

43:21-4 et al

LEGISLATIVE HISTORY CHECKLIST

NJSA: 43:21-4 et al

(Unemployment
compensation-agricultural
labor and prescribe
conditions for eligibilit)

LAWS OF: 1984

CHAPTER: 216

Bill No: A2612

Sponsor(s): Foy

Date Introduced: October 11, 1984

Committee: Assembly: Labor

Senate: -----

Amended during passage: Yes Amendments during passage denoted
by asterisks

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Following statements are attached if available:

Sponsor statement: Yes Also attached: Assembly
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Committee statement: Assembly Yes
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ASSEMBLY, No. 2612**STATE OF NEW JERSEY**

INTRODUCED OCTOBER 11, 1984

By Assemblyman FOY

AN ACT concerning eligibility for unemployment compensation based on service performed in agricultural labor and amending R. S. 43:21-4 and R. S. 43:21-19.

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

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

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

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

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

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

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 printed in italics *thus* is new matter.

Matter enclosed in asterisks or stars has been adopted as follows:

*—Assembly committee amendments adopted October 22, 1984.

**—Assembly amendments adopted November 19, 1984.

22 (2) The director may modify the requirement of actively seeking
23 work if such modification of this requirement is warranted by
24 economic conditions.

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

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

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

42 (d) The individual has been totally or partially unemployed
43 for a waiting period of one week in the benefit year which includes
44 that week. When benefits become payable with respect to the third
45 consecutive week next following the waiting period, the individual
46 shall be eligible to receive benefits as appropriate with respect to
47 the waiting period. No week shall be counted as a week of unem-
48 ployment for the purposes of this subsection:

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

53 (2) If it has constituted a waiting period week under the tempo-
54 rary disability benefits law;

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

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

59 (e) (1) With respect to a base year as defined in subsection (c) of
60 R. S. 43:21-19 the individual has established at least 20 base weeks
61 as defined in *paragraph (1) of subsection (t) of R. S. 43:21-19*, or,
62 in those instances in which the individual has not established
63 20 base weeks, the individual has earned \$2,200.00 for benefit years
64 commencing prior to October 1, 1984; and, *except as otherwise*

65 *provided in paragraph (2) of this subsection, for benefit years com-*
 66 *mencing on or after October 1, 1984, the individual has earned*
 67 *12 times the Statewide average weekly remuneration paid to*
 68 *workers as determined under R. S. 43:21-3(c) raised to the next*
 69 *higher multiple of \$100.00 if not already a multiple thereof or*
 70 *more in the individual's base year.*

71 *(2) Notwithstanding the provisions of paragraph (1) of this*
 72 *subsection, for benefit years commencing on or after October 1,*
 73 *1984 **and before January 1, 1985**, an unemployed individual*
 74 *claiming benefits on the basis of service performed in **the produc-*
 75 *tion and harvesting of** agricultural ****labor**** **crops** shall,*
 76 *subject to the limitations of subsection (i) of R. S. 43:21-19, be*
 77 *eligible to receive benefits if it appears that the individual has*
 78 *established at least 20 base weeks as defined in paragraph (2) of*
 79 *subsection (i) of R. S. 43:21-19, or, in those instances in which the*
 80 *individual has not established 20 base weeks, the individual has*
 80A *earned \$2,200.00. ****¶**The provisions of this paragraph shall expire*
 80B *one year after the date of enactment of this 1984 amendatory*
 80C *act.**¶*****

81 (f) (1) The individual has suffered any accident or sickness not
 82 compensable under the Workers' Compensation Law (Title 34 of
 83 the Revised Statutes) and resulting in the individual's total dis-
 84 ability to perform any work for remuneration, and would be eligi-
 85 ble to receive benefits under this chapter (R. S. 43:21-1 et seq.)
 86 (without regard to the maximum amount of benefits payable during
 87 any benefit year) except for the inability to work and has furnished
 88 notice and proof of claim to the division, in accordance with its
 89 rules and regulations, and payment is not precluded by the pro-
 90 visions of R. S. 43:21-3 (d); provided, however, that benefits paid
 91 under this subsection (f) shall be computed on the basis of only
 92 those base year wages earned by the claimant as a "covered indi-
 93 vidual" as defined in R. S. 43:21-27 (b); provided further, that no
 94 benefits shall be payable under this subsection to any individual:

95 (A) For any period during which such individual is not
 96 under the care of a legally licensed physician, dentist, optom-
 97 etrist, podiatrist or chiropractor;

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

99 (C) For any period of disability due to willfully or inten-
 100 tionally self-inflicted injury, or to injuries sustained in the
 101 perpetration by the individual of a crime of the first, second or
 102 third degree;

103 (D) For any week with respect to which or a part of which
 104 the individual has received or is seeking benefits under any

105 unemployment compensation or disability benefit law of any
106 other state or of the United States; provided, that if the appro-
107 priate agency of such other state or of the United States finally
108 determines that the individual is not entitled to such benefits,
109 this disqualification shall not apply;

110 (E) For any week with respect to which or part of which
111 the individual has received or is seeking disability benefits
112 under the temporary disability benefits law;

113 (F) For any period of disability commencing while such
114 individual is a "covered individual" as defined in subsection
115 3 (b) of the temporary disability benefits law (P. L. 1948,
116 c. 110).

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

122 (g) Benefits based on service in employment defined in sub-
123 paragraphs (B) and (C) of R. S. 43:21-19 (i) (1) shall be payable
124 in the same amount and on the terms and subject to the same
125 conditions as benefits payable on the basis of other service subject
126 to the Unemployment Compensation Law; except that notwith-
127 standing any other provisions of the Unemployment Compensation
128 Law:

129 (1) With respect to service performed after December 31, 1977,
130 in an instructional, research, or principal administrative capacity
131 for an educational institution, benefits shall not be paid based on
132 such services for any week of unemployment commencing during
133 the period between two successive academic years, or during a
134 similar period between two regular terms, whether or not succes-
135 sive, or during a period of paid sabbatical leave provided for in the
136 individual's contract, to any individual if such individual performs
137 such services in the first of such academic years (or terms) and if
138 there is a contract or a reasonable assurance that such individual
139 will perform services in any such capacity for any educational
140 institution in the second of such academic years or terms;

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

148 that such individual will perform such services in the second of
 149 such academic years or terms, except that if benefits are denied
 150 to any individual under this paragraph (2) and the individual was
 151 not offered an opportunity to perform these services for the edu-
 152 cational institution for the second of any academic years or terms,
 153 the individual shall be entitled to a retroactive payment of benefits
 154 for each week for which the individual filed a timely claim for
 155 benefits and for which benefits were denied solely by reasons of
 156 this clause;

157 (3) With respect to those services described in paragraphs (1)
 158 and (2) above, benefits shall not be paid on the basis of such ser-
 159 vices to any individual for any week which commences during an
 160 established and customary vacation period or holiday recess if such
 161 individual performs such services in the period immediately before
 162 such vacation period or holiday recess, and there is a reasonable
 163 assurance that such individual will perform such services in
 164 the period immediately following such period or holiday
 164A recess**[.]** **,**

165 (4) With respect to any services described in paragraphs (1)
 166 and (2) above, benefits shall not be paid as specified in paragraphs
 167 (1), (2), and (3) above to any individual who performed those
 168 services in an educational institution while in the employ of an
 169 educational service agency, and for this purpose the term "educa-
 170 tional service agency" means a governmental agency or govern-
 171 mental entity which is established and operated exclusively for the
 172 purpose of providing those services to one or more educational
 173 institutions.

174 (h) Benefits shall not be paid to any individual on the basis of
 175 any services, substantially all of which consist of participating in
 176 sports or athletic events or training or preparing to so participate,
 177 for any week which commences during the period between two
 178 successive sport seasons (or similar periods) if such individual
 179 performed such services in the first of such seasons (or similar
 180 periods) and there is a reasonable assurance that such individual
 181 will perform such services in the later of such seasons (or similar
 182 periods).

183 (i) (1) Benefits shall not be paid on the basis of services per-
 184 formed by an alien unless such alien is an individual who was
 185 lawfully admitted for permanent residence at the time the services
 186 were performed and was lawfully present for purposes of perform-
 187 ing the services or otherwise was permanently residing in the
 188 United States under color of law at the time the services were
 189 performed (including an alien who is lawfully present in the

190 United States as a result of the application of the provisions of
191 section 203 (a) (7) or section 212 (d) (5) of the Immigration and
192 Nationality Act); provided, that any modifications of the provi-
193 sions of section 3304 (a) (14) of the Federal Unemployment Tax
194 Act as provided by Public Law 94-566 which specify other condi-
195 tions or other effective dates than stated herein for the denial of
196 benefits based on services performed by aliens and which modifica-
197 tions are required to be implemented under State law as a condition
198 for full tax credit against the tax imposed by the Federal Unem-
199 ployment Tax Act, shall be deemed applicable under the provisions
200 of this section.

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

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

209 (j) Notwithstanding any other provision of this chapter, the
210 director may, to the extent that it may be deemed efficient and
211 economical, provide for consolidated administration by one or
212 more representatives or deputies of claims made pursuant to sub-
213 section (f) of this section with those made pursuant to Article III
214 (State plan) of the Temporary Disability Benefits Law.

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

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

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

7 (2) "Average annual payroll" means the average of the annual
8 payrolls of any employer for the last three or five preceding
9 calendar years, whichever average is higher, except that any year or
10 years throughout which an employer has had no "annual payroll"
11 because of military service shall be deleted from the reckoning;
12 the "average annual payroll" in such case is to be determined on
13 the basis of the prior three to five calendar years in each of which the
14 employer had an "annual payroll" in the operation of his business,
15 if the employer resumes his business within 12 months after
16 separation, discharge or release from such service, under conditions
17 other than dishonorable, and makes application to have his "aver-
18 age annual payroll" determined on the basis of such deletion

19 within 12 months after he resumes his business; provided, how-
 20 ever, that "average annual payroll" solely for the purposes of
 21 paragraph (3) of subsection (e) of section 43:21-7 of this Title
 22 means the average of the annual payrolls of any employer on
 23 which he paid contributions to the State Disability Benefits Fund
 24 for the last three or five preceding calendar years, whichever
 25 average is higher; provided further, that only those wages be in-
 26 cluded on which employer contributions have been paid on or before
 27 January 31 (or the next succeeding day if such January 31 is a
 28 Saturday or Sunday) immediately preceding the beginning of the
 29 12 month period for which the employer's contribution rate is
 30 computed.

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

34 (c) "Base year" with respect to benefit years commencing on or
 35 after January 1, 1953, shall mean the 52 calendar weeks ending
 36 with the second week immediately preceding an individual's benefit
 37 year. "Base year" with respect to benefit years commencing on or
 38 after July 1, 1986 shall mean the first four of the last five completed
 39 calendar quarters immediately preceding an individual's benefit
 40 year.

41 (d) "Benefit year" with respect to any individual means the 364
 42 consecutive calendar days beginning with the day on, or as of,
 43 which he first files a valid claim for benefits, and thereafter be-
 44 ginning with the day on, or as of, which the individual next files
 45 a valid claim for benefits after the termination of his last preceding
 46 benefit year. Any claim for benefits made in accordance with sub-
 47 section (a) of section 43:21-6 of this Title shall be deemed to be
 48 a "valid claim" for the purpose of this subsection if (1) he is un-
 49 employed for the week in which, or as of which, he files a claim
 50 for benefits; and (2) he has fulfilled the conditions imposed by
 51 subsection (e) of section 43:21-4 of this Title.

52 (e) (1) "Division" means the Division of Unemployment and
 53 Temporary Disability Insurance of the Department of Labor, and
 54 any transaction or exercise of authority by the director of the di-
 55 vision thereunder, or under this chapter (R. S. 43:21-1 et seq.),
 56 shall be deemed to be performed by the division.

57 (2) "Controller" means the Office of the Assistant Commissioner
 58 for Finance and Controller of the Department of Labor established
 59 by the 1982 Reorganization Plan of the Department of Labor.

60 (f) "Contributions" means the money payments to the State
 61 Unemployment Compensation Fund required by R. S. 43:21-7.

62 “Payments in lieu of contributions” means the money payments
63 to the State Unemployment Compensation Fund by employers
64 electing or required to make payments in lieu of contributions as
65 provided in section 3 or section 4 of P. L. 1971, c. 346 (C. 43:21-7.2
66 and 43:21-7.3).

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

89 (h) “Employer” means:

90 (1) Any employing unit which in either the current or the pre-
91 ceding calendar year paid remuneration for employment in the
92 amount of \$1,000.00 or more:

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

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

103 (4) Any employing unit which together with one or more other
104 employing units is owned or controlled (by legally enforceable

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

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

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

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

129 (8) (Deleted by amendment; P. L. 1977, c. 307.)

130 (9) (Deleted by amendment; P. L. 1977, c. 307.)

131 (10) (Deleted by amendment; P. L. 1977, c. 307.)

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

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

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

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

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

149 (A) Any service performed prior to January 1, 1972, which
 150 was employment as defined in the Unemployment Compensa-
 151 tion Law (R. S. 43:21-1 et seq.) prior to such date, and, subject
 152 to the other provisions of this subsection, service performed on
 153 or after January 1, 1972, including service in interstate com-
 154 merce, performed for remuneration or under any contract of
 155 hire, written or oral, express or implied.

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

162 (ii) Service performed after December 31, 1977, in the em-
 163 ploy of this State or any of its instrumentalities or any politi-
 164 cal subdivision thereof or any of its instrumentalities or any
 165 instrumentality of more than one of the foregoing or any in-
 166 strumentality of the foregoing and one or more other states
 167 or political subdivisions if such service is not excluded from
 168 "employment" under paragraph (D) below.

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

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

177 (i) In the employ of (I) a church or convention or associa-
 178 tion of churches, or (II) an organization or school which is
 179 operated primarily for religious purposes and which is op-
 180 erated, supervised, controlled or principally supported by a
 181 church or convention or association of churches;

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

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

- 191 (aa) as an elected official;
- 192 (bb) as a member of a legislative body, or a member of
193 the judiciary, of a State or political subdivision;
- 194 (cc) as a member of the State National Guard or Air
195 National Guard;
- 196 (dd) as an employee serving on a temporary basis in
197 case of fire, storm, snow, earthquake, flood or similar emer-
198 gency;
- 199 (ee) in a position which, under or pursuant to the laws
200 of this State, is designated as a major nontenured policy-
201 making or advisory position, or a policymaking or advisory
202 position the performance of the duties of which ordinarily
203 does not require more than eight hours per week; or
- 204 (iv) By an individual receiving rehabilitation or remunera-
205 tive work in a facility conducted for the purpose of carrying
206 out a program of rehabilitation of individuals whose earning
207 capacity is impaired by age or physical or mental deficiency
208 or injury or providing remunerative work for individuals who
209 because of their impaired physical or mental capacity cannot
210 be readily absorbed in the competitive labor market;
- 211 (v) By an individual receiving work-relief or work-training
212 as part of an unemployment work-relief or work-training pro-
213 gram assisted in whole or in part by any federal agency or an
214 agency of a State or political subdivision thereof; or
- 215 (vi) Prior to January 1, 1978, for a hospital in a State
216 prison or other State correctional institution by an inmate of
217 the prison or correctional institution and after December 31,
218 1977, by an inmate of a custodial or penal institution.
- 219 (E) The term "employment" shall include the services of
220 an individual who is a citizen of the United States, performed
221 outside the United States after December 31, 1971 (except in
222 Canada and in the case of the Virgin Islands, after December
223 31, 1971 and prior to January 1 of the year following the year
224 in which the U. S. Secretary of Labor approves the unemploy-
225 ment compensation law of the Virgin Islands under section
226 3304 (a) of the Internal Revenue Code of 1954) in the employ
227 of an American employer (other than the service which is
228 deemed employment under the provisions of paragraph
229 43:21-19 (i) (2) or (5) or the parallel provisions of another
230 state's Unemployment Compensation Law), if
- 231 (i) The American employer's principal place of business in
232 the United States is located in this State; or
- 233 (ii) The American employer has no place of business in the

234 United States, but (I) the American employer is an individual
 235 who is a resident of this State; or (II) the American employer
 236 is a corporation which is organized under the laws of this
 237 State; or (III) the American employer is a partnership or
 238 trust and the number of partners or trustees who are residents
 239 of this State is greater than the number who are residents of
 240 any other state; or

241 (iii) None of the criteria of divisions (i) and (ii) of this
 242 subparagraph (E) is met but the American employer has
 243 elected to become an employer subject to the Unemployment
 244 Compensation Law (R. S. 43:21-1 et seq.) in this State, or
 245 the American employer having failed to elect to become an
 246 employer in any state, the individual has filed a claim for
 247 benefits, based on such service, under the law of this State;

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

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

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

271 (H) The term "United States" when used in a geographical
 272 sense in subsection R. S. 43:21-19 (i) includes the states, the
 273 District of Columbia, the commonwealth of Puerto Rico and,
 274 effective on the day after the day on which the U. S. Secretary
 275 of Labor approves for the first time under section 3304 (a) of
 276 the Internal Revenue Code of 1954 an unemployment compen-

277 sation law submitted to the Secretary by the Virgin Islands
278 for such approval, the Virgin Islands.

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

284 (aa) during any calendar quarter in either the current or
285 the preceding calendar year paid remuneration in cash of
286 \$20,000.00 or more to individuals employed in agricultural
287 labor, or

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

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

298 (aa) if such crew leader holds a valid certification of reg-
299 istration under the Migrant and Seasonal Agricultural
300 Worker Protection Act, Pub. L. 97-470 (29 U. S. C. § 1801
301 et seq.); or P. L. 1971, c. 192 (C. 34:8A-7 et seq.); or substan-
302 tially all the members of such crew operate or maintain
303 tractors, mechanized harvesting or cropdusting equipment,
304 or any other mechanized equipment, which is provided by
305 such crew leader; and

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

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

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

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

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

322 (aa) furnishes individuals to perform service in agricul-
323 tural labor for any other entity;

324 (bb) pays (either on his own behalf or on behalf of such
325 other entity) the individuals so furnished by him for the
326 service in agricultural labor performed by them; and

327 (cc) has not entered into a written agreement with such
328 other entity under which such individual is designated as
329 an employee of such other entity.

330 (J) Domestic service after December 31, 1977 performed
331 in the private home of an employing unit which paid cash re-
332 muneration of \$1,000.00 or more to one or more individuals
333 for such domestic service in any calendar quarter in the current
334 or preceding calendar year.

335 (2) The term "employment" shall include an individual's entire
336 service performed within or both within and without this State if:

337 (A) The service is localized in this State; or

338 (B) The service is not localized in any state but some of the
339 service is performed in this State, and (i) the base of opera-
340 tions, or, if there is no base of operations, then the place from
341 which such service is directed or controlled, is in this State;
342 or (ii) the base of operations or place from which such service
343 is directed or controlled is not in any state in which some part
344 of the service is performed, but the individual's residence is
345 in this State.

346 (3) Services performed within this State but not covered under
347 paragraph (2) of this subsection shall be deemed to be employment
348 subject to this chapter (R. S. 43:21-1 et seq.) if contributions are
349 not required and paid with respect to such services under an un-
350 employment compensation law of any other state or of the federal
351 government.

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

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

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

364 (B) The service is performed both within and without such
365 state, but the service performed without such state is incidental
366 to the individual's service within the state, for example, is
367 temporary or transitory in nature or consists of isolated trans-
368 actions.

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

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

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

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

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

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

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

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

402 (B) Domestic service in a private home performed prior to
403 January 1, 1978; and after December 31, 1977, unless performed
404 in the private home of an employing unit which paid cash
405 remuneration of \$1,000.00 or more to one or more individuals

406 for such domestic service in any calendar quarter in the current
407 or preceding calendar year;

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

411 (D) Service performed prior to January 1, 1978, in the
412 employ of this State or of any political subdivision thereof or
413 of any instrumentality of this State or its political subdivisions
414 except as provided in R. S. 43:21-19 (i) (1) (B) above, and
415 service in the employ of the South Jersey Port Corporation
416 or its successors;

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

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

445 (G) Services performed in the employ of fraternal bene-
446 ficiary societies, orders, or associations operating under the
447 lodge system or for the exclusive benefit of the members of a
448 fraternity itself operating under the lodge system and provid-

449 ing for the payment of life, sick, accident, or other benefits
450 to the members of such society, order, or association, or their
451 dependents;

452 (H) Services performed as a member of the board of
453 directors, a board of trustees, a board of managers, or a com-
454 mittee of any bank, building and loan or savings and loan
455 association, incorporated or organized under the laws of this
456 State or of the United States, where such services do not
457 constitute the principal employment of the individual;

458 (I) Service with respect to which unemployment insurance
459 is payable under an unemployment insurance program estab-
460 lished by an Act of Congress;

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

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

469 (L) Services performed in the employ of any veterans'
470 organization chartered by Act of Congress or of any auxiliary
471 thereof, no part of the net earnings of which organization, or
472 auxiliary thereof, inures to the benefit of any private share-
473 holder or individual;

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

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

487 (O) Services performed in the sale or distribution of mer-
488 chandise by home-to-home salespersons or in-the-home demon-
489 strators whose remuneration consists wholly of commissions
490 or commissions and bonuses;

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

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

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

509 (S) Service covered by an election duly approved by an
510 agency charged with the administration of any other state or
511 federal Unemployment Compensation or Employment Secu-
512 rity Law, in accordance with an arrangement pursuant to
513 R. S. 43:21-21 during the effective period of such election;

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

526 (U) Service performed by an individual who is enrolled at
527 a nonprofit or public educational institution which normally
528 maintains a regular faculty and curriculum and normally has
529 a regularly organized body of students in attendance at the
530 place where its educational activities are carried on, as a stu-
531 dent in a full-time program, taken for credit at such institu-
532 tion, which combines academic instruction with work experi-
533 ence, if such service is an integral part of such program, and

534 such institution has so certified to the employer, except that
535 this subparagraph shall not apply to service performed in
536 a program established for or on behalf of an employer or
537 group of employers;

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

547 (W) Services performed after the effective date of this
548 amendatory act by agents of mutual benefit associations if
549 the compensation to such agents for such services is wholly
550 on a commission basis.

551 (8) If one-half or more of the services in any pay period per-
552 formed by an individual for an employing unit constitutes employ-
553 ment, all the services of such individual shall be deemed to be
554 employment; but if more than one-half of the service in any pay
555 period performed by an individual for an employing unit does
556 not constitute employment, then none of the service of such in-
557 dividual shall be deemed to be employment. As used in this para-
558 graph, the term "pay period" means a period of not more than 31
559 consecutive days for which a payment for service is ordinarily
560 made by an employing unit to individuals in its employ.

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

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

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

568 (m) "Unemployment."

569 (1) An individual shall be deemed "unemployed" for any week
570 during which he is not engaged in full-time work and with respect
571 to which his remuneration is less than his weekly benefit rate,
572 including any week during which he is on vacation without pay;
573 provided, such vacation is not the result of the individual's volun-
574 tary action, except that for benefit years commencing on or after
575 July 1, 1984, an officer of a corporation, or a person who has more
576 than a 5% equitable or debt interest in the corporation, whose claim

577 for benefits is based on wages with that corporation shall not be
578 deemed to be unemployed in any week during the individual's term
579 of office or ownership in the corporation.

580 (2) The term "remuneration" with respect to any individual for
581 benefit years commencing on or after July 1, 1961, and as used in
581A this subsection, shall include only that part of the same which in
582 any week exceeds 20% of his weekly benefit rate (fractional parts
583 of a dollar omitted) or \$5.00 whichever is the larger.

584 (3) An individual's week of unemployment shall be deemed to
585 commence only after the individual has filed a claim at an unem-
586 ployment insurance claims office, except as the division may by
587 regulation otherwise prescribe.

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

592 (o) "Wages" means remuneration paid by employers for em-
593 ployment. If a worker receives gratuities regularly in the course
594 of his employment from others than his employer, his "wages"
595 shall also include the gratuities so received if reported in writing
596 to his employer in accordance with regulations of the division, and
597 if not so reported, his "wages" shall be determined in accordance
598 with the minimum wage rates prescribed under any labor law or
599 regulation of this State or of the United States, or the amount or
600 remuneration actually received by the employee from his employer,
601 whichever is the higher.

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

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

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

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

616 (t) (1) "Base week" for a benefit year commencing prior to
617 October 1, 1984, means, *except as otherwise provided in paragraph*
618 (2) *of this subsection*, any calendar week of an individual's base

619 year during which he earned in employment from an employer
 620 remuneration equal to not less than \$30.00. "Base week" for a
 621 benefit year commencing on or after October 1, 1984 and prior to
 622 October 1, 1985 means any calendar week of an individual's base
 623 year during which the individual earned in employment from an
 624 employer remuneration equal to not less than 15% of the Statewide
 625 average weekly remuneration defined in subsection (c) of R. S.
 626 43:21-3 which shall be adjusted to the next higher multiple of \$1.00
 627 if not already a multiple thereof.

628 "Base week" for a benefit year commencing on or after October 1,
 629 1985 means, *except as otherwise provided in paragraph (2) of this*
 630 *subsection*, any calendar week of an individual's base year during
 631 which the individual earned in employment from an employer
 632 remuneration equal to not less than 20% of the Statewide average
 633 weekly remuneration defined in subsection (c) of R. S. 43:21-3
 634 which shall be adjusted to the next higher multiple of \$1.00 if not
 635 already a multiple thereof; provided, if in any calendar week, an
 636 individual is in employment with more than one employer, he may
 637 in such calendar week establish a base week with respect to each
 638 such employer from whom the individual earns remuneration equal
 639 to not less than the amount defined in this **subsection (t)** *para-*
 640 *graph (1)* during such week.

641 (2) "Base week," with respect to an individual claiming benefits
 642 on the basis of service performed in ***the production and harvest-*
 643 *ing of** agricultural **labor** **crops***, means, for a benefit
 644 year commencing on or after October 1, 1984 ***and before January*
 645 *1, 1985***, any calendar week of an individual's base year during
 646 which the individual earned in employment from an employer
 647 remuneration equal to not less than \$30.00, except that if in any
 648 calendar week an individual subject to this paragraph is in employ-
 649 ment with more than one employer, the individual may in that
 650 calendar week establish a base week with respect to each of the em-
 651 ployers from whom the individual earns remuneration equal to not
 651A less than the amount defined in this paragraph (2) during that
 651B week. *****The provisions of this paragraph shall expire one year***
 651C *after the date of enactment of this 1984 amendatory act.***

652 (u) "Average weekly wage" means the amount derived by divid-
 653 ing an individual's total wages received during his base year base
 654 weeks (as defined in subsection (t) of this section) from that most
 655 recent base year employer with whom he has established at least 20
 656 base weeks, by the number of base weeks in which such wages were
 657 earned. In the event that such claimant had no employer in his base
 658 year with whom he had established at least 20 base weeks, then such
 659 individual's average weekly wage shall be computed as if all of his

660 base week wages were received from one employer and as if all his
 661 base weeks of employment had been performed in the employ of
 662 one employer.

663 For the purpose of computing the average weekly wage, the
 664 monetary alternative in subsection (e) of R. S. 43:21-4 shall
 665 only apply in those instances where the individual did not have
 666 at least 20 base weeks in the base year. For benefit years com-
 666A mencing on or after July 1, 1986, "average weekly wage" means
 667 the amount derived by dividing an individual's total base year
 668 wages by the number of base weeks worked by the individual dur-
 669 ing the base year; provided, that for the purpose of computing the
 670 average weekly wage, the maximum number of base weeks used
 671 in the divisor shall be 52.

672 (v) "Initial determination" means, subject to the provisions of
 673 R. S. 43:21-6 (b) (2) and (3), a determination of benefit rights as
 674 measured by an eligible individual's base year employment with a
 675 single employer covering all periods of employment with that em-
 676 ployer during the base year. For benefit years commencing prior
 677 to July 1, 1986, subject to the provisions of R. S. 43:21-3 (d) (3)
 678 if an individual has been in employment in his base year with more
 679 than one employer, no benefits shall be paid to that individual under
 680 any successive initial determination until his benefit rights have
 681 been exhausted under the next preceding initial determination.

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

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

688 (y) (1) "Education institution" means any public or other non-
 689 profit institution (including an institution of higher education)

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

695 (B) Which is approved, licensed or issued a permit to oper-
 696 ate as a school by the State Department of Education or other
 697 government agency that is authorized within the State to
 698 approve, license or issue a permit for the operation of a school;
 699 and

700 (C) Which offers courses of study or training which may
 701 be academic, technical, trade, or preparation for gainful em-
 702 ployment in a recognized occupation.

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

705 (A) Admits as regular students only individuals having
706 a certificate of graduation from a high school, or the recog-
707 nized equivalent of such a certificate;

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

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

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

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

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

1 3. This act shall take effect immediately*, and shall be retro-
2 active to October 1, 1984*.

705 (A) Admits as regular students only individuals having
706 a certificate of graduation from a high school, or the recog-
707 nized equivalent of such a certificate:

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

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

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

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

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

1 3. This act shall take effect immediately.

STATEMENT

In order to qualify for unemployment benefits for a benefit year beginning before October 1, 1984, an individual must be able to establish a work history of 20 base weeks with earnings of at least \$30.00 in each week, or, failing that, total earnings of at least \$2,200.00. Legislation enacted in March of 1984 changed the terms of both the "labor force attachment" and alternative labor force attachment tests for future benefit years. Current law thus provides that for benefit years commencing on or after October 1, 1984 and before October 1, 1985, an individual will have to establish 20 base weeks of earnings equalling at least 15% of the Statewide average weekly wage ("SAWW"), \$51.00, or failing that, total earnings of at least 12 times the SAWW, which in 1984 amounts to \$4,100.00. For benefit years commencing on or after October 1, 1985, the base week earnings requirement will be indexed at 20% of the SAWW. An individual will still need 20 base weeks to qualify, or, in the alternative, earnings of at least 12 times the prevailing SAWW.

These changes will, as a practical matter, result in the disqualification of any migrant and other agricultural workers who, because of the seasonal or temporary nature of their employment, earn less than is required. This bill would amend the law so that on and after October 1, 1984, agricultural workers will remain subject to the requirement of having to have worked 20 base weeks at least \$30.00 per week or earned \$2,200.00 during the benefit year.

ASSEMBLY LABOR COMMITTEE

STATEMENT TO

ASSEMBLY, No. 2612

with Assembly committee amendments

STATE OF NEW JERSEY

DATED: OCTOBER 22, 1984

As amended by the Assembly Labor Committee this bill would, for a period of one year, enable unemployed agricultural laborers to qualify for unemployment compensation benefits if, during the benefit year, they worked 20 base weeks with earnings of at least \$30.00 per week, or earned \$2,200.00. The bill would apply to all claims submitted on or after October 1, 1984.

Current law provides that for benefit years commencing on or after October 1, 1984 and before October 1, 1985, an individual must establish 20 base weeks with weekly earnings of at least 15% of the Statewide average weekly wage (\$51.00) or failing that, total earnings of at least 12 times the SAWW (\$4,100.00). For benefit years commencing on or after October 1, 1985, the base week earnings requirement will be indexed at 20% of the SAWW. An individual will still need 20 base weeks to qualify, or, in the alternative, earnings of at least 12 times the prevailing SAWW. These changes will, as a practical matter, result in the disqualification of certain migrant and other agricultural workers who, because of the seasonal nature of their employment, invariably earn less than is required.

The Assembly Labor Committee adopted the one year sunset provision so that the Legislature may study the problem and adopt an alternative solution if deemed appropriate.

Assembly Amendments

to

OCR

Assembly Bill No. 2612 Aca

ADOPTED

NOV 19 1984

OK w/c
HKK
11/20/84
TKM

Amend:

Page	Sec.	Line	
2	1	54	After "law" insert ";" in Roman (Printer's error)
3	1	73	After "1984" insert "and before January 1, 1985"
3	1	74	After "in" insert "the production and harvesting of"; Omit "labor" insert "crops"
3	1	80-80A	Omit "The provisions of this paragraph shall expire one year after the date of enactment of this 1984 amendatory act."
21	2	642	After "in" insert "the production and harvesting of"; Omit "labor" insert "crops"
21	2	643	After "1984" insert "and before January 1, 1985"
21	2	651	Omit "The pro-"
21	2	651A-651B	Omit in entirety
5	1	164	Omit ", " insert ";"
5	1	189	Printer's error: Change "as" to "an" in Roman
7	2	53	Printer's error: After "Labor" insert ", " in Roman STATEMENT
<p>These amendments would make the exemption created under the bill for certain agricultural workers effective for only the three month period beginning October 1, 1984 and ending December 31, 1984. The amendment further specifies that the only agricultural workers covered shall be those engaged in the production and harvesting of crops.</p>			
9	2	129	Printer's Note: Enclose "Deleted by amendment; P.L. 1977, c. 307." in parentheses in Roman.
9	2	130	Enclose "Deleted by amendment; P.L. 1977, c. 307." in parentheses in Roman.
9	2	131	Enclose "Deleted by amendment; P.L. 1977, c. 307." in parentheses in Roman.
10	2	176	Printer's error: After "performed omit "." in Roman
14	2	362	Printer's error: After "is" insert ":" in Roman
19	2	549	Printer's error: After "wholly" insert "on" in Roman
22	2	662	Printer's error: After "employer." indent for new paragraph.
22	2	697	Printer's error: Change "general" to "specific" in Roman

Handwritten bracket grouping pages 5, 5, and 7.



OFFICE OF THE GOVERNOR

NEWS RELEASE

CN-001

Contact: CARL GOLDEN
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TRENTON, N.J. 08625

Release: WED., DEC. 19, 1984

Governor Thomas H. Kean has signed legislation which grants a temporary exemption from new unemployment eligibility requirements to migrant agricultural workers.

The bill, A-2612, was sponsored by Assemblyman Thomas P. Foy, D-Burlington, leaves in place for some farm workers the old unemployment eligibility requirements of 20 base work weeks with earnings of at least \$30 per week, or of total annual earnings of \$2,200. Under the terms of the Unemployment Insurance Reform Act the requirements were raised to at least \$51 per week for 20 base weeks or \$4,100 annually.

The new requirements went into effect October 1. This bill extends the old requirements for farm workers through the end of 1984.

The Governor also signed S-1507, sponsored by State Senator John P. Caufield, D-Essex, which adds solid waste disposal to the list of utilities which may take or acquire property under the provisions of the Eminent Domain Act of 1971.

The bill requires that for land to be taken by eminent domain proceedings for use as a solid waste disposal facility, the condemnation proceeding may not begin until the Department of Environmental Protection has ruled that the site is suitable and that there will be undue risk to the environment or to public health.

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