year with whom he had established at least
 31 20 base weeks, then such individual's average weekly wage shall
 32 be computed as if all of his base week wages were received from
 33 one employer and as if all his base weeks of employment had been
 34 performed in the employ of one employer.

35 For the purpose of computing the average weekly wage, the
 36 monetary alternative in ²subparagraph (B) of paragraph (2) of²
 37 ~~subsection~~ (e) of R.S.43:21-4 shall only apply in those instances
 38 ~~where~~ the individual did not have at least 20 base weeks in the
 39 base year. For benefit years commencing on or after July 1,
 40 1986, "average weekly wage" means the amount derived by
 41 ~~dividing~~ an individual's total base year wages by the number of
 42 base weeks worked by the individual during the base year;
 43 ~~provided~~ that for the purpose of computing the average weekly
 44 wage, the maximum number of base weeks used in the divisor
 45 shall be 52.

46 (v) "Initial determination" means, subject to the provisions of
 47 R.S.43:21-6(b)(2) and (3), a determination of benefit rights as
 48 measured by an eligible individual's base year employment with a
 49 single employer covering all periods of employment with that
 50 employer during the base year. For benefit years commencing
 51 prior to July 1, 1986, subject to the provisions of
 52 R.S.43:21-3(d)(3), if an individual has been in employment in his
 53 base year with more than one employer, no benefits shall be paid
 54 to that individual under any successive initial determination until

1 his benefit rights have been exhausted under the next preceding
2 initial determination.

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

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

9 (y) (1) "Educational institution" means any public or other
10 nonprofit institution (including an institution of higher education):

11 (A) In which participants, trainees, or students are offered an
12 organized course of study or training designed to transfer to them
13 knowledge, skills, information, doctrines, attitudes or abilities
14 from, by or under the guidance of an instructor (s) or teacher (s);

15 (B) Which is approved, licensed or issued a permit to operate
16 as a school by the State Department of Education or other
17 government agency that is authorized within the State to
18 approve, license or issue a permit for the operation of a school;
19 and

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

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

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

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

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

36 (D) Is a public or other nonprofit institution.

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

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

42 (cf P.L.1995, c.234, s.3)

43 § 10. Section 4 of P.L.1992, c.43 (C.34:15D-4) is amended to
44 read as follows:

45 4. a. The Workforce Development Partnership Program is
46 hereby established in the Department of Labor and shall be
47 administered by the Commissioner of Labor. The purpose of the
48 program is to provide qualified displaced, disadvantaged and
49 employed workers with the employment and training services
50 most likely to provide the greatest opportunity for long-range
51 career advancement with high levels of productivity and earning
52 power. To implement that purpose, the program shall provide
53 these services by means of training grants or customized training
54 services, to the extent that funding for the services is not

- 1 available from federal or other sources. The commissioner is
 2 authorized to expend moneys from the Workforce Development
 3 Partnership Fund to provide the training grants or customized
 4 training services and provide for each of the following:
- 5 (1) The cost of counseling required pursuant to section 7 of
 6 P.L.1992, c.43 (C.34:15D-7), to the extent that adequate funding
 7 for counseling is not available from federal or other sources;
- 8 (2) Reasonable administrative costs not to exceed 10% of the
 9 revenues collected pursuant to section 2 of P.L.1992, c.44
 10 (C.34:15D-13) during any one fiscal year, except for additional
 11 start-up administrative costs approved by the Director of the
 12 Office of Management and Budget during the first year of the
 13 program's operation;
- 14 (3) Reasonable costs, not exceeding 0.5% of the revenues
 15 collected pursuant to section 2 of P.L.1992, c.44 (C.34:15D-13)
 16 during any one fiscal year, as required by the State Employment
 17 and Training Commission to design criteria and conduct an annual
 18 evaluation of the program; and
- 19 (4) The cost of reimbursement to individuals for excess
 20 contributions pursuant to section 6 of P.L.1992, c.44
 21 (C.34:15D-17).
- 22 b Not more than 10% of the moneys received by any service
 23 provider pursuant to this act shall be expended on anything other
 24 than direct costs to the provider of providing the employment and
 25 training services, which direct costs shall not include any
 26 administrative or overhead expense of the provider.
- 27 c. Training and employment services shall be provided to a
 28 worker who receives counseling pursuant to section 7 of P.L.1992,
 29 c.43 (C.34:15D-7) only if the counselor who evaluates the worker
 30 pursuant to that section determines that the worker can
 31 reasonably be expected to successfully complete the training and
 32 education identified in the Employability Development Plan
 33 developed pursuant to that section for the worker.
- 34 d. All vocational training provided under this act:
- 35 (1) Shall be training which is likely to substantially enhance
 36 the individual's marketable skills and earning power; and
- 37 (2) Shall be training for a labor demand occupation, except
 38 for
- 39 (a) Customized training provided to the present employees of a
 40 business which the commissioner deems to be in need of the
 41 training to prevent job loss caused by obsolete skills,
 42 technological change or national or global competition; or
- 43 (b) Customized training provided to employees at a facility
 44 which is being relocated from another state into New Jersey; or
- 45 (c) Entrepreneurial training and technical assistance supported
 46 by training grants provided pursuant to subsection b. of section 6
 47 of P.L.1992, c.43 (C.34:15D-6).
- 48 e. Not less than 27% of the total revenues dedicated to the
 49 program during any one fiscal year shall be reserved to provide
 50 employment and training services for qualified displaced workers.
 51 Eight percent of the total revenues dedicated to the program
 52 during any one fiscal year shall be reserved to provide
 53 employment and training services for qualified disadvantaged
 54 workers. Not less than 3% of the total revenues dedicated to the

1 program during any one fiscal year shall be reserved for
2 occupational safety and health training. Beginning July 1, 1994,
3 5% of the total revenues dedicated to the program during any one
4 fiscal year shall be reserved for and appropriated to the Youth
5 Transitions to Work Partnership created pursuant to P.L.1993,
6 c.268 (C.34:15E-1 et seq.).

7 f. Funds available under the program shall not be used for
8 activities which induce, encourage or assist: any displacement of
9 currently employed workers by trainees, including partial
10 displacement by means such as reduced hours of currently
11 employed workers; any replacement of laid off workers by
12 trainees; or any relocation of operations resulting in a loss of
13 employment at a previous workplace located in the State.

14 g. On-the-job training shall not be funded by the program for
15 any employment found by the commissioner to be of a level of
16 skill and complexity too low to merit training. The duration of
17 on-the-job training funded by the program for any worker shall
18 not exceed the duration indicated by the Specific Vocational
19 Preparation Code developed by the United States Department of
20 Labor for the occupation for which the training is provided and
21 shall in no case exceed 26 weeks. The department shall set the
22 duration of on-the-job training for a worker for less than the
23 indicated maximum, when training for the maximum duration is
24 not warranted because of the level of the individual's previous
25 training, education or work experience. On-the-job training shall
26 not be funded by the program unless it is accompanied,
27 concurrently or otherwise, by whatever amount of
28 classroom-based vocational training, remedial education or both,
29 is deemed appropriate for the worker by the commissioner.

30 h. Employment and training services funded by the program
31 shall not replace, supplant, compete with or duplicate in any way
32 approved apprenticeship programs.

33 i. No activities funded by the program shall impair existing
34 contracts for services or collective bargaining agreements,
35 except that activities which would be inconsistent with the terms
36 of a collective bargaining agreement may be undertaken with the
37 written concurrence of the collective bargaining unit and
38 employer who are parties to the agreement.²

39 (cf: P.L.1994, c.73, s.1)

40 ²11. Section 6 of P.L.1992, c.43 (C.34:15D-6) is amended to
41 read as follows:

42 6. a. The Workforce Development Partnership Program shall,
43 to the extent that resources available in the fund permit, provide,
44 for each qualified displaced or disadvantaged worker who
45 undergoes counseling pursuant to section 7 of this act, a training
46 grant to pay for employment and training services which are
47 identified in the Employability Development Plan developed
48 pursuant to that section for that worker. No training grant made
49 pursuant to this subsection during the first 12 months following
50 July 1, 1992 shall exceed the amount deemed reasonable by the
51 commissioner for the particular training, which amount shall not
52 exceed \$4,000, except that the commissioner may permit an
53 additional amount, if he deems it necessary to provide remedial
54 education identified in the Employability Development Plan.

1 b. The Workforce Development Partnership Program may
2 provide, for any individual who is selected to receive a
3 self-employment assistance allowance pursuant to section 4 of
4 P.L.1995, c. (C.) (now pending before the Legislature as
5 this bill), a training grant to pay for entrepreneurial training and
6 technical assistance deemed necessary and appropriate by the
7 commissioner to help the individual to become self-employed. A
8 training grant made pursuant to this subsection shall be in an
9 amount deemed reasonable by the commissioner for the
10 particular training, but, during the first 12 months following
11 January 1, 1996, shall not be in an amount which exceeds \$400,
12 or, if the grant is for training provided by any public institution
13 of higher education indicated in N.J.S.18A:62-1, shall not be in an
14 amount which exceeds \$1,500.

15 c. The maximum amounts permitted for training grants made
16 pursuant to subsections a. or b. of this section may be adjusted
17 annually thereafter by the commissioner, taking into
18 consideration changes in the prevailing costs of services and the
19 availability of alternative sources of funding for the services.
20 Any cost for employment and training services which exceeds the
21 amount of a training grant shall be the responsibility of the
22 worker receiving the grant. The cost of counseling provided
23 pursuant to section 7 of this act shall not be charged against the
24 training grant. No portion of a training grant may be expended
25 on wage subsidies.

26 d. If the requirements of this section and sections 4 and 7 of
27 this act are met, a qualified displaced or disadvantaged worker
28 shall not be denied a training grant for any of the following
29 reasons: the training includes remedial education needed by the
30 worker to succeed in the vocational component of the training;
31 the training is part of a program under which the worker may
32 obtain any college degree enhancing the worker's marketable
33 skills and earning power; the length of the training period under
34 the program; or the lack of a prior guarantee of employment upon
35 completion of the training.²

36 (c^f P.L.1992, c.43, s.6)

37 [11.] 12.² This act shall take effect on the 180th day
38 following enactment.

39

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42

43 The "Self-Employment Assistance and Entrepreneurial Training
44 Act."

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

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

9 (D) Is a public or other nonprofit institution.

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

13 (z) "Hospital" means an institution which has been licensed,
14 certified or approved under the law of this State as a hospital.
15 (cf: P.L.1993, c.312, s.1)

16 11. This act shall take effect on the 180th day following
17 enactment.

18

19

20

STATEMENT

21

22 **The** bill establishes a Self-Employment Assistance Financing
23 **Program** within the New Jersey Economic Development Authority
24 **(EDA)** to: (1) assist unemployed individuals who demonstrate the
25 **ability** to become small-business entrepreneurs in establishing
26 new businesses; (2) help involve participants with public and
27 non-profit community and economic development agencies,
28 educational, community and financial institutions, community
29 business groups and each other; and (3) provide this assistance at
30 the **lowest** possible public cost, through micro-lending, training,
31 and technical assistance. The EDA has recognized the
32 "micro-lending" approach, and through its newly created
33 **Entrepreneurial Training Institute**, is undertaking a small
34 **business**, entrepreneurial development program among minority,
35 **female** and small business entrepreneurs in Atlantic City and
36 **Camden**.

37 A central component to facilitating success for program
38 participants is the use of "peer groups," each with not more than
39 **twenty** participants who provide mutual assistance and support
40 for each other's efforts to establish businesses and become
41 self-employed entrepreneurs. Services provided to participants
42 in **the** program, including entrepreneurial training, business
43 **counseling**, and technical assistance, would be provided
44 **principally** through peer groups. The EDA would also be able to
45 **make** use of the peer groups when providing loans and loan
46 **guarantees** to participants.

47 To assist in carrying out the purposes of the EDA program, the
48 bill **also** establishes a program in the State Department of Labor
49 to assist laid-off workers in their efforts to become
50 self-employed.

51 Each new claimant who qualifies for regular unemployment
52 benefits would be evaluated under the worker profiling system
53 established by the bill to determine whether the claimant is
54 among those who are likely to exhaust unemployment benefits. If

1 so, the claimant could apply to the department for
2 self-employment assistance. The department may refer the
3 applicant to the EDA for business counseling, technical assistance
4 and entrepreneurial training. The purpose of those services is to
5 help the claimant to meet prerequisites for receiving a
6 self-employment assistance allowance, including developing an
7 acceptable business plan and obtaining adequate commitments for
8 financing and further services as needed to implement the plan.
9 If the EDA certifies that the prerequisites have been met, the
10 department may approve payment to the claimant of a
11 self-employment assistance allowance.

12 A self-employment assistance allowance is a weekly allowance
13 paid from the unemployment compensation fund in lieu of, and
14 equal to, regular unemployment benefits. To receive the
15 allowance an unemployed worker must participate on a full-time
16 basis in self-employment assistance activities for the purpose of
17 establishing a business and becoming self-employed. The
18 requirements to be available for work and search for work which
19 apply when receiving regular unemployment benefits do not apply
20 when receiving a self-employment assistance allowance. No
21 reduction is made in the allowance due to income earned in
22 self-employment.

23 The allowance and regular unemployment benefits may not be
24 paid to a person during the same period. During any benefit year,
25 the sum of the allowance and regular benefits paid to a person
26 may not exceed the maximum amount allowed for regular
27 benefits alone. The allowances are charged to employers in the
28 same manner as regular benefits.

29 The number of people receiving self-employment assistance
30 allowances at any time is limited to 1% of the number of people
31 receiving regular unemployment benefits.

32 The bill also establishes a worker profiling system to help
33 determine which new claimants for regular unemployment
34 benefits are likely to exhaust benefits and have the greatest need
35 for reemployment services to find new employment. The system
36 would be used in making referrals not only for the
37 self-employment assistance program, but also for reemployment
38 services, such as job search and job placement services. It may
39 be used in making referrals to other benefits and services, such as
40 job training, but not to exclude anyone from seeking or receiving
41 services, except where the exclusion is required by federal law,
42 which is the case for self-employment assistance services. An
43 individual found likely to exhaust benefits may be required, as a
44 condition for receiving regular benefits, to participate in
45 available reemployment services (but not other services) to which
46 the individual is referred, unless it is found that the individual has
47 completed reemployment services or is participating in other
48 department-approved activities to assist reemployment or
49 enhance marketable skills and earning power. No characteristic
50 may be used to determine whether the individual is likely to
51 exhaust benefits unless it is demonstrated to be an actual
52 indicator of a high likelihood that benefits will be exhausted.

1

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3 The "Self-Employment Assistance and Entrepreneurial Training

4 Act."

SENATE NATURAL RESOURCES, TRADE AND
ECONOMIC DEVELOPMENT COMMITTEE

STATEMENT TO

SENATE, No. 1428

with committee amendments

STATE OF NEW JERSEY

DATED: DECEMBER 1, 1994

The Senate Natural Resources, Trade and Economic Development Committee favorably reports Senate Bill No.1428, with Senate committee amendments.

The bill establishes a Self Employment Assistance Financing Program within the New Jersey Economic Development Authority (EDA) to: (1) assist unemployed individuals who demonstrate the ability to become small business entrepreneurs in establishing new businesses, (2) help involve participants with public, private and non-profit community and economic development agencies, educational, community and financial institutions, community business groups and each other; and (3) provide this assistance at the lowest possible public cost, through micro-lending, training, and technical assistance. The EDA has recognized the "micro lending" approach, and through its newly created Entrepreneurial Training Institute, is providing entrepreneurial training for minority, female and small business entrepreneurs in Atlantic City and Camden.

A central component of the program is the use of "peer groups," each with not more than twenty participants who provide mutual assistance and support for each other's efforts to establish businesses and become self-employed entrepreneurs. Training, counseling and technical services would be provided to program participants principally through peer groups. The EDA could consider the recommendations and past experience of a peer group when providing loans and loan guarantees to members of the group.

The bill also establishes a program in the State Department of Labor to assist laid-off workers in their efforts to become self-employed. Each new claimant who qualifies for regular unemployment benefits would be evaluated under the worker profiling system established by the bill to determine whether the claimant is among those who are likely to exhaust unemployment benefits. If so, the claimant could apply to the department for self-employment assistance. The department may refer the applicant to the EDA for business counseling, technical assistance and entrepreneurial training. The purpose of those services is to help the claimant to meet prerequisites for receiving a self-employment assistance allowance, including developing an acceptable business plan and obtaining adequate commitments for financing and further services as needed to implement the plan. If the EDA certifies that the prerequisites have been met, the department may approve payment to the claimant of a self-employment assistance allowance.

A self-employment assistance allowance is a weekly allowance paid from the unemployment compensation fund in lieu of, and equal to, regular unemployment benefits. To receive the allowance an unemployed worker must participate on a full-time basis in

self-employment assistance activities. The requirements to be available for work and search for work which apply when receiving regular unemployment benefits do not apply when receiving a self-employment assistance allowance. No reduction is made in the allowance due to income earned in self-employment.

The number of people receiving self-employment assistance allowances at any time is limited to 0.5% of the number of people receiving regular unemployment benefits. It is estimated that about 200 individuals will receive the benefits during the first year of the program.

The bill also establishes a worker profiling system to help determine which new claimants for regular unemployment benefits are likely to exhaust benefits and have the greatest need for reemployment services to find new employment. The system would be used in making referrals not only for the self-employment assistance program, but also for reemployment services, such as job search and job placement services. It may be used in making referrals to other benefits and services, such as job training, but not to exclude anyone from seeking or receiving services, except where the exclusion is required by federal law, which is the case for self-employment assistance services. An individual found likely to exhaust benefits may be required, as a condition for receiving regular benefits, to participate in available reemployment services (but not other services) to which the individual is referred, unless it is found that the individual has completed reemployment services or is participating in other department-approved activities to assist reemployment or enhance marketable skills and earning power. Factors may not be used to determine whether the individual is likely to exhaust benefits unless they are demonstrated to be an actual indicator of a high likelihood that benefits will be exhausted.

The committee amendments:

1. Permit the EDA to use funds from other State agencies and authorities for loans and loan guarantees to participants;
2. Permit the EDA to develop underwriting criteria appropriate for the purposes of the program;
3. Provide that the EDA and the Department of Labor jointly select any outside provider of self-employment assistance services;
4. Make EDA responsible for informing the Department of Labor whenever a program participant fails to participate on a full-time basis; and
5. Reduce the maximum number of people receiving self-employment assistance allowances at any time from 1% of the total number of people receiving regular unemployment benefits to 0.5%.

SENATE BUDGET AND APPROPRIATIONS COMMITTEE

STATEMENT TO

[FIRST REPRINT]

SENATE, No. 1428

with Senate committee amendments

STATE OF NEW JERSEY

DATED: DECEMBER 11, 1995

The Senate Budget and Appropriations Committee reports favorably Senate Bill No. 1428 [1R] with committee amendments.

Senate Bill No. 1428 [1R] of 1995, as amended, establishes a program in the Department of Labor to help laid-off workers become self-employed. A person who qualifies for regular unemployment benefits will be evaluated under the worker profiling system established by the bill to determine if the person is likely to exhaust unemployment benefits. If so, the person may apply to the department for a self-employment assistance allowance and related entrepreneurial training and technical assistance.

A self-employment assistance allowance is a weekly allowance paid from the unemployment compensation fund in lieu of, and equal to, regular unemployment benefits. To receive the allowance, a laid-off individual must participate on a full-time basis in self-employment assistance activities. The requirements to be available for work and search for work which apply when receiving regular unemployment benefits would not apply when receiving a self-employment assistance allowance. No reduction is made in the allowance due to income earned in self-employment.

The bill limits the number of persons receiving self-employment assistance allowances at any time to 0.5% of the number of persons receiving regular unemployment benefits. It is estimated that about 200 individuals will receive the benefits during the first year of the program.

A person may receive an entrepreneurial training grant from the Workforce Development Partnership Program of not more than \$400 to pay for training and assistance, or, if the training and assistance are provided by a public institution of higher education, not more than \$1,500.

The bill also establishes a worker profiling system to determine which new claimants for unemployment benefits are likely to exhaust benefits and have the greatest need for services to find new jobs. The system would be used in making referrals not only for self-employment assistance allowances, but also for reemployment services, such as job search and job placement services. It may be used in making referrals to other benefits and services, such as job training, but not to exclude anyone from seeking or receiving services, except where the exclusion is required by federal law, which is the case for self-employment assistance allowances.

An individual found likely to exhaust benefits may be required, as a condition for receiving regular benefits, to participate in

available reemployment services (but not other services), unless the individual has completed reemployment services or is participating in other department-approved reemployment or training activities.

COMMITTEE AMENDMENTS

The committee amended the bill to remove the provisions that would have established a program within the New Jersey Economic Development Authority for financial assistance to unemployed individuals in establishing new businesses. The amendments also permit the use of funds from the Workforce Development Partnership Program to provide grants to unemployed individuals for entrepreneurial training and technical assistance. No grant may exceed \$400, except for a grant for training provided by a public institution of higher education, which may be as much as \$1,500.

In addition, the committee made technical amendments to the bill to conform it to current law.

FISCAL IMPACT

In a fiscal estimate prepared by the Office of Legislative Services (OLS) on an identical Assembly bill, the OLS noted that this legislation would not impose additional costs on the unemployment compensation fund, since self-employment assistance allowances would, as noted above, be in lieu of, and equal to, a claimant's regular unemployment benefits. Nevertheless, additional administrative costs may be incurred by the Department of Labor for the administration of the program.

The bill permits the use of Workforce Development Partnership funds for grants to unemployed individuals for entrepreneurial training and technical assistance.

STATEMENT TO SENATE FLOOR AMENDMENT

STATEMENT

This amendment would provide that the aggregate number of individuals receiving self-employment assistance allowances at any time could not exceed one percent of the number of individuals receiving regular benefits, as defined in the bill. The bill currently imposes a limit of .5 percent of those individuals receiving regular benefits.